

SBC-BOS MEETING 10/20/26

(39:13) ROWE: Good morning. I'd like to call this meeting to order and thank you all for joining us. Before we begin, I would like to announce that we had a public hearing on item number 73 that had previously been closed for future public comment that we heard on August 18th.

The public hearing will be reopened today to receive new information from county staff and to receive additional public comment, but that additional public comment needs to be limited to only the new things that we're hearing on the public hearing. We have Jason from County Council that will join us up here for that item. And if any of our public speakers happen to drift off topic, Jason will be kind enough to redirect them back to the new items that we're hearing for today for that. And that as a reminder, we have more than 10 speakers signed up for that item as well as general public comment. So those items will be limited to two minutes.

Every other item that we have today will be three minutes for your public comment.

Chapter 17: Mining ordinance deliberation (1:39:33)

ROWE: All right. Now, we will move on to item number 73, which is a public hearing that had been previously been closed and continued from Tuesday, August 18th, to consider the surface mining and reclamation ordinance. Land Use is returning today to provide an overview of their efforts in response to the direction provided by the board of supervisors. The public hearing on this item had been closed on the 18th, but we will reopen it today because we do have folks here to comment. But again, the comment is limited to anything brought back that is new today that Miguel will be sharing with us and public comment when we come to that portion will be two minutes. Miguel...



SAN BERNARDINO
COUNTY

Land Use Services Department

Surface Mining and Reclamation Act (SMARA) Mining Ordinance

Development Code Amendment for
Surface Mining and Reclamation Ordinance

Miguel Figueroa, Director
Paul Gonzales, Planning Chief

October 20, 2026





www.SBCounty.gov

FIGUEROA: Thank you. Good morning, Chair Rowe and members of the board. My name is Miguel Figueroa, Land Use Services Director. With me today is Paul Gonzalez, Planning Chief. Today, I will provide the board with an overview of Land Use Services efforts in response to the direction provided from your board.

Proposed Changes – Summary

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Comprehensive repeal and reenactment of Chapter 88.03 of the County Code to:

- The Board directed LUS to add clarifying language and conduct additional outreach to the Mining Ordinance to better reflect the County's intent and address concerns moving forward.
- Align the County's regulations with updates to SMARA, State Regulations, and current industry practices.
- Expand, reorganize, and clarify the regulatory framework.
- Add new sections and replace outdated provisions.



During the August 18th, 2026 board meeting, your board directed Land Use Services to add clarifying language and conduct additional outreach to the mining ordinance to better reflect the county's intent. *(Brief technical hiccough)* For a brief review of the previous presentation, the proposed ordinance updates and expands procedures, strengthens enforcement, and aligns the county's regulations with current state requirements. Without these updates, the county's mining ordinance would remain outdated. While the mining division would continue to comply with state law, the county would not have the full benefit of an updated ordinance to support its local enforcement procedures.

Public Comments Received

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August 18, 2026 Board of Supervisors (Board) hearing:
The Board of Supervisors received oral testimony from 22 speakers.

Public comments received following the August 18, 2026 hearing:
A total of 13 public comments were received.



At the August 18th board hearing, the board received oral testimony from 22 speakers regarding the proposed ordinance. Following the hearing, Land Use Services received an additional 13 written public comments as of August - as of October 14th, some of which were submitted by individuals who also spoke at the August 18th hearing. I do want to point out that after October 14th, we have received - up to 9:21 a.m. this morning, 62 additional public comments. That brings a total of 75 public comments that were received by my office.

Staff carefully reviewed each of these comments to identify the primary questions and concerns being raised and to determine where additional clarification or revisions to the proposed ordinance were needed. The input received at the August 18th hearing along with subsequent written comments that I just alluded to and outreach efforts helped inform the additional work completed by staff.

Additional Outreach

Following the Board's direction at the August 18, 2026, Board meeting, the County conducted additional community outreach, which included the following:

Friends of Wonder Valley/Desert Trumpet

- Land Use Services met with Friends of Wonder Valley on August 24, 2026.
- Discussed the proposed ordinance and community questions.

Mojave Desert Land Trust (MDLT)

- Chief Engineering Geologist met with MDLT staff on October 1, 2026, to discuss proposed revisions to the ordinance update and other mining-related topics.

Frequently Asked Questions (FAQ)

- Developed an FAQ addressing common questions and concerns.
- Distributed to 80 interested parties, stakeholders, and commenters and available on the Land Use Services website. The distribution included community and conservation organizations such as:

○ Friends of Wonder Valley	○ Morongo Basin Conservation Association (MBCA)
○ The Desert Trumpet	○ Mojave Desert Land Trust (MDLT)
○ Protect Music Valley	○ National Parks Conservation Association
○ Lone Pine Canyon Protection Alliance	

Regarding additional outreach, we have prepared a summary that we want to share with your board. On August 24th and August 26, Land Use Services staff visited Wonder Valley in 29 Palms to meet with community leaders to hear firsthand their comments and concerns about *general issues* occurring in the area. However, we were also informed about continuous concerns related to this mining ordinance.

Land Use Services reviewed the comments and questions received from the public and prepared informational responses addressing the questions raised. Consistent with the board's direction from August 18th to conduct additional outreach, Land Use Services in coordination with county council, developed a frequently asked questions document addressing questions and concerns raised by the commenters and prepared revisions to the proposed mining or ordinance.

On September 29th, 2026, Land Use Services electronically distributed the frequently asked questions and draft SMARA Redline Ordinance to individuals and organizations that had previously submitted comments, including the Lone Pine Canyon Protection Alliance, Friends of Wonder Valley, the Morongo Basin Conservation Association, the Desert Trumpet, the Mojave Desert Land Trust, Protect Music Valley, and National Parks. Conservation Association.

On October 1st, 2026, the county's chief engineering geologist met with representatives of the Mojave Desert Land Trust to discuss the proposed ordinance revisions. The discussion resulted in the Mojave Desert Land Trust expressing support for the county's proposed revisions.

Land Use Services conducted public outreach by meeting with community organizations including Friends of Wonder Valley, Desert Trumpet and the Mojave Desert Land Trust to discuss concerns regarding the proposed mining ordinance update, and explain the benefits of the revisions. Throughout the outreach process, Land Use Services welcomed feedback, listened to community concerns, and considered input in developing clarifying language for the proposed update. Land Use Services staff also updated the frequently asked questions and uploaded the document to the land use services website for public access.

SMARA Ordinance – Requested Changes & Land Use Services Response ⁵		
Topic	Requested Changes	LUS Response
Federal Coordination	Delete the provision allowing coordination with federal agencies and acceptance of federal documents for mining operations on federal lands	Not Incorporated. Retained provision to clarify County and federal responsibilities for mining activities on federal lands within County's jurisdiction
Federal Documents & CEQA Section 88.03.030 (b)	Require federal documents to meet County/CEQA requirements, plus public notice, comment, and Board approval before acceptance.	Partially Incorporated. Revised ordinance to clarify that federal documents may only be accepted to the extent they satisfy County requirements, including CEQA. The additional public notice, comment period, and Board approval requirements not incorporated.
Federal Lands Permit Exemption Section 88.03.040 (b)	Clarify that the County permit exemption does not eliminate other requirements.	Incorporated with revisions. Clarified the exemption from a County permit does not exempt an operation from other applicable SMARA, State, or County requirements, including an approved reclamation plan and financial assurances.
SMARA Exemptions Section 88.03.050 (b)	Delete reference to State Regulations section 3505 (a)	Not Incorporated. Retained the reference because State regulations section 3505(a) establishes SMA exemptions. The commenters' concern relates to application of the exemption rather than the regulatory exemption itself. 
Financial Assurances Section 88.03.100 (1)	Financial assurance mechanisms shall be reviewed and approved by the Department and Division of Mine Reclamation (DMR) pursuant to SMARA subsection 2773.4(e)(2)(A).	Incorporated with revisions. The current ordinance does not address Financial Assurance mechanisms. The proposed update adds language to clarify these mechanisms and related processes. 

With guidance from county council, staff developed this comparison table to organize the comments by topic, identify the specific request, and provide the county's response to each item. In response to the SMARA comparison table and public comments received, Land Use Services staff recommends the following revisions be made to the surface mining and land reclamation chapter.

- Bullet number one, the requested deletion of the federal coordination provision was not incorporated. The provision was retained to clarify county and federal responsibilities for mining activities on federal lands within county jurisdiction.
- Bullet two, the requested change regarding federal documents in CEQA was partially incorporated. The ordinance was revised to clarify that federal documents may be accepted only to the extent they satisfy county requirements, including CEQA, which we know is a must and a priority.
- They requested public notice... *The requested public notice comment period and board approval requirements were not incorporated. And I do want to elaborate on this point. The reason they were not incorporated is because there is a need to avoid *duplicity* of work coming to this board. However, I do want to point out that the discretion of the department *will* make sure that we do provide that noticing and that opportunity for the people to comment.*
- The requested change to the federal land permit exemption was incorporated with revisions to clarify that the exemption does not wave other applicable SMARA, state, or county requirements including an approved reclamation plan and financial assurances. Again, one of the most heard about comments that was received was making sure that this item *[undistinguishingable, sounded like 'sdid' – maybe 'stayed'?]* The requested change regarding SMARA exemptions was not incorporated. The county retained the reference because state regulations establish SMARA exemptions under section 3505A. The concern rate raised relates to how the exemption is applied rather than the exemption itself. Meaning that we will still hold and honor SMARA. The requested incorporation of financial assurance mechanisms was incorporated to this tablet the direction of the state mining and geology board, language was added to address mechanisms not included in the current ordinance and clarify the related processes.

Why SMARA Ordinance Update Is Necessary

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Why ordinance updates are needed now:

- State SMARA requirements have evolved since the County's last comprehensive update.
- To capture and provide clear procedures and stronger enforcement tools.

Impacts if the County does not update its ordinance:

- If the County does not maintain an ordinance that is consistent with SMARA, the State Mining and Geology Board (SMBG) has authority under State law to review the County's compliance and, under certain circumstances, assume certain SMARA responsibilities that would otherwise be administered locally, therefore limiting County authority.
- Adopting the updated ordinance therefore helps preserve local administration and oversight of surface mining and reclamation activities while ensuring that the County's procedures are consistent with current State law. The update provides County staff clearer local authority and procedures including reclamation plans, financial assurances, inspections, idle mines, vested-rights determinations, and enforcement.

We would like to provide a point of clarification. If the proposed ordinance is not adopted, the county would continue operating under its existing mining ordinance. If the state mining and geology board were to determine that the county no longer has an adequate mining ordinance, the county could lose its status as the SMARA lead agency. In that event, responsibility for administering SMARA would transfer from the county to the state.

The purpose of this amendment is to bring the county's development code into alignment with current SMARA requirements and provide greater clarity regarding the county's role and responsibilities. Ultimately, this update is intended to ensure that the county's ordinance is consistent with state law while preserving the county's applicable oversight responsibilities.

This concludes our presentation and we are here to answer any questions the board may have.

Chair Rowe, if I may, I want to share also that as a result of certain actions this board have taken over the course of the past year, the mining division has now been able to bring on board additional staff with the intention to honor and apply our rules and our outreach in a more professional and efficient way. We now have two additional engineering geologists. We now have a mining use technician that carries a senior status within our team, in addition to a current recruitment for an additional technician that will bring our mining team to a level of service that is what we deserve to give our community.

ROWE: Thank you very much. We will begin with our public comment online through the phone. We have our first request to speak is Erin Gatlin followed by Setha Evans and then we will come back here in chambers. As a reminder, it is two minutes. Erin and Satha...

COMMENT: Good morning, Chair Row and supervisors. My name is Erin Gatlin and I live in Yucca Valley. I share the concerns of Protect Music Valley, the Lone Pine Canyon Protection Alliance, and the Morongo Basin Conservation Association, which you'll hear from later. I've submitted a written letter twice within the time frame, but I've not received acknowledgement, and I would request that staff follow up.

My comments now will focus on what has changed since August. First, the September 29 revision. It adds a reference to CEQA, and that helps, but it still accepts federal documents only to the extent they meet county requirements. While the FAQ says the whole project will get CEQA review, the revised ordinance does not say so. For the proposed Music Valley mine, which is on about 20,000 acres of federal land next to Joshua Tree National Park, 29 Palms and Wonder Valley, the revised text would not require county review of the mining itself.

Second, the revision left the ordinance's own CEQA exemption unchanged. The revised draft still relies on the common sense exemption which requires certainty that there's no possibility of harm. It is the county, not the public, that must show that certainty and the county has not. The revised ordinance waves the county permit on federal land and removes every vested rights decision from environmental review.

Third, outreach. In August, you directed staff to conduct community outreach. I would argue this was still very limited. What most received was an FAQ and an email address three weeks before this meeting and there were no public meetings. I ask you not to adopt the ordinance today. Please direct staff to prepare an initial study and to hold public meetings in the affected communities before the ordinance returns. Please support the communities you're supposed to represent. We're the people who will have to live with the impacts of this ordinance for decades to come. Thank you.

ROWE: Thank you very much. That is the last request on the phone. And the other one is not present.

CLERK: Correct. ROWE: Okay. Oh, okay. Saytha Evans.

COMMENT: Good morning. My name is Satha Evans. I'm a Wonder Valley resident and I want to thank the board for listening to the concerns of our community today. In the August board of supervisors meeting, there was an overwhelming concern expressed by our community as to the proposed change in language codified in chapter 8803 and whether or not that would empower us as a city to block Dateline Mining Resources from engaging in environmentally harmful mining practices that would endanger the ecosystem, animals, and humans in our protected national park and gateway communities economy. As a former resident of Yucca Valley, Madam Chair, I have heard you speak of raising your children here, and I thank you for your vocal support of us, the residents of 29 Palms and Wonder Valley, and would like to ask the board directly where you stand on the issue of allowing a mining company to enter our community, which is the greater shadow and concern looming beyond the proposed language change in the surface mining laws. I deeply appreciate your support in caring for our communities on this matter. Thank you.

ROWE: Thank you. Now we'll bring it back here in chambers where we have Vadim Auschuyler, followed by Adrien Field and then Beth Sheffield

COMMENT: Check. Good morning board, audience. My name is Vadim Auchyler. I'm all the way from 29 Palms, Morongo Basin. I'm commenting specifically on the new revisions and staff report for item 73.

I have several questions I believe deserve answers on the public record before the ordinance is adopted. First, what exactly is being exempted? Section 88.03.040(b) still says a county permit shall *not* be required for certain mining operations on federal land. Does this mean only county zoning permit? Or does it affect any other approval of discretionary authority?

Second, what is the legal necessity? Staff relies on a 1992 agreement intended to coordinate state and federal oversight. But in *Nelson versus county of Kern*, a California appellate court examined the same agreement and rejected its use to avoid county responsibilities under SMARA and CEQA. Coordination is not surrender. If federal law requires this permit exemption, please identify it.

Third, what are the enforceable guarantees? The new FAQ promises continuous environmental review, reclamation oversight, and public participation. Which provisions of the ordinance guarantee those protections, and which depend on administrative interpretation?

And fourth, what happened to the board's direction for community outreach? The October staff report documents an email distribution on September 29th. Was there any direct consultation with affected communities, not just conservation organizations? Where is that record?

Supervisors, your agenda expressly permits amendments today. Please narrowly define the exemptions, preserve every other lawful county responsibility, and explain the legal basis publicly. If those questions cannot be answered today, continue the item rather than adopt unresolved ambiguity. Thank you.

ROWE: Thank you very much, Adrien Field, followed by Beth Sheffield, and then Margaret Oostendorp

COMMENT: I'm speaking on item 73. I feel like we're living in separate worlds here with the county staff. What Mr. Figueroa outlined is not what's in this proposal. This, it's quite different and it's very clear in the proposal that we're losing rights. So, I would just urge the board to vote no on this. This is going to affect thousands of people and to say that this is just an update, an administrative update that is required is not what is in this update.

This update goes much further than just an administrative update. It's imposing a lot of legislation that is going to be very harmful and I don't understand why this continued comment about this is just an update. This is, we need to do this, but we don't need to accept that we're not going to have CEQA reviews. The public outreach has been disastrous as noted in the last meeting. And just as a point, there were seven groups of people NPCA, Friends of Wonder Valley and the rest of those groups. Those are the people that Mr. Figueroa outreach to. What about the public? What about the general public? That's the problem here. We're just reaching the same people. And the only reason that the general public knows about this is because those groups have been publishing this, not - it's not LUS that's been actually outreaching to the public. So, I urge you to do a better job there and to vote no on this. Thank you.

ROWE: Thank you. Beth Sheffield followed by Margaret Oostendorp and then Catherine Powell.

COMMENT: Good morning, Beth Sheffield and I thank you for the opportunity to comment. We find ourselves in an unfortunate situation this morning as Mr. Armendarez has noted in the August 18 meeting, "Someone may go home unhappy." As is often the case, the board must make a difficult decision today, one which will likely have significant impact on my community in Wonder Valley, where a thousand claims have been staked for the Music Valley Mine. Our new land services director inherited a bit of a mess with this ordinance proposal when, since its inception the public were not considered stakeholders and given less than three months to digest this important and impactful ordinance. This isn't his fault. The public in essence was given a 10,000piece jigsaw puzzle with no image to put it

together. Yet, we will bear the weight of this ordinance decision today as my community is looking at the possibility of a 31 square mile industrial scale open....

TURLES, COUNTY COUNCIL: Can the commenter please limit her comments to the new material presented, please?

COMMENTER continued: I don't understand, how this is disconnected from that?

TURLES, COUNTY COUNCIL: It's, the new material presented related specifically to changes in the federal land section, financial assurances, and public outreach. So, if you could limit your public comment to that newly added section rather than material provided as part of the first public hearing.

COMMENTER, continued: I can't really address that. I don't even know who was speaking here. - I would really ask the board to not pass this proposal today. I don't feel like it's clear. I don't feel like my community is going to be protected or have a voice in any kind of a mining proposal in my area. So that's the best I can do with whatever you're telling me. Thank you.

ROWE: Thank you. Margaret Oostendorp followed by Katherine Powell and then Pauline Pisano.

COMMENT: Yes, I'm Margaret Oostendorp. I'm a vulnerable Wonder Valley resident. I'm going to change a little from what I wanted to say today, prepared to say.

But first, Supervisor Rowe, we really want to thank you for supporting the upgrades to our community center and taking the time to visit us and do the ribbon cutting there. It's very much appreciated.

I was frankly shocked a few minutes ago to hear Land Use Services talk about a meeting with friends of Wonder Valley as part of the outreach effort around this ordinance. I am part of that group. I was at that meeting. That meeting was not about this ordinance. We were advised to raise other issues whether it had to do with dumping and other areas of concern. So, I'm not quite sure why you are misinforming the board of supervisors and this entire group on the purpose for that meeting.

Also, while about the new changes, that's what we're supposed to focus on. While I'm grateful that LUS issued a FAQ document about the ordinance change, *it is not a replacement for a meeting with community residents*. Why is it that land use services meets extensively with the mining industries Cal-cima, but not with us residents? Are residents not stakeholders? Supervisors, is issuing a FAQ the same as consulting with meeting with impacted community members?

Why are we, as residents who will be impacted by this ordinance change, treated in this discriminatory manner? LUS has found the time to meet with members of other communities on their issues of concern. Why not in this instance? Surely *(Mic was muted by county staff)*

ROWE: Thank you. Pauline Pisano, and then Pat Flanigan.

(Talking heard in the background)

ROWE: I'm sorry your time is up.

(Talking heard in the background)

COMMENTER: Excuse me. I'm supposed to go next. I'm Catherine Powell.

(Talking heard in the background)

ROWE: Excuse me. (2:01:46)

(Talking heard in the background)

ROWE: I'm sorry.

(Talking heard in the background)

ROWE: Catherine Powell and then Pauline Pisano and then Pat Flanigan.

COMMENTER: Thank you. My name is Catherine Powell. I'm speaking on behalf of the Wonder Valley organization, Protect Music Valley. Because the language of the ordinance is complex and technical, we needed full engagement and dialogue with LUS in order to safeguard our interest as stakeholders. Yet, the only stakeholders consulted in this three-year process were the mining representatives. We would like to thank the board for instructing LUS on August 18th to finally engage with the community. However, their response was limited to the release of a minimally revised draft of the ordinance in an FAQ document only three weeks before today's meeting. This is not a true consultation where there is actual opportunity for dialogue, for follow-up on questions, and the potential ability to actually affect changes. While we appreciate the changes made to the revision, we have remaining concerns.

Section 88.03.040(b): It is still unclear from that language in this section whether or not there will be a CEQA review for 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.

Section 88.03.060(a): The language is unclear regarding the possibility of combining vested rights and mining claims or operations into large projects without any permitting or a county-led CEQA review.

Given the above, LUS cannot make the argument that "with certainty there is no possibility that the ordinance change may have a significant effect on the environment," and that as a consequence a CEQA review of the ordinance changes themselves is required under California law.

In conclusion, we oppose the mining ordinance revision that would diminish or remove the following provided under the current ordinance:

- Residents abilities to be fully heard,
- All existing county oversight

- All county permitting CEQA review, public notice, public hearings, and county imposed conditions on mining operations.

Given there has been no consultation with the community by those drafting the ordinance, the board should not vote on this ordinance proposal until such consultation has happened. Thank you again for the opportunity to speak.

ROWE: Thank you, Pauline Pisano, followed by Pat Flanigan and then Gail Nieto.

COMMENT: Hello again. My name is Pauline Pisano. I live in Flamingo Heights, California. And I'm here with my community members because the FAQ has CEQA, but the language in the actual ordinance does not. It is very vague actually about what is in this ordinance. But most, more importantly, this additional outreach, this engaging the public in these changes and in dialogue and actually building with the community that's going to be living next to the land where this is happening has not happened. And I'm actually a little bit in shock that some claims that an FAQ is considered a public outreach. Thank you so much.

ROWE: Thank you very much, Pat Flanigan, and then Gail Nieto, followed by Melissa Manning.

COMMENT: Can you hear? Okay. Good morning, Chairwoman Rowe, Board of Supervisors. I'm Pat Flanigan, director of the Morongo Basin Conservation Association.

I want to thank you for opening this item for residents to respond. This update matters to our communities. Now, the proposed Music Valley Mine, a rare earth project on about 20,000 acres of claims next to Joshua Tree National Park and the city of 29 Palms would be governed by this ordinance. Our main concern has been how much environmental review a mine on federal land would receive. The September 29th revisions help. Federal documents must now meet county requirements, including CEQA, and mines on federal lands still need a reclamation plan and financial assurances. We support these changes.

We ask the board to take three more steps before adopting the ordinance. First, prepare an initial study of the ordinance under CEQA. Rather than relying on the common sense exceptions. This ordinance changes how mines on federal land are reviewed and how vested rights are decided and federal environmental review has narrowed this year. An initial study would show whether the new rules would lead to significant environmental effects so the county could address them before adopting the ordinance.

Second, make clear that exceptions from the state mining ordinance are judged on the project as a whole and are not applied separately to multiple mining activities by the same operator in the same area.

Third ask the state to update its 1992 agreement with federal land agencies. That agreement assumed federal and state environmental review were largely equivalent and that is no longer true. Finally, public engagement. In August, you asked staff to reach out.... (*Mic was muted.*)

CLERK: That's time.

ROWE: Thank you, Gail Nieto, then Melissa Manning, and then Maarten Oostendorp.

COMMENT: My name is Gail Nieto. Thanks for letting us speak today. I had several things I was going to address today and then I saw in written on number two here under the public notice, the proposed ordinance - and I quote, "is exempt from California Environmental Quality Act. This is very disturbing to me because to me the, that environmental act protects us from many things. First of all, it helps us keep clean air. It helps us keep clean water. And the three things that I want to address today are, that need to be included in the ordinance, are solid and safe infrastructure such as roads, an ongoing and strong reclamation plan which they possibly want to eliminate in this ordinance, and preliminary environmental reviews to protect humans, environmental species, and our precious environment.

Representatives, superintendents, who do you represent? Do you represent the mining companies or do you represent the public? Please vote no on this ordinance and send it back to be reworked. Thank you.

ROWE: Thank you very much, Melissa Manning, followed by Maarten Oostendorp and then Stacy Solie.

COMMENT: Good morning. I'm Melissa Manning and I'm speaking on behalf of the Lone Pine Canyon Protection Alliance and I'm a concerned Wrightwood resident. Land Use Services did not engage with us or Wrightwood about the ordinance as well beyond sending a simple FAQ. I also provided hard copies about the ordinance concerns from our lawyers this morning. We are asking for you to stick with SMARA. Don't go beyond that.

Regarding the new ordinance change 88.03.040(b) it does not add the requested public notice or documentation process that the July 8th, 2026 comments for the Center for Biological Diversity asked for, and proposed language for. This is relevant and the county, in our Lone Pine quarry situation, the county has assured us multiple times that any changes to the quarry would require public notice. Now we see that assurance going away without that public notice clause. Land Use Services has not, in our opinion, been forthcoming or trustworthy in choosing what they deem is appropriate for public notice or not, in the past. They have shown themselves to be out of touch with the public time and time again. In fact, the August staff report on the Lone Pine quarry incorrectly suggested that the public had an opportunity to respond to the project and there just were basically no comments. This sounded like we simply chose not to comment and that's not what happened at all. And I'll be speaking later about our concerns about being misrepresented in the public comments. So, our request is to stick with SMARA and get rid of the other stuff. Require public notice and the disclosure of factual and legal basis for any determinations. Keep recordkeeping requirements. Thank you.

ROWE: Thank you very much. Maarten Oostendorp followed by Stacy Solie and then Henry Josephsburg.

COMMENT: Good morning supervisors. Hope springs eternal. My name is Maarten Oostendorp. I'm a resident of Wonder Valley.

You read and heard, and will hear more, from residents and organizations expressing problems with both the updated ordinance language and expressing frustration with the lack of true consultation. True consultation, as in working together to find ways that address concerns. True consultation, as it was afforded to the mining industry. Hope springs eternal. Hope that you supervisors take my and many other residents voices seriously and let them guide you to what is a clear path forward. Hope that you supervisors empower LUS to set up a process of consultation with the community. Consultation, like LUS has done before recently in Pioneer Town - and LUS can be proud of that, having strengthened the regulation and also strengthening the trust between the community, LUS, the county, and this board. With true consultation you supervisors and all of the stakeholders in this ordinance can look forward to clear unambiguous language in the ordinance itself safeguarding what so many residents have indicated is important to them. It will also remove thoughts people may have *[about]* this board rubber stamping what the mining industry is asking for, and would instead show how responsive this board is to its residents and swap(?). Between the east and north desert regions of San Bernardino County, desert lands count for 94% of its service. 82% is federally owned. The county is the largest mining county in California. The language in this mining ordinance is important. Let your decisions today to hold.... *(Mic muted.)*

CLERK: *That's time.*

ROWE: Thank you, sir. Stacy Solie, followed by Henry Josephsburg and then Mason Osgood.

COMMENT: Hi. My name is Stacy Solie. I'm a resident of Wonder Valley and I guess I would like to speak about outreach as many others have. At the beginning of this meeting, there was an outreach by a pastor to God and he asked God for a blessing on the city of San Bernardino, And I would like to do an outreach to an inclusive higher power that blesses everyone in the county. all the people, the people who are here, the people who couldn't make it, who don't have the privilege to take off work and come to this meeting, all the animals, all the non-human people that are out there that want our protection.

I'd also like to say I grew up in central Washington state, which was a very red area. And there was often talk of blue areas like Seattle that didn't understand rural issues. And red and blue often signify Republican and Democrat. I know many, I know this is a nonpartisan supervisor's board, but many have background in Republican politics. So, I find it so interesting that we're having this dynamic... *(Mic muted while speaker was talking)*

FEINGOLD, COUNTY COUNCIL: Speaker, we need you to focus on the changes to this ordinance.

COMMENTER continued: ...a lack of, lack of outreach to the rural residents where there was claim that there was outreach. I live in Wonder Valley. I didn't get any notice about that meeting and then I heard from Margaret that it wasn't as it was presented. So, I just think that this there's a theme here of rural desert voices not being heard and a request that you partner with us, communicate with us, meet with us, collaborate with us. And I would request that you don't adopt any language that limits our ability to affect what kinds of projects come into our communities.

ROWE: Henry Josephsburg followed by Mason Osgood and then John Vicander.

COMMENT: Thank you, Madame Chair, members of the board. Without going into some of the broader issues that others have raised and that I have raised previously, I want to point out two problems with the way certain sections of this new ordinance have been drafted. Section 88.03.060(a) tells us that the board will recognize prior determinations of vested mining rights. That looks to me as though it's an attempt to retroactively recognize vested mining rights that may have lapsed or have become void.

The ordinance itself should make clear, if that's what it's doing, that should be in the ordinance. Or there should be a disclaimer of retroactive recognition of expired or void rights. Second point, the abandonment provisions in the proposed ordinance tell us that under certain circumstances, the board will recognize abandonment. Only under the idle section of section 8.03.100, is there any...

CLERK: Thirty seconds.

COMMENTER continued ...is there any device available? What is omitted from 03.100 is any criteria for what a proponent of abandonment has to demonstrate. It just says by applicable law. It should spell out just as SMARA spells out what criteria exist to support an existing grandfathered vested right. *(Mic muted.)*

CLERK: That's time.

ROWE: Thank you, Mason Osgood. And then John Vicander.

COMMENT: Good morning. My name is Mason Osgood. I am the California Desert Program Manager for the National Parks Conservation Association. I'm commenting today to show appreciation for some of the changes made since this ordinance's first draft in August. Our organization along with many engaged community members remain committed to ensuring that mining projects in San Bernardino County go through proper environmental review processes on local, state, and federal levels.

We appreciate the following clarifications in the updated ordinance section 88.03.040 to ensure CEQA compliance for functionally equivalent documents and the changes that clarify that a SMARA reclamation plan and financial assurances are still required for projects on federal lands even when exempt from a county land use permit. These changes ensure future mining projects follow the strong environmental policies and review standards of CEQA and SMARA. Furthermore, these changes ensure

public participation requirements, something that local communities impacted by these projects rely on for engagement.

As this ordinance moves towards review with appropriate state agencies, this county should encourage those agencies to amend the MOU from 1992 to align with modern environmental review policies and the plain language of SMARA regarding exemptions.

Finally, we want to ensure that community voices are considered in future projects and mining policy updates, especially near impacted communities in the county. While this ordinance may be a mandated policy update, community outreach and consultation to impacted communities should not be treated as secondary to policy objectives. Thank you.

ROWE: Thank you very much. John Vicander

COMMENT: Ready? Hello, I'm John Vikander, a resident of Wrightwood. It can be can be challenging to navigate ordinance procedures while balancing protection of the public and businesses entities. I thank you for, to the staff and the board of supervisors, for their ongoing efforts. But at the same time, as a citizen, I would like to see more transparency as it relates to the adoption, repeal or reenact of chapter 88.08 of division 8 of the title 8 of the county code. There has been a lack of public education and outreach. Please table the vote until items and concerns discussed today are fully vetted and addressed. Please send this back for revision to provide requirements for public notice, written explanations, and permanent public records for the decisions. Also in the instance of Lone Pine Canyon, that mine has been dormant for more than more than 50 years. Dormant and abandoned mines are different, but the environmental impacts are vast and ecologically, safety, quality of life, and watershed tourism and more. There is a lot of power transferred to the staff and their analysis and recommendations. Please hold of the - I'm sorry. Please hold off the vote. Hold the vote until there are more opportunities for the community for input and feedback. Thank you for your time.

ROWE: Thank you very much. Miguel, that's the last request to speak that I have. We've heard some questions today. We've heard some comments. We've heard maybe conflicting things with what you had presented. Can you help, from the public comment that was received today, clarify the things that you heard? There were questions that were asked. I wrote down as many as I could as we went. I saw you also doing that. Could you address some of the things that we heard today?

FIGUEROA: Sure. Absolutely. So, chair, board members, number one, I think all the all the sentiment that has been shared right now with the public is on point and well taken. I want to be very clear about that. One of the things that we're looking to emphasize and do is precisely conduct ourselves in an open transparent form in which, moving forward, we can have that direct contact with our community members *throughout the county*. With that said, we've heard a lot of commentary related to the CEQA exemption. I do want to echo that for mining entitlements, expansion projects, *CEQA is a requirement*.

If there are things given the way the proposed changes to the ordinance is written, I would like to defer it to my council to see if there is a need for that to be done. But we do want to assure that those CEQA requirements as the county wishes in the form of being conforming to state law are done. That's one thing I heard.

On a second note, part of my presentation, and I know at times messaging can get lost, part of my presentation also included a review that was done in coordination with council as it relates to how we would go about public noticing, public engagement, opportunities for the public to be aware and informed.

I mentioned that my department would take on the responsibility to make sure that that happens. Again, another instance in which, per legal review, it was recommended for it to not be stipulated as such, but something that is at the discretion of the department to perform, which I alluded will be a must.

To further expand, chair, on your questions, I would like to offer my council Jason Turles to see if he has anything to add to that.

ROWE: And before he does that, I'm going to ask him to clarify. We heard lots of comments on 88.03.040(b) and clarifying that accepting federal environmental studies does not relieve the county of its independent obligation to evaluate entire mining projects under CEQA, including mining operations and reclamation before granting discretionary approval subject to CEQA. Can you confirm that that is, it seems that it's to people that read it, it's vague. Can you clarify that for us?

TURLES (county council): Sure. So, thank you, Chair Rowe. CEQA is state mandated. Our ordinance could be completely silent on it and, the state requirements would trigger CEQA without any specific reference. The reference that the county chose to include within that section is due to the coordination between the federal government and the county and mining activity that's overlapped or contained entirely within federal lands, the federal government issuing the permit and complying with NEPA, the federal regulation, the county issuing the reclamation plan and complying with CEQA. And so, to the extent an applicant prepares studies for its federal permission, that is sufficient for the county's purposes to comply with CEQA. That's just recognizing that. But at no point does that take the county's discretion away of having to accept that document as complying with CEQA. We are the lead agency for purposes of CEQA and will ensure that that process occurs when it's triggered.

With respect to the application of CEQA for permits and reclamation plan, one of the findings to approve a reclamation plan is a finding that they complied with CEQA. So those requirements are applicable to our ordinance and CEQA will be complied with as part of each individual project.

ROWE: And then in 88.03.050(a), it says it expressly states that federal authorized mining operations subject to SMARA may not commence until all applicable recommendation plans and financial assurances and approvals have been obtained and the county has completed CEQA. Question: why?

BLM approval should not be mistaken for authorization to begin mining while required county approvals remain outstanding. Is that, can you speak to that?

TURLES: Yeah, sure. So, although it's on federal lands and the applicant wouldn't require a county approval, state law still requires reclamation approval through the state, which is delegated to the county as the lead SMARA agency. So that's why there's approvals that often happen concurrently and although the federal government may issue a plan of operation, that applicant still needs that reclamation plan approved by the county and prior to approval of a reclamation plan mining operator would not be able to proceed with any mining activity.

ROWE: Okay. And then to Pat Flanigan's, had several suggestions. One of them was to conduct an initial study under CEQA. Miguel, can you speak to what she may have been requiring and requesting and is that something that we could do over the course of the next year or so, as well as to update the MOU's with the state?

GONZALES: Chair Rowe, Paul Gonzalez, Planning Chief, and Board of Supervisors. What I understood the question to be is an initial study done for this update to the ordinance and she was concerned about the exemption that we are doing. This is more of a program level for the whole county of San Bernardino, not just a specific area. If a mine does come in in the future and it's on county land and we have the authority, then at that point a project level environmental - possibly an environmental impact report, most likely an environmental impact report, will be done at that time.

ROWE: And then with regard to encouraging our state agencies to amend the MOU from 1992 to align with more modern environmental review procedures and plain language of SMARA regarding exemptions.

FIGUEROA: Chair, if that would be the direction of the board, we would be very happy to take it and make sure that we work with the appropriate county department offices to make sure that that occurs.

ROWE: And we will, can you bring this back in the next year, year and a half for that update? I would not imagine that would be able to be something that would happen overnight.

FIGUEROA: That is correct. Again, if direction is as such, we would be able to further look into it and be able to report back out to the board.

ROWE: And just as a overarching, if the county does not adopt this ordinance and we leave it to the state, we will have fewer controls and less controls in general in our county for projects that would move forward.

FIGUEROA: As noted, Madam Chair, that would be a possibility.

ROWE: Okay.

TURLES: Madam, Madam Chair, just real quick on that MOU, the way the ordinance reads if the state amends that, that amended version is incorporated by reference in our ordinance to take account that, you know, the environments change, state agencies and federal government change. And to the extent they make any change to that, it's incorporated with us having to come back and keep amending our specific ordinance. So if through our contacts we're able to get the state to actually update that, that updated version would be incorporated into the ordinance without having to come back.

ROWE: I think that's great. We should still bring it back and notify the public. I think that Pat Flanigan was encouraging us to help our state agencies modernize for environmental laws that are new since 1992. I can see Pat nod yes. Yes, she is affirming that.

FIGUEROA: Absolutely, Chair. That's well taken.

ROWE: Okay. Thank you. Any other board questions or comments? No. Okay. So, I would like to give direction for us to, in our advocacy at the state and even the federal level, to remain as modernized in our environmental reviews and laws as possible, to make sure that if there are updates that happen that we can encourage that to happen at the state level. And that when they do, I understand that they would then be brought back, that they would automatically be incorporated. But I would encourage us at that time, if we're going to look at this ordinance in the next year - year and a half, and its implications to surface mining reclamation act, that we incorporate those at that time.

FIGUEROA: No, we didn't. Absolutely.

ROWE: All right. Any other modifications? All right, close the public hearing and thank you.

VOICE FROM AUDIENCE: (indistinguishable) ...community.

ROWE: Alright, when we bring this back for the next, what we will be doing, review it over the course of the next year, if we can make sure that we get into all of our communities for community meetings in a way that is more broadly noticed and plenty of time for our residents to have input.

FIGUEROA: The message is very clear, Chair Rowe, from your board and the community and we will strive to continue to improve our outreach efforts throughout the county.

ROWE: Very good. Thank you very much. All right. So I motion vice chair seconded. All those in favor? Aye. Any opposed? Any abstentions?

CLERK: This motion passes unanimously.

ROWE: Okay. Thank you very much. With that, we will move on to our public comment on items not on today's agenda. And, we have several requests to speak. Your public comments are limited to two minutes...

VOICES FROM THE AUDIENCE: What did you vote on? We didn't hear it. Did it pass?

ROWE: That's correct, we accepted the ordinance.

VOICES FROM AUDIENCE (Indistinguishable.)

ROWE: (Speaking to Clerk) Do you want clarification on the vote?

FEINGOLD, COUNTY COUNCIL: Um, this is not the time for public comment. We're moving on.

ROWE: Does County Council need any clarification on the motion, the second, and what was accepted today?

FEINGOLD, COUNTY COUNCIL: No, we are clear.

ROWE: Okay, thank you. Alright, we're going to go to our online speakers....