

**LETTER TO LAND USE SERVICES REGARDING SAN BERNARDINO COUNTY
MINING ORDINANCE REVISION, OCTOBER 12, 2026**

Miguel Figueroa, Director Land Use Services

Dan Walsh, Chief Engineering Geologist

CC: miningreclamation@lus.sbcounty.gov

Re: Mining Ordinance revision, Project No. PMISC-2026-00029: An ordinance to repeal and reenact Chapter 88.03 of the San Bernardino County Development Code related to local surface mining and land reclamation regulations.

Dear Director Figueroa and Chief Engineering Geologist Walsh,

Thank you for the opportunity to comment on the County's updated mining ordinance proposal (Chapter 88.03) named the Final Draft SMARA Redline Ordinance ("Final Draft"), as well as the accompanying Surface Mining and Reclamation Act Ordinance Update Frequently Asked Questions ("FAQ") document. While we appreciate the effort and the changes made, we believe both the outreach effort and the ordinance proposal as it stands currently fall short of what is needed.

The mining ordinance is of vital concern to our desert community, historically an area of active mining interest. In the case of, for example, the Dateline Resources Music Valley Mine project, this re-write of the ordinance could have tremendous and irreparable effect on some of our most rare and treasured lands. This proposal has the potential to cause serious health harm through contamination of the air and our precious water supply. The proposed legislation could damage livelihoods and businesses of constituents in areas covered by this legislation. This proposal has the potential for hundreds of constituents to lose equity in their homes. Public dialogue and concern must be adequately considered in forming any revisions to the ordinance.

In light of the severe impacts that could result from the language in the Proposal, we contend that Land Use Services Department ("LUS") and the County Planning Commission have failed to adequately consider public comment and oversight and California Environmental Quality Act ("CEQA") requirements.

OUR CONCERNS

The Final Draft continues to leave us with concerns, specifically regarding:

- I. Leaving the public out as stakeholders
- II. Section 88.03.040(b), concerning CEQA review of project on federal lands
- III. Section 88.03.060 (a), concerning vested rights
- IV. CEQA review of the ordinance changes themselves required under California law
- V. Lack of engagement with the public as directed by County Board of Supervisors

I. Leaving the public out as stakeholders

Per the county's own records, the county consulted with "stakeholders." However, the stakeholders consulted were ONLY the mining representatives. The public was not considered to be a stakeholder per the county's own records. (Please refer to LUS Staff report for the 7/9/26 presentation to Planning Commission, page 2, paragraph 4.)

A CEQA review of the mining ordinance revision should have been required, given the substantial changes involved. If it had, the affected communities would have been included in the process as stakeholders. Projects such as the Music Valley Mine could have very serious consequences to the people and environment of desert communities.

The public are stakeholders, and this must be specified in the county policy.

II. Section 88.03.040(b): CEQA review of project on federal lands

It is unclear from the language in 88.03.040(b) whether or not there will be a CEQA review of a mining project when it is on federal lands, if that review will be inclusive of the mining project itself, and whether the County will be the lead agency. If there is no CEQA review, or if the County is not the lead agency for such a review, the voices of the immediately impacted residents in the permitting of those projects will be diminished.

We are asking LUS and the County to change the language in the ordinance to explicitly state that a County-led CEQA review for mining projects – even on federal lands, and inclusive of the mining operations – will still be required.

III. Section 88.03.060 (a): Vested rights

The language in 88.03.060 (a) is unclear regarding the possibility of combining vested rights in mining claims or operations into large projects without any permitting or County lead CEQA review. The current language suggests that is possible; it needs to be changed so it becomes clear that that is not possible.

We are asking that a CEQA review of a combination of individual mining vested claims or operations resulting in the combined project being above the relevant SMARA thresholds is required.

IV. Need for CEQA review of the ordinance

If the clarifying changes noted in Concerns III and IV are not made in the Draft Ordinance, the argument that “with certainty there is no possibility that the ordinance change may have a significant effect on the environment” cannot be made, and that as a consequence a CEQA review of the ordinance changes themselves is required under California law. (§ 21064 Negative Declaration, California Environmental Quality Act.)

Also, if a CEQA review of the process had been required, as it should have given the substantial changes involved, the community’s role as stakeholder would not have been ignored from the beginning as described in Concern I.

V. Failure of LUS to follow instructions from the Board and engage adequately with the community

The county has been working on this policy update for 3 years; the public has had 3 months to digest it and try to understand it well enough to ask questions. We need more time, and we need more engagement with LUS, not just a list of FAQ’s three weeks before the Board decision.

Following the August 18 County Board of Supervisors hearing LUS did not engage with the public as expected. As recorded in “Board Actions, Aug. 18” on the County website, the Board directed LUS to “conduct additional community outreach, respond to questions from the community and evaluate potential clarifying amendments before the item returns for further consideration.” LUS’s response to these instructions was to simply release a minimally revised draft of the ordinance section of most concern and a Frequently Asked Questions (FAQ) document and give the public an email address to send any additional questions or comments. This release was on September 29, exactly three weeks before the scheduled Oct 20 hearing.

This is inadequate and disappointing. LUS has considered FAQ’s as sufficient information for the public, but FAQ’s are not dialogue. The FAQ document is not a true consultation with community members about the ordinance, where there is an actual opportunity for dialogue and the potential ability to effect changes.

We request that LUS be formally directed to hold meetings with all public stakeholders to shape this ordinance.

The County has organized sessions or workshops like this around other issues before, for instance recently around the Pioneertown Special Development District Ordinance (<https://lus.sbcounty.gov/pioneertown-sd-district/>) .

We request that LUS hold at least one public webinar/workshop to explain to the public:

- Applicable policies and stipulations for public input re the 1872 mining law, SMARA, NEPA, CEQA, and the existing county mining ordinance.
- How these policies blend together and what, if any, changes will there be to the application of each of these policies in the permitting for mining operations with the revised ordinance.
- Specifically, in what instances might CEQA not be applied to a project and potential impact on public input.
- How can the public be assured that CEQA will be part of every mining application filed within San Bernardino County.

We request any webinar/workshop allow six weeks follow-up for the public to ask any additional questions that arise, and that LUS answer these before this ordinance is returned to the Board of Supervisors for a decision.

We are expecting the County to live up to its promise to do real consultation. Given there has been no consultation with the community by those drafting the ordinance, the County Board of Supervisors should not vote on the ordinance proposal until such consultation has happened.

SUMMARY

We are asking Land Use Services and the County to change the language in the Final Draft to explicitly state that:

- a County-led CEQA review for mining projects – even on federal lands, and inclusive of the mining operations – will still be required.
- a CEQA review of a combination of individual mining vested claims or operations resulting in the combined project being above the relevant SMARA thresholds is required.

If these clarifying changes in the proposed ordinance are not made, the argument that “with certainty there is no possibility that the ordinance change may have a significant effect on the environment” cannot be made, and that as a consequence a CEQA review of the ordinance

changes themselves is required under California law (§ 21064 Negative Declaration, California Environmental Quality Act.)

Further, we contend that the desert communities should have been included in the process as stakeholders from the beginning, and would have if a CEQA review had been conducted as properly required. The public are stakeholders, and this must be specified in the county policy.

Finally, given there has been no consultation with the community by those drafting the ordinance, the County Board of Supervisors should not vote on the ordinance proposal until such consultation has happened.

In short, we oppose a mining ordinance revision that does not preserve at current levels:

1. Residents' ability to fully be heard and participate in the process as provided under the current ordinance, or that will limit or undermine community voices.
2. All County or public oversight that exists under the current ordinance.
3. All County permitting, CEQA review, public notice, public hearings, and County-imposed conditions on any mining operation or portion of an operation as required under the current ordinance.

Thank you again for the opportunity to comment on the Final Draft.

Sincerely,

Chris Carraher

Adrian Field

Eric Hamburg

Mark Heuston

Maarten Oostendorp

Margaret Oostendorp

Catherine Powell

Ron Resnick

Beth Sheffield

for PROTECT MUSIC VALLEY

Cc: Dawn Rowe, Supervisor District 3, San Bernardino County

Claire Tetley, Chief of Staff for Dawn Rowe

Iris Gutierrez, Field Representative for Dawn Rowe