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From: Bill Almon [<mailto:balmon@pacbell.net>]
Sent: Saturday, May 19, 2012 8:57 PM
To: lefaver@sbcglobal.net
Cc: jtvidovich@aol.com
Subject: Scenic Easement

Scott, Thank you for allowing questions from the public at yesterday's Educational Workshop on the Lehigh Southwest Cement Company RPA. We asked why the Scenic Easement was not included and got a variety of answers of which none were clear.

The Scenic Easement is a part of the Reclamation Plan currently in force. It was a mitigating action taken to resolve public concerns with earlier reclamation commitments. It was a very significant action at the time and consequently was recorded as a Deed on the land records of the County of Santa Clara and continues in force.

The FEIR states "The Scenic Easement is Not a Component of the Project" without justifying such a serious conclusion. It further states that "a complete restoration of the ridgeline within the conservation easement is not proposed under the Project and thus is not evaluated in the EIR" Such a statement suggests that any action required under a County Reclamation Plan can be ignored at will which would be quite alarming.

It should be further noted that under FEIR Section 3.1.3 (Compliance) no past County enforcement action is stated and no future action even suggested. However we were given a variety of responses to our question yesterday such as earthquake activity, Staff concern, Lehigh concern and even memory lapse.

Today we found that a Supervisor was concerned enough to put a monthly report requirement in place labeled "non-agenda" and that a Confidential letter of explanation was provided to all Supervisors and discussions were held with Lehigh. Apparently the Quarry operator quarried too close to the ridge top causing it to collapse when stressed. This situation cries out for public disclosure and inclusion in the FEIR.

Bill Almon

Marina Rush,

I would appreciate knowing who was Santa Clara Valley Water District's staff at your Santa Clara County Planning Commission Lehigh Permanente Quarry Reclamation Plan workshop this afternoon, as believe Planning Commisioner Jack Bolton's query in regards groundwater connectivity to Santa Clara Valley aquifer from Lehigh Quarry's Black Mountain underflow was inaccurately responded to by County Planning staff.

Under and adjacent to Lehigh Quarry's northern operations is a mile of unconfined zone where underflow will feed directly into Santa Clara aquifer just downhill.

It is my understanding that this provides connectivity and cumulative capability for underflow, impaired by selenium due to limestone exposure to air in excavation pits, to pass through quarry site, (over bedrock and through fissures) in addition to the selenium laden waters pumped into Permanente Creek, and both of which eventually and cumulatively do flow through a mile of permeable unconfined zone to impact the Santa Clara Valley aquifer..

Please provide planning commissioners with accurate geological analysis of quarry site in relation to foothill region's permeable, unconfined zone and unique groundwater cascade into this deep drinking water aquifer.

It would be appreciated if this was communicated to them before next week's final evaluation of the Lehigh Quarry Reclamation Plan, as it is sufficiently complicated to defy explanation in a one minute comment.

Thank you for this consideration.

Libby Lucas
174 Yerba Santa Ave.,
Los Altos, CA 94022

County of Santa Clara Planning Commission

Written Comments pertaining to Lehigh Permanente Quarry Reclamation Plan Amendment Final Environmental Impact Report address 24001 Stevens Creek Blvd., Cupertino, Ca. 95014 Zoning District: HS; Parcel Size: 627.97 acres; Supervisorial District 4; APN: 351-09-011,012,013.

This is a response to the Santa Clara County response to Comment Letter 01: Citizens against Pollution (CAP). 3.3.1. May 2012.

Comments Submitted by: Cathy Helgerson, 20697 Dunbar Drive, Cupertino, Ca. 95014, Phone No: 408-253-0490.

Comment under 3.3.1

1. Santa Clara County has completely disregarded all of my comments and will not take responsibility for the Health, Safety and Wellbeing of the Citizens.
2. The constant pollution from the cement plant is an ongoing problem and the Reclamation can never be carried out Reclamation means returning the land back to its original healthy natural state the Cement Plant with their constant pollution will always keep this from happening. Santa Clara County can not keep this under control and neither can all of the agencies it is completely impossible. Even if Lehigh pays the fines that are imposed they will just pollute again and keep paying the fines and the public will continue to be polluted and the increase on health problems will increase finally it will be evident that we just can not live next to the Lehigh Southwest Cement and Quarry.
3. OMR and SCC have not taken into consideration in 2007 or at any other time that the constant pollution from the cement plant would or could interfere with the real reclamation taking place. It is completely evident that the prior reclamation never took place and it has been over 10 years and the land remained damaged beyond repair. The illusion that Lehigh and SCC seem to create in their statements that the Reclamation can take place and that Lehigh could comply with the requirements is wrong they have never been in the past and they can not operate without polluting. The pollution from the Lehigh Cement Plant and Quarry spill all over from the property they own and the property they have been allowed to use has polluted the Air, Water and Soil for over 80 years Cupertino and the whole Silicon Valley including the SF Bay has suffered and continue to suffer 24/7 nothing has really been accomplished and the people have been continually fooled.

Santa Clara County has been in charge and is the lead agency going that inspect yearly and have not even recorded all of the violations to Lehigh Cement Plant and the Quarry it seems they turned a blind eye to all of the pollution and the public has suffered terribly. They have never shown any true enforcement and the public has had to notify SCC on many occasions of the violations that have been taking place and if they did not notify SCC Lehigh would have been able to get away without complying to the rules and regulations that protect the public. How can the public or any agency be ever convinced that things will change with the EIR and Final Reclamation plan the public has viewed the statements in the comments from the BAAQMD, State Water Resource Board, EPA Region 9 regarding the promotion of the Title V Permit and other information we are not sure that the land will ever be decontaminated and returned to its beautiful state. The damage has been done and it has become so serious against we can only suppose that the fight has just begun and will continue without a grass roots effort

to stop these crimes it seems the public is destined to suffer the tyranny of this pollution.

Nothing in the responses from SCC to the citizens comments leads anyone to believe that Lehigh will be shutdown for noncompliance of any kind on the contrary it looks as if they can continue their operation and pollute no matter how much they are harming the land and the people who call Cupertino and the Valley their home. The very important question that should be on everyone's mind is where has Santa Clara County Planning Office and the Board been all this time and why have they done nothing to correct the serious pollution problems at Lehigh?

Santa Clara County Planning office is in error Lehigh Southwest Cement and Quarry has been under investigation for a Super Fund Site by the US EPA as a potential Superfund Site and do quality as one. They are conducting water tests and the results should be available to me and the public by the end of May 2012. I have been told verbally and I do not understand as yet that even thou Lehigh qualify as a Super Fund Site that the EPA will not declare it a Super Fund Site the final report that they will send me by May 2012 hopefully will provide that information. I have submitted my objections in writing to the Federal EPA in Washington to Lisa Jackson's office in appeal and reconsideration to my request. Initially the EPA does what is called a Preliminary Assessment and I am told they would not have even considered that if there was no way that Lehigh could be declared a Super Fund Site. SCC stated in the returned comments that Lehigh not under investigation or that it never has been this is not true and I am upset that they made this statement and I hope to have this whole matter reviewed by Lisa Jackson's office and that they will declare it a Super Fund Site. I feel also that the SCC EIR and the Reclamation plan can not go forward if in fact a Super Fund Site has been declared or that there maybe a Super Fund Site declared so the formal Final Reclamation Plan can not be finalized until this has been determined. Lehigh has and will always be a hazardous waste site and does not have to be an abandoned hazardous site according to the EPA they can declare it a Super Fund Site without the site being abandoned and that is why they even considered doing a Preliminary Assessment. If the criteria had only been that a site had to be abandoned then of course they would initially have turned me down and they did not.

Santa Clara County Planning has stated that the Super Fund Site issue would be outside the CEQA process, as a separate process governed by the EPAS rules and regulations therefore the Lehigh EIR does not address Superfund issues. I beg to differ here Santa Clara County must recognize that the EIR and the Reclamation Plan are geared to state the problems and consequences around a full Reclamation Plan and I believe that this issue of a potential Super Fund Site is and falls under the responsibility that SCC has to regarding the Health and Safety of the people who live in Santa Clara County over 2 million people and counting. CEQA is the design element and if the in the design we leave out and disregard the over all clean up effort by a Super Fund Site than how can their ever be a Reclamation of any kind the pollution will not stop and we are reminded also that the Reclamation will take years. The Super Fund Site would speed up the clean up of the Lehigh Cement Plant site and the Quarry which include the WMSA and EMSA and of course all of the land and grounds that is subject to Lehigh we can not wait human lives will suffer. The Lehigh site is subject to control its pollution and it has not therefore it is a site that is in non compliance and therefore is also and uncontrolled site. There can not be an statements from Lehigh stating that the rules and regulations are unattainable and therefore they need not comply with the regulations this is not acceptable and the public is upset and should be.

The problem with waiting for a Super Fund site to be declared after they have polluted and then eventually in 20 years or so after the Limestone is gone and the Cement Plant is so outdated that they will then have to close is very foolish in deed peoples lives are

on the line here this clean up needs to take place immediately.

I also believe that once Lehigh is declared a Super Fund Site that the Steven Creek Quarry will also be subject to a Super Fund Site and I will not be turned down.

4. It is continually alarming that the Draft EIR found that impacts from the Project would be less than significant, and this does not require mitigation requiring clean-up of the site. It also seems that almost nothing related to pollution seems to affect the Project how in the world do you expect the public to begin to believe this when all of the reports and Notice of Violations show otherwise can you tell me? I have mentioned in my comments continually about the pollution everywhere at Lehigh and all you can do is make foolish statements disregarding the truth and the seriousness of the situation. The public and I and my family are very upset and alarmed with your report and comments and ask that the EPA and any other agency look into helping the public gain justice in these matters. The statement that the soil samples of lead did not contain significant levels of lead I wonder who decides what is significant levels of lead any way the ongoing cumulative effects of lead and the other pollutants such as arsenic, chromium 6, mercury, selenium and the list goes on are not a concern to Santa Clara County or the agencies so it seems why is that? The Health Risk Assessment is in itself a crime and an embarrassment section 4.3 air quality A4-5 and response A4-7. I must as you were is the justice while all of this is taking place can anyone tell m how can those who hold our lives in their hands sleep at night there seems to be no end to the corruption? Shame on the people that are supposed to protect us. I have sent a great deal of time going on 7 years fighting this fight against the pollution in my community and I will continue to do so for as long as it takes or for as long as I live.
5. The Santa Clara County Planning Department and the Board I will remind you are have been entrusted with the Health, Safety and wellbeing of the citizens of Santa Clara County and the disregard for the pollution of the Air, Water and Soil will not be tolerated. Passing the responsibilities to the agencies that are also at fault here in not doing their jobs will not be allowed by the public to disregard their responsibilities and there will be a price to pay.
6. The Stevens Creek Quarry continues to pollute and eventually even with or without a Super Fund declaration it will be rectified time again will be the true judge the pollution is making more people sick each day and eventually the medical community will be forced to take action.
7. Selenium is not only in the Permanente Creek it is in the Stevens Creek Reservoir, Stevens Creek Creek, recycling pond, ponds on site at Lehigh, the aquifer and the wells in the valley it is everywhere and it is time to stop the pollution. The EPA needs to take full responsibility in this matter and insist that SCC, State Water Resource Board, BAAQMD, Santa Clara Water District and other agencies do their job to stop the pollution. It is hard to imagine that the information that these agencies provide is wrong but unfortunately it is and it also does not take into consideration the cumulative effect from the pollution that is cumulating in humans and animals alike.
8. While Santa Clara County continues to downplay all of the issues and make the funny statement that RWQCB has cited the Quarry on several occasions for violating water quality standards amazing there have been over 17 violations not just several and they are very serious so far nothing has been done. The State Water Resource Board is now in the process of the possibility of filing a law suite against Lehigh and the public awaits this decision. Santa Clara County needs to stop playing things down and tell the truth the public can not believe anything you say when you continually follow this form of deception. We know why you are continually trying to protect the polluter and not the public in these matters revenue from taxes and the need for cement is no reason to disregard the very serious health factors around the Lehigh and Stevens Creek polluters.

9. I suppose we can just wait and see what SCC does about the past violations of the Reclamation Plan so far I have seen absolutely nothing I won't hold my breath. There are violations regarding the workers who work at the cement plant and the quarries great fines have been imposed and Lehigh is still in the process of paying these fines. They keep violating and are rich so they do not care about how much they must pay and so the workers and the public are subjected to the pollution and poor safety considerations. We must remember and not forget the shootings at the Lehigh Cement Plant and Quarry people were killed and the man who shot the people was ill he had lung problems and had throat surgery which leads the public to suspect he may have had nothing to loose and was dying. He held the managers and company responsible for his illnesses and they would not even help him in the end. The pollution causes all kinds of health problems and one of them is deep depression and I suspect he was suffering from this as well I understand he did try to give himself up but I am afraid for him it was to late. I hope someday that all of the truth will come out and feel that all of this could have been avoided if Lehigh had been shut down. I can only hope that this terrible situation will never happen again it is very sad. My son suffers from ADAHD and Dysflexia and I thank God he has not as yet developed cancer but I can not say the same for his friend who lives a few miles from the cement plant he did get cancer and has had radiation. I know many other people who have had cancer and I know now that 1 out of every 2 people will get cancer. I suffer from asthma and diabetes and have sores on the top of my head that bleed and itch nothing seems to cure it. Well what else can I say are all of these health problems coincidences I don't think so I blame the pollution that we are subjected to day in and day out and no one will do anything about it.
10. My request to have the soil under the EMSA tested goes unheard no one seems to see how important it is because the water from rain goes deep into the ground and does eventually contaminate our ground water and the water shed. The water from Lehigh quarry and the property empties into the Permanente Creek it has to be released into some place Lehigh can not operate without this process so it is time to shut them down we can not continue to have our water supply contaminated.
11. Why has the State Regional Water Quality Board not worked with SCC to clean up this mess you both have the power but will not do your job so I must request that the EPA Region 9 and the EPA Federal Division in Washington come in and investigate.
12. Again SCC needs to comply with the issues of Health and Safety of the people why is it so hard to understand that the people need protection does it take an act of God or something to make everyone understand.
13. Lehigh will pay fees or fines and continue to pollute so this is not taking care of the pollution that is killing us. I have had cancer twice both breasts have been removed and I sit waiting to see if I will get cancer again and maybe next time I will die from it. My husband has also had cancer and suffers many other problems as a result from radiation and depression the pollution causes many health problems. My daughter was born with brain damage and died when she was 3 ½ years old she suffered terribly. I also had infertility problems and two miss carriages which caused me a great deal of pain and suffering. I have diabetes and asthma that cause me great problems with my heath. My son was born with ADHD and also has Dysflexia I have gone past the conclusion that all of this is just chance no it is from the pollution that we are subjected to 24/7.
14. The conversion of Lehigh Cement and Quarry and the Steven Creek Quarry into a park would be a great thing.
15. The public hopes for a formal law suite and or a Super Fund Site Declaration.
16. The Dust from the plant, quarry and the trucks is everywhere what are the agencies going to do about this so far absolutely nothing. It is not only the roads that have the

dust on them but it is also the piles of WMSA and EMSA the conditions under the Title V Permit say they must control this and that it is a violation again nothing is being done to stop it. Santa Clara County again is not looking into the well being of the citizens and needs to put pressure on the BAAQMD, State Regional Water Board and the EPA to control the pollution.

17. Seems that SCC is let off the hook not good for the public.
18. It is noted and obvious that aquatic and wildlife habitat and the animals subject to the same pollution as humans and will suffer.
19. Health and Safety with regard to erosion and flooding are evident what is going to be done about it is sad to say very little and again all suffer.
20. The overlooking of the former aluminum plant and incendiary material manufacturing facility and magnesium plant pollution is evident what are SCC and the agencies going to do about it? The overlooking of my written material in my original comments by SCC will not help the board must also read the public comments to see what is really going on.
21. The vested rights issue is evident to the public and this was totally an injustice on the part of SCC in their declaration why not impose more restrictions on Lehigh well we all know the answer to that it would hold up the EIR and the Final Reclamation Project. There has been really no real open forum conversation between the advocates, public, SCC and the agencies and there needs to be a real back and forth dialog which would bring out all of the concerns into the open for discussions but of course I do not see this happening. Lehigh would have everything to loose if this in fact did take place and that is why the advocates and the public are shot down over and over again every time we try to interject information or make real comments to support our statements in any way. There also never seems to be enough time allowed and our written comments are played down and totally overlooked no justice again.
22. The Quarry and the Cement Plant must cease operation in order for the public live and remain in the Silicone Valley and in order for life to continue they are and have been a terrible problem to the community and the public demands closure. The EMSA can be seen from all around for miles and is a terrible blight on the community ugly this will go unpunished the public wants to know why? Why can this overburden not be put into the pit well we know it is there for a reason to cover up the pollution under it.
23. See below.
24. The possibility of a permit request for the mining of a new pit is especially evident when it is known that SCC notified Lehigh after they had submitted a permit request to pull back their permit request until after the EIR and the Reclamation plan was completed this was probably done because it would have held up the Project. It was also well know by the Board members that the public was not and still continues to be not in favor of any new proposed pit that would continue the pollution at Leigh Cement and Quarry. It seems very evident to as we can see that the new pit possibility was not evaluated as part of the Project but it should have been even if Lehigh has pull back the permit application because they had already submitted the application. This in my book is dirty pool and I can see another crime in the sense of right and wrong being committed even if there is no law against it. I am very sure that Lehigh will submit a request for a new pit after the EIR and Reclamation Project plans are approved because the old pit is running out of limestone and they are not even honest about how much limestone is really left in the old pit which should be public information. I see the excuses given for not including the New Pit application prospect they are unjust and ridiculous and there is no guesswork at all the information is in the application that was submitted why is SCC Planning making such crazy remarks my only guess is they are covering up the real truth which is we are

putting the EIR and Reclamation through no matter what. The cover up and the down playing of the real situations are evident by all parties and now the real question is who will act on behalf of the public and shut Lehigh down permanently?

25. The old quarry needs yes to be filled in but we must remember that when mining limestone that Mercury is released and the levels of Mercury in the ground are high with this type of limestone. It is difficult not suppose that what ever is put back into the pit is not full of pollution in the overburden and also from the cement plant which generates pollution day and night this dust is covering the ground and the WMSA and the EMSA. The whole property is continually polluted and contaminated not to mention the worker who work at the cement plant and the workers out in the quarry and the field. I have already stated that there can not be any Reclamation without a Super Fund Site clean up and who is to know at what level this clean up will be performed I can only hope at the highest of levels in order to protect the people from further contamination from the pollution. The dust is blowing all over the valley and the people are subjected to this contamination.
26. I was told at the workshop that the EMSA would not be used to fill the old quarry and one of the advocates asked why they could not use both the WMSA and the EMSA to fill the pit well it is evident to me why not the EMSA is used to cover up what pollution is under it.
27. Super Fund Site must be declared.
28. The exploratory area was investigated for the possibility of a new pit and it was determined by Lehigh that there could be a new pit put there and so they filed a request that they later pulled back because a SCC Council member who asked them to pull it back. SCC gave the excuse at the workshop that that they could not determine if this was a proper place to put a new pit in so well then my question is why did they put a request in for a new pit to begin with? This all seems to be another cover up for what is really going on lies are being told and this need s to end the public is not fooled. Lehigh will put in a request for a new pit and the public will fight this request.
29. Final reclamation elevations are irrelevant without a Super Fund Site Clean up the EIR and the Reclamation Project are useless again there can be no such thing clean up first this is law when there is a hazardous area there are no exceptions.
30. Ok
31. Ok
32. The current project proposal is inefficient it lacks any true potential of reclamation it leaves out the most important part of what reclamation really accomplishes exploratory activities by Lehigh to drill a new pit should be part of the reclamation project especially when it so noted that the old reclamation plan had included a proposal to expand quarrying activities to a new area south of Permanente Creek. My question is why is this even allowed to be left out especially when Lehigh submitted an application SCC told them to pull it back which was corruption at its fullest? The public wants justice and we want to make sure that this injustice will also no longer continue but who will make sure it does not?
33. OK
34. Again there needs to be a Super Fund Site declared and a cleanup started immediately.
35. I am completely disturbed about the long time tables over all we can not prolong reclamation way into 2021. The problems are many but one that is sure to be evident is that if the EMSA is moved it must not contaminate any further but before it can be put into the pit there must be tests conducted and there needs to be a clean up again Super

Fund Site approval. Moving the EMSA to another location is not acceptable it needs to be placed into the pit once it is determined to be safe. The cap of clean soil must be put on top it must be at least 4 or 5 feet or more of good top soil so that the plants, trees and shrubs will have a good change to grow.

36. The new pit mining is not acceptable and the public demands closure of the Lehigh Cement Plant and the Quarry.
37. The EMSA is almost up to SCC County height limits and no more overburden should be allowed due to the ridge line violations and also for safety reasons but that does not stop the pollution from the overburden which is blowing all over the property, surrounding area and the valley this must stop. There is no indication of any watering down of the EMSA with any kind of sprinklers or sprays so the public is continually subjected to the dust pollution this must stop the sooner it is moved into the quarry the sooner the public will be free of the dust and pollution. The overburden must be safe to move and also must be determined safe to be put into the pit and then clean top soil of more than the required amount should be added as stated in 01-33. The pollution under the EMSA from the industry that was once there must be cleaned up even if the soil must be moved from the site and disposed of according to Super Fund Site requirements if there is a Super Fund Site Declared. Then if there is no Super Fund Site declared SCC must take it upon them selves to make sure that the property is cleaned up and that the public is not put in any more danger from the pollution.
38. The declaration of a Super Fund Site would hurry things along with a major clean up and then containment of the overburden in the quarry after such time there would be a major implementation to provide grass, trees, bushes and plants planted on top in order to keep the dust down and start re vegetation. The public can not wait 20 years to complete the reclamation process the EMSA land after the overburden is moved will need the same re vegetation process and in the same time span urgency is of the most importance. What ever is up at the site that is not sprinkled, covered or contained is a serious health hazard polluting the people who live in the communities around the Lehigh Southwest Cement, lands and the quarry. There are regulations that are not being followed and it seems to the public that this is a crime that is not being punished and we are subjected to this horrible contamination with no protection why is this allowed to continue?
39. The seriousness of the possibility of a new pit is critical we the people can not live in this valley with a new limestone pit mined or even allow the continuation of the old pit to be mined and it is evident that the public will be up in arms if any one even tries to consider allowing such a terrible event to take place. I must say from what I have seen so far my fears have been coming true and the horror displayed from the pollution by the Lehigh Cement and Quarry have shown terrible repercussions and damage done it has been a heart breaking situation SCC must put a stop to any possible continuation and crimes committed against the people to protect the lives of men, women, and children in our communities. It is extremely evident that the concerns of the people have been totally ignored and played down at every turn so who will enforce justice once and for all?
40. Any new application for a new pit must be denied in order to protect the people from contamination from the pollution from Lehigh Southwest Cement and Quarry. I attended a workshop on May 18, 2012 by the Planning Commissions where the board members and the public were informed about the Lehigh – Permanente Quarry's Reclamation Plan Amendment and I must say it was very disheartening. I am certain that the comments of the public where not read by the board members and so I asked them to read the comments of the people and to take their time in making and deciding how to go forward with the Project because their decision would affect the future of our

children in a good or very harmful way. I asked if OMR could be asked to give SCC more time to go over and work on the Reclamation Plan and have more meetings with the public and the Planning Department alongside the Board and all I was told was that the right time allowed would be considered not sure just what that means seems my question was not really considered or answered. I am not surprised about any of this it seems that no matter what the public does they are never really heard a terrible shame has been committed and who will stand up and speak on our behalf no one so it seems. There needs to be an open back and forth dialogue with all parties concerned but that is not happening and we are given no real voice shut down and disregarded information is the answer we are really given sad but true.

41. The reclamation is going to take too long and does not cover for the EMSA over burden being put into the old pit it was brought up at the meeting that there is selenium in the EMSA and that it will be covered up along with any other pollution that is in the soil or under which includes pollution from the land that had the Permanente Metals Corporation Plant, the Todd California Shipbuilding Corporation and the Permanente Metals Corporation. The EMSA creation was intended to cover up the pollution and contamination from these entities and no one seems to understand that you can not clean up pollution in this way. There needs to be a Super Fund Declared and the EPA will have to declare the Land a Super Fund Site which will also include the Cement Plant and other lands as well as any surrounding areas that have been contaminated including and not limited to the Permanente Creek.
42. The inadequacy of the EIR and Final Reclamation Plan should be evident it does not measure up to what is really happening and how the concerns over the pollution and contamination will be truly rectified.
43. The area of controversy and the issues are not being resolved and no matter how hard Santa Clara County tries to hide the truth the truth is evident and will soon be uncovered.
44. The proposed exploration area permit application was withdrawn by Lehigh at the recommendation of SCC illegally and should have been part of the EIR and Proposed Reclamation Plan in order to clear up any issues and problems with future excavation but was not. It is still a problem with a SCC Board member who seems to think it is ok to put the pit in the south location which is not acceptable and the public will not hear of it. It seems that he thinks this will solve the north problems with drilling a new mine not so he has totally left out the land that will be destroyed with the destruction of 30 thousand trees and the animals that will be displaced. He has not and the board obviously has not read my concerns or even taken them into consideration and so he should. The ongoing pollution from the Cement plant is left out of the EIR and the Proposed Reclamation plan seems the pollution from the plant is no concern to SCC crazy and stupid that is how the public views that kind of thinking are you shocked so am I with their selfish lack of consideration. I would have liked to talk to him directly in a real conversation but of course that was not possible and again the public is not heard.
45. Why is the SCC doing everything it can to promote Lehigh at every turn which brings us to mention what they are getting out of all this tax revenue lots of it and we are talking about a lot of money so I guess that is more important than peoples lives so it seems. It also seems that cement is also more important than peoples lives and if it is surly the case that lives will be lost if Lehigh Southwest Cement and Quarry are allowed to continue mining in Cupertino.
46. The pollution was terrible on Friday May 18, 2012 during the workshop meeting has anyone notice Fridays are the worst days after a week of Lehigh's continued emitting of pollution the valley seems to act as a sponge soaking up the fumes that are allowed to disperse them all over the land. Many people I meet that day spoke of how they were

feeling sick from the air and they thought maybe it was their allergies acting up but of course how could all of these people have the same problems silly people not even aware of the danger that is lurking in their community. The real truth of the matter was that the strong pollution coming from the operating cement plant was making everyone including myself and family ill, it became evident because I had suffered many times from these symptoms especially on spare the air days which by the way Lehigh never closes down during those days and even thou the public feels they should be forced to close down nothing is enforced. The blame is always on the fire places or the cars on the road who are supposed to emit so much pollution that of course Lehigh is not to blame what a bunch of bologny.

47. The Lehigh Southwest Cement and Quarry have been under investigation by the EPA and they have conducted a Preliminary Investigation which declared Lehigh at 28.5 a high enough score to qualify for a Super Fund Site Declaration. They even with that turned me down in a verbal conversation I had with them and I still do not really know why and they also put me off in getting a formal report stating they turned me down pushing out the date to the end of May 2012. I did not wait to put in my appeal with Lisa Jackson office and now am waiting to hear from them this need to be made very plan to the SCC Board members. The Planning Department lied about the Super Fund issue and this should clear it up anyway you have check with the EPA if you have a problem with my comments and I am sure the report will be made public.
48. Lehigh has been in violation of all kinds of issues stated here and still the public waits for justice. It does not matter if the Mercury coming from the quarry is naturally occurring or that it is generated from the pollution and from the limestone quarry, EMSA, WMSA, the ponds or the overflow of pollution from the Cement Plant what matters is that the levels need to be determined and they are not. To state in the comments back to me that Mercury Concentrations generally meet RWQCB Basin Plan Benchmarks for surface water in the Permanente Creek is a very weak statement at its worst. Words like generally and likely are foolish in relating to the very serious contamination from Mercury in our Water, Air and Soil and statements such as Mercury in sediments migrating offsite were determined likely to be below are not accurate and the public is asked to prove what is inaccurate in the supposed analysis by SCC findings. This type of tomfoolery is not acceptable in the eyes of the public and we are not fooled by it in any way lies again are being told and hiding the truth will only make things worse. I ask that the EPA conduct testing of the Mercury levels and other pollution at Lehigh either with a Super Fund Declaration or without a Super Fund Declaration in order to get to the real truth and I hope that they would be honest in their testing.
49. The operations at the Lehigh Southwest Cement Plant have a serious impact on the EIR and The Final Reclamation Plan which I have stated their pollution is overflowing onto the Reclamation areas and so any covering up of the grounds will not stop the pollution it will rest on top of the existing area and also will be a continued form of pollution for the Project. The Plant must be closed down once and for all in order to stop the pollution so that a full Super Fund Site Declaration can take place or even a full Reclamation that really brings the land back to its natural state can take place. The land will be worthless if there is not real clean up. The Cement plant can not be allowed to pollute for another 20 years while a new pit is put in and mined and we should not leave out the old pit that is now being mined.
50. The violations are many included in all of the paperwork and reports but even with all of this information no one seems to be able to fight Lehigh or the Steven Creek Quarry and close them down.
51. Seems many things are not relevant to SCC but the public feels that all things and

information of any real truth and importance should be considered with the EIR and the Final Reclamation Plan and we have seen that this is just not happening. It is a terrible shame to leave out anything when the public's health, safety and lives are on the line.

52. It was discussed at the workshop that I attended that an on-site selenium treatment plant could be established but it seems that the cost would be high and I ask you who can put a price on this when human lives are in the balance. The contamination to the Permanente Creek in the mind of SCC is unavoidable I am sorry it is not unavoidable in any way, shape, matter or form please do not make this serious violation unavoidable. The obvious alternative to selenium poisoning from Lehigh is to shut down the Cement Plant and the Quarry which will then solve all of our problems and start the clean up.
53. The Project tree removal is alarming (approximately 170 oak trees) these trees have been there for decades and the destruction seems absolutely unacceptable and should not be allowed. The number of 30,000 trees that will be cut down that is mentioned is a result of the increase in mining of the new pit over the next 20 years because eventually the new pit will be expanded to 600 acres which is what the old pit is. It is estimated that the new pit will start with 200 acres and of course over the years there has to be an expansion because they will run out of limestone. These trees have been a buffer from the cement plant pollution and we can not lose any of the trees it would be devastating to everyone. The animals that call this forest their home will be displaced and this also can not be allowed my dream is that the land will eventually be turned into a major park for all to enjoy. I know that parks are in danger no funding but who knows once the land is cleaned up via a Super Fund Site it could be turned into a wonderful park for all to enjoy and our children and their children will thank us for it.
54. The over all planting of new trees will take multiple decades for growth to be evident and in the meantime the public suffers again the trees that are there act as a buffer and have helped to provide clean air to the public this would all be gone. The Mid Peninsula District has mentioned the terrible problems from the dust and pollution that the Cement Plant and the Quarry have caused and are causing them and no one has done anything about it for decades. The preserve is polluted people travel through it hiking and playing in the forest and the trees are covered with pollution and dust why does SCC keep looking the other way and will not recognize the seriousness of the situation and the people who attend the preserve are in danger from this pollution. There is also the San Andres Fault line and other Fault lines that would be right next to the new proposed quarry and I am sure this would result in the next major earth quake are we to risk this disaster? There must be a law against polluting a preserve but again no one is enforcing the terrible crime that has been committed.
55. The Project area and the exploration area is a historical site with Limestone that dates back to prehistoric times no one seems to care about the preservation of this land and the fact that it is necessary for this preservation it is terribly difficult for me to comprehend the foolishness of SCC. It is hard to determine if there are any human burial remains at the site until the land is excavated and then who knows what damage will be done by then it could be too late.
56. Stating that the earth quakes that could arise in the project areas and in the exploration areas are impacts that are determined to be less than significant is an outrage an absolute outrage at the expense of the populous this is not acceptable. This should be a serious matter taken up also by the EPA Region 9, Federal EPA and any other agency that can determine definitely that the public will not be and could not be in any danger.
57. Again it is SCC disregarding their responsibility in the safety of the public by this constant claiming that the existing surface mining operation and the Cement Plant operations are not part of the proposed Project, and as such are not analyzed in the Draft EIR wrong truly wrong in this assumption on their part. The SCC Planning office and

the Board are entrusted in the Safety, Health and wellbeing of the citizens of Santa Clara County all 2 million of them and it is a total lack of consideration on their part not to include the total picture especially when so many people lives are on the line.

58. The great problem of Greenhouse Gas Emissions and climate change should be addressed and included it is very serious the world needs to change the way it looks at things and so do the companies that pollute our planet. The shutting down of Lehigh Cement and Quarry and the Stevens Creek Quarry would help send a message to them and others that polluting the planet is not acceptable and that there are strong consequences and a very high price to pay.
59. The Asbestos maybe naturally-occurring in the eyes of SCC but maybe but lets face it we can not just overlook these levels because if added to what the cement plant is emitting they are causing increases that if cumulatively and jointly are allowed to pollute are harming the public with the contamination. The quarry is not the only place that this can be occurring and it seems SCC has overlooked that possibility and this should be looked at by the EPA and the other agencies in order to protect the public.
60. The Metals, including Selenium, Mercury, Chromium VI, and Vanadium the downplaying of the problems with this pollution is and outrage the public should never be subjected to any of this at any time because no one knows what impact it would have on the Health and wellbeing of the population. To say that the pollution is unavoidable when we all know that it is avoidable is a lie the public and my comments have made reference to what is necessary with many points but the bottom line is that it is absolutely necessary to shut down Lehigh Southwest Cement and Quarry and the Stevens Creek Quarry immediately and so the clean up can begin. Selenium is a serious pollutant to humans and animals alike there is no acceptable excuse for allowing it to pollute. SCC is protecting Lehigh and it has been mentioned in my new comments why that is occurring nothing can be hidden from the public it is revenue and a political matter big business has the lots of money and it seems needs to be protected at all costs just how much it costs the public and the tax payers is astronomical. We the public will pay one way or another for the crimes that have been committed by Lehigh and the Steven Creek Quarry owners someone has to pay the price of cleanup now or later only time will tell. It has been determined that there are toxins all kinds of toxins and dust and pollution hurting the public but no one has stopped the pollution 24/7 days a week me, my family and the public breath in this terrible pollution we eat the dust and eventually these toxins are distributed into our blood streams and eventually we become ill. These toxins are cumulative and we can not over look the fact that more and more people are becoming ill soon the hospitals will not be able to contain the amount of sick people that will need care so I want to know what will SCC and the other agencies do then?
61. To state that you are trying to find ways to lessen the significant impact is again nuts trying to reduce interim impacts from all of these toxins and with even more not even mentioned toxins is again nuts STOP THE POLLUTION SHUT DOWN THE LEHIGH CEMENT PLANT AND QUARRY AND THE STEVENS CREEK QUARRY. I am amazed by the simple solution to all of the contamination problems why is it so hard for SCC and the other agencies to comprehend the inevitable what is wrong with all of you?
62. The Petroleum Coke is hazardous material and Lehigh has been illegally storing it on site I suppose SCC Planning and the Board think this is again not their problem but I say it is your problem and should be part of the EIR and the Reclamation plan. The health issue is a serious one and the Petroleum Coke when burned is worse than coal burning and it also has radioactive material in it and is a serious problem. I can only hope eventually the EPA Region 9 and the Federal EPA will get involved and do

something to save lives. It seems that many serious issues are stated as not to be the problem of SCC and that the EIR and the Reclamation Plan just does not cover that who decides what is covered and what is not seems that should change the public demands it.

63. It sure would be nice to get real answers from SCC instead of excuses why they can not include items and I just love the comment back from SCC that states there is no evidence that has been provided that would support a conclusion that the analysis regarding NOX and SO2 with respect to pollution in the analysis is inadequate or inaccurate again the public must prove the hazards crazy at every turn. We know and it has been determined that these are hazards and so is the CO2 emissions coming from Lehigh but of course the evidence is corrupted by the false reporting of these emissions and who will uncover the truth? I continually comment and ask for justice and I keep getting lost in your deception EPA where are you why not come to our rescue?
64. Enforcement it seems SCC mentions there has been no basis provided that would support a conclusion that the agencies listed will not enforce regulations under their oversight funny it would seem that now all of a sudden the public is supposed to believe that after over 70 years of the lack of enforcement we are supposed to believe that now enforcement will take place. I am certain that Lehigh will violate the regulations and if they are caught and that is a big if they will just go and pay the fine because they are a very wealthy company and can afford to keep violating and paying fines. The question is can the public afford to keep getting continually exposed to the pollution caused due to their continuation in breaking the law? Paying fines does not stop the problem but it does give the agency revenue and it looks as if in my book that is just one big pay off. Back in the days of gangsters during prohibition the bad guys would pay off the police, government political leaders and just about anyone so that they could continue their dirty work wow we have come a long way since then or have we? I am sick and tired of Notice of Violations that are not enforced and are left pending due to who knows what we are not told what is holding up the enforcement. If there is litigation it seems this litigation can go on indefinitely and so while all this is going on the public is subjected to more and more pollution causing all kinds of health problems and even death. The EPA it is stated is not allowed to be an enforcement agency in the context of the proposed Project and they say it just is not workable what kind of a statement is that anyway what does the EPA think about all this no one seems to know they are supposed to be an enforcement agency but when it comes right down to it they lack in real enforcement all together. The State Regional Water Quality Board has informed me that they are in the process of filing a law suite against Lehigh and so I wonder why SCC has not been informed about this very important item that should be added to the EIR and the Final Reclamation Plan why is this hidden from the SCC Board and the public can anyone tell me? I think that this information was deliberately left out in order to promote the Project and in order to keep anything that would delay the approval of the project kept quiet. The Santa Clara Water District is in the business of selling water to the water companies why would they want to cut their own throats by mentioning the high levels of Mercury in the Stevens Creek Reservoir the selenium in the water and the polluted sediment at the bottom of the reservoir goes un noticed by the agencies that are supposed to protect the public. One of the X mayors from Cupertino works for them and I am sure is making sure that nothing is done about this pollution even after a test was reviewed by Stanford University from Harker School who pulled up the samples and found out about the high levels. The SCWD will not admit to this pollution that is coming from the Stevens Creek Quarry and the Lehigh Southwest Cement and Quarry. I have stated in my comments the corruption and lies told no one seems to care at SCC even thou they should care and stop the pollution.
65. The vested right issue has been argued about by the public and now there is a law suite pending it was asked by an advocate at the workshop meeting how will the outcome

affect the EIR and Final Reclamation Plan if the law suite determines SCC was wrong in allowing Lehigh vested rights then what no real answer was given on any changes to the Project. I can only hope that it will change how SCC does business and also that it will be instrumental in adjusting the Project itself.

66. Pollution from diesel trucks is evident and it is especially destructive to the two condominium complexes that are right next to the road which have pollution and dust all over the public's homes. There families are breathing in the pollution from Lehigh's Cement plant but also from the EMSA the whole project areas the trees bushes, side of the road and the ground is full of the pollution from the trucks and no one will do anything about it. The trucks leak cement, rocks and what ever else they are selling to customers all over the road I have complained about this myself to the Fire Department down Steven Creek Road and they called Lehigh to tell them to clean it up. There is no end to the pollution violations by Lehigh and the trucking companies that move their products down the Stevens Creek Road and Foothill Expressway you can see the gray white stain left on the road from the trucks. The smell of cement is everywhere the odor is evident and the people complain to the BAAQMD, SCC and the EPA and nothing is done about it the crimes continue and the public is in grave danger and no one cares.
67. The Mid Peninsula Regional Open Space District has complained not just once at this time but has for decades many years and SCC has done nothing about it. The public who use the land preserve as a park need to be protected and they are not who will enforce the laws that protect State and Federal Parks and Preserves from pollution seems no one is there and no one is doing their job why not? I just can't understand and feel that the public and the MPROSD should not have to file a law suite in order to get justice served but it seems that would probably be the only way. What has our world come to when we talk about justice but there is none.
68. The hours of operation at 24/7 and under the cover of darkness Lehigh does it worst I have asked for constant video surveillance with the film going directly to the BAAQMD and the EPA to monitor and make sure there are no violations but no one hears my suggestions. I have also asked that any monitor information be also relayed to them as well in order to make sure that there is no pollution going out to the public no one has listened and I have mentioned having Lehigh Cement shut down during spare the air days again no one hears my suggestions. The truck traffic noise, dust, dirt, safety and wear and tear on road is evident to everyone and again SCC does nothing pushing their responsibility over to everyone else and the public suffers.
69. The existing wastewater treatment facility at the plant is viewed in the State Regional Water Quality Boards NOV's and is a dirty filthy mess I suppose SCC can just go ahead and disregard that as they have many other things but the public is not pleased.
70. I would assume that in the real world of conscience where there would be a total regard for all issues of concern for the well being of human and animal alike that all things would be considered when deciding on the EIR and the Final Reclamation Project. If Lehigh Southwest Cement and Quarry continually is in violation of all kinds of regulations then why would any just society allow this company to continue to pollute and carry on their business? No matter how hard SCC and the agencies continue to overlook what is going on and try and fool the public eventually the truth will surface. The harm that has been allowed will become evident because more and more people are becoming sick and sooner or later all fingers will point to Lehigh Southwest Cement and Quarry and the Stevens Creek Quarry which will eventually force our Governments to shut them down. I dream of that day and it is coming soon there is no way that these polluters can operate their dirty businesses without polluting our communities.
71. My heart is breaking over the foolishness of statements made here in this return comment I mentioned that there needs to be a non bias agency looking into all of the

testing elements with the BAAQMD, SCC, State Regional Water Quality Board and even the local EPA Region 9 this agency will need to be a truly high level of investigators who will seek out the truth so my hope is the Lisa Jackson's Federal office will come in and investigate immediately. I have appealed the Title V Permit that was put through and have also put in my appeal regarding the Super Fund Site Declaration after I was verbally turned down. I have stated that I am waiting for the formal paperwork that should be coming from the EPA Super Fund Division at the end of May 2012 at which time I will be told exactly why my request was turned down even though Lehigh qualified. I will also be told why my Steven Creek Quarry Super Fund Site Request was turned down as well. I can not for the life of me understand and have tried to understand without much avail the thinking that has taken place and why the public is still subjected to this terrible pollution except that corruption is at hand.

72. There has already been flood waters overflowing from the Permanente Creek and this polluted selenium water and other pollution has gone and overflowed into people's backyards causing all kinds of problems. People have been made sick from this flood water and they have small children who have been harmed. Selenium is a serious pollution there will be more flooding from the quarry and the whole property at Lehigh the Water Boards job is to stop the pollution and I hope they finally will. The Permanente Creek will have to be dealt with because it has also added to the pollution at the Steven Creek Creek we must understand and remember the creeks can back up as well as flow down and the water co mingles. The aquifer under the Silicone Valley and Cupertino is polluted and the Project has suggested that the pollution can somehow be diluted but how can this be left to chance our lives depend on this water. I again must say that the Federal EPA must come in and investigate this matter and with a full non bias division that will not tolerate any corruption. The people of the valley have been lied to and are sick it is time to save lives.
73. Giving Lehigh a general Sand and Gravel Permit is crazy there should be no way that any pollution should be allowed and I believe this permit allows pollution. Who decides what is allowed on these permits it just amazes me how all this pollution is allowed and all they need is another permit what are they thinking the public would like to know? The test must eventually show that there is nothing being done about the selenium and the other pollution that the public is subjected to Lehigh and the Stevens Creek Quarry need to be shut down.
74. The EPA are conducting water tests of the Permanente Creek and I hope the quarry water and the results should be out by May 2012 I can only hope these tests have been conducted honestly and that if there is alarming information that this information will not be kept from the public. The public needs to know what is going on and I feel that the Government should not and can not hold this information from them.
75. My last statements I have tried to be an instrument a voice of conscience to all of the agencies, advocates and the people of Santa Clara County mentioning that the Board needs to take their time making their decision on the EIR and the Final Reclamation Plan which will determine the well being of the future generations to come. SCC and all of the agencies concerned now and later need to have consequences imposed for any wrong doings on their part so I ask for justice. I ask for justice not just in the form of penalties but if necessary criminal actions taken and imposed against Lehigh Southwest Cement and Quarry and the Stevens Creek Quarry or anyone else that has aided in their violations. I ask that they be closed down and a Super Fund Site declared which would speed up the clean up so that a real Reclamation can take place. I ask that the cover up of the pollution under the EMSA and maybe even under the WMSA or any other place on the site be uncovered and that this pollution be dealt with this also includes the cement plant with its ongoing pollution. The leaving out of the Cement Plant is foolish and has been noted as such by the advocates and has been totally ignored. I do not feel that

Lehigh's covering up the pollution with the dumping of overburden at the EMSA is going to stop the pollution that is under it and I also feel that the EMSA was created in order to cover up the pollution to begin with this is yet to be fully investigated and uncovered.

76. Santa Clara County and the Board need to be made to be accountable in all aspects that pertain to the health and safety of the people in SCC there can be no exceptions in this matter we the people demand it and feel that so far our needs have never been met.
77. I ask that the EPA Federal Investigations Division come in and do a full investigation in the way that all aspects of the pollution at the Lehigh Southwest Cement and Quarry and the Steven Creek Quarry have been handled in order to uncover the truth and protect the people of the United States of America.

I can only pray and hope that all of my efforts and the efforts of my fellow advocates have not been in vain.

Re: West Valley Citizens Air Watch (WVCAW) and Bay Area for Clean Environment (BACE) comments for the Lehigh Reclamation Plan Amendment Final EIR

Please read before voting on the EIR and the Reclamation Plan. These documents do not comply with SMARA in an obvious and important aspect and therefore should not be approved. The issue of Selenium in the water has not been resolved or mitigated in the Reclamation Plan or EIR. We urge you to vote no on approving the Reclamation Plan and the EIR.

While WVCAW and BACE wants a Reclamation Plan in place for all the areas which have been disturbed by the Lehigh mining operations, it needs to fully comply with SMARA, otherwise they will be yet another meaningless pro-forma and non-compliant document. The Regional Water Quality Control Board (RWQCB) brought up specific issues about selenium discharges and Federal Clean Water Act requirements which are not complied with in the EIR.

These documents do neither. The Reclamation Plan is offered as a 20 year plan, yet the Santa Clara County Planning Department admits that in 20 years is very possible that the amount of selenium discharges will neither be resolved nor mitigated. This is highly likely. The Planning Department therefore proposed to monitor the Selenium for another 5 years and other monitoring will be done for a total of 14 years. Therefore they are presenting a 34 year plan as if it is a 20 year plan. We hope you also realize that this is completely unacceptable and does not comply with SMARA.

Based on the Selenium issue alone, the only response to this is to vote no and not approve the EIR or the reclamation plan.

It should be noted that the final EIR was not posted until about 1 ½

weeks prior to the hearing and no notification was made when it was posted. Considering the substantial changes, the size of the document, the scale and complexity of the project and far reaching impacts, the allotted time for public review is wholly inadequate. It also seems unlikely that the planning commission will have the time to review the information in any depth.

In the short time available, we reviewed our letter and the response comments from the Santa Clara County Planning & Development Planning Office in the final EIR for the Lehigh Permanente Quarry Reclamation Plan Amendment.

It is unfortunate that several of our carefully worded comments and questions were dismissed or not answered at all. Referral to sections of the Draft EIR is helpful yet this still does not answer all questions submitted that is required by law.

1. WVCAW comment #1. County EIR designation O6-3, pages 3.3-168 and 3.3-197:

WVCAW and BACE understands that the period given for review of the DEIR meets the 30-60 day period for public review but complained in our comments that the RPA was substantially modified long after the original NOP. In the County's response, they do not offer any evidence of why they consider the changes to be "updates and not a new proposal" despite the fact that it has increased by 42% in volume. Curiously and without explanation, they offer only spurious arguments about NOP's given for previous RPA's which have been withdrawn and are no longer relevant to this project.

The County admits that "CEQA requires that the NOP shall provide the responsible and trustee agencies and [OPR] with sufficient information describing the project and the potential environmental effects to enable the responsible agencies to make a meaningful response. The information provided must include at least the following three things: a description..." WVCAW has a legitimate concern that the description

of the project was inadequate to the extent that 4-5 months into the process the RPA was increased by 42% in volume. Given the significant extent of this project, the public should be given a full CEQA process on the complete proposal with a new scoping process, and not be limited to a fraction of the project description for a majority of the public CEQA process.

2. WVCAW comment #2. County EIR designation O6-4, pages 3.3-169 and 3.3-198:

The County has ignored this DEIR comment by incorrectly presuming and asserting that the Planning Commission has absolutely no authority to regulate mining activities no matter what the environmental impact might be from those activities. This is clearly not the case because the County as the lead agency must ensure that the RPA is consistent with SMARA. For example, the RPA could not be approved if the operation will result in irreversible environmental damage.

CEQA requires a ‘No Project Alternative’ and specifically precludes speculation such as the County’s presumption that a future RPA would have the same environmental effect except that it would be delayed. Not only does the Planning Commission have a measure of authority to modify the applicants extraction plans, but the applicant could change their plans at any time and pursue some other use for the property as they have previously proposed. This was included in our original comment but not addressed in the County’s response. The speculative strategy employed in the County’s argument is a violation of CEQA and a cynical manipulation that yields the absurd conclusion that the ‘No Project Alternative’ would have a bigger environmental impact than the proposed project. The County must amend the EIR to include a ‘No Project Alternative’ as required by CEQA.

3. WVCAW comment #3. County EIR designation O6-5, pages 3.3-171 and 3.3-200:

The County has failed to address the issues listed in this comment. They claim that “public and private parties are entitled to a presumption

that they will comply with applicable requirements” and refer to an explanation of this statement in “Master Response M3(A)” but no such explanation is contained therein. They further claim that County enforcement “can be relied upon to regularly perform its official duties”, and ignore the facts presented which provide a consistent pattern to the contrary. The details provided in this comment should be reviewed in the EIR, including particularly the excerpt quoted from the State Mining and Geology Board which states, “...there is little evidence in the administrative record demonstrating that the County has the understanding, or will, to enforce SMARA”. The dismal record of enforcement by the County cannot be denied and the County offers no explanation of how it would be corrected. The community deserves and CEQA requires that the County consider the issues contained in this comment in the final EIR as they directly pertain to the reasonably expected environmental impact of the project.

We also note in this same M3(A) section, the county seems to confuse abatement of SMARA violations with approval of SMARA violations, which does not provide the intended deterrent. The County also summarizes frequent public comments that claim: “despite the issuance of multiple notices from the County and the Regional Water Quality Control Board (RWQCB) that violations of applicable laws have occurred, no enforcement, remedial action, or levying of penalties against the Quarry operator has occurred”, and claims this is incorrect. But the County clearly does not address the public comments that the NOV’s have not resulted in corrective action. Once again, the county’s explanation does not appear to take the public’s concerns in this matter seriously.

It is also clear in the M3(A) section that many of the public comments received question whether the Applicant may be relied upon to implement lawfully and faithfully the proposed Reclamation Plan Amendment (for example Mid Peninsula Regional Open Space District and many, many others). The County says the public shouldn’t worry because they perform inspections, but they fail to address their dismal

record or suggest how and when they will amend their ways. The egregious and contentious EMSA violation was found by a private citizen for example, and they offer no evidence of significant fines or other penalties, nor evidence that the NOV's effected any change in behavior by the operator. In fact, the County made a illegal agreement with the applicant to allow them to continue dumping in the EMSA after the NOV was issued. Ironically, they even refer to a AB3098 provision which has not been enforced despite the fact that Lehigh is in violation for more than 10 years.

4. WVCAW comment #4. County EIR designation O6-6, pages 3.3-173 and 3.3-200:

The County's response does not address the question about digging deeper into the hillside. Given that the existing selenium problem is largely due to the depth of the pit which as intercepted the natural water flow, the question of how much impact will occur from digging even deeper deserves to be answered. The County just assumes that the proposed mitigation measure is sufficient, despite the fact that the interim impact from the selenium is deemed "significant and unavoidable". Clearly, digging deeper into the hillside makes the problem worse and is avoidable. The EIR should clarify how much of this impact is caused by digging deeper into the hillside as requested in this comment.

WVCAW comment #4, County EIR designation O6-7, pages 3.3-174 and 3.3-200:

This comment requested that contingency plans be included for generating emergency pumping power when the electric power goes out, but the County chose to answer it by merely stating that there is no emergency power in the proposal. This comment clearly expresses concern about the environmental impact of power failure and County should answer it in the EIR.

WVCAW comment #4, County EIR designation O6-8, pages 3.3-174 and 3.3-200:

This comment requested an example project where a “cap” was used to mitigate selenium migration and the County provided one. However, in the example the County provided, the depth of the cap was 4 feet instead of the 1 foot proposed by the applicant. The County states that 1 foot is adequate for this project because the selenium concentrations are not elevated as high as the example project however no justification is provided to support their assumption that the depth required is a function of the concentration. It seems to the lay person that a 1 foot thick covering would easily be eroded by animals, rainfall, seismic activity, etc, whereas a 4 foot thick cover is much more substantial and plausible. Consequently, we do not feel that the example provided by the County is adequate unless the proposed cap depth is increased to 4 feet.

WVCAW comment #4, County EIR designation O6-9, pages 3.3-175 and 3.3-200:

The County makes an assumption that once the RPA is implemented, no long term monitoring for selenium is necessary of Permanente Creek of the San Francisco Bay.

This testing should be done on a regular basis near the lower reaches of Permanente Creek and the San Francisco Bay over the long term. On page 3.3-201 the County states that Basin Plan Water Quality Objectives for selenium may not be met.

WVCAW comment #4, County EIR designation O6-10, pages 3.3-175 and 3.3-201:

This comment concerns the selenium discharges expected during the 20 year span of the reclamation plan. In the County’s response they claim that since Permanente Creek is already listed as an impaired water body, selenium pollution coming from the RPA project area should be considered an existing condition and “Any liability that may be associated with existing water quality conditions is not within the County’s purview in the context of SMARA or CEQA for this project.”

Nothing could be farther from the truth. The County is the lead agency for administering SMARA and the RPA must conform to the Federal Clean Water Act. The Selenium that will be discharged by the applicant in the coming years is hardly an existing condition. The fact that they have been negligent in the past does not excuse them from the law. Before this project can be approved, the EIR must demonstrate that the applicant will cease discharging Selenium into Permanente Creek.

Furthermore, the County has not provided any data that establishes the selenium discharge versus time. It is critical to know approximately what date the quarry operator dug deep enough into the hillside to intercept the water flow and when they began pumping contaminated water out the of quarry (illegally). Also, how much is the (illegal) EMSA waste pile contributing to the selenium discharge, noting that the stated baseline for the EIR is prior to the EMSA dumping.

The EIR amendments that address interim selenium discharge are wholly inadequate. In this plan, the applicant is allowed to proceed with digging deeper into the hillside and begin a massive earthmoving project with only an experimental pilot project to mitigate the selenium discharge, and the design of this pilot project has not been completed. Construction of the proposed mitigation measure would not even be started on a meaningful scale if more than two years of consecutive tests show failing result, and then after a public hearing. A reliable mitigation measure must be proposed and submitted by the applicant and addressed by the EIR before this project can proceed. Furthermore, this plan must be circulated to the public so it can be given an adequate review. We are concerned that this serious problem is being addressed by a plan that appears to be thrown together in a hurried fashion and released to the public only weeks before approval is expected.

The last paragraph of this section states that the “DEIR recognizes the

uncertainty of storm water and sediment control measures and therefore determined that the Basin Plan Water Quality Objectives for selenium may not be met, resulting in a significant and unavoidable impact.” Lehigh needs to do what ever it takes to reduce the selenium in the run off water and if this means they have to build a temporary “on site” water treatment plant then this needs to happen. The County can make this a stipulation of approval of the RPA.

WVCAW comment #4, County EIR designation O6-12, pages 3.3-176 and 3.3-201:

This comment expressed concern about flooding during the later part of the reclamation plan. But the response from the County refers only to the flooding impact once reclamation is complete. This comment should be addressed in the EIR as required.

WVCAW comment #5, County EIR designation 06-14, pages 3.3-176 and 3.3-202:

The county says on page 202 that they are relying on the applicant’s RPA submittal and bears no responsibility in the EIR to make sure it is adequate. We disagree.

WVCAW comment #6, County EIR designation 06-15, pages 3.3-177 and 3.3-202:

The County refers the reader to section A6-7 for their response to this comment but does not address the point of the comment within that section. The EIR includes the benefit of the EMSA as a view shed improvement because it partially screens the factory from view, but the lifetime of the factory (temporary) versus the lifetime of the EMSA (permanent) has not been considered in the impacts.

WVCAW comment #8, County EIR designation 06-17, pages 3.3-177 and 3.3-202:

Despite the fact that the applicant has chosen to remove the new open pit mine from the proposal, the County has full knowledge that this was done in order to expedite the RPA and knows full well that a proposal

for a new pit mine will be submitted shortly after approval of the RPA currently proposed. The project that has been proposed is therefore disingenuous because the applicant does not intend to follow it through. It seems impossible that this new pit mine would be independent from the proposed RPA because it is fair to expect that the overburden from the new mine will be used in reclamation of the existing pit. It is clear that this larger combined project has been in planning for a long time and separating the two for the operator's convenience of getting faster approval is not consistent with CEQA.

WVCAW comment #9, County EIR designation 06-18, pages 3.3-177 and 3.3-202:

The vested rights issue is still pending in court and has not been settled. The County says they will assume the applicant has vested rights until the Court says otherwise, but the EIR fails to consider the consequences if the County decision is overturned. A copy of the complaint that petitions to vacate the County's decision is attached to this document.

WVCAW comment #12, County EIR designation 06-21 through 06-27, pages 3.3-178 and 3.3-203:

Our concerns regarding the geology were largely ignored. Significantly, the County states that a low factor of safety is acceptable because there is no immediate plan for residential housing and so avoids including the impacts of numerous unavoidable landslides which will impact the vegetation, selenium containment, damage to neighboring property (such as the Mid-Peninsula slide in 2001), and stability of hiking trails that may be reasonably expected.

In addition, the County does not acknowledge or attempt to assess the possibility that the material in the WMSA may be contaminated. The fact that they cannot find a record of the contamination in the available databases does not relieve their responsibility to physically test the site based on the longstanding history of the industrial facilities located there, particularly since these facilities long predate any database, and even

predate the creation of the EPA by several decades.

WVCAW comment #13, County EIR designation 06-29, pages 3.3-183 and 3.3-206:

Our comments in this section have been ignored by the County in the final EIR. The county cannot dismiss them by stating without basis that the decision not to include the cement plant has already been made. Our comments point out that the decision is flawed and appear to be outside the law. The public deserves to hear the County's response.

WVCAW comment #14, County EIR designation 06-30, pages 3.3-183 and 3.3-206:

Our letter shown in this section to the OMR lays out a compelling basis for including the cement plant in the RPA and EIR, but this comment has been completely ignored by the County in the final EIR. The county again avoids addressing this comment directly by stating without basis that the decision not to include the cement plant has already been made. The cement plant must be included in the RPA and EIR.

WVCAW comment #15, County EIR designation 06-31, pages 3.3-191 and 3.3-207:

The county ignored our comment because they said the HRA is related only to the cement plant but failed to consider it as part of the cumulative impact.

WVCAW comment #16, County EIR designation 06-32, pages 3.3-191 and 3.3-207:

The County refers the reader to master response A4-5 where we find that the RWQCB had similar concerns with specific professional observations and photographs documenting toxic cement kiln bricks buried in the EMSA yet the County dismissed this documentation by quoting Marvin Howell, a San Diego based employee of the applicant, who states it was not true. We are very concerned that the County disregarded the concerns and physical documentation of RWQCB staff in favor of a Lehigh employee who does not even regularly work on site.

(In addition, the fact that the applicant has been disposing of cement kiln bricks in the EMSA is at odds with the notion that the cement plant should be separate from the mining operation.)

WVCAW comment #21, County EIR designation 06-41, pages 3.3-194 and 3.3-209:

The County cannot dismiss this comment simply because the subject aggregate storage piles are outside the proposed project boundary. These aggregate storage piles come from the quarry and are not used in the manufacture of cement. According to SMARA, stockpile areas need to be reclaimed and furthermore this is one more example of County negligence and reluctance to enforce SMARA since no notice of violation has yet been issued.

General statement:

We agree with the RWQCB comment letter dated 2/21/2012 regarding comments on the draft EIR in their entirety. And specifically we would like to note their opinion that SCC must by law maintain and protect Permanente Creek, and only the State can make the decision to allow lower water quality, requiring a specifically defined public process. (40 CFR 131.12) Lowering the water quality standard for Permanente Creek is not within the Purview of Santa Clara County.

We urge the Planning Commission to consider the legal requirements and serious environmental effects before political influence. This decision is one that will effect many generations to come and should not be taken lightly or hastily.

Sincerely,

Tim Brand, Karen Del Compare, Joyce Eden and Marilyn McCarthy

