
SENATE COMMITTEE ON ENVIRONMENTAL QUALITY

Senator Allen, Chair

2023 - 2024 Regular

Bill No.	SJR 13	Hearing Date:	4/3/2024
Author:	Newman		
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Urgency:		Fiscal:	Yes
Consultant:	Holly Rudel		

SUBJECT: Navy North Hangar Fire: contamination cleanup

DIGEST: Urges the United States Congress and President Joseph R. Biden to support a \$100,000,000 supplemental funding request to address the ongoing impacts on public health, the environment, and the local economy caused by cross-jurisdictional pollution from the Navy North Hangar Fire, and would urge President Joseph R. Biden to declare a national emergency due to these ongoing impacts, and would urge President Joseph R. Biden and the U.S. Congress to include funding for remediation for the Navy North Hangar Fire in future budgets.

ANALYSIS:

Existing law:

- 1) Grants the governing body of a city, county, or city and county, or by an official designated by ordinance adopted by that governing body, the ability to declare a local emergency, the status of which shall be reviewed at least once every 60 days and which shall be terminated at the earliest possible date that conditions warrant. Specifies that in periods of local emergency, political subdivisions have full power to provide mutual aid to any affected area in accordance with local ordinances, resolutions, emergency plans, or agreements therefore. Specifies that State agencies may provide mutual aid, including personnel, equipment, and other available resources, to assist political subdivisions during a local emergency or in accordance with mutual aid agreements or at the direction of the Governor. (Government Code §8630 et seq.)
- 2) Authorizes the local health officer to take any preventative measure that may be necessary to protect and preserve the public health from any public health hazard during any state of war emergency,” “state of emergency,” or “local emergency” within her/his jurisdiction. (Health and Safety Code §101040)
- 3) Requires, under the federal Clean Water Act, that each federal agency or department that has jurisdiction over any property or facility, or that is engaged

in any activity resulting in, or which may result in, discharge or runoff of pollutants, be subject to all federal, state, interstate, and local requirements, administrative authority, and process and sanctions respecting the control and abatement of water pollution in the same manner, and to the same extent as a nongovernmental entity. (33 United States Code (U.S.C.) § 1323(a))

- 4) Sets, through the Federal Clean Air Act (FCAA) and its implementing regulations, National Ambient Air Quality Standards (NAAQS) for six criteria pollutants. (42 U.S.C. §7401 et seq.)
- 5) Authorizes the President to declare a national emergency and requires the President to specify under which provisions of law the President or other officers will act before any powers or authorities are exercised. (U.S. Const., art. I; 50 U.S.C. §1621 & 1631.)
- 6) Requires a national emergency declared by the President to terminate if the United States Congress enacts into law a joint resolution terminating the emergency. (50 U.S.C. § 1622(a)(1))
- 7) Authorizes the Secretary of Defense and the Secretaries of the military departments, in the event of the declaration of a national emergency by the President, to undertake military construction projects and specifies that the projects may only be undertaken with funds that have been appropriated for military construction, including funds appropriated for family housing that have not been obligated. (10 U.S.C. § 2808(a).)

This Resolution:

- 1) Makes the following findings:
 - a) The United States Navy is the owner of the site of former Marine Corps Air Station Tustin, on which the North Hangar structure was located before a fire that started on November 7, 2023 and burned for 24 days;
 - b) The North Hangar fire deposited tons of debris, including toxic contaminants such as asbestos and lead, into the community of Tustin, California and affected over 1,500 homes and businesses, 29 schools, and 14,000 individuals;
 - c) The debris has been studied for exposure levels by an environmental health team that includes the South Coast Air Quality Management District, California Department of Toxic Substances Control, United States Environmental Protection Agency, Orange County Health Care Agency, United States Navy, Center for Toxicology and Environmental Health, and

- University of California, Irvine, and that is determined to protect against significant public health risks;
- d) The City of Tustin and the County of Orange have proclaimed a state of local emergency since November 9, 2023; the Tustin Unified School District was closed and disrupted; and the Orange County Transportation Authority was impacted; as a result of the air quality conditions, contamination impacts, and public health concerns; and
 - e) The City of Tustin has contracted for emergency services in excess of \$90,000,000 and is expending over 100% of its annual budget on this incident.
- 2) Resolves, on behalf of the Senate and the Assembly of the State of California, jointly, that:
- a) The Legislature urges the United States Congress and President Joseph R. Biden to support a \$100,000,000 supplemental funding request to address the ongoing impacts on public health, the environment, and the local economy caused by cross-jurisdictional pollution from the Navy North Hangar Fire;
 - b) The Legislature urges President Joseph R. Biden to declare a national emergency due to the ongoing impacts to public health, the environment, and the local economy caused by cross-jurisdictional pollution from the Navy North Hangar Fire;
 - c) The Legislature urges President Joseph R. Biden and the U.S. Congress to include in future federal budgets sufficient ongoing operational and maintenance funding for Navy North Hangar Fire remediation; and
 - d) The Secretary of the Senate transmit copies of this resolution to the President and Vice President of the U.S., to the Speaker of the House of Representatives, to the Majority Leader of the Senate, to each Senator and Representative from California in the Congress of the U.S., to the Secretary of Defense, the Secretary of the Navy, to the Governor, to the Attorney General, and to the author for appropriate distribution.

Background

- 1) *Tustin Air Station*. The Naval Air Station Santa Ana, located in Orange County, California, was commissioned in 1942 as the southernmost of three blimp bases on the west coast. Each base had a pair of 1,000 foot long wooden hangars (the North Hangar and South Hangar) built during World War II (WWII), housing squadrons of blimps. Both hangars were entered into the National Register as a historic district in 1975 for their historic connection with WWII. The Naval Air Station was decommissioned in 1949, but then in 1951

was reactivated by the Marine Corps, which used it as a helicopter training base, until it was officially closed in 1999. A Reuse Plan was adopted by the community in 1996, which has subsequently been amended, and the City of Tustin was working with the Navy on implementing the plan.

- 2) *North Hangar Fire.* On November 7, 2023, a fire at the North Hangar structure at the Tustin Air Base erupted. Due to the lack of water supply and height of the hangar (17 stories tall), the City decided to allow the fire to burn while contained over 24 days before officials declared it “fully extinguished.” The Tustin Hangar debris was found to contain asbestos and other heavy metals. On the day of the fire, air monitoring performed by South Coast Air Quality Management District showed elevated levels of lead and arsenic inside the area of the smoke plume. Due to possible airborne asbestos contamination, several parks and all Tustin Unified schools were closed, and health warnings were issued to surrounding residents.

Two days after the fire, the County of Orange and the City of Tustin declared a local emergency due to the fire and the impact on over 1,500 homes and 14,000 people. The City’s proclamation requested that the Governor of California issue a Gubernatorial State of Emergency and provide expedited access to State and Federal resources, and recovery assistance to the City of Tustin. In January 2024, Governor Newsom said he would not issue a state of emergency proclamation for the fire, saying that the emergency had passed and that reimbursement is a federal responsibility. Subsequently, U.S. Representatives Young Kim and Lou Correa wrote a letter to Governor Newsom, urging him to reconsider his decision to reject the City of Tustin’s request for a Proclamation of a State of Emergency. Also in January 2024, the City Council voted to renew the declaration of a local emergency while ongoing debris removal and air quality monitoring occurs.

- 3) *Site testing response.* The Incident Management Team (IMT), under the direction of the City of Tustin, was tasked to handle the response, including working with engineers, environmental experts, and other key agencies to put mitigation measures in place. In a December 13 letter, the Orange County Health officer reported that tests performed by South Coast Air Quality Management District, the U.S. Environmental Protection Agency (U.S. EPA), the U.S. Navy, and IMT contractors suggested that asbestos from bulk debris in the fire, not airborne asbestos, was a primary source of exposure and that “The most concerning health hazard throughout the Fire Hangar Incident that remains is Asbestos Containing Material (ACM) debris at the site and direct contact with this debris.” The letter also noted that “While several heavy

metals were originally detected in mobile monitoring of the smoke plume, additional metal testing revealed these returned to normal background levels.”

Additionally, between November 9 and December 23, 2023, the Orange County Health Care Agency and the U.S. EPA collected soil and dust samples to test for lead and other heavy metals at multiple public locations adjacent to the Navy North Hangar site, which were below residential screening levels or within typical background concentrations.

Air monitoring and sampling locations were also set up around the perimeter of the hangar and in surrounding communities. The results of particulate matter concentrations were within the typical area ranges from November 15, 2023 (the earliest date publicly reported) onwards. This air quality monitoring remains ongoing as of the writing of this analysis.

- 4) *Navy involvement.* The U.S. EPA designated the U.S. Navy, as the owner of the North Hangar property, as the Responsible Party for the releases from the fire. On November 10, three days after the fire, the Tustin City Council authorized approval of a cooperative agreement to implement an emergency response with the U.S. Navy reimbursing the city for incident response costs. The initial \$1 million agreement was to be used for asbestos assessment and remediation activities as well as for the City to demolish the hangar. In the weeks and months following, three amendments to the Cooperative Agreement have been executed; the City has received so far received \$11 million, with a March 2024 agreement to contribute an additional \$13 million (bringing the total to \$24 million). According to information provided by the author, there is a pending 4th amendment that has not been delivered to the City as of the writing of this analysis. The Navy also directly spent \$6 million for a contract to finish the deconstruction of the site’s North Hangar and remove debris from the footprint of the hangar.

According to information provided by the author, as of March 14, 2024, the City of Tustin has contracted nearly \$80 million in response to the fire (with the bulk of the funds used to clear asbestos debris), with an estimated remaining scope of \$44-\$58 million dollars. These costs have not so far been used to directly reimburse homeowners for the expenses they’ve incurred. To the committee’s knowledge, the Navy committed to removing the debris from the incident site but has not scheduled a specific date. In the surrounding Tustin community, a large majority of the debris has been removed, though some continues to be removed in response to reports submitted by community members, a process that is expected to take several more months.

- 5) *Tustin's risk for insolvency.* With current contracted costs of \$80 million and the U.S. Navy pledging \$24 million, this currently leaves a \$55 million gap, which the City has requested with a 4th amendment to the cooperative agreement. However, the City expects further costs will be incurred from ongoing debris removal, air monitoring, and agency costs. According to information provided by the author, the City of Tustin estimates a total of \$137 million will be required, a sum that exceeds 100% of Tustin's typical operating budget of \$95 million. Tustin Mayor Austin Lumbarb claims that the city has already pulled \$7.8 million from the city's reserves to pay contractors, the maximum amount that could be withdrawn under their policy. Since the fire, there have been numerous calls by the City of Tustin and community members for the U.S. Federal government, as the owner of the property, to contribute more money to the cleanup.

Comments

- 1) *Purpose of Bill.* According to the author, "The Navy North Hanger fire has inflicted a profound financial and environmental impact on the community. The residents of the surrounding communities deserve an expedited and comprehensive cleanup of the asbestos and other toxic materials. SJR 13 calls on President Biden and the U.S. Congress to support all necessary remediation and cleanup efforts in swiftly responding to the pressing needs created by this devastating fire."
- 2) *Past and future costs.* In immediate response to the fire, the City of Tustin contracted services to clear debris and monitor the surrounding air, soil and dust. Since the fire, environmental analysts, including the EPA, have identified that the primary concern comes from the large pieces of hangar debris, which contain asbestos, and not air quality concerns. As of December 2023, the Orange County Health Officer reported that the airborne concentrations of metals, asbestos, and particulate matter are below the level of concern. However, in response to community concern for health and safety, the City continues to measure and report on local air quality and provide a portal for residents to report fire debris for collection.

As of the writing of this analysis, the City has expended \$80 million for response services. The City estimates its future costs for ongoing debris removal, air monitoring, and agency costs to be \$57 million. The City has agreed upon a \$24 million payment from the U.S. Navy, with another funding agreement pending, though not delivered. This resolution urges a \$100 million supplemental funding request from the federal government.

To reflect the current status of contracted funding, the committee may wish to amend the bill to reflect the \$80,000,000 spent.

- 3) *What does it mean to declare a national emergency?* SJR urges President Joseph R. Biden to declare a national emergency due to the ongoing impacts of the November, 2023 Navy North Hangar fire. The National Emergencies Act of 1976 authorizes the President to declare a national emergency by signing a proclamation, but does not define a national emergency or include any criteria for issuance. By issuing a national emergency, the president must cite the specific emergency powers they are activating to make the declaration (there are nearly 150 of them). The large majority of national emergencies have generally been used to impose economic sanctions on foreign governments, officials, or groups. Some other examples of national emergencies include in 2019, when President Trump declared a national emergency at the southern border of the United States to divert \$8 billion of funds to build a wall, and in 2009 when President Obama declared a national emergency in response to the H1N1 influenza pandemic empowering the secretary of health and human services to issue waivers allowing hospitals to move patients to other locations.
- 4) *Committee amendments. **Staff recommends the committee adopt the suggested amendment bolded in (2) above.***

Related/Prior Legislation

AJR 12 (Alvarez, 2024). Urges the U.S. Congress to support President Joseph R. Biden's \$310 million supplemental funding request for the United States Section of the International Boundary and Water Commission due to the ongoing impacts of pollution in the Tijuana River Valley and would urge President Joseph R. Biden to declare a national emergency due to those ongoing impacts. This bill is currently pending before this committee.

SJR 22 (Hueso, Chapter 241, Statutes of 2018). Urges the federal government and the U.S. Section of the IBWC to take immediate action to adequately address cross-border pollution in the Tijuana River Valley.

SOURCE: The City of Tustin

SUPPORT:

None received

OPPOSITION:

None received

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