

Duarte lawyer offered to recommend Duarte support Vulcan plan if company agreed to conditions, documents show

Daniel Tedford, Los Angeles Newspaper Group, 4-14-10

A lawyer representing Duarte offered to recommend that the City Council support Vulcan Materials Co.'s new mining proposal if Vulcan met Duarte's settlement conditions during confidential talks in January, documents obtained Tuesday show.

Duarte officials have maintained that they always opposed the project, but documents show a settlement was a definitive option.

In exchange for guarantees that proposed environmental measures would work, control of a Fish Canyon trail, and \$500,000 a year until mining ceased in 2038, Duarte's attorney Jeffrey Melching offered to "recommend that the City Council approve a settlement" with Vulcan, according to documents.

Vulcan has a permit to mine 190 acres near Fish Canyon. The company wants to exchange a permit to mine 80 acres on its eastern property line for the ability to mine 80 undisturbed acres near its western property line.

The 270-acre Vulcan property is in Azusa but rests near the Duarte border. For Vulcan to move forward, Azusa officials would have to approve Vulcan's plan to mine the western 80 acres. The issue goes to the Azusa City Council on Monday.

The secret talks were an investigation of "how to make the best of a bad situation," and not an offer to walk away from opposition, Duarte City Manager Darrell George said Tuesday.

A Vulcan representative disagreed.

"At the request of the city of Duarte, we met with them in early January, at which time they made it clear to us they were seeking money in exchange for removal of their opposition," Vulcan spokeswoman Melinda Andrade said.

George claimed Vulcan initially approached Duarte, asking about a potential settlement.

"Yes, we did have a three-week period between January and early February where we did have discussions at their request," George said. "Those were letters exchanged by attorneys. It was attorneys' speak, if you will, that were never acquiesced to. It wasn't a recommendation to walk away from this project by any means."

Duarte has opposed the project for more than a year. The city put aside \$700,000 in 2008 in preparation to battle the project in court. The city has threatened to sue Azusa if the project is approved, and Azusa believes Vulcan will sue if the project is denied.

In a letter sent from Melching to Vulcan's attorney on Jan. 7, Melching referred to Duarte's proposal as a "reasonable compromise," and "urged" Vulcan to respond before the end of the public comment period on the environmental report, documents show.

Negotiations ended on Feb. 11 after Duarte rejected a counter-proposal from Vulcan, Andrade said.

"Faced with the threat of litigation and the city of Duarte's demand for \$14 million in order to remove their opposition, we responded with a good faith offer of \$25,000 per year," Andrade said.

In a Feb. 11 letter responding to Vulcan's counter offer, Melching noted the parties had a "sizable gap." Melching indicated that Duarte remained "willing and desirous" of settlement talks, but Duarte officials would not make a counter-proposal at that time.

The two parties have not negotiated since then, officials said.