

EAST BAY EXPRESS

A Deal to Save Sunol and Ohlone

A new settlement will delay the opening of a huge new East Bay quarry and help protect elks, eagles, and two parks.

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For years, environmentalists have steeled themselves for a fight with the East Bay's top road builder and quarry operator. Ed DeSilva appeared to be on the brink of opening a massive quarry right next to two breathtaking regional wildernesses — Sunol and Ohlone — in southeastern Alameda County. The giant quarry also threatened to devastate the East Bay's only tule elk herd habitat, disrupt one of the world's best golden eagle nesting grounds, and disturb the tranquility of more than 50,000 park visitors a year. But then last week, the two environmental groups that had vowed to fight the quarry announced a sweeping settlement agreement with DeSilva.

The deal between DeSilva and the Alameda Creek Alliance and the Center for Biological Diversity promises to delay the mine opening for decades while significantly lessening its ultimate impact on the elk, eagles, and parks. In addition, DeSilva has promised to pay up to \$3 million to help restore the decimated steelhead and Chinook salmon runs in nearby Alameda Creek, from the San Francisco Bay through Niles Canyon to the eastern end of the Sunol Valley. "This is huge," said Jeff Miller, director of the Alameda Creek Alliance and conservation advocate for the Center for Biological Diversity. "It's going to make the resurgence of steelhead and Chinook salmon much more possible."

Jim Summers, president of the DeSilva Group, said last week that he and his colleagues decided it made more sense to negotiate an agreement with environmentalists than wage an extended and expensive court fight. "Rather than going through all the legal battles, we decided to take that money and put it into conservation measures," he said. "And we get the ability to say that we're operating a quarry that is in concert with the environment."

The environmental groups' staunch opposition to the quarry made the odds of reaching any deal low. In fact, the settlement took nearly two years to negotiate. But in retrospect, it should have come as no surprise, considering DeSilva's track record for deal making. Back in 1984, he originally obtained a county permit for the quarry after reaching agreements with both the East Bay Regional Park District and the Sierra Club. As part of those deals, DeSilva promised to share

proceeds of his quarry operation with the district and buy 300 acres of land and give it to the park system. In addition, he financed an extensive study of large birds in the area, including the golden eagles, while promising to relocate the elk herd to another habitat.

DeSilva put off opening the quarry because of steep start-up costs. The planned quarry is in a remote location, on top of a privately owned 2,200-foot-tall mountain, known as Apperson Ridge. However, a few years ago, DeSilva decided he was finally ready to open it, because his other East Bay quarries in Fremont, Hayward, and Oakland had run out of rock. And although both the park district and the Sierra Club had promised to not stand in the way of his Apperson Ridge quarry, DeSilva hadn't counted on the Alameda Creek Alliance and the Center for Biological Diversity, which has become one of the most aggressive and litigious environmental organizations in the country. (For more on the quarry, see "We're Outta Here," 4/12/06).

Nonetheless, Summers and DeSilva decided to find out whether they could strike a deal just as they had done in 1984. Summers approached Miller, who described himself as being "very skeptical." In addition, Summers tried to find a stopgap that would delay the opening of Apperson Ridge. He approached the San Francisco Public Utilities Commission, a major land owner in the Sunol area and the owner of a separate rock quarry on the valley floor. DeSilva then submitted a bid to take over that quarry, which had been run by another operator, Cemex.

In 2007, as Summers was beginning negotiations with Miller, DeSilva won the right to enter into exclusive negotiations with the San Francisco PUC over the Cemex quarry, which still has another twenty to thirty years of rock left in it. DeSilva decided it would make more sense to mine that quarry for the next few decades, and then open Apperson Ridge. That way, he would have a sixty-year supply — or more — of rock needed for road building.

But the plan still threatened the eagles, elk, and parks — albeit twenty to thirty years from now. So DeSilva and Summers decided to modify it more. One of the biggest threats posed by the Apperson Ridge quarry was a five-mile-long road that would connect the mountaintop to Interstate 680. DeSilva had planned to run more than 1,100 dump trucks a day up and down that road, carrying up to 24 tons of rock each. The road bisected the elk's habitat inside San Francisco PUC property, and experts warned that the noisy trucks would disperse the herd and ultimately cause its demise. The state Fish and Game Department also had told DeSilva that he could not move the herd to another habitat because there were no more suitable ones in California.

The quarry itself also threatened the herd because of ear-spitting decibels from dynamiting rock, crushing it, and turning it into asphalt. All that noise also promised to disrupt the nesting habitat of golden eagles in the nearby Sunol and Ohlone Wilderness areas, and ruin the experience of park visitors. So in the

recent deal, DeSilva agreed to build a giant conveyor belt from the top of Apperson Ridge down to the quarry in the valley. That way, he could eliminate the need to run dump trucks up and down the mountain. He also agreed to move almost all of the rock crushers and the asphalt plant to the valley quarry, thereby eliminating most of the noise problems. Summers also said that modern explosives have lowered the decibels associated with blasting rock out of the earth.

So will the new plan protect the elk? Miller said his groups have talked with elk experts, who say the conveyor belt will be a big improvement over the road, because the animals will be able to walk underneath it, and won't have to contend with huge dump trucks. The absence of the rock crushers and the asphalt plant also will help. But the dynamiting could produce considerable noise, even with modern technology. "The key issue is if the elk can acclimate to the noise, then they'll live with it," he said. And if they can't? DeSilva has agreed to pay \$250,000 a year to help support other Northern California elk habitats.

As for the eagles, both sides hope the absence of the trucks, the rock crushers, and the asphalt plant will allow them to prosper. The settlement also requires DeSilva to cease quarrying operations when eagles are nesting nearby. DeSilva also has committed to exploring the option of closing the mine entirely during the eagles' spring nesting season — which also coincides with the elk's calving season. The question is whether the San Francisco PUC will allow him to stockpile rock in the valley quarry to get him through those months. As further mitigation, DeSilva has promised to buy at least 600 more acres of similar habitat and dedicate it as permanent open space.

However, the entire deal between DeSilva and the environmental groups depends on whether the San Francisco PUC and the San Francisco Board of Supervisors award the valley quarry to DeSilva. The commission is scheduled to take up the issue on June 9, and then forward it to the board of supes. If DeSilva gets turned down, then Summers says they'll move to open the Apperson Ridge Quarry right away. That, in turn, will force the environmental groups to sue. To avoid all that, the groups have promised to help DeSilva get the quarry permit. In fact, the groups actually reached their settlement agreement in December, but didn't make it public until last week in order to give themselves time to discuss it fully with San Francisco PUC staffers. Miller sounded confident about their prospects.

As for the steelhead and the Chinook salmon, DeSilva has agreed to pay up to \$3 million to help finance fish ladders over three major barriers on Alameda Creek. The ladders could end up costing \$10 million or more to install, but the financial commitment by DeSilva will help other public agencies involved raise money to finance the projects, Miller said.