

Safe
Action
For the
Environment, Inc.

Office of the President

California Energy Commission

DOCKETED

09-RENEW EO-1

TN # 75391

FEB 23 2015

February 23, 2015

Mr. Scott Flint
DRECP Program Manager
California Energy Commission
Dockets Office, MS-4
Docket No. 09-RENEW EO-01
1516 Ninth Street
Sacramento, CA 95814-5512

Dear Mr. Flint:

I am writing on behalf of Safe Action for the Environment, Inc., to comment on the proposed Desert Renewable Energy Conservation Plan (DRECP). SAFE is a nonprofit organization that promotes clean air and water for residents of the Southern California region in which we live. While our organization in general advocates the identification of appropriate lands for purposes such as wildlife habitat preservation and cultural and recreational uses, there are specific lands associated with the proposed DRECP that are intertwined with a long-running environmental issue in our community.

For the past decade and a half, SAFE has been advocating for the cancellation of U.S. Bureau of Land Management contracts held by CEMEX USA to conduct sand and gravel mining in an area adjacent to our community. The proposed mine would cause unacceptable impacts to local traffic, air quality, water quality and wildlife habitat.

As part of the community-driven efforts to seek a resolution to this issue, the City of Santa Clarita and members of the California congressional delegation have been working with CEMEX to seek a mutually agreeable legislative solution. Our organization supports those efforts, which over the past several years have resulted in legislation authored by Sen. Barbara Boxer, D-Calif., Sen. Dianne Feinstein, D-Calif., and former Rep. Howard "Buck" McKeon, R-CA-25, that involves approximately 10,200 acres in San Bernardino County.

The federal legislation calls for these lands to be sold by the Secretary of the Interior to fulfill the purposes outlined in the bills: Most recently, S. 771, S. 2938 and H.R. 5742 in the 113th Congress. A majority of these lands are included within the proposed DRECP, and in 2010 they were classified by the BLM as being available for disposal. As a result of this BLM classification, they were included in the above referenced legislation, and at no time has the BLM contended that the lands were not available for disposal.

According to the DRECP map, several of these parcels are now also included in the proposed Brisbane Valley Monkey Flower Area of Critical Environmental Concern, and several are included within the proposed Northern Lucerne Wildlife Linkage Area of Critical Environmental Concern.

Our organization is concerned that there has not been sufficient public review of the change in designation of these lands — from being available for disposal to being newly classified as Areas of Critical Environmental Concern. We anticipate that a new version of Sen. Boxer's legislation will be introduced in the 114th Congress, and we would further anticipate that the 10,200 acres of land would continue to be included in such legislation.

Therefore, we respectfully request that these lands — as outlined in the attached map from the City of Santa Clarita, as well as S. 771, a copy of which is also attached — be withdrawn from consideration as part of the DRECP.

Our organization appreciates your consideration of our comments and this request. If I can be of further assistance or if you have any additional questions about our position on this issue, I can be reached at afried@safe4environment.org, or by phone at (661) 268-1519.

Respectfully,



Andrew G. Fried
President
Safe Action For the Environment, Inc.

AGF:jmd

113TH CONGRESS
1ST SESSION

S. 771

To provide to the Secretary of the Interior a mechanism to cancel contracts for the sale of materials CA-20139 and CA-22901, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 18, 2013

Mrs. BOXER (for herself and Mrs. FEINSTEIN) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To provide to the Secretary of the Interior a mechanism to cancel contracts for the sale of materials CA-20139 and CA-22901, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Soledad Canyon Settle-
5 ment Act”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

1 (1) CITY OF SANTA CLARITA.—The term “City
2 of Santa Clarita” means the City of Santa Clarita,
3 California.

4 (2) CITY OF VICTORVILLE.—The term “City of
5 Victorville” means the City of Victorville, California.

6 (3) CONTRACTS.—The term “contracts” means
7 the Bureau of Land Management mineral contracts
8 numbered CA-20139 and CA-22901.

9 (4) CONTRACT HOLDER.—The term “contract
10 holder” means the private party to the contracts,
11 and any successors that hold legal interests in the
12 contracts.

13 (5) COUNTY OF SAN BERNARDINO.—The term
14 “County of San Bernardino” means the County of
15 San Bernardino, California.

16 (6) MAP.—The term “Map” means the map en-
17 titled “Victorville disposal area, California” and
18 dated March 2011.

19 (7) SECRETARY.—The term “Secretary” means
20 the Secretary of the Interior.

21 (8) VICTORVILLE DISPOSAL AREA.—The term
22 “Victorville disposal area” means the 10,224.32
23 acres of land identified for disposal in the West Mo-
24 jave Land Management Plan (2006) of the Bureau
25 of Land Management and depicted on the Map.

1 **SEC. 3. APPRAISAL; COMPENSATION TO CONTRACT HOLD-**
2 **ER.**

3 (a) **CONTRACT SUSPENSION.**—The Secretary shall
4 suspend the contracts until the completion of the processes
5 described in subsections (b) and (c), effective on the date
6 of enactment of this Act.

7 (b) **APPRAISALS.**—

8 (1) **CONTRACT APPRAISAL.**—

9 (A) **IN GENERAL.**—Not later than 90 days
10 after the date of enactment of this Act, the Sec-
11 retary shall determine by mineral appraisal,
12 using the discounted cash flow method of ap-
13 praisal (in accordance with the appraisal guide-
14 lines for appraisals of large quantities of min-
15 eral materials contained in section IV(E) of
16 BLM Mineral Material Appraisal Handbook H-
17 3630)—

18 (i) the fair market value of the con-
19 tracts; and

20 (ii) the amount of royalties the Fed-
21 eral Government would receive under the
22 contracts over the 10-year period begin-
23 ning on the date of enactment of this Act.

24 (B) **CONSIDERATIONS.**—In making the de-
25 termination under subparagraph (A), the Sec-
26 retary shall assume that—

1 (i) the contract holder has obtained
2 all the permits and entitlements necessary
3 to mine, produce, and sell sand and gravel
4 under the contract; and

5 (ii) mining operations under the con-
6 tract have commenced at the time of the
7 determination, with maximum annual pro-
8 duction volumes that—

9 (I) are based on the projected
10 supply and demand outlook at the
11 time of determination; and

12 (II) reflect depletion of the re-
13 serves that are subject to the contract
14 within the effective periods of the con-
15 tract.

16 (C) DONATION.—The Secretary may ac-
17 cept a donation of non-Federal funds to cover
18 the costs of the appraisal under subparagraph
19 (A).

20 (2) LAND APPRAISAL.—

21 (A) IN GENERAL.—Not later than 90 days
22 after the date of enactment of this Act, the Sec-
23 retary shall determine by appraisal standards
24 under existing laws and regulations, the fair

1 market value of the Victorville disposal area on
2 a net present value basis.

3 (B) DONATION.—The Secretary may ac-
4 cept a donation of non-Federal funds to cover
5 the costs of the appraisal under subparagraph
6 (A).

7 (c) COMPENSATION.—

8 (1) IN GENERAL.—Subject to paragraph (2),
9 not later than 30 days after completion of the ap-
10 praisals under subsection (b), the Secretary shall
11 offer the contract holder compensation for the can-
12 cellation of the contracts.

13 (2) CONDITIONS ON OFFER.—An offer made by
14 the Secretary under paragraph (1) shall be subject
15 to the following conditions:

16 (A) The cancellation of the contracts and
17 the provision of compensation shall be contin-
18 gent on the availability of funds from the sale
19 of the Victorville disposal area under section 4,
20 and any additional compensation provided
21 under subparagraph (D), as determined nec-
22 essary by the Secretary.

23 (B) The amount of compensation offered
24 by the Secretary under this subsection shall be
25 equal to or less than the fair market value of

1 the contracts, as determined under subsection
2 (b)(1)(A)(i).

3 (C) The amount of compensation offered
4 by the Secretary under this subsection shall be
5 equal to or less than the projected revenues
6 generated by the sale of the Victorville disposal
7 area under section 4, less the projected lost roy-
8 alties to the Federal Government over the 10-
9 year period beginning on the date of enactment
10 of this Act, as determined under subsection
11 (b)(1)(A)(ii).

12 (D) If the amount of projected revenues
13 described in subparagraph (C) is less than the
14 fair market value determined under subsection
15 (b)(1)(A)(i), the Secretary shall, not later than
16 60 days after the date on which the Director of
17 the Bureau of Land Management determines
18 the projected revenues under subparagraph (C),
19 negotiate an agreement with the contract holder
20 and the City of Santa Clarita to provide to the
21 Secretary amounts equal to the difference, in
22 the form of—

23 (i) compensation to be received by the
24 contract holder; and

1 (ii) compensation in a form acceptable
2 to the Secretary to be provided by the City
3 of Santa Clarita.

4 (3) ACCEPTANCE OF OFFER.—

5 (A) IN GENERAL.—The contract holder
6 shall have 60 days from the later of the date on
7 which the Secretary makes the offer under
8 paragraph (1) or an agreement is negotiated
9 under paragraph (2)(D) to accept the offer or
10 agreement.

11 (B) CLAIM.—If the contract holder does
12 not accept the offer or agreement under sub-
13 paragraph (A), the Secretary shall cancel the
14 contracts under paragraph (4) and direct that
15 the contract holder file a claim relating to the
16 issue of compensation in the United States
17 Court of Federal Claims.

18 (4) CANCELLATION.—If no agreement can be
19 reached within the timeframe specified in paragraph
20 2(D), the Secretary shall—

21 (A) cancel the contracts;

22 (B) withdraw those areas that were subject
23 to the contracts from further mineral entry
24 under all mineral leasing and sales authorities
25 available to the Secretary; and

1 (C) direct that the contract holder file a
2 claim in the United States Court of Federal
3 Claims for relief.

4 **SEC. 4. SALE OF LAND NEAR VICTORVILLE, CALIFORNIA.**

5 (a) IN GENERAL.—Notwithstanding sections 202 and
6 203 of the Federal Land Policy and Management Act of
7 1976 (43 U.S.C. 1712, 1713) and subject to subsections
8 (b) through (f), the Secretary shall offer for sale by com-
9 petitive bidding and in a manner designed to obtain the
10 highest price possible, all right, title, and interest of the
11 United States in and to the Victorville disposal area.

12 (b) COMPLETION DATE.—The Secretary shall com-
13 plete the sale under subsection (a) by not later than 2
14 years after the date of enactment of this Act.

15 (c) AVAILABILITY OF MAP.—The Secretary shall
16 keep the Map on file and available for public inspection
17 in—

18 (1) the office of the Director of the Bureau of
19 Land Management; and

20 (2) the district office of the Bureau of Land
21 Management located in Barstow, California.

22 (d) RIGHT OF LOCAL LAND USE AUTHORITY TO
23 PURCHASE CERTAIN LAND.—

24 (1) IN GENERAL.—Before a sale of land under
25 subsection (a), the Secretary shall provide to the ap-

1 plicable local land use authority an exclusive pre-
2 emptive right, as determined under State law, to
3 purchase any right, title, or interest of the United
4 States in and to any portion of the parcels of land
5 identified as “Area A” and “Area B” on the Map
6 that is located within the jurisdiction of the local
7 land use authority.

8 (2) TIMING.—A preemptive right under para-
9 graph (1) shall be in effect for a period of 30 days
10 before the land is sold under subsection (a).

11 (3) AUTHORITY.—During the period described
12 in paragraph (2), the local land use authority may
13 purchase some or all of the right, title, and interest
14 of the United States, as provided in subsection (a),
15 in and to the land to be offered for sale at fair mar-
16 ket value, as determined by an appraisal conducted
17 by the Secretary.

18 (4) EXERCISING RIGHT.—If the local land use
19 authority exercises the preemptive right under para-
20 graph (1), the Secretary shall convey the land to the
21 local land use authority immediately on payment by
22 the local land use authority of the entire purchase
23 price of the applicable parcel of land.

24 (5) FAILURE TO PAY.—Failure by the local
25 land use authority to purchase and pay for the right,

1 title, and interest of the United States in and to the
2 land described in paragraph (1) within the time pe-
3 riod described in paragraph (2) and to comply with
4 any other terms and conditions as the Secretary may
5 require shall terminate the preemptive right of the
6 local land use authority with respect to the right,
7 title, and interest offered for sale.

8 (e) WITHDRAWAL AND RESERVATION.—

9 (1) WITHDRAWAL.—Subject to valid existing
10 rights, the land described in subsection (a) is with-
11 drawn from—

12 (A) entry, appropriation, or disposal under
13 the public land laws;

14 (B) location, entry, and patent under the
15 mining laws; and

16 (C) operation of the mineral leasing, min-
17 eral materials, and geothermal leasing laws.

18 (2) RESERVATION.—In any sale or other dis-
19 posal of land under this section, there shall be re-
20 served by the United States the right of the United
21 States to prospect for, mine, and remove minerals
22 from the conveyed land.

23 (f) CONSULTATION.—In addition to any consultation
24 otherwise required by law, before initiating efforts to dis-
25 pose of land under this section, the Secretary shall consult

1 with the City of Victorville, the County of San Bernardino,
2 and surface owners in the jurisdiction in which the land
3 is located regarding the potential impact of the disposal
4 and other appropriate aspects of the disposal.

5 (g) ACCOUNT.—The gross proceeds of a sale of land
6 under subsection (a) shall be deposited in an account ac-
7 ceptable to the Secretary and available only for the pur-
8 poses of carrying out this Act.

9 **SEC. 5. CANCELLATION OF CONTRACTS.**

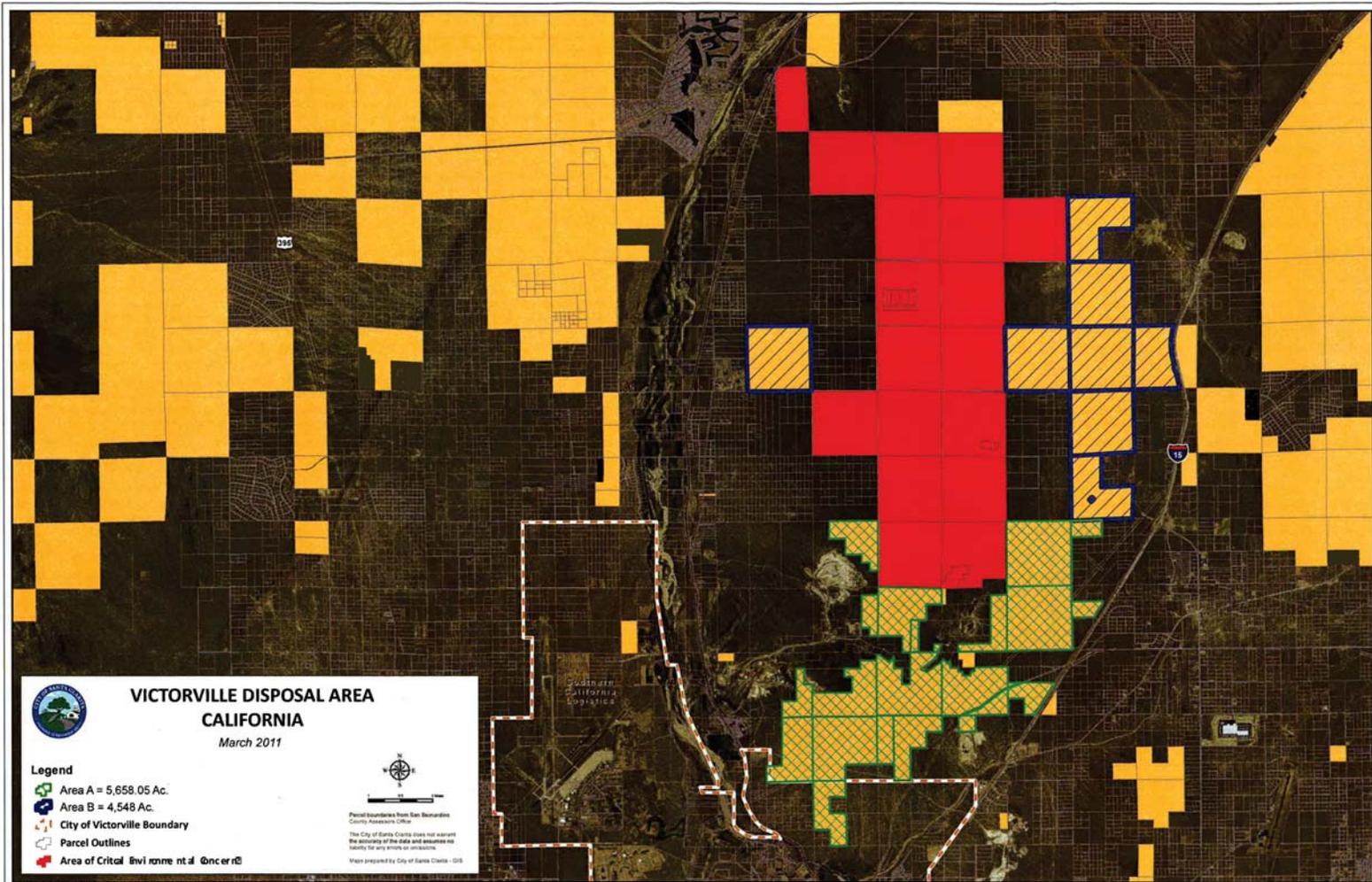
10 (a) IN GENERAL.—As soon as practicable after the
11 funds received from the sale under section 4 are available
12 and not later than 2 years after the date of enactment
13 of this Act, the Secretary shall cancel the contracts and
14 withdraw those areas that were subject to the contracts
15 from further mineral entry under all mineral leasing and
16 sales authorities available to the Secretary.

17 (b) COMPENSATION; RETENTION OF FUNDS.—On
18 cancellation of the contracts under subsection (a), the Sec-
19 retary shall—

20 (1) provide the compensation agreed to under
21 section 3 to the contract holder by disbursement of
22 amounts from the account; and

1 (2) retain sufficient funds to cover the projected
2 lost royalties determined under section
3 3(b)(1)(A)(ii).

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**VICTORVILLE DISPOSAL AREA
CALIFORNIA**

March 2011

Legend

-  Area A = 5,658.05 Ac.
-  Area B = 4,548 Ac.
-  City of Victorville Boundary
-  Parcel Outlines
-  Area of Critical Environmental Concern



Parcel boundaries from San Bernardino
County Assessor's Office
The City of Santa Clarita does not warrant
the accuracy of the data and assumes no
liability for any errors or omissions.
Map prepared by City of Santa Clarita - 2011