

Date of Hearing: June 25, 2024

ASSEMBLY COMMITTEE ON ENVIRONMENTAL SAFETY AND TOXIC MATERIALS

Eduardo Garcia, Chair

SJR 13 (Newman) – As Amended April 8, 2024

**SENATE VOTE:** 37-0

**SUBJECT:** Navy North Hangar Fire: contamination cleanup

**SUMMARY:** Urges the United States (U.S) Congress and President Joseph R. Biden (President Biden) to support a \$100 million supplemental funding request to address the ongoing impacts on public health, the environment, and the local economy caused by pollution from the Navy North Hangar Fire; urges President Biden to declare a national emergency due to ongoing impacts; and urges President Biden and the U.S. Congress to include in future federal budgets sufficient ongoing operational and maintenance funding for Navy North Hangar Fire remediation. Specifically, **this resolution:**

1) Makes the following legislative findings:

- a) The U.S. Navy (Navy) owns the site of former Marine Corps Air Station Tustin, on which the North Hangar structure was located before a catastrophic fire that started on November 7, 2023;
- b) The Navy North Hangar Fire burned for 24 days, deposited tons of debris, including toxic contaminants such as asbestos and lead from the Navy North Hangar, into a broad area of 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 (SCAQMD), California Department of Toxic Substances Control (DTSC), United States Environmental Protection Agency (US EPA), Orange County Health Care Agency (OCHCA), 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 has proclaimed a state of local emergency since November 9, 2023, as a result of asbestos and lead debris contaminants deposited into the City of Tustin;
- e) The Tustin Unified School District and its students were greatly impacted by school closures and disruptions due to threatening air quality conditions and the contamination impacts;
- f) The Orange County Transportation Authority was impacted due to public concern for air quality;
- g) Orange County, on November 9, 2023, proclaimed a local emergency due to the public health, environmental, and economic impacts of the pollution disaster;

- h) The City of Tustin has contracted for emergency services to protect the public and environment in excess of \$80 million; and,
  - i) The City of Tustin is expending over 100% of its annual budget on this incident;
- 2) Resolves, on behalf of the Assembly and the Senate of the State of California, jointly, that:
- a) The Legislature urges the U.S Congress and President Biden to support a \$100 million 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 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 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 U.S. President and Vice President, Speaker of the House of Representatives, Majority Leader of the Senate, each Senator and Representative from California in the U.S. Congress, Secretary of Defense, Secretary of the Navy, Governor, Attorney General, and to the author for appropriate distribution.

**EXISTING LAW:**

- 1) Authorizes the President to declare a national emergency. (50 United States Code (U.S.C.) § 1621)
- 2) Provides that when the President declares a national emergency, no powers or authorities made available by statute for use in the event of an emergency shall be exercised unless and until the President specifies the provisions of law under which he proposed that he, or other officers, will act. (50 U.S.C. § 1631)
- 3) Terminates any national emergency declared by the president if a joint resolution terminating the emergency is enacted, or if the President issues a proclamation terminating the emergency. (50 U.S.C. § 1622(a))
- 4) Requires each House of Congress to meet to consider a vote on a joint resolution to determine whether an emergency shall be terminated no later than 6 months after the national emergency is declared, and no later than the end of each 6 month period thereafter that such emergency continues. (50 U.S.C. § 1622(b))
- 5) 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))

- 6) Establishes, under the California Emergency Services Act, the California Office of Emergency Services (Cal OES) within the office of the Governor for the purpose of mitigating the effects of natural, manmade, or war-caused emergencies that result in conditions of disaster or in extreme peril to life, property, and the resources of the state. (Government Code (GC) § 8550)
- 7) Requires, under the California Disaster Assistance Act, the Director of Cal OES to provide financial assistance to local agencies for their personnel costs, equipment costs, and the cost of supplies and materials used during disaster response activities, incurred as a result of a state of emergency proclaimed by the Governor, subject to specified criteria. (GC § 8680)
- 8) Authorizes, under the federal Robert T. Stafford Disaster Relief and Emergency Assistance Act, the Federal Emergency Management Agency (FEMA) to provide emergency assistance to states and local entities impacted by disasters; authorizes, in any emergency, the President to, among other things, authorize public assistance programs aimed at providing essential emergency assistance, repairing and restoring damaged public facilities, and removing debris. (Public Law § 100707)
- 9) Establishes the federal Resource Conservation and Recovery Act (RCRA) to authorize the US EPA to manage hazardous and non-hazardous wastes throughout its life cycle. (42 U.S.C. § 6901 et seq.)
- 10) Establishes the Hazardous Waste Control Law (HWCL) to authorize DTSC to regulate the management of hazardous wastes in California. (Health and Safety Code (HSC) § 25100 et seq.)
- 11) Defines "waste" as any solid, liquid, semisolid, or contained gaseous discarded material. (HSC § 25124)
- 12) Defines a "hazardous waste" as waste that, because of its quantity, concentration, or physical, chemical, or infectious characteristics:
  - a) Causes, or significantly contributes to, an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness; or,
  - b) Poses a substantial present or potential hazard to human health or the environment, due to factors including, but not limited to, carcinogenicity, acute toxicity, chronic toxicity, bio-accumulative properties, or persistence in the environment, when improperly treated, stored, transported, disposed of, or otherwise managed. (HSC § 25141(b))

**FISCAL EFFECT:** Unknown

**COMMENTS:**

*Need for the resolution:* According to the author:

"The Navy North Hangar 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."

*Marine Corps Air Station Tustin:* As described in the California Military Museum, the air station was originally built as a blimp base in 1942 as Santa Ana Naval Air Station. Blimps were used to patrol America's coastline primarily to watch for enemy submarines. The air station had two hangars, each more than 1,000 feet long and 300 feet wide, designed to hold six blimps simultaneously. Following World War II, the Navy decommissioned the air station in 1949. In 1951, the Marine Corps used the site as their primary West Coast helicopter base, operating medium and heavy transport and attack helicopter squadrons. The station housed over 100 helicopters at its peak. In 1999, the Marine Corps closed the station. The hangars were designated a national historic landmark, marked for preservation. The local government approved the property for reuse for a mixture of purposes, including parkland and commercial development, and the City of Tustin was working with the Navy to implement the plan.

*Navy North Hangar Fire:* On Tuesday, November 7, 2023, a fire broke out in the North Hangar at the former Marine Corps Air Station in Tustin. The Orange County Fire Authority responded to the fire by sending more than 70 firefighters at about 1 a.m. to contain the fire. Efforts to contain the fire escalated to deploying helicopters to douse the fire from above. These efforts were ultimately unsuccessful and officials allowed the structure to burn rather than risking the lives of firefighters.

On November 9, 2023, the Tustin Acting Director of Emergency Services proclaimed a local emergency and the city council ratified it on November 10. The proclamation requested a Gubernatorial State of Emergency, per the Emergency Services Act, and provide expedited access to state and federal resources, and recovery assistance. On the same day, members of the U.S. House of Representatives wrote a bipartisan letter. Congress members Young Kim (CA-40), J. Luis Correa (CA-46), Michelle Steel (CA-46), Katie Porter (CA-47), Linda T Sánchez, Mike Levin, and Southern California representatives wrote a letter to the Base Realignment and Closure (BRAC) Environmental Coordinator of the Navy, requesting information about their plan to address the fire. Specifically, they requested information on their plan for cleaning up contaminated sites, disclosing the building materials used to construct the hangar, engaging and informing community members, and whether the Navy would be involved in assisting the county.

On the City of Tustin's official website, the city has yet to state an official cause for the fire. The fire is still under investigation by the Orange County Fire Authority and the Tustin Police Department.

*The Navy Agreement:* The US EPA deemed the Navy responsible for the releases from the Navy North Hangar Fire. On November 10, 2024, the city held an emergency meeting where they approved an agreement with the U.S. Department of the Navy. The agreement allowed the city to take immediate remediation actions following the fire with an initial \$1 million in assistance.

*Testing and hazardous conditions:* The fire resulted in releases of several contaminants into the air. The SCAQMD reported that both air and ash samples in the area surrounding the North Hangar Fire was positive for asbestos, lead, arsenic, and nickel. Community parks, schools,

open spaces, shopping centers, and residential properties are part of the surrounding area. A pollution alert was sent out by SCAQMD within two days of the fire engulfing the hangar structure. At the time of the findings, Tustin Unified School District closed all their school campuses for the safety of students, staff, and families.

On December 5, 2023, Assemblymember Petrie-Norris wrote a letter to the BRAC Environmental Coordinator of the Navy. The letter requested answers to specific questions and transparency on the Navy's approach for debris cleaning and remediation, their comprehensive testing strategy, and their funding and reimbursement mechanism to support the affected community.

On January 30, 2024, the City of Tustin announced that an informational webinar would be available for residents to learn about the methodology and implementation plan for an exterior soil and interior air/dust sampling study following the fire. Residents voluntarily signed up and were randomly selected. The study assessed the impact of the Navy's North Hangar Fire on the surrounding community and was approved by county, state, and federal regulators including the US EPA, DTSC, SCAQMD, OCHCA, and the Navy. On May 8, 2024, the City of Tustin published a news release sharing the results. The sampling study analyzed 960 soil, interior air, and dust samples from 80 randomly selected homes in close proximity to the North Hangar Fire, and compared findings to homes in the cities of Irvine and Santa Ana ("control" cities, or cities well outside the impacted zone). No asbestos or lead exceeding state or federal health standards were detected in any of the homes with the exception of one. Exceedances in lead were detected in a few of the "control" cities, but this was due to the historical background lead levels in Santa Ana, CA.

As of today, the City of Tustin's North Hangar Fire Resources website states that all 29 Tustin Unified School District schools have been inspected, mitigated, and cleared.

*Cleanup costs:* A news article in the *Los Angeles Times*, shared by the author's office, titled, "Tustin incurs hefty hangar fire cleanup costs while waiting on Navy funding," states that the City of Tustin, as of March 6, 2024, had contracted \$74 million for emergency services including a soil, air, and dust study. This study was completed in May 2024 and is described above. Furthermore, the article states that the city has surpassed their general fund budget due to cleanup costs. At the time of the article, the Navy had only paid \$11 million through their cooperative agreement with the City of Tustin.

On March 12, 2024, the Navy pledged to provide the City of Tustin with \$13 million to partially cover the more than \$90 million in cleanup costs as of that date. With this pledge, the total money provided by the Navy totaled \$24 million. The most recent information available at the City of Tustin's public website breaks down the costs of the North Hangar Fire, which in total is nearly \$88 million and disaggregates as follows:

- Debris clearance: \$52,570,475
- Air monitoring, analytical, and community outreach services: \$21,247,438
- Consulting, project management, and legal services: \$8,554,764
- Agency costs: \$2,340,000
- Supplies, equipment and security: \$1,468,108
- Residential air and dust sampling, outdoor soil sampling: \$898,900
- Hangar door deconstruction: \$854,251

The document states that 1,500 homes, 29 schools, 12 parks, and 14,000 people were affected by the North Hangar Fire. The fire burned for 24 days and impacted 6.5 square miles.

*State of emergency declaration:* City and county officials asked Governor Newsom to declare a state of emergency. Information provided by the author's office states that the governor declined to issue an emergency and emphasized it was the federal government's responsibility to provide resources for the clean-up. On January 25, 2024, a week after the denied request, Congress members Young Kim and J. Luis Correa wrote a letter requesting that the Governor reconsider his decision on an emergency declaration. By declaring a state of emergency, the City of Tustin would have access to federal funds for their remediation, efforts. The letter highlighted the financial and emotional burden of the fire on the city's residents. Some residents paid out of pocket to hire contractors to test their homes for the presence of lead and asbestos. Residents were requesting additional testing, remediation and reimbursement for out-of-pocket expenses. The letter also requested that the Governor clarify a statement he shared to the media regarding a \$73 million threshold amount that is required for a disaster declaration and why the City of Tustin would be disqualified.

*Recent events:* Information available on the City of Tustin's website states that the Navy's contractor has submitted a draft work plan to clean up the site of the fire. The plan is currently being evaluated by local, county, and state agencies.

On April 15, 2024, it was announced that the Navy had pledged an additional reimbursement payment of \$37 million to repay the City of Tustin. With this pledge, the reimbursement to the City of Tustin amounted to \$61 million. An additional \$27 million was announced on June 18, 2024, bringing the total to \$88 million. This amount matches the City's costs and contractual obligations to date. The Navy reimbursements do not provide relief to residents with out-of-pocket expenses.

*This resolution:* SJR 13 urges the U.S. Congress and President Biden to support a \$100 million supplemental funding request to address the ongoing impacts on public health, the environment, and the local economy caused by pollution from the Navy North Hangar Fire. It also urges President Biden to declare a national emergency due to ongoing impacts and urges President Biden and the U.S. Congress to include in future federal budgets sufficient ongoing operational and maintenance funding for Navy North Hangar Fire remediation.

*Arguments in support:* According to the City of Tustin:

"The Navy North Hangar Fire caused significant disruption and required extensive environmental remediation of the surrounding community. Officials were forced to shut down all Tustin schools and parks, and issue health warnings to surrounding residents. The City declared a local state of emergency and the Orange County Board of Supervisors declared a county-wide state of emergency due to the fire.

In responding to the fire and subsequent recovery efforts, the City has been stretched beyond its financial limits, with emergency obligations exceeding more than 100% of its 2023-2024 fiscal year budget. The overall costs for the response and recovery needed to protect the public and the environment are expected to exceed \$90,000,000 at this time and have put the fiscal solvency of the City at great risk. The ruins of the destroyed Navy North Hangar remain, and its eventual removal and clean-up are likely to generate further impacts to the City and its residents, many of

whom spent thousands of dollars out of their own pockets to recover from the Navy North Hangar Fire.

The City must remain fiscally solvent so it can fulfill its core duties to provide crucial public services to the City's residents and businesses. The Navy North Hangar Fire disaster has our community facing financial peril and has created a dire need of immediate assistance."

*Arguments in opposition:* None on file.

*Related Legislation:*

1. AJR 12 (Alvarez, 2024). Urges the U.S. Congress and President Biden to fully fund the US EPA's Comprehensive Infrastructure Solution for the Tijuana River Valley; urges President Biden to declare a national emergency due to those ongoing impacts. This resolution is pending action on the Assembly Floor.
2. AJR 2 (O'Donnell, Chapter 142, Statutes of 2021). Requested that the U.S. Congress and US EPA to take all measures necessary to prevent further damage to California's citizens, wildlife, and natural resources caused by the dichloro-diphenyl-trichloroethane (DDT) waste dumped in the waters near Santa Catalina Island.
3. SJR 22 (Hueso, Chapter 241, Statutes of 2018). Urged the federal government and the U.S. section of the International Boundary Water Commission to take immediate action to adequately address cross-border pollution in the Tijuana River Valley.
4. SCR 90 (Hueso, Chapter 80, Statutes of 2014). Declared the Legislature's intent to work with the Tijuana River Valley Recovery Team (Team) to take various actions to protect and preserve the Tijuana River Valley; encourage collaboration with the Team to protect and enhance natural resources through improved management of sediment and trash, flood control, ecosystem management, and recreation and education; and, promote bilateral ties with Mexico.

## **REGISTERED SUPPORT / OPPOSITION:**

### **Support**

City of Tustin  
Junior Philanthropists Foundation

### **Opposition**

None on file.

**Analysis Prepared by:** Brenda Cisneros-Larios / E.S. & T.M. /