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## **Sunol quarry survives appellate court challenge**

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**Saturday, November 20, 2004** - SUNOL -- A plan to mine 43 million tons of gravel and sand near downtown Sunol picked up steam Friday when an appellate court refused to stand in the way of the project.

For more than a decade, a group of Sunol activists has fought attempts by Mission Valley Rock Co. to expand its quarrying operations along Interstate 680.

The group, Save Our Sunol, could still petition the California Supreme Court to review the latest decision.

"We have spent so much time and energy, including many years of my life, opposing this project," said Pat Stillman, the group's founder and president. "In my opinion, we ought to see it to the end."

An attorney for Mission Valley Rock said he's confident that opponents of the project soon will exhaust their legal options.

Petitioning the Supreme Court "is an inexpensive thing for them to do ... that I think would go nowhere," said Stephen G. Blich, an attorney for Mission Valley Rock and the city of San Francisco.

The proposed quarry, which would occupy a 242-acre site next to the historic Willis Polk Water Temple, has the backing of San Francisco and Alameda County officials.

Alameda County approved the project in 1994, and San Francisco Mayor Willie Brown signed a lease with Mission Valley Rock in November 2000.

San Francisco, which owns the property to be quarried, stands to gain millions in mining royalties. Alameda County officials supported the project in part because it would provide water storage when mining is completed in about 45 years.

But Save Our Sunol maintains the quarry would expose neighbors -- including children at Sunol Glen School -- to toxic dust and noise.

The group lost its first legal battle against the quarry, a challenge of an environmental study that found the quarry's impacts could be managed and that neighbors wouldn't be harmed.

But Save Our Sunol filed a second lawsuit after Alameda County voters passed a slow-growth initiative, Measure D, in November 2000.

Besides prohibitions on new housing developments in unincorporated areas, Measure D placed restrictions on projects such as quarries and power plants.

Although the quarry was approved six years before Measure D became law, Save Our Sunol maintains the initiative applies to the project because it hasn't been granted all necessary state and federal permits.

Superior Court Judge Bonnie Sabraw rejected that argument last year. In a nine-page opinion, a three-judge panel of the First District Court of Appeal agreed with Sabraw's ruling that Measure D does not apply to the quarry project.

"There is admittedly no ambiguity in Measure D's negative attitude toward quarries, and particularly the Sunol Valley quarry," wrote Justice Patricia K. Sepulveda. "Measure D finds that quarries 'are massive, ugly and environmentally harmful uses of land,' and expresses dislike for the quarry that is the subject of this appeal."

But Sepulveda said Measure D was written in a way that limits its application to future quarries -- not those already approved.

Mission Valley Rock's attorney said the quarry actually will benefit the environment, not harm it.

"It's best to cluster quarries, rather than have them springing up in independent locations, at a time when we have a critical need for building materials in California," Blich said. "We are importing large volumes from outside the country."

Blich said other groups would have opposed the project if it was a threat to the environment.

"This was classic NIMBY (not in my backyard) -- 70 disaffected people have tried for more than a decade to undo the approvals" to build the quarry, Blich said.

Stillman said environmental groups -- including the Alameda Creek Alliance and the Sierra Club -- have been involved in the fight against the quarry.

"If Mr. Blich is so fond of quarries, I wonder how he'd feel about having one in his front yard, or in front of the school where his children went," Stillman said.

If Save Our Sunol exhausts its legal remedies, Stillman is contemplating launching a campaign of civil disobedience to stop the quarry project.

"We haven't made that decision, although I do have people who have said they will do it with me if I decide to," Stillman said.

Asked about the prospect of angry Sunolians attempting to stop Mission Valley Rock's bulldozers, Blich said: "Her threat of civil disobedience is interesting, but I must say it is eccentric at best."

According to court documents, Mission Valley rock already has spent more than \$2 million installing irrigation for landscaping around the quarry site and for permitting and bond expenses.