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### SUIT DEMANDS VOTE ON SUNOL QUARRY PLAN IT CONTENDS THE MISSION VALLEY ROCK CO. PROJECT FALLS UNDER MEASURE D INITIATIVE REQUIREMENTS

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SUNOL - A lawsuit was filed Wednesday by residents fighting plans for a 242-acre gravel quarry near downtown Sunol, contending it first must go to Alameda County voters for approval under requirements of the Measure D open-space initiative.

Among other things, Measure D - passed by county voters in November 2000 - forbids new quarries without voter approval. It also says the Mission Valley Rock Co. quarry planned for Sunol "should not be established."

But what that means is subject to legal debate.

On the one hand, Alameda County approved a permit for the quarry in 1994, prior to Measure D's passage. A lawsuit challenging the permit's environmental report lost in 1995 and again in 1997 on appeal.

But the new suit filed Wednesday contends several other permits and approvals from various agencies were needed for the quarry to proceed at the time of Measure D's passage, meaning the mining operation is subject to the measure.

"In order for Mission Valley Rock to proceed, it should abide by the conditions of Measure D," said Pat Stillman of Save Our Sunol, which filed the suit along with the Preserve Area Ridgeland Committee and the Alameda Creek Alliance.

"Any project that does not have all of its permits and was not approved until after Measure D was passed is subject to a vote of the people of Alameda County," Stillman said. "If they want a quarry - let's have an election."

The lawsuit says the quarry lease approved by the city and county of San Francisco, which owns the Sunol land, went into effect Dec. 23, 2000 - a day after Measure D became law. It also claims that new state permits may be required to deal with such issues as newly listed endangered species.

Mission Valley Rock, which mines the southeast side of Interstate 680 in Sunol, wants to dig near Sunol's downtown, its elementary school and its newly restored historic water temple.

The suit, which names Mission Valley Rock, Alameda County, San Francisco and the San Francisco Public Utilities Commission, seeks to stop the plan. A hearing on a temporary injunction is set for Monday in Pleasanton Superior Court.

Alameda County community development director Adolph Martinelli disputed claims that Measure D affects even those permits not under the county's direct control.

"Measure D only affects permits under the jurisdiction of Alameda County," Martinelli said.

County planner Bruce Jensen said that, in any event, "Our position is that the quarry has all its discretionary permits; there's not a single thing left that's subject to Measure D."

Michael Ohleyer, an attorney for Mission Valley Rock, declined Wednesday to comment because he hadn't seen the lawsuit.