Figure 3.4-6 Mining and Reclamation Phase 5



Figure 3.4-7 Final Reclamation



From: "Bill Almon" <balmon@pacbell.net> Date: April 11, 2011 12:43:28 PM PDT To: "'Marina Rush'" <marina.rush@pln.sccgov.org> Subject: Comments on NOP

Marina, Here are our comments due today. Thanks for all you do. Bill SCC NOP Comments 4-11-11_with_signature.pdf ¬

WILLIAM J. ALMON 10570 Blandor Way Los Altos Hills, CA 94024

April 11, 2011

Marina Rush County of Santa Clara 70 West Hedding Street San Jose, CA 95110

Dear Marina,

QuarryNo hereby responds to the Santa Clara County request for Public comments on the possible environmental issues for the proposed Comprehensive Reclamation Plan Amendment and Conditional Use Permit for Lehigh Permanente Quarry. It should be noted that although we are amending a Reclamation Plan from 1985 there has been no reclamation to date. We repeat there has been no reclamation to date. This is very troubling and brings into question the entire process and regulatory focus.

Our comments below follow in order the Environmental Topics listing in the County Notice of Preparation dated March 10, 2011.

VISUAL RESOURCES – The County solicited comments on public scenic view site lines in addition to those shown in the Reclamation Plan. Our concern goes much farther as this is not a new issue.

Kaiser Cement, the original owner, granted a permanent scenic easement (deed dated August 18, 1972) to the County to shield the Quarry from Public view. In addition Condition #8 of the current 1985 Reclamation Plan states that the maximum height of Area A (now designated the West Material Storage Area) shall not exceed the top of the ridgeline.



Today it is clearly visible as a result of Lehigh deliberately and continuously dumping excessive mine waste there. Lehigh has violated a given property right of the Residents of Santa Clara County while the County Supervisors looked on and directed the Staff to take no effective action.

This ridgeline must be restored if the Public is to have any confidence in Lehigh's commitment to be a good neighbor and the Supervisors oath to uphold the law.

Lehigh's disregard for Visual Resources is not a thing of the past but continues today in the Santa Clara County Rancho San Antonio Park where Lehigh has recently dumped mine waste so high as to intrude on Park trails and views. This has been ongoing since 2009 when Lehigh arrogantly but accurately stated in their submitted Reclamation Plan that such dumping will probably be completed prior to any approval.

The purpose of an EIR is to mitigate not just identify environmental impacts. The damage is now irreversible so the request by the County for Public comments on mitigating the impact is disingenuous. The proposed EIR should be expanded to list all irreparable damage that has already occurred not just the impact on the Park. Here is a photo of the view from the PG&E trail in Rancho San Antonio Park.



In addition the current Reclamation Plan dated 1985; the one now being amended here, stated that "Planting under the guidance of this Plan is ongoing" The aerial photo here shows that to be totally false.



Lehigh is willing to promise anything but fails to live up to its promises knowing that the County Board of Supervisors will support its inaction. It is unreasonable to expect the Residents to have any confidence in new steps to preserve the visual environment when prior ones are disrespected by their elected officials and Lehigh... The current view from Highway 280 going North of the Quarry can only be labeled "ugly" as viewed from multiple sight lines.

BIOLOGICAL RESOURCES – The entire Biological Resource Assessment (Attachment E) is highly flawed and must be completely redone. It is based on 2-3 year old surveys, studies and field investigations conducted by Lehigh's consultant WRA in 2008-2009. It alerts one to forthcoming documents in 2010 which are obviously now available.

Worse it is erroneous since Lehigh withheld from WRA the fact that they discharge hundreds of thousands to millions of gallons per day of industrial process water into Permanente Creek as part of normal operations as described in the California Regional Water Quality Control Board Notice of Violation dated February 18, 2011.

Such continuous high flows are not taken into consideration in the WRA study. Instead WRA makes calming statements such as "Portions of the Creek only convey surface water for a few weeks during annual peak rains" on Page 23. Lehigh obviously cannot be trusted.

The preservation of woodland and wildlife is open to question if Lehigh's past actions are taken into account. A good example is the East Material Storage Area. Here is a before and after photo showing the destruction of native oaks and wildlife habitat.



BEFORE:

AFTER:

All this destruction occurred over the past 2 years as Lehigh expanded into the East Material Storage area without an EIR in place following their then unapproved Reclamation Plan dated April 2009 and even currently not yet approved. The damage has been done in direct violation of CEQA.

Permanente Creek will bisect the area designated by Lehigh for expansion as it will flow directly between the current North Pit and the new South Pit. It will be bridged by a 4 lane road requiring a massive bridge to carry the traffic over it.

The endless lines of trucks bringing limestone out of the Quarry as well other trucks bringing mine waste out to fill the old Pit and the Central Material Storage Area will devastate the surrounding area and certainly Permanente Creek. However nowhere in the submitted Reclamation Plan are there estimates of the bridge traffic. No where is there an analysis of the impact of the traffic on the wildlife there. While the Reclamation Plan addresses Off Site Traffic there is nothing provided for On site traffic. This is a major omission.

We do know that the mine waste trucked over the bridge to the East Material Storage Area alone will total 6.5 million tons. After adding the associated limestone and the Central Storage Area mine waste the amount needed to be trucked over the bridge is staggering. The continuous road dust and rocks falling into Permanent Creek as a result of the bridge traffic has not been identified making the comment "The proposed bridge will span the creek and channel will remain as it currently exists with natural substrate." on page 56 ludicrous.

Permanente Creek downstream is a breeding area for the California Red Legged Frog and the construction of a massive bridge across it sized to carry truck traffic continuously will surely be a final death knell for the "protected" Red Legged Frog living below it. We say protected in quotes as it is obviously not protected here.

The California Red Legged Frog is listed as a Threatened Species under the Endangered Species Act. It gained international fame in Mark Twain's famous short story "The Celebrated Jumping Frog of Calaveras County". They are now present in only 10% of their original habitat.

Lehigh currently has a request in for draining their ponds along the Creek but the Bridge will surely be their final solution for what they regard as the frog problem. Lehigh has long touted their funded studies by Dr. Mark Jennings but an independent Biologist must be retained to confirm the dire outcome that is suggested here for the California Red Legged Frog.

CULTURAL RESOURCES -- The Lehigh Quarry and Cement Plant has over 100 years of History in Santa Clara County. Henry Kaiser, an exceptional businessman, at one point lived on the property. During World War II incendiary bombs made of magnesium were produced there. Ownership thereafter changed and with multinational business cycles the Quarry and Cement Plant passed to German ownership.

Regardless of ownership the site was always a source of what we know to be today major pollution. In 2005 it was a top emitter of Mercury producing 1,284 pound while claiming 219 pounds. The mine waste conveniently labeled overburden strewn over the site contains toxins that meet Superfund levels.

Regretfully it can only become a lasting monument to Man's insensitivity to his environment.

GEOLOGY & SOILS -- While there is extensive discussion of soil types and factors of safety in the Reclamation Plan there is little confidence provided to the Public that Lehigh will abide by the State Mining and Reclamation Act (SMARA). SMARA is repeatedly quoted with no mention made as to the extensive existing erosion on the site and the high risk of damaging earthquake activity.

SMARA does not allow for an acceptable level of erosion. Any erosion is a violation of SMARA. However the County has failed to inspect and force Lehigh to abide. While the Public sees erosion everyday the County sees nothing. Erosion washes away topsoil, it inhibits revegetation and leads to sediment buildup in streams. There must be a firm plan in the EIR with budgeted resources to demonstrate that the County can properly manage the Lehigh Quarry operation per SMARA.

This is particularly critical as the County is now accepting responsibility to regulate a Conditional Use Permit as well as the current Reclamation Plan. Since 1985 there has been no reclamation. After 26 years we are again promised reclamation. There is no Public confidence it will happen now.

The Lehigh plan is to dig a new 1,000 foot deep Pit in a residential neighborhood which is close to the San Andreas Fault line. We know that the North side of the current Pit is a slopeless vertical wall as a result of earthquake induced landslides. The Berrocal Fault Line runs through the center of the East Material Storage Area (EMSA) and any landslide there promises to go into Permanente Creek, a Federally Threatened Species Habitat, and onto adjacent private property.

Over the next 20 years there is a reasonable expectation of significant seismic activity. Golder Associates, Lehigh's consultant, says there are natural shear lines between the limestone and the greenstone below. Further they say that in some places the final slopes for the South Pit may not be sufficient to preclude instability.

Consequently for these stated risks Lehigh must be accountable for any financial losses that their mining disturbance causes. The Public does not want to inherit the financial exposure after Lehigh has left the scene or sold the operation.

A bond will not suffice and consequently the existing Hanson Permanente Cement Title to the property must include a first lien to the County limited up to the full value of the property for proper remuneration. The public does not want to deal with a far away Bond issuer arguing over the wording of the bond covenants.

Lehigh has deliberately violated SMARA by expanding beyond its Mining Boundaries. The California Office of Mine Reclamation states that this is a Major SMARA Violation. This should be front and center in the proposed EIR but there is no mention or even suggestion of that in the documents presented to the Public. Why is this hidden?

The major residue resulting from the Lehigh operation is the extensive mine waste scattered over the site and affectionately called overburden. According to Attachment H of the Reclamation Plan (Table 5) the EMSA overburden contains 2.6mg/kg of Arsenic, well above California Health Screening Levels (CHSL).

The same Table 5 states Mercury to be .11mg/kg but Lehigh reported 3 times as much (.31mg/kg) in the rigorous sampling done for the Air District and reported December 6, 2010. In total it appears the overburden is toxic. The assumption in the Reclamation Plan is that it is not. This is a major cover up.

It is very critical in that the overburden mine waste is scattered everywhere and will even be blended into the top soil covering over 700 acres at a depth of only 3 inches. Below that is the toxic mine waste. In addition it will fill the North Pit and be piled high forever contributing toxins into the watershed. After having been blasted out of the ground and crushed it is now much more porous and hence the leaching estimates in the Reclamation Plan are erroneous.

Consequentially there must be extensive testing of the current overburden in the WMSA and the EMSA to determine its true toxicity level and what must be done to remove it. This is a serious issue which is swept under the Reclamation Plan rug.

Hydrology, Drainage and Water Quality -- Lehigh was served a Notice of Violation (NOV) by the San Francisco Regional Water Quality Control Board on February 18, 2011 for discharging huge volumes of Quarry Pit water into Permanente Creek. In the NOV the Water Board noted Lehigh's failure to correct past violations and its non-compliance attitude.

This NOV was based on prior inspections as well as Lehigh responses to the Water Board particularly the Lehigh response of December 13, 2010. In that response Lehigh stated the volume of water dumped into Permanente Creek ranged from a flow of 250,000 gallons per day to 2,500,000 gallons per day.

This amount of water originating primarily in the Pit bottom overwhelms all natural flows into Permanente Creek yet is not reflected in the Reclamation Plan. Equally significant the content of the water is quite toxic. According to Lehigh this daily discharge is mandatory to operation of the Quarry.



It suggests that we have to make a trade off between Permanente Creek or a new Quarry for the next 20 years. However this is not addressed in the EIR nor are Lehigh's violations listed.

Without County regulation Permanente Creek will be nothing more than a waste water sewer pipe in 20 years.

The Reclamation Plan focuses only on Hydrology and Water Quality when mining stops. The Conditional Use Permit is not addressed but it will govern 117 acres of the operation. The County must delineate in the EIR the terms of the Conditional Use Permit including controls and penalties that will be imposed to prevent the demise of Permanente Creek.

PUBLIC SERVICES-NOISE ABATEMENT -- The noise emanating from the facility particularly at night is a public nuisance. The repeated booms from the blasting is even louder but of shorter duration. While Lehigh pledges in their reclamation Plan that there will be no blasting on weekends and at night such blasting is ongoing today. There must be daily fines in the Conditional Use Permit if it continues to occur in the future.

LAND USE -- The assumption is made in the Reclamation Plan that the land will eventually be used as Open Space. This is an appealing use as it requires less reclamation cost for Lehigh while at the same time blending into the local landscape. However how this will be assured is unaddressed. Lehigh states that they reserve the right to mine on the land for other materials and even consider other usages so the Open Space designation is questionable. This designation must be certain or else stated as only an attractive yearning.

AIR QUALITY -- The omission of the adjoining Cement Plant impact on Air Quality is not acceptable. The two operate as one integrated operation and hence cannot be separated when it comes to Public Health. This will be part of the cumulative impact of concern.

GREENHOUSE GAS EMISSION -- Lehigh is the 2nd largest emitter of Greenhouse Gases in Santa Clara County. Cars represent only 36% of the CO2 emissions here with industry generating 43%. Santa Clara County is unique in this regard. However as SB375 is implemented the County will have to force reduction actions on residents to accommodate Lehigh's load as Lehigh's emissions are directly tied to their production.

To stay in production Lehigh must emit CO2 into the atmosphere as well as Methane and Nitrous Oxide. Methane is 21 times and Nitrous Oxide 310 times in impact as the same amount of Carbon Dioxide. In addition to these emissions Lehigh has a minimum of 100,000 Diesel truck trips per year transporting product to/from the facility.

Each County will be given a target to meet and Santa Clara County will have to make reductions elsewhere to offset the Greenhouse Gas load generated by Lehigh over the next 20 years. According to the California Air Resources Board (CARB) the main focus will be on creating disincentives to drive. These will include new taxes and fees on cars and gasoline plus congestion pricing tolls and parking fees. If these fail CARB suggests even incenting residents to leave.

We cannot shut down power plants but the County Supervisors can limit expansion of Quarries and companion Cement Plants. The EIR must spell out the Greenhouse Gas emissions projected for the next 20 years due to Lehigh operations and detail the impact on residents. Not granting a

Use Permit for a new Quarry is not a choice shown in the Santa Clara County Climate Action Plan. Instead the County is looking for residents to make significant sacrifices to save Lehigh.

ALTERNATIVES -- The alternative to digging a new Quarry Pit in a residential area is not to do it. Lehigh possesses another Quarry with dramatically lower Mercury content in Redding California. That limestone can be shipped here by rail at the same cost both in greenhouse gas emissions as well as direct transportation costs. An independent analysis must be done and included in the EIR.

GROWTH INDUCING IMPACTS -- We must have Cement but it does not have to be produced locally. Cement is only 10% of the concrete poured today. It can be brought by rail economically and is transported today throughout California. Consequently rather than increasing growth it would appear that Lehigh will reduce growth by making Santa Clara County less appealing to those concerned about their health and the environment. There must be independent studies done at Lehigh's expense to prove the opposite.

CUMULATIVE IMPACTS -- There are many cumulative impacts. The combined impact of air borne toxins falling from the sky onto the ground and leaching into the water supply is obvious but unaddressed. The combined impact of a Cement Plant coupled to a Quarry is obvious but unaddressed. More subtle is the cumulative effect of 69 toxins being breathed simultaneously. That is not addressed here either but must be in the draft EIR.

USE PERMITS -- This is a topic unaddressed in the NOP but of paramount concern. Use permits are key to the County's ability to regulate the Lehigh Quarry. The elements to be regulated must be identified along with how they will be measured and penalties assessed if they are not met. Their absence here is disquieting.

Thank you for this opportunity to comment and we hope this submission is taken into consideration in the development of the draft EIR.

Bill almon

Bill Almon Acting for the Members of QuarryNo

From: Shani Kleinhaus <shani@scvas.org> Date: April 10, 2011 10:48:39 PM PDT To: Marina Rush <marina.rush@pln.sccgov.org> Cc: Bob Power <bob@scvas.org> Subject: Lehigh Permanente Quarry- scoping comments

Dear Ms. Rush,

Please find attached Santa Clara Valley Audubon Society's scoping comments for the Lehigh Permanente Quarry Project EIR. Thank you,

Shani Kleinhaus

SCVAS-Lehigh-Scoping-April11.pdf ¬

Shani Kleinhaus Environmental Advocate Santa Clara Valley Audubon Society <u>shani@scvas.org</u> (650) 868 2114



Santa Clara Valley Audubon Society Founded 1926

April 10, 2011

Marina Rush, Project Manager, County of Santa Clara Planning Office

Dear Ms. Rush,

Santa Clara Valley Audubon Society (SCVAS) is pleased to provide Environmental Impact report (EIR) scoping comments for the Lehigh Comprehensive Reclamation Plan Amendment and Conditional Use Permit for Permanente Quarry (State Mine ID #91-43-004), (Project). The Project would expand the mining area, excavate a new mining pit, and approve the currently unauthorized use of existing material storage areas. In addition, the Project would construct new roads in the Permanente Creek watershed, and a new bridge across Permanente Creek. The overburden from the new pit would be deposited in the existing pit and additional storage areas. The Project would allow mining activities in areas that possess no vested mining rights. The Project proposes that the cement plant operates under a separate permit outside the boundary of the proposed reclamation area. It is not clear from the NOP whether or not the EIR would include environmental impacts from operations of the cement plant or from traffic associated with the quarry and the Cement Plant in the analysis.

The California Environmental Quality Act (CEQA) requires that Environmental Impact Report analyze all direct environmental impacts - both direct and indirect.

1. Direct or primary effects that are caused by a project and occur at the same time and place.

2. Indirect or secondary effects that are reasonably foreseeable and caused by a project, but occur at a different time or place.

Since mining activities provide the materials for the Lehigh Cement Plant. It is reasonable to assume that approval of the project would increase the scope of operations at the Lehigh Cement Plant and would enable the cement plant to continue operating longer into the future. Thus, **indirect impacts must include any and all reasonably foreseeable environmental effects associated with cement production and transportation**.

We ask that the EIR analyze impacts of the Project AND of cement production at the Lehigh Cement Plant, and transportation/traffic associated with the Project and the Cement Plant. Please include in this analysis: Visual/Aesthetic Resources, Biological Resources, Geology and Soils, Mineral Resources, Surface Hydrology, Hazards and Hazardous Materials, Drainage and Water Quality, Public Services/Utilities and Service Systems, Noise and Vibrations, Air Quality, Greenhouse gas emissions, Transportation/Traffic, Recreation, and Public Health.

p. 1 of 3

In addition:

Please discuss all current and historical environmental law violations by the Lehigh Quarry and Cement Plant, including but not limited to the Federal Clean Water Act (CWA), the California Water Code (Water Code), and the Water Quality Control Plan for the San Francisco Bay Basin (Basin Plan) and compliance (or non-compliance) with s current permits, including Order No. 97-03-DWQ (the Industrial Storm Water General Permit), and the Clean Air Act.

Please identify heavy metals and toxic materials that may be released into the Permanente Creek and Stevens Creek Watersheds or into the air as a direct or indirect effect of the Project. Please analyze the impacts of Selenium, Mercury, and other toxic substances released from mining associated activities (including storage of overburden), road and other construction, cement manufacturing processes, and transportation of materials and products.

The EIR should analyze the link between the quarry and the 303(d) listing of Permanente Creek water for toxicity and Selenium by the San Francisco Bay Regional Water Quality Control Board, and explain how the project may impact the development of Total Maximum Daily Loads for the creek.

The Project has the potential to impact two watersheds: Permanente Creek and Stevens Creek (due to the diversion of water from Permanente to Stevens Creek). The EIR should reveal and analyze the potential for toxic compounds, including but not limited to selenium and mercury, to be released into these watersheds as well as potential impacts on Bay ecosystems.

The bioaccumulation of Selenium in aquatic ecosystems and its impact on fish, birds, amphibians and other wildlife must be considered as an ongoing impact, and not limited to storm events.

The levels of Selenium found in Lehigh operation effluents and storm runoff, and consequently in Permanente creek water are of great concern to Santa Clara Valley Audubon Society, and the full environmental impacts of continued and expanded mining and fill operations at the quarry on water quality and on fish, wildlife and riparian ecosystems along Permanente Creek (including both tributaries - Ohlone Creek and West Branch Permanente Creek) and Stevens Creek watersheds and the San Francisco Bay must be properly analyzed in a comprehensive, all inclusive way.

Impacts on federally- threatened Central California Coast Steelhead trout should be evaluated for both Permanente and Stevens Creeks.

Please analyze potential impact on beneficial uses of Permanente Creek and its tributaries Ohlone Creek and West Branch Permanente Creek.

Please analyze a no-project alternative, and include in the analysis import of limestone from sources that are not as rich in Mercury as the material on the Lehigh property.

Please include the SCVWD Permanente Flood Control Project in the Cumulative Impact Analysis. Please evaluate the impacts of selenium and other toxic compounds on the public parks and schools included in the Santa Clara Valley Water District Permanente Creek Flood protection Project.

p. 2 of 3

Monitoring

Given a history of violations of environmental regulations by the Lehigh Quarry and Cement Plant, we ask for a detailed and comprehensive monitoring and enforcement program for all proposed mitigations, reclamation activities, and for air and water pollutants on site and in the Permanente Creek tributaries and watershed. Mercury, Selenium and general toxicity should be monitored for the duration of activities at the Quarry and Cement Plant and through reclamation activities and restoration. We ask that frequent surprise inspections be incorporated into the monitoring program. Lehigh should not be allowed to self-monitor. Instead, the monitoring program should to be paid for by the applicant and implemented by the County and the regulatory agencies. The Leading Agency must show that it has the financial capacity and expertise to provide proper monitoring and enforcement for this project.

Summary

Thank you for the opportunity to provide comments for this project. It is our hope that Santa Clara County withhold permitting of the expansion of the Lehigh Quarry and Cement Plant operations until all of the current violations are clearly corrected, monitoring shows consistent compliance with all environmental regulations, and both air and water agencies permit current and future operations at the Lehigh Quarry and Cement Plant.

Please keep us informed as to the progress of this, and any other, projects on the Lehigh Quarry and Cement Plant property and its vicinity.

Respectfully,

shan Wihand

Shani Kleinhaus Environmental Advocate Santa Clara Valley Audubon Society 22221 McClellan Rd. Cupertino, CA 95014 shani@scvas.org

From: "John Buenz" <jbuenz0835@att.net> Date: March 18, 2011 9:43:57 AM PDT To: <marina.rush@pln.sccgov.org> Cc: "Robert George" <rob_w_george@yahoo.com>, "Jim Rehbein" <jarehbein@us.ibm.com>, "Frank Chen" <frankbchen@yahoo.com> Subject: quarry use permit

Planning Office, County of Santa Clara 03/189/2011 Copies to the Board of Directors of the Meadows of Cupertino HOA:

Robert George, Jim Rehbein, Frank Chen

Thank you for the opportunity to comment on application for this use permit. While I understand that the quarry in question has been in operation for many years, much has changed since the original use permit was granted. Homes now surround the quarry, both above and around. the quarry site. The road in and out of the quarry, Foothill Blvd, is lined with homes through with quarry trucks come and go rendering much traffic, dust and noise. The excavation scar is visible for many miles around the valley (personally, had to work to get a minor grading permit for a parcel on Shannon Rd in the country area around Los Gatos). Most serious is the discharge plume emitted from the plant, straight into homes built above and around the plant.

In the current time of growing concern for the environment, its hard to believe that this use permit for the "expansion of the mining area, including a new mining pit" for the quarry should even be considered. Such expansion was not part of the original scope of the quarry. If we must honor the original agreement, than what obligation does the county have for enlarging this agreement in such changed circumstances? I, and many of my neighbors, do not support this expansion. In fact we activly oppose it. John Buenz 22115 Dean Ct Cupertino CA 95014 408 343 0655 jbuenz0835@att.net From: Barry Chang <councilbarry@gmail.com> Date: April 11, 2011 1:52:23 PM PDT To: Marina Rush <Marina.Rush@pln.sccgov.org> Subject: Comments for Lehigh's EXPANSION NEW OPEN PIT MINE

Hi Marina,

It was nice meeting you at your office this morning.

Thank you for the opportunity to comment on the Lehigh Permanente Quarry Reclamation Plan Amendment.

Please add the following for view shed analysis: Lindy Lane, Regnart Road, Regnart Canyon Road, Prospect Road, Rainbow Drive, San Juan Raod, McClellan Road, Homestead Road, Highway 280 (between Foothill Blvd. to Lawrence Expressway), Highway 85 (between Highway 280 and Winchester Blvd., Los Gatios), Avenida Ave., Merriman Road, Bollinger Road, Santa Lucia Lane, Alcalde, Santa Paula Dr., Palm Ave., Terrace Dr., Columbus Ave., In Saratoga, Please include the following street: Saratoga Ave., Saratoga-Sunnyvale Rd. (between Prospect and Big Basin Rd.,), Parker Ranch Road, , Continental Circle, , Star Ridge Ct., Beauchamps Lane, Farr Ranch Road, Crayside Lane, Blue Hills Lane.

Also the noise factors shall include the midnight blast, the earth moving in the night and the old Disel fuels trucks, etc.

The New Expansion quarry is so close to Permanente Creek with steep slope. The soil stability, the potential land slides and the potential collapes of the new open pit mine can alter or destroy the Permanente Creek. The geological study has to be very through and complete. Please DO NOT RUSH. I may have some more comments later. Thanks.

Barry

--

Barry Chang Cupertino City Council Member <u>408-688-6398</u> **Office of Mine Reclamation**

Kevin Doherty, PG – OMR, Compliance Section

Permanente Quarry

CA Mine ID 91-43-0004









Managing California's Working Lands

counter y contact

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Permanente Quarry CA Mine ID 91-43-0004

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Monte Vista

Deep Cliff Golf Course

Stevens Creek Blvd

85

Linda Vista Park Fremont Older Open Space 🌲 Preserve

Stevens Creek Picchetti Ranch Area Monte Bello Open Space Preserve

Fremont Older

Google - Imagery ©2011 DigitalGlobe, USDA Farm Service Agency AuBAG, GedEye, U.S. Geological Survey, Map d ©201

Reservor

Reclamation Plan #2250-13-66-84P

Approved in 1985 for Kaiser Cement

Covered 330 acres

Reclamation plan life 25 years

Reclamation Amendment required for final reclamation

Hanson Permanente Quarry

Reclamation Plan Boundaries

Landslides 1987-2001

Emergency Repair Proposal

Reviewed by OMR on November 19, 2002

•Slide affected Midpeninsula Regional Open Space District Property

•County decided that a reclamation plan amendment was required

OMR Inspection – 2005/2006



STATE MINING & GEOLOGY BOARD

DEPARTMENT OF CONSERVATION

STATE OF CALIFORNIA



Publication Date: April 3, 2006:

RESULTS OF PUBLIC MEETING/HEARING

THE STATE MINING AND GEOLOGY BOARD

Conducted a Regular Business Meeting on:

Thursday, April 13, 2006

9:00 A.M.

State Capitol 10th & L Streets Assembly Hearing Room # 126 Sacramento, California

45-Day Notice Issued

Notice of Violation/Order to Comply (Order)

 In response to 15 Day notice issued by OMR on September 22, 2006

Issued by Santa Clara County on October 10, 2006

•Required:

Amended reclamation planAdjusted financial assurance

•Compliance achieved by December 30, 2007



Reclamation Plan Boundaries

> Disturbed Area

Disturbed Area

Disturbed Area

375 750

11,500

Crusher Relocation

Proposed reclamation plan amendment

Did not resolve outstanding compliance issues

•OMR commented on March 6, 2007

 Amended reclamation plan must addresses all areas disturbed by mining

Amended Reclamation Plan Application

Submitted to Santa Clara County in January 2007

Comprehensive geotechnical investigation not included

•OMR's review on May 18, 2007 recommended resubmittal of amended plan with comprehensive geotechnical investigation

Revised 45 Day Notice

 •45 Day notice issued on April 13, 2006, was rescinded on September 13, 2007

•Revised 45 Day notice – October 2, 2007

Revised 45 Day notice was rescinded on July 10, 2008

•When the notice was rescinded, the Permanente Quarry had not fully achieved compliance with SMARA

24 month extension

•County letter dated May 21, 2008

Phased submittal & approval

Geotechnical evaluation due in December 2009

Submit revised amendment application February 1, 2010

Environmental impact report completed in September 2011

Reclamation Plan Boundaries

2250 2.000

4 375 750

1.500

East Materials Storage Area

East Materials Storage Yard

County issued Notice of Violation on June 20, 2008

Separate reclamation plan amendment for EMSA

 Amended reclamation plan must addresses all areas disturbed by mining

Application submittal date extended to May 2010

Comprehensive Amendment

•Comprehensive amendment was submitted to OMR on May 28, 2010

Additional material was submitted on August 28, 2010 and October 19, 2010

•OMR sent comments on December 15, 2010

County is reviewing comments
Compliance

•523.4 acres are disturbed per County inspection report

•Compliance to be achieved by 2012 per most recent inspection report

 Compliance projection is approximately 5 years longer than allowed by 2006 Order

 Compliance projection is 10 years after violations were brought to County's attention

Does not qualify to be included on AB3098 List

Questions?



April 8, 2011

VIA CERTIFIED MAIL

County of Santa Clara Planning Office 70 West Hedding, 7th Floor, East Wing San Jose, CA 95110 Attn: Marina Rush

> Re: Comments on EIR Scoping for the Lehigh Southwest Cement Company's Pending Comprehensive Reclamation Plan Amendment and Conditional Use Permit for Permanente Quarry (County File No. 2250-13-66-10P-10EIR; State Mine ID No. 91-43-004)

Dear Ms. Rush:

It is my understanding that the County of Santa Clara (the "County") will prepare an Environmental Impact Report ("EIR") for both (1) a Comprehensive Reclamation Plan Amendment application and (2) a Conditional Use Permit application, which have been (or will be) filed by the Lehigh Southwest Cement Company in connection with its operations at the Permanente Quarry (the "Quarry"). At the March 8, 2011 City Council meeting for the City of Los Altos, California (the "City"), the City Council directed me, as the Mayor, to submit the following comments for review by the County in connection with its anticipated scoping of the environmental information to be included in the proposed EIR for the Quarry.

I. Air Quality Concerns.

The City is concerned about the Quarry's air emissions and the potential detrimental effects of such emissions on both the City's residents and the City's surrounding environment. Consequently, the proposed EIR for the Quarry should address the effect of the Quarry's air emissions and the City's concerns. The City's specific concerns include, but are not limited to the following:

1. In a March 1, 2011 meeting between myself and the Bay Area Air Quality Management District (the "District") regarding the pending United States Environmental Protection Agency Title V permit renewal application for the Quarry, the District indicated that a sampling station to test the Quarry's air emissions was set up in September of 2010 and was sited in Cupertino's Monte Vista Park, the Quarry's estimated location of the greatest impact of its air emissions. The District further indicated that testing at the sampling station for a full year is needed to account for seasonal variations. In line with this requirement, the City is concerned that until a full year of testing has been completed at the Monte Vista Park sampling station (i.e. until September of 2011), there will be insufficient data about the Quarry's emissions from which to thoroughly prepare and certify an EIR for the Quarry's pending applications with the County. Accordingly, the County of Santa Clara Planning Office Ms. Marina Rush April 8, 2011

City requests that the proposed EIR for the Quarry include a review and analysis of a full year of emissions data from the Monte Vista Park sampling station (i.e. through September of 2011).

2. At the March 1, 2011 meeting with the District, the District also indicated that it does not have the funding to create (or even cost share) in a second sampling station within the City's territorial limits. The existence of only one air emissions sampling station in the geographic region surrounding the Quarry, and specifically the absence of an additional air emissions sampling station in the Los Altos area, is rather concerning to the City. Thus, the City requests that the proposed EIR for the Quarry include a review and analysis of a full year of emissions data from at least one additional sampling station which is located within the City's territorial limits. If necessary, the City is willing to work with the County on both obtaining funding to set up this second sampling station and in identifying test configurations and selecting the specific site for its location.

3. During the above-mentioned March 1, 2011 meeting, the District also informed me that the Quarry's estimated emissions increased significantly in the past few years, primarily due to a change in the estimation method. Previously, estimates were based only on measurements of smoke stack emissions. To be more conservative, the District now requires measurements to be based on the Quarry's "material balance" of air emissions (i.e. the total amount of materials that go into the process must therefore also be considered to go out of the Quarry's smoke stacks). The City is now concerned that the Quarry's estimated (and actual) emissions will increase yet again, due to the fact that the Quarry has indicated in its recent comprehensive reclamation plan application to the County that it is seeking to add an expansion area to the Quarry's operations with a new mine pit. A new mine pit and expanded operations at the Quarry suggest that the Quarry's estimated (and actual) emissions will increase. Thus, the City requests that the proposed EIR for the Quarry evaluate the anticipated effects of the additional air emissions which will result from such expanded operations at the Quarry.

4. Lastly, the City is concerned as to the accuracy of the air emissions data for the Quarry which the County will rely upon in preparing the proposed EIR. To the extent that an independent, third party review of the air emissions data for the Quarry has not yet been conducted by the appropriate experts, the City respectfully requests that the County order such a review to take place as an integral part of the preparation of the proposed EIR for the Quarry.

II. Water Quality Concerns.

The City is concerned about the Quarry's recent unpermitted water discharges into Permanente Creek and the potential detrimental effects of such discharges on both the City's residents and the City's surrounding environment. Consequently, the proposed EIR for the Quarry should address the effect of the Quarry's water discharges and the City's concerns. The City's specific concerns include, but are not limited to the following:

1. In a March 1, 2011 meeting between myself and the San Francisco Bay Regional Water Quality Control Board (the "Board") regarding its evaluation of the Quarry's unpermitted water discharges and its anticipated review of the Quarry's proposed NPDES permit application to cover such discharges, the Board indicated that it is concerned that the Quarry's currently unpermitted water discharges result in damage to Permanente Creek, damage to animal species, ground water contamination, and damage to the bay, and the Board is also concerned that such

County of Santa Clara Planning, Office Ms. Marina Rush April 8, 2011

discharges may result in contamination of the lower levels of ground water, which is pumped for subsequent treatment and human use. The Board also noted that water turbidity and sediments in the stream may kill fish species and endanger the protected red legged frog habitat. The City is also concerned about these consequences of the Quarry's water discharges. Accordingly, the City requests that the proposed EIR for the Quarry thoroughly evaluate the nature and extent of these consequences and any resulting harms which they may cause.

2. In my March 1, 2011 meeting with the Board, the Board commented that the Quarry's current water discharges could have several negative impacts on the City, including: (1) extra maintenance or repairs of storm drain lines and (2) requiring the Board to periodically remove sediment from the Permanente Creek bed, all of which adds to the cost of water in the City. The City is concerned about these additional impacts, and accordingly, the City also requests that the proposed EIR for the Quarry thoroughly evaluate the nature and extent of these impacts on the City. To the extent possible, the City requests that the County impose any and all applicable mitigation measures upon the Quarry to both redress any past impacts of the Quarry's unpermitted water discharges into Permanente Creek on the City and address any and all future impacts of such discharges on the City.

3. The City is additionally concerned that the above-mentioned environmental impacts of the Quarry's unpermitted water discharges into Permanente Creek will multiply and intensify, due to the increased operations associated with the Quarry's new mine pit. A new mine pit and expanded operations at the Quarry suggest that the Quarry's water discharges into Permanente Creek will increase. Consequently, the City requests that the proposed EIR for the Quarry evaluate the anticipated effects of the additional water discharges which will result from such expanded operations at the Quarry.

4. Lastly, the City is concerned as to the accuracy of the water quality measurements which the County will rely upon in preparing the proposed EIR for the Quarry. To the extent that an independent, third party review of the water quality measurements for the Quarry has not yet been conducted by the appropriate experts, the City respectfully requests that the County order such a review to take place as an integral part of the preparation of the proposed EIR for the Quarry.

The City appreciates your time and attention to the foregoing comments. Please keep the City informed of all developments relating to the County's scoping and preparation of the proposed EIR for the Quarry, and please do not hesitate to contact me should you have any questions in regard to the City's comments.

Very truly yours, RON D. PACKARD

Mayor of Los Altos

cc: Los Altos City Council Gary Waldek, Los Altos Hills Town Council From: Joyce M Eden <comment@sonic.net> Date: April 11, 2011 2:28:02 PM PDT To: Marina Rush <marina.rush@pln.sccgov.org> Cc: Stephen Testa <Stephen.Testa@conservation.ca.gov>, derek.chernow@conservation.ca.gov, Jim Pompy <Jim.Pompy@conservation.ca.gov>, Barry Chang <councilbarry@gmail.com> Subject: Revised: Scoping comments on Lehigh dEIR reclamation & new pit proposal, WVCAW & No Toxic Air, April 11, 2011

West Valley Citizens Air Watch Cupertino, CA 95014

comment@sonic.net 408 973 1085

April 11, 2011

County of Santa Clara Planning Office, Att: Marina Rush 70 West Hedding, 7th Floor, East Wing San Jose CA 95110

marina.rush@pln.sccgov.org

cc: Executive Director, State Mining and Geology Board; Acting Director, California Department of Conservation; Chief, Office of Mine and Reclamation Marina Rush, Planner, Santa Clara County:

Re: Revised Scoping Comments for West Valley Citizens Air Watch and No Toxic Air for an Environmental Impact Report on a Comprehensive Reclamation Plan Amendment and Conditional Use Permit for Permanente Quarry (State Mine ID# 91-43-004)

Please use this revised version.

CEMENT PLANT LOCATIONS AND REQUIREMENT FOR CONDITIONAL **USE PERMIT FOR MINING OPERATIONS IN THOSE AREAS** 1) Since the site boundary, as shown on the map on page 2 of the Notice of Preparation of an Environmental Impact Report Comprehensive Reclamation Plan Amendment and Conditional Use Permit for Permanente Quarry (State Mine ID# 91-43-004), dated March 10, 2011, does not include the location of the current cement plant and kiln as a part of the reclamation plan, the parcel which includes the location of the former cement plant and kiln requires a Use Permit and is not Vested. Lehigh Southwest Cement Company (operator), collectively Lehigh, and Santa Clara County (SCC) cannot have it both ways. Either the current and former cement plant and kiln locations are separate operations from mining and do not require a reclamation plan, as per the scoping announcement map, or the former cement plant and kiln location does not require a reclamation plan, but does require a Use Permit to be used for mining operations.

The location of the former cement plant and kiln is therefore NOT vested and requires a Use Permit to change to a mining operation location. (see comments by Lehigh and OMR, 2007)

In our Vested Rights written comments, January, 2011, WVCAW asked that the location of the former cement plant and kiln be delineated by the SCC Geologist as a part of the Vested Rights report. That was not done. However, now delineation of the location of the former cement plant and kiln, including a location map, needs to be part of the Draft EIR so the public can understand and review its location in relationship to the reclamation plan and to the proposed Central Materials Storage Area and the East Materials Storage Area, as well as any confluence with the location of the current cement plant operation and kiln locations and any other areas of the Lehigh property.

TWO SEPARATE DRAFT EIRS ARE NECESSARY

2) As WVCAW has stated in public and written comments to SCC from the time a new pit and an amended reclamation plan were proposed by SCC in 2007, the necessity of an adequate, State Mining And Reclamation Act (SMARA) compliant, reclamation plan for the disturbed areas of the Lehigh property needs to be presented as a <u>separate plan from a</u> proposal for a new open pit mine and its own reclamation plan for that proposed new open pit mine and mining areas.

Of course an amended and adequate and State Mining And Reclamation Act (SMARA) compliant reclamation plan is needed for the areas of the Lehigh property already disturbed and destroyed by mining operations. The public cannot clearly understand and therefore cannot adequately comment on a reclamation plan for the currently disturbed areas that is mixed in with an entirely new proposal for a new open pit mine and new mining storage, overburden and other new mining operation areas.

We are talking here of hundreds of acres of already disturbed land, including a 200+ acre open pit mine, at least a hundred acres of an overburden area, West Materials Storage Area (WMSA), many other old and current mining areas, crusher areas, storage areas of various kinds and dimensions and locations, materials transportation methods within the operation, loading areas for receiving and transporting materials into and out of the operation, mixing areas, various domes, etc.

ADEQUATE TIME NEEDED FOR SCC PLANNING STAFF TO DEVELOP THIS/THESE COMPLICATED Draft Environmental Impact Report(s) (dEIR) 3) We commend the SCC Planning Staff for their high quality professional, thorough, clear and well documented Vested Rights report on Lehigh. As the dEIR or dEIRs are being developed, we want assurance that the staff will be given adequate time to develop the dEIRs for these highly complicated, large ranging and potentially hugely impactful projects on Santa Clara County and be given adequate time to put out a high quality professional, thorough, clear and well documented dEIR for the public to review.

REQUIREMENT FOR A TRUE NO PROJECT ALTERNATIVE

4) A true No Project Alternative needs to be presented to the public as a part of the Draft EIR. This true No Project Alternative needs to present NO NEW QUARRY and NO NEW MINING AREAS, all the environmental implications (benefits) of that compared to a new 200+ acre quarry with additional hundreds of acres of new storage areas and mining disturbances. A true No Project Alternative of no new mine, would be an actual mitigation to a proposed destructive project/mine: e.g. preservation rather than blasting a 200+ acre dead zone in a nearly undisturbed habitat, no new bridge over Permanente Creek carrying mining materials, no additional run off and degradation of Permanente Creek and by direct implication San Francisco Bay, as the Creek runs to the Bay, no disturbance of red legged frog habitat, no new disturbance to the existing oak woodland areas, no new disturbance to the Bay Laurel habitat, no new disturbance to the chaparrel habitat, no new degradations of the views of the Santa Clara Mountains, no new aesthetically degrading and disturbing artificially flattened hill or mountain tops, etc.

One hundred years ago mining was begun when the population of Santa Clara County was only around 60,000 people and this was a rural area. The current population of Santa Clara County is now approximately 1.7 million residents. The County of Santa Clara is a densely populated suburban/urban area. The setting has greatly changed. It was one thing to begin a mine 100 years ago, it is another to begin a new mine now in this highly populated area. It is no longer appropriate. That is clear.

ALTERNATIVE for dEIR

5) Since Lehigh has two other cement plants and quarries in California, one in Redding and one in Southern California, neither of which has high levels of mercury in their lime stone such as the Santa Clara County location, a viable Alternative to present to the public in the dEIR is moving their operations from the high mercury limestone location in Santa Clara County, to their Redding and/or Southern California plant(s). This is a logical alternative which needs to be examined in the dEIR.

ADDITIONAL ALTERNATIVE for dEIR

6) At the top of the California PRC reduction/recycling hierarchy is reducing the amount of new materials needing to be manufactured. New cement contains huge amounts of embodied energy, due to the high amount of fossil and other fuels needed to bake the limestone to a high heat -- approximately 2700 degrees F. The Lehigh Southwest kiln uses 20 TONS

of fossil fuel per HOUR. The Lehigh Southwest kiln cranks out huge amounts of dangerous and toxic pollutants in addition to the aforementioned high levels of mercury due to the local mercury laden limestone. The amount of cement needing to be produced in California can and should be reduced by utilization of alternative materials where possible. For now, bridges continue to need to utilize high specification cement (in the form of concrete). However, there are many other uses of cement which can and by following the PRC reduction hierarchy can be replaced with materials less harmful to the environment.

For example, using Rubberized Asphalt Concrete Roads (RAC), such as was used to repave Foothill Expressway in Santa Clara County and on Highway 880 (located partially in Santa Clara County), reduces the amount of concrete needed for the road bed by around 1/2 (see CIWMB). Santa Clara County can require the use of RAC in all its two lane roads, thus significantly reducing the amount of cement needed to be utilized in the County. This will be in compliance with CA PRC which sets the reduction/recycling hierarchy for the State.

Cement is a material containing high embodied energy. The mining and manufacturing of cement is a producer par excellance of toxins, pollutants and green house gases (GHG). It is estimated that cement kilns produce a significant percentage of GHG in California and worldwide (see NYT articles). For every 1 million metric tons of clinker produced to make cement, approximately 1 million metric tons of CO2 are put into the atmosphere.

NO ASSUMPTION THAT MITIGATION MEASURES WILL BE SUCCESSFUL

7) The assumption should be that mitigation measures will probably or undoubtedly fail. That is the usual actural outcome of, "mitigation" in the real world, despite all the stacks of paper in EIRs to the contrary. And in this case, even many of the basics of SMARA and of the County's rules and regulations are not followed, on top of poor to failing monitoring of the operation, so what confidence could the public have in any proposed, "mitigation" measures. Especially any "mitigation" measure that would be in the EIR in order to facilite the project of either the new proposed open pit mine, new mining bridge over Permanente Creek, new storage areas. And in the case of a "reclamation" plan, any proposals in the dEIR for a final "use" being facilitated by the "reclamation" plan has already little to no credibility due to the record of poor compliance and inadequate monitoring and rarely if ever any consequences for SMARA violations. Certainly we have not seen mining operations being halted due to any of the many violations. The pile in the EMSA stays in place and grows.

In 2007, we saw how well the "replanting" worked. A few scrawny struggling sticks masquerading as revegetation. Really, its a sad joke, except that is all that we can realistically expect, protestations to the contrary of how well it would work this time. Oh sure.

And what of the financial assurance (FACE) requirements? Inadequate. When the company is done mining, what motivation will there be to follow through? What motivation will the county have to follow through? Nothing in the recent record gives any confidence. In fact, just the opposite.

As it is, we have to look at artificially flattened hill tops every time we drive in our neighborhoods. Does the county really think we would accept more of that in our neighborhoods?

The additional dust from the operations and the storage areas, as they would be closer to our neighborhoods are disturbing to us. We have numerous organic gardeners in our neighborhoods, how do you think we feel about that dust falling on our organic plants and soil that we so carefully tend? We are concerned and disturbed about the dust and now we face additional dust with toxic elements and compounds in it due to the proximity of the storage areas to many of our neighborhoods. This is a significant impact on us, our children, our schools, on our homes, our quality of live, our food and our values.

We have been asking for years for a State Certified Geologist to identify areas of the current open pit mine for rocks to test, to collect samples him or herself and bring them him or herself to a State Certified lab to be tested for potential asbestos or asbestos like particules. We know from County documents that the pit contains serpentine or serpentanite soils. This soil tends to contain asbestos or asbestos like particules. This soil has never been tested in this manner and the results released to the public. We ask for this for the current quarry, for all the areas of current disturbance, for the EMSA area for the CMSA and for the proposed South Pit area including the area proposed to be mined beneath the surface. We ask for the results (the actual data dump) to be released to the public and to be published in

the dEIR.

CUMULATIVE IMPACTS

8)

A. Cumulative impacts needs to consider the absolute dead zone of hundreds of acres created by the current open pit mine, the multiple storage areas, the WMSA. Just look at the google view of the mining operations and the plant and kiln. Nothing but dirt, dirt, dirt. NOT soil. All the habitat wiped out completely. The current pit will NOT be filled in by mining a new pit and dumping its "overburden" there. Limestone would be used in the kiln to make cement. Aggregate would be mined and sent off for construction projects of various kinds and to make concrete. And we were told by a company official in 2007, that when the company runs out of good limestone, they would start mining back into the WMSA for useable materials. Obviously, if that would be done in the WMSA, it would also be done with the "overburden" materials which might be deposited in the current pit. There is no "reclamation". This "reclamation" plan would be a bad joke on the residents, and eventually Santa Clara County and all of us taxpayers. who will pay in the end for whatever is able to be "reclaimed" at some unspecificied time in the future. The company will take their profits and -- bye-bye. So before yet another 50 year mining operation scarring and destroying hundreds of acres of our beautiful Santa Cruz Mountains and habitat and watershed, consider all this in any potential action alternative. The action will be destruction. Little if any "reclamation" will any of us or the next generation probably see. We'll be witness to more of the hills being destroyed.

B. Do we really want more paving of paradise? More runnoff into the Creeks and into the Bay. More pollution in our groundwater, which is also our drinking water? Less red shouldered hawks? Less red legged frogs? Less tiger salamanders? Less legacy for our children and grandchildren? Do we have a responsibility to answer to them now? Why is it ok to continue to pollute and destroy at this late date? Is that what we choose? No it is not!

C. The mercury is now sequestered in the limestone in the ground. Once it is mined, it is no longer sequestered. Lehigh's plan to inject some of mercury into the finished cement product puts do-it-yourselfers and the working poor at great risk for exposure to mercury laden dust. The cement bags will then need disclosure of mercury content. The ultimate destination of the mercury removed from the pit must be evaluated considering both the immediate concrete structures which will temporarily contain the mercury and how this concrete will be recycled or broken down in the future. Mercury is widely recognized as a potent neurotoxin in tiny amounts. Mercuy is an element and once released from the limestone, remains in the land, water and air. Mercury in the atmosphere and in bodies of water is accumulating locally and world wide. Once it is no longer sequestered it adds to the earth's toxic burden of mercury and affects the health of humans and other animals.

D. In our local area we have been subjected to the deposition of the released mercury from the cement kiln for 70 years. Any additional mercury is a significant cumulative impact.

E. The same goes for many of the heavy metals and other pollutants that have been released into the air, water and soils from both the mining operations and the cement kiln emissions and operations. Many of these are persistent. Some locally, some region wide, some world wide. The contribution of this operation, including the cement plant and kiln, needs to be considered in cumulative impacts, but from the already existing impacts and from impacts from the proposed new mine and mining operations projects.

F. Increased dust from blasting the new mine, from setting up the new mining processes and building the proposed bridge over Permanente Creek, could only result in increased dust falling into the Creek from all the initial and then ongoing disturbances, bringing with it new sedimentation and pollutants into the Creek and Bay.

G. The dust from the mine, the mining operations have been accumulating for one hundred years. The the small particulates, toxins and other pollutants from the kiln have been accumulating since 1939. All this existing pollution and degradation are cumulative impacts which need to be disclosed and considered. A new mine and mining operations would increase this toxic dump on us all on top of the already polluted air, water and soil. The new mine will be closer to other areas. The storage areas will be and the EMSA is much, much closer to our homes and neighborhoods and schools.

H. There are highly sensitive receptors (what a way to characterize children

and elderly and ill people) close to the Lehigh operations. Stevens Creek Elementary School, Monarch Christian Day School, Lincoln Elementary School, West Valley Elementary School, Monte Vista Park, Kennedy Junior HIgh, Cupertino Junior High, Monte Vista High, Homestead High, Sunnyvale Retirement Center, The Forum (assisted living), Pleasant View Convalescent Home.

I. It is highly documented that human beings are already carrying a dangerous body burden of toxins that impact their health. It would be unacceptible to increase this by opening a new mine and storage areas and thus also continuing the toxic and deleterious emissions from the cement kiln.

9) The Notice of Preparation (NOP) states, the proposed project area is approximately 1,105 acres, and includes 251 acres for the expansion area and 317 acres to remain undisturbed oak woodland." This statement does not fully disclose the area of disturbance. It appears to include little more than the proposed south quarry but not the new and currently expanding storage and mining operations areas. And how does the county or Lehigh decide that 317 acres will remain undisturbed.

The Lehigh operation has already irreparably destroyed a portion of the Mid Penninsula Regional Open Space District Land, through encroaching upon it with mining operations. Many of our members hike and enjoy the wildlife and native plants and view of and within the Mid Penninsula Regional Open Space District. This is a rare treasure that is located in Santa Clara County. We take destruction of its lands seriously. There are very few open spaces that are preserved, such as Mid Penn. We hold them dear and precious.

The areas of identified limestone go east of the south quarry. Perhaps that is the reason for the road that is in the plan which cuts east. The previous proposal for the "Pit 2" was east of the proposed South Quarry. So we can guess that that area east of the proposed South Quarry will be next on the blasting block.

10) In addition, adding a new mine and storage areas with increased visibility would detrimentally harm property values of the neighboring communities. This is a significant impact.

NOISE and VIBRATION

11) The mining operations go on day and night. The trucks are allowed to travel day and night. Neighbors complaints about noise and vibrations from the current mining operations, blasting and diesel trucks go on and on with no help or relief from SCC. These noises and vibrations occur day and night. Neighbors state that it is so unbearable to be woken up in the middle of the night on a regular basis.

The proposed new storage areas, EMSA and CMSA, are significantly and much, much closer to Cupertino and other neighborhoods. We can unfortunately project that this would bring significantly more disturbing noise and vibration into our neighborhoods both day and night.

What about the proposed new bridge over Permanente Creek and the truck noise? The noise from the trucks going over the Creek would probably be amplified by being over water. Would mining trucks be moving over the bridge? Taking into consideration their size and the size of their tires alone, this could potentially be an additional significant increase in even more noise and vibrations issue. Will be bridge be concrete? Steel? How will that affect the noise and vibration? We are guessing it will be amplified even more. We cringe considering this additional impact on the quality of our lives and the stress levels. Stress is a major factor in illness.

The proposed new mine and bridge would be closer to homes on Montebello road, bringing more disturbing noise and vibration to that residential area.

The location of the hills and mountains in relationship to the mining operations, the blasting, the mining trucks, the bridge, the diesel trucks could also create more noise and vibration from reverberations off of their surfaces.

12) VISUAL RESOURCES

A. There will be many roads, streets and homes that will have a very nice view of the destruction -- mine and mining operations. The proposed pit would be visible to many more homes, roads and businesses. The dEIR must show line of site maps from every area, street and home that will be able to view the proposed open pit mine and the proposed storage areas and any other areas of disturbance. Three dimensional maps must show clearly to the public these areas so the public can determine from what viewpoints they will be able to see the areas of disturbance. And for each stage. Since the areas of disturbance now look tan, the maps should show the areas as they will appear, not some mythical green.

B. Some of the nearby areas we have already identified from which the proposed South Quarry and/or EMSA and/or CMSA would be visible are Hyannisport and Bubb road intersection, Stelling and Stevens Creek Blvd. intersection, Stevens Creek Blvd. in front of the Post Office, from Voss Avenue near Monte Vista Park, from Stevens Creek Blvd. just East of Janice Ave, from Alpine Road in Cupertino, from both sides of the Road and from homes looking towards the location of the proposed new mine, storage areas, as well as from Cristo Rey Drive which is practically on top of the new proposed mine.

C. We are asking for clear disclosure in the dEIR of all the roads, streets, homes, businesses and areas that would be able to see the new proposed mine, new storage areas or other new mining operations. This should be done in concentric circles, for example from 1 mile away, 2 miles, 3 miles, 4 miles 5 miles, 10, 20, and 30 miles away. This new proposed project would affect the aesthetic and visual experience of the entire South Bay Area and be a major unmitigatable degradation and scarring of our beautiful visual resources.

D. There are also areas not as nearby which would be negatively impacted by seeing the hills and slopes of the Santa Cruz Mountains denuded and/or destroyed by the proposed new mine, new storage areas and other new mining operations. For example, many areas -- homes, businesses, streets -- in the City of Sunnyvale which look towards the hills, slopes and mountains, such as have a line of sight past the parking lots of Homestead High School.

E. As people drive Highway 85 and Highway 280 going towards or seeing in the direction of the Santa Cruz Mountains where the new mine, or

storage areas or other new mining operations would be, they would be able to see new and disturbing large scars and degradations of the hills, slopes and mountains. West Virginia anyone?

F. The application gives an incorrect description of the South Quarry -- that is, the proposed open pit mine -- as, "South Quarry Road." It gives an incorrect impression that an open pit mine which is scraped clear of any vegetation, is merely a "road" that cuts through woodland or green areas. The South Quarry open pit mine would be a clear cut dead zone, actually worse than a clear cut, as a pit would be blasted deep into the earth. The dEIR needs to be clear both descriptively and visually about this. It is tan, not green. It is dirt not living soil. It is a dead zone.

G. (Also see the discussion following in 14) regarding visual impacts).

13) GEOLOGY & SOILS and SURFACE HYDROLOGY, DRAINAGE & WATER QUALITY

Three dimensional geologic and hydrologic image maps need to be developed and disclosed to the public and included in the Draft EIR of the areas proposed for a South Quarry, for the CMSA, EMSA and all other proposed areas of new and continuing disturbance as well as for the entire reclamation plan area. These maps need to be generated and disclosed to the public for each "stage" of the proposed mining and reclamation plan.

Would the selenium impact the water quality, groundwater, hydrograph of Permanente Creek. What about the mining wastes and their other components such as the high level of mercury? The mercury is now sequestered in the limestone. Once it is mined, it is no longer sequestered. The overburden storage in the WMSA, in the EMSA, and the CMSA?

EARTHQUAKE FAULTS

14)Three dimensional geologic image maps need to be developed and disclosed to the public in the Draft EIR showing all the known and suspected earthquake faults in the proposed pit and new mining areas as well as in the rest of the reclamation plan. In addition Three dimensional geologic image maps need to be developed and disclosed to the public in the Draft EIR showing all the known and suspected earthquake faults located in a five mile vicinity of the proposed pit and new mining areas as well as in the rest of the reclamation plan.

How would the geology and the earthquake faults known and suspected interact with a new mine, with the old mine and its unstable slopes, with the near-by Stevens Creek Quarry and with the Stevens Creek Reservoir.

NO NEW DISTURBANCES, NO NEW MINE

15) The public can rightfully ask why Lehigh should be granted the opportunity to ask for a new mine and mining operation areas in light of the numerous violations of their recent and current operation. Before any new consideration takes place, the old and current violations need to be rectified. And the public has the right to be concerned at the failure of the county to adequately monitor the Lehigh operations and their failure to adequately require rectification of violations. The County allows Lehigh to continue many of its violations and says it will use this EIR process as a way to mitigate the violations; eg, in the case of the storage pile in the EMSA, the county not only continues to allow the pile to remain where it is without a reclamation plan in place, but it allows Lehigh to continue to enlarge the pile.

This pile is highly visible from many locations in Cupertino. This pile is highly visible from the Rancho San Antonia/County Park trail that begins at the Horse Parking Lot. Many of our members hike this trail. It was disturbing to see the initiation of this blight on our enjoyment of the Park. It is even more disturbing to see its continued growth and blight. Many people hike and run the trail to de-stress. Yet this pile is causing stress. Stress is well know to be a major factor in initiation of and exasperation of disease. It is known that stress negatively impacts the immune system(s). This pile was found by a member of WVCAW who reported it to SCC. It took numerous phone calls to get the County to come out and investigate and to determine whether or not the pile was in an area with a reclamation plan in place. It was NOT.

A. It is our understanding that a California Environmental Quality Act (CEQA) document, such as this EIR process, should take a fresh look at an issue or plan or project. It should not be a rubber stamp of a predetermined decision by an agency or decision makers, such as the SCC BOS in this case, of acceptance of a permittee's application for a new project (in this case a new huge open pit mine and storage areas). We fear that this could be the case in this situation -- the default of the County Supervisors even before the EIR review being approval of a new mine, and just get through

the annoying, time consuming public process. We want this to be a real process, in compliance with CEQA. We are doing our part.

B. What confidence should the public have in either Lehigh or SCC BOS? Why would a new huge, 200+ acre mine plus hundreds of acres of new storage areas be acceptable in 2011 in our hills and neighborhoods with it's creation of hundreds of acres of new dead zone, with all its attendant nuisances, visual degradations, impacts on the current population of 1.7 million residents, it's further impacts on the health of residents and worldwide, with alternatives as explained in part above, etc?

C. The public needs disclosure of Lehigh violations in order to evaluate their application for a new open pit mine and additional mining and storage areas.

D. The dEIR should list and describe the numerous violations and failures to comply with SMARA that were identified by the SMGB in 2006 and idenify the ones that are still outstanding.

E. The dEIR should list and describe the numerous violations and failures to comply with other county rules and regulations and the action, if any, that the county took.

F. Disclose if and when the county took no action and for which violations. Disclose fines levied or no fines levied for which specific violations.

G. The EPA's NOV to Lehigh regarding significant emissions of NOx and SO2 over a decade should be disclosed for the public to evaluate in this context.

H. The Water District's NOVs to Lehigh regarding violations of their water permit should also be disclosed for the public to evaluate in this context.

I. In addition, we bring to your attention what appears to be yet another SMARA violation of a failure to have a reclamation plan in place before mining operations take place on the Lehigh property.

Our item number 14) in our comments to BAAQMD regarding the Lehigh Title V permit renewal on March 25, 2011, comments as follows: In addition, we are disturbed to read about and object to , "S-607 the stockpile area #2 (1", 1/4" aggregates and slag) at the entrance's gate is new." The operation continues to be accommodated by the BAAQMD to add additional pollution. We were told last year by BAAQMD that the operation does not use, "steel slag". What is this slag being used for? Is it steel slag? If so, that was the source of this slag? What are its components? Does it contain hexavalent chromium? Is it being used in the kiln? This concerns us greatly. (page 129 Statement of Basis)

. . .

Also, the Statement of Basis page 126 states that S-607 Storage Piles Area #2 contains aggregate.

This is a quarry product, not part of the cement plant. This storage should not be permitted in this area. There is no map of this area, as such the borders are not defined and can move into other areas as we have seen many times before. . . . **Does any regulation mean anything in reality?**

Also, petroleum coke is being stored and there is potential runoff containing these pollutants.

Storage areas are mentioned, but not where and what, 3.9 acres.

http://www.baaqmd.gov/Divisions/Engineering/Title-V-Permit-Programs/Title-V-Permits/Santa-Clara/A0017/Lehigh-Southwest-Cement-Company.aspx

The point here for SCC is that BAAQMD refers to a "new" stockpile area, "at the entrance gate". Is there are reclamation plan for this new stockpile area? We want to hear from SCC on this.

We want to know from SCC where are these 3.9 acres where petroleum coke is being stored? We ask for a map of this area and its location. Is there a reclamation plan for this area?

Lehigh's continuing violations of SMARA, failure to have a reclamation plan in place while performing certain mining operations, and now what appears to be one or more new mining operation areas without a reclamation plan in place violation (stock pile storage areas) again calls for their immediate deletion from the AB 3098 list and calls into question their application for a new open pit mine and new storage and mining operation areas and SCC's ability to adequately monitor their operations.

Please investigate the S-607 stockpile area #2, as referred to by the BAAQMD as per above, and the 3.9 acres of storage areas.

Please inform us of your investigation into this new additional potential violation(s).

J. In addition, while many members of the public read the SCC staff's clear, extensive and well documented vested rights report, it was hard to glean from the discussion by the County Supervisors that any of them actually read the staff report, due to their questions and discussion. From their questions, they did not even appear to have the basic underlying understanding of the difference between vested rights and a Use Permit -- basic to understanding of vested rights. Yet they voted that night on vested rights. Shockingly they even over road their own, in place, zoning code!

How can the public have confidence in the SCC BOS reading and evaluation of the EIR(s) and Conditional Use Permits regarding their vote on the final EIR and Conditional Use Permits?

No new mine.

Thank you,

Joyce M Eden, Karen Del Compare, Tim Brand and Marylin McCarthy for West Valley Citizens Air Watch

Barry Chang, President, No Toxic Air and Board of Directors No Toxic Air on behalf of No Toxic Air

From: Joyce M Eden < comment@sonic.net>

- Subject: Fwd: Revised: Scoping comments on Lehigh dEIR reclamation & new pit proposal, WVCAW & No Toxic Air, April 11, 2011
 - Date: April 13, 2011 5:40:44 PM PDT
 - **To:** Marina Rush <marina.rush@pln.sccgov.org>
 - Cc: Ken Yew <ken_yew@yahoo.com>, Barry Chang <councilbarry@gmail.com>

Marina Rush:

Errata: Please see number 15) I. below for page reference correction, corrected in red and a correction from "are" to "a" also indicated in red.

Please confirm that you received these corrections by email.

Thank You,

Joyce M Eden

Begin forwarded message:

From: Joyce M Eden <<u>comment@sonic.net</u>> Date: April 11, 2011 2:28:02 PM PDT To: Marina Rush <<u>marina.rush@pln.sccgov.org</u>> Cc: Stephen Testa <<u>Stephen.Testa@conservation.ca.gov</u>>, <u>derek.chernow@conservation.ca.gov</u>, Jim Pompy <<u>Jim.Pompy@conservation.ca.gov</u>>, Barry Chang <<u>councilbarry@gmail.com</u>> Subject: Revised: Scoping comments on Lehigh dEIR reclamation & new pit proposal, WVCAW & No Toxic Air, April 11, 2011 Lehigh property.

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In addition, we are disturbed to read about and object to , "S-607 the stockpile area #2 (1", 1/4" aggregates and slag) at the entrance's gate is new." The operation continues to be accommodated by the BAAQMD to add additional pollution. We were told last year by BAAQMD that the operation does not use, "steel slag". What is this slag being used for? Is it steel slag? If so, that was the source of this slag? What are its components? Does it contain hexavalent chromium? Is it being used in the kiln? This concerns us greatly. (page 129 Statement of Basis)

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The point here for SCC is that BAAQMD refers to a "new" stockpile area, "at the entrance gate". Is there are a reclamation plan for this new stockpile area? We want to hear from SCC on this.

From: "Rhoda Fry " <fryhouse@earthlink.net> Date: April 11, 2011 12:38:04 PM PDT To: <marina.rush@pln.sccgov.org> Subject: comments for EIR - Lehigh Hanson

Dear Marina -

Comments for EIR - Lehigh Hanson

I wish they'd just clean up their act before asking to do new things and start keeping some bare minimum promises.

They've been out of compliance with SMARA for 10 years and should have been denied participation in lucrative government contracts. How did the county allow this to happen?

I don't even understand why they'd bother to do an EIR anyway because it looks like they'd do whatever they want anyway.

The new HRA – Health Risk Assessment has come out and it is all very bad news. The agencies have been lying to us for years about the relative safety of this plant. I am so upset that I was not able to make an INFORMED DECISION as to where I should live because the data was just plain wrong.

All the NOVs should be taken into account as well. The recent water issues are horrific. Well, I suppose with an EIR, you don't have to do better than you've done in the past, so perhaps it is to their advantage that they've been an egregious violator. But that does us no good.

I'd be happy to pay more for cement than to deal with the short and long-term health and environmental problems caused by the cement plant and quarry and rock operations.

At a minimum, they should burn natural gas.

I am worried that if they cut down trees, that we will lose what little buffer that we have for noise, dust, etc...

Any time you start looking into the details on this plant you see problems. What will be done to keep them compliant? We can't wait for years and years and years for nothing to happen. I know so many parents with kids who have learning disabilities and it is heartbreaking – or with allergies that are compounded by PM10. What are they going to do about the water pollution? We cannot allow this operation to continue in this manner.

It seems that the county is looking at short term revenue – however, with the HRA listing acute exposure for CANCER, that will for sure affect home values and health costs, and the cancer victims and their families to contribute to the economic engine in the Bay Area.

I realized the deadline is today and just don't have the time to put my brain on this. I know that many others care about this issue deeply and are also strapped for time. I hope the county wakes up and starts taking care of the citizens, for once.

Regards,

Rhoda Fry Cupertino

From: Janet Geiger <janet@foxcove.com> Date: April 11, 2011 2:51:46 PM PDT To: Marina Rush <marina.rush@pln.sccgov.org> Subject: NOP Lehigh

Hi Marina,

Although it sounds like you are preparing a comprehensive EIR for the proposed new quarry for Lehigh, I would like to reiterate my concerns with the following:

1) Destruction of the foothill viewshed protected by the General Plan and Zoning Ordinance that will forever affect the identity of Cupertino in a bad way. Where is Cupertino? It will be that place between Saratoga and Los Altos beside the open pit mine easily seen from everywhere.

2) Property values will be decreased by this notorious eyesore and obvious pollution generator

3) Noise issues especially at night

4) Dust and noise issues associated with blasting and excavation

5) Light pollution at night

6) Possible destruction of unique limestone cave formations evident on Stevens Creek Road

7) Pollution of Permanente Creek with toxic run-off and deliberate pumping

8) Polluted air especially with particulates and mercury, Nox and Sox and other poisons

9) They may endanger unique species of plants and animals or destroy anthropologic artifacts associated with that kind of limestone as well. There are some endangered species downstream on Permanente Creek I read about in some of me research I don't have time to flag today.

Please do not hesitate to contact me if I may be of further assistance on these issues.

Thank you,

Janet Geiger 408-252-7174

From: Cathy Helgerson <sharpset1@aol.com> Date: April 4, 2011 11:06:52 AM PDT To: marina.rush@pln.sccgov.org Subject: Lehigh Southwest Cement & Quarry

Hi,

My comments for the EIR

1) Site should be setup as a Supper Fund site and the EPA Super Fund Region 9 folks have decided to do a Preliminary Assessment

Due to my submitted Petition this is very good news.

2) There has not been a working Reclamation plan in effect in 10 years and I do not think this will every happen growing trees, grass and

shrubs in the location of the WMSA and the EMSA is impossible because you would have to put in sprinklers to keep the plants from

dying. The water that would be washed into our water shed is a big problem and I am sure there is no way to stop the pollution. Once

the Limestone is mined and disturbed the Mercury is released and it is washed into the Permanente Creek and the Stevens Creek

Creek and in turn released into our water shed and aquifer where it is pulled up from the wells in the community. These wells are

being used by the Water Companies and the Santa Clara Water District and we are drinking this water. There are many pollutants

in our water and Vanadium is one of them which is not

regulated by the EPA this pollutant is now at 7.0 ppb as stated by California

Water Company. The Santa Clara Water District plays down the pollution levels in our water and they are allowing the Mercury

in the Steven Creek Reservoir to be sustained doing absolutely nothing about cleaning up the Rerservoir. People are fishing in the

Reservoir and taking the fish home to have their families eat the fish on their dinner table that is polluted with high levels of Mercury

Pollution and no one seems to care.

3) The displacement of the ecosystem animals wildlife and water wildlife of all kinds would be devastating there is no way to save them

except to close the Lehigh Southwest Cement and Quarry and the Steven Creek Quarry down once and for all and turn it into a

Super Fund Site for clean up. I would also like to see the land turned into a Park and Historical site for the Limestone and the beauty

of the trees and land for generations to come. The Limestone can never be replaced once it is mined and turned into cement there

will never be more. We must stop this destruction before it is to late for many lives are at stake.

4) The destruction of 10,000 trees some of them 100 years old in order to put this new mine in would be a major catastrophe there is no

way they would ever be replaced. The trees have thrived due to the limestone rock under them holding on to this rock for security and

protection. The water from the rain is stored in the ground and rock and the roots thrive on this storing of water which will be

destroyed for ever.

5) The Limestone dates back to the Jurassic period when the land was under water and it holds many fossils of all kinds this can never

be replaced and once it is mined it will be lost for ever. This site should be a major Historical Site and it should not be destroyed there is no Limestone like this any place else in the country. Leaving the Linestone in the ground will keep the Mercury from escaping and

harming the public this must be done to protect us all.

6) The Lehigh Southwest Cement and Quarry and the Steven Creek Quarry are right in the middle of 3 fault lines and it is suspected that

the next major earth quake will be caused by mining the next 215 acres of the new mine at Lehigh. I would even go as far as to say

the mining of the first pit decades ago was responsible for the last major earth quake in San Francisco. I also believe that the mining

that has taken place since then is responsible for the other earth quakes that have taken place over the years. This new pit is not

acceptable and the pollution and danger to the areas animals and human life alike needs to be considered.

7) Pollution and Dust the Cement Plant and the Quarries need to be shut down due to the ongoing pollution they are causing to the

public. There have been many Notice of Violations against Lehigh and I suspect if anyone took the time the same violations would

be found at the Stevens Creek Quarry as well and I suspect this will happen in the future. The pollution can not be stopped because

there is no real enforcement conducted and the public

demands that there is.

8) There is Selenium dust and pollution all over the Quarries and the Cement plant and the Water Board has yet to enforce original

Notice of Violation and the additional letter that was sent out for the pollution from the Quarry water that is being released into the

Permanente Creek and the public would like to know why. The ceast and desist order submitted to Lehigh from the State Water

Board does not seem to make an impression on them so who will do the enforcement?

9) The EMSA and the WMSA is a violation and the overburden is polluted with who knows what I have asked SCC to test the soil

continuously in the overburden and also to test the soil under the piles due to the pollution and nothing has been done. The fact is

that there was factories that manufactured and processed aluminum this site was never cleaned up and it has been allowed to pollute

the Permanente Creek, Stevens Creek Creek, Steven Creek Reservoir, the Water Shed and Aquifer below the ground. There needs to

a Super Fund set up to clean up the pollution so as to not endanger the public and further.

10) The Santa Clara County can and could be held responsible for this ongoing allowance of pollution from the Lehigh Southwest Cement

and Quarry that would also include the Stevens Creek Quarry to the extent that they would have to also pay for this clean up. There

can be even more serious consequences to anyone that is responsible for these crimes against the citizens and there should

be.

SCC has over looked their own staff report for the vested rights at Lehigh and the Board stated that farm land us is the same as mine

land use that is ridiculous.

11) The Cement plant processes should not be looked at separately but included especially because it is causing pollution all over the

Quarry Site and the Cement Plant Site. This pollution is spread all over the Silicone Valley and there is dust and pollution every

where. The Mercury released is at devastating levels and Lehigh has not proved they have reduced the amount 25% I for one

have not seen a lab report or any real proof that they have redused it at all. The fact that the EPA is imposing new rules on them is

not enough it could take years for the EPA to work out the law suites that have been imposed against them we can not wait. The

public is in danger now and has been there needs to be an end to this continued pollution. The cumulative effect of pollution in our

bodies and the chemical cocktails effect due to the combining of all of the pollution is killing us the cancer rate is now one out of two

people that has cancer.

12) The Lehigh Southwest Cement Plant has been drying the Petrolium Coke at the facility with the NOX and the SO2 emissions from

the Kiln in order to burn it and that is what I suspect has been keeping the levels down. There are two pipes releasing Pentrolium Coke emissions and this is combined with the NOX and SO2 emissions and there is no monitor on the pipes. The levels of NOX and

SO2 from the Kiln has a monitor on it and the levels have been below the high max levels set by the BAAQMD and I have always

wondered how that could be and now I know. The levels were low because they were funneling the NOX and SO2 gases over to the

Petrolium coke piles which has no monitors and we the public have been over exposed to these emissions. I wrote the EPA Region

9 and the EPA Federal Dept. in Washinton, DC nothing has been done about this so far. The EPA Region 9 sent my paperwork to

BAAQMD and I have not heard from them either. What Lehigh has done is totally illegal and against the law they are corrupt and this

matter should be investigated but I have yet to hear from anyone. If you are wondering how I found out about the two piles

well I can tell you it was from the BAAQMD's investigator he told me what was coming out of the two pipes and the rest is evident.

He also suggested that if I felt the two pipes should be monitored that I should put it in the Title V Permit comments so that they

could put monitors on the pipes. I think that is real funny I am sure that is the last thing that Lehigh or the BAAQMD wants to do

because if they really wanted to they would have done it by now. I feel that this is a major cover up and I wanted the EPA to get up

to Lehigh and catch them doing this crime but who knows now what is going on.

13) The trucks from the Quarry and the Cement plant are totalled

to 70,000 truck trips per year I think this amount is very conservitive.

We must also consider the truck trips from the Stevens Creek Quarry as well back and forth causing noise and dust pollution all

over our roads. This dust is spreading all over the community especially into the homes of the people that live very close to the

Stevens Creek Rd. and the Foot Hill expressway it is absolutely devistating and this must stop. The noise coming from the trucks

and the cement plant and quarry is a nusinance this must stop. The danger from the rocks being thrown from the wheels of the

trucks onto pedestrians is life threating. The rocks are also breaking car windows which could cause care accidents and this of

course should stop.

14) Every city in the valley should be involved with this matter and they should be working to look out for the population that lives

in their community which is in terrible danger.

15) We can not concer ourselves with a few jobs of the people that work in these facilities or drive the truck that hall the cement around

what should be looked at is the benifit of the majority of individuals that are being polluted to death. The workers are also at risk and

so they maybe more concerned about their jobs when they should be more concerned about their health and their families health.

Sometimes society needs to protect those that are to blind to see what is really going on.

16) The EIR should include anything that would make a difference to the report and that includes the Health Risk Assement that is so

poorly done there needs to be a truly real report done. This would have to include all of the pollutants gases, metals and chemicals

that would harm the public in any way and the levels should be subject to a real investagation.

17) Santa Clara County should do their own air, water and soil tests not depending on Lehigh or the Steven Creek Quarry to do their

own tests that can be flawed or tampered with in any way lets not let the fox watch the chicknen coop. The self policing of these

companies has caused many problems and yet we have them do their own testing this should not be allowed.

18) The new mine will cause more dust and more pollution we the public will not be able to live in our homes any longer. The law suites

that Lehigh and the Stevens Creek Quarry will have to be subjected to will cause them bankrupsy. This pollution will be worse than

any major catastorphy. The 10,000 trees that have been some what of a buffer will be gone and the dust will fly and cumulate on

ground wash into the water ways and sufficate us to death this paints a very devistating picture and it should. We can not let this

happen it is a crime a sin a distruction of humanity and we as citizens have a right to life, liberty and the persute of happiness so

how can anyone let this continue.

I stated that I will not stop my endevers no matter how long it takes I will persiver and never give up the fight so I hope you will look at

all of the issues and make amends the Lehigh Southwest Cement and Quarry and the Stevens Creek Quarry must be closed down once

and for all. The lands must become a major Super Fund site and the cleanup must begin immediately in order to protect the public from any further polluiton and contamination.

Please do the right thing and help us let me know via e-mail if you have received this e-mail message. I would also like to know when the

comments will be printed on the web for my review. Thanks

Cathy Helgerson 408-253-0490
From: Vicky Ho <vickyyueho@yahoo.com> Date: March 30, 2011 9:18:34 PM PDT To: Marina Rush <marina.rush@pln.sccgov.org> Subject: Re: Lehigh Permanente Quarry- comment

Thank you for your notice.

I am submitting my comment in writing.

I heard the Lehigh plant manager once admited that the mercury level of the rocks at

Lehigh here is very high, much higher than the quarry that they had in their plant in

Germany, where they managed to control the mercury emission to a very low level.

In other words, the rocks here is naturally not suitable for the process, because of its high content of mercury. So why are we letting them open another pit, knowing already that the rocks here is not suitable? Too much mercury is not good for the health of people, and

according to their past record, they will only hide and lie their way through as many

violations as they can get away with.

In addition, they are polluting our creeks and do not want to admit it. Vicky Ho

22600 Alpine Drive, Cupertino, CA

--- On Fri, 3/11/11, Marina Rush <marina.rush@pln.sccgov.org> wrote:

From: Marina Rush <marina.rush@pln.sccgov.org> Subject: Lehigh Permanente Quarry- Public Meeting Notice To: "Marina Rush" <marina.rush@pln.sccgov.org> Cc: "Rob Eastwood" <Rob.Eastwood@pln.sccgov.org>, "Gary Rudholm" <Gary.Rudholm@pln.sccgov.org>, "mike.lopez@pln.sccgov.org Lopez" <mike.lopez@pln.sccgov.org>, "Jody Hall Esser" <Jody.HallEsser@pln.sccgov.org>, "Lizanne Reynolds" <Lizanne.Reynolds@cco.sccgov.org> Date: Friday, March 11, 2011, 8:21 AM

Good morning,

There will be a public meeting/scoping session regarding the Notice of Preparation (NOP) of an Environmental Impact Report (EIR) for the proposed

Comprehensive Reclamation Plan Amendment and Conditional Use Permit for Lehigh/Permanente Quarry. Lehigh has applied to amend the current reclamation plan, and includes an expansion area with a new mine pit.

The purpose of the meeting is to obtain comments from the public on possible environmental issues related to the proposal. County staff and our consultant will provide a short presentation on the project proposal and open the meeting to public comments. You may submit your comments either verbally or in writing.

The public comment period for this NOP will close on April 11, 2011, 5:00 PM. Following the NOP comment period, the County will begin work on the environmental studies and analysis for the EIR. We anticipate the public Draft EIR will be available Fall 2011.

NOP Public Scoping Meeting:

Wednesday, March 30, 2011, 7:00-9:00 PM City of Cupertino, Quinlan Center (Cupertino Room) 10185 N. Stelling Road, Cupertino, CA 95014

Attached to this email is a summarized project description and list of environmental topics that will be addressed in the EIR. The complete project proposal can be viewed on the County's website at: <u>www.sccplanning.org</u>. If you cannot view the attachment or have questions, please contact me at (408)299-5784.

Best Regards,

Marina Rush

Marina Rush, Planner III County of Santa Clara Planning Office 70 West Hedding Street, East Wing, 7th Floor San Jose, CA 95110 email: <u>Marina.Rush@pln.sccgov.org</u> Phone: (408) 299-5784 Fax: (408) 288-9198

From: JLucas1099@aol.com Date: March 16, 2011 9:59:58 AM PDT To: marina.rush@pln.sccgov.org Subject: Lehigh Quarry air/water monitoring

Marina,

Have not received a notification from you as yet in regards NOP meeting on Lehigh Quarry Reclamation Plan in Cupertino at end of month. As per our last week's phone conversation, I would appreceiate particulars.

In checking with Air Board was informed of air monitoring gage for mercury deposition in Monte Vista Park in Cupertino, which is in Stevens Creek watershed but have been unable to ascertain who is monitoring amount of mercury deposition from Lehigh Quarry in Stevens Creek Reservoir. Can you advise on this?

Then, San Francisco Water Quality Control Board reports monitoring pollutant runoff into Permanente Creek within Lehigh Quarry operations but say they are not to test below quarry as Permanente Creek runs through neighborhoods. Also they are not checking for mercury deposition within Permanente Creek watershed and in Santa Clara County's Ranch San Antonio parklands.

Is the Santa Clara County Planning Department's consultants conducting such tests for mercury deposition? This would appear to be an important element of environmental assessment for the reclamation plan and not to have such data would make it deficient to a serious degree. Was any such gaging of mercury deposition conducted by the previous reclamation plan consultant in 2008?

Am sorry to bring up these concerns at this time, in what is probably a busy week for you, but better now than in a NOP public hearing. I was surprised that the Santa Clara Valley Water District was not monitoring mercury deposition in the Stevens Creek Reservoir but they said that they had not been requested to do so.

Any direction you can give me in regards researching regulatory review of these concerns is appreciated.

Libby Lucas, Conservation, CNPS

From: JLucas1099@aol.com Date: April 9, 2011 3:50:50 PM PDT To: marina.rush@pln.sccgov.org Subject: Permanente Quarry NOP EIR Comprehens Reclam Plan Amend. & Conditional Use Permit

County of Santa Clara Planning Office April 9, 2011 70 West Hedding, 7th Floor, East Wing San Jose, CA 95110

Attention: Marina Rush, Planner III

RE: Notice of Preparation of an Environmental Impact Report Comprehensive Reclamation Plan Amendment and Conditional Use Permit for Permanente Quarry (State Mine ID# 91-43-004)

Dear Marina Rush,

In regards your Santa Clara County Notice of Preparation for the Permanente Quarry EIR for a reclamation plan and expansion into 200 acres south of present operations, there are sufficient critical concerns with implementation of the reclamation plan for past and present quarrying activities that need to be addressed. Don't these need to be finalized with the quarry's existing reclamation plan to comply with state reclamation law? Considerable revegetation of disposal sites was mandated and implementation of the success of this program should be assessed. Permanente Creek sediment loads and water quality are undergoing regulatory review at this time and illegal and non-compliant discharges to the creek need to be resolved.

It would seem that the EIR to study the proposal for quarry expansion to 200 acres to south, in what appears to be another

hydrologic unit, must mandate a separate reclamation plan and EIR to adequately address all environmental concerns impacting the Stevens Creek Reservoir and watershed? Is this new 200 acre site actually in the Permanente Creek watershed or the Stevens Creek watershed? Can quarrying activity be managed in such a manner as to lower the ridge line between watersheds gradually so that drainage will continue to flow to Permanente Creek? Where will ridge underflow drainage go? A field trip to this Monte Bello Ridge area would be helpful.

There are two plant species of special concern that may be anticipated to be found at this elevation of Monte Bello Ridge, Clarkia concinna ssp automixa and Piperia michaelii. Surveying for these plants would best be handled in the present month of April and the Santa Clara Valley Chapter of California Native Plant Society would welcome the opportunity to have one or two of their botanists review the quarry reclamation sites. The EIR should include plant surveys of duration of at least one, hopefully, rainfall-representative year and inclusive of all seasons, as some plants are challenging to identify when dormant.

The general vegetation on the 200 acres that presently buffer Stevens Creek Reservoir is said to consist of a mix of broadleaf hardwoods like oaks, bays, and madrones with shrubs such as manzanita, ceanothus, chamise and mountain mahogany, but the opportunity to get an overview of this terrain would be appreciated.

After the flooding of Blach School in the winter of 1981-2 when a Permanente quarry sediment basin weir failed, a mitigation study was contracted for with USGS that should be referenced in some detail as it gaged the high levels of sediment that comes out of this Permanente watershed, especially in peak storm events.

The study is "U.S. Geological Survey Water-Resources

Investigation Report 89-4130 Effects of Limestone Quarrying and Cement-Plant Operations on Runoff and Sediment Yields in Upper Permanente Creek Basin, Santa Clara County, California, Prepared in cooperation with the Santa Clara Valley Water District, 1989."

On page 41 this report notes that the Permanente Creek East Fork yielded on February 14, 1986, 1560 tons of sediment per square mile, followed by 2,430 tons, 598 tons, 2,095 tons, 1,873 tons, 2,520 tons and 387 tons in the rest of the week, resulting in a total of 11,463 tons of sediment per square mile for the week. In that same week the West Fork of Permanente Creek yielded 83.58 tons of sediment per square mile.

In consideration of the exceptional level of sediment yield of the East Fork of Permanente Creek it might be a valid mitigation measure to implement vegetated terraces within and downstream of quarry into the present on-going reclamation plan. The capacity of Permanente Creek as it runs through residential neighborhoods downstream is historically constrained and when such high sediment loads overwhelm and plug the channel, overbank flows will inundate residences, schools and El Camino Hospital. Retention measures are needed.

Another avoidance of impact alternative might be to assess routing upper Upper Permanente Creek flows around quarry activities. This is a very iffy consideration but a recommended forestry hydrologist consultant with the experience to professionally analyze such an option would be Dave Rosgen who conducted Northern California creek geomorphology classes for the Guadalupe Coyote Resource Conservation District.

As the quarry is reported to have been overexcavated it now must of necessity pump quarry bottom water into Permanente Creek which seemingly continually assures degraded water quality conditions in the creek. Permanente Creek runs through or adjacent to six parks, two regional, one City of Los Altos, and three of the City of Mountain View, while stormwater in lowest reaches flows into Coast Casey retention basin and is pumped into Palo Alto Baylands. Children often have environmental stream study in the parks and sensitive wildlife species need protected habitat in upper watershed and baylands so water quality is a critical factor.

It seems evident that optimum pollutant control is best handled at the source, high in watershed, and that vegetation native to the watershed be used for swales and terraces at every possible opportunity. Substantial stands of trees should be retained for air quality buffers as air flow is modeled to assess impact to reservoirs.

In a brief review of background data that has been generated to date to assess this quarry's impacts on air and water quality of region, scientific data collection did not appear to be of sufficient duration or consistancy to provide the proposed EIR with appropriate critical parameters. I will cite a couple of instances.

The SFEI Atmospheric Environment 44 (2010) 1263-1273 abstract related to Lehigh Hanson Permanente Cement Plant emissions, "Evidence for short-range transport of atmospheric mercury to a rural, inland site" uses Calero Reservoir as the rural sampling site, which air data might be seriously impacted by its proximity to Metcalf Power Plant. Evidently the study wanted to distance this sampling site from other significant Hg emission sources, five refineries located 75 km north of the cement plant in San Francisco Bay Area's air basin, but it isn't clear that Calero Reservoir's sampling site isn't in Coyote Valley's air basin? Does this sampling site's proximity to the Metcalf Power Plant make it an inappropriate rural comparison? The SFEI Atmospheric Environment 44 (2010) 1255-1262 abstract of "Wet deposition of mercury within the vicinity of a cement plant before and during cement plant maintenance", does record one peak reading of 700 Hgr deposition during the week of February 21 through 28, 2008 in Stevens Creek Santa Clara County Park, in dense vegetation, but was only one of two weeks monitored. Anther peak deposition reading was made at Permanente Cement plant of 1100 Hgr wet deposition, January 24 through 31, but the storm of a few weeks earlier was so severe it only recorded one peak day of 470 Hgr before the gage was incapacitated. That week's reading might have shown an exceptional spike in mercury deposition in Permanente Creek.

These readings do not seem to be of sufficient duration to provide representative mercury deposition levels for the cement plant. Also, mercury deposition levels could have been monitored in Santa Clara County Rancho San Antonio Park which would have provided comparative levels of mercury deposition closer to quarry and in landscape of meadow grass and Permanente Creek wetlands. It was also inconvenient that a Los Altos wind monitoring gage was disfunctional and that La Honda facility (to north?) had to be used for air flow modeling.

In regards water quality monitoring the Regional Water Quality Control Board did a fish sampling for mercury in Stevens Creek Reservoir a number of years ago and perhaps that could be repeated every two years? The most recent violation in "Lehigh's substantial and ongoing non-storm water discharges are unpermitted and prohibited by the Industrial Storm Water General Permit" and "Muddy water flowing into Permanente Creek from the Facility; Sedimentation ponds and sediment traps overwhelmed with sediment in the middle of what was a normal-to-low rainfall year; and Over-reliance on sediment management practices and insufficient use of erosion control.." needs to be addressed in the existing ongoing Reclamation Plan rather than projected or recycled into the new proposed and expanded reclamation plan and conditional use permit. Is this possible?

It is of particular importance that Santa Clara County's Planning Department address all mercury related impacts that quarrying activity at Permanente is having in the Permanente Creek watershed, and in parks and in neighborhoods downstream. The potential for methylmercury contamination to evolve in the created wetlands of Santa Clara Valley Water District's flood control detention basins in Rancho San Antonio (base for a colony of red-legged frogs which also reside in Permanente Creek wetlands in and above the quarry) in Cuesta Park and in McKelvey Park for Permanente Creek sediment flows is an almost guaranteed scenario.

Mercury is a toxic legacy issue that will cost taxpayers millions of dollars to address, not just in watersheds and parks but ultimately in San Francisco Bay. Spikes of mercury that USGS recorded in Guadalupe River stream gages in the 1980's from Almaden Mines tailings may be replicated in Permanente Creek's sediment laden stormflows from the highly erodible and quarried watershed? Please ensure that the EIR has a realistic timeline for obtaining critical scientific base data necessary in mandating a credible reclamation plan and for serious evaluation of the conditional use permit for this quarry and its proposed 200-acre expansion.

Thank you for the opportunity to comment on this Notice of Preparation for the Permanente Quarry EIR.

Sincerely,

Libby Lucas, Conservation SCV CNPS

174 Yerba Santa Ave., Los Altos, CA 94022

From: Marylin McCarthy <m4@earthlink.net> Date: April 4, 2011 11:12:35 PM PDT To: marina.rush@pln.sccgov.org Subject: EIR comments regarding Lehigh reclamation Reply-To: Marylin McCarthy <m4@earthlink.net>

April 4, 2011

Hello Marina,

Thank you for the opportunity to make public comments regarding the Lehigh Reclamation Plan currently under consideration.

Over the past few decades, the Santa Clara County Board of Supervisors and the City of Cupertino have allowed an increasing amount of housing to be built near the Permanente/Lehigh plant.

One can almost "forgive" those who built the plant who due to lack of understanding of toxins and air pollution were not able to recognize how detrimental to public health the emissions and dust were coming from the plant operations.

Yet there can be no mistake now with our current level of air quality testing technology and global studies of fossil fuel burning emissions that the tons of particulates and mercury coming from the Lehigh cement plant and quarry are not good for anyone except Lehigh. With new EPA guidelines soon to be implemented, those that govern and serve to protect the residents of Santa Clara County can no longer turn a blind eye to what is happening up in the hills.

It is time to protect the residents of this County and the cities, which surround the Lehigh operation.

The EIR will need to document the residents exposure to mercury, it's health impact and any long-term effects. Over 1.6 million people live in Santa Clara County and all are to be protected by the actions of the SCC Planning Board and Board of Supervisors. Since the Board of Supervisor has chosen to put business first, it is now up to the Planning Department to protect us.

With so many people now living near the plant, it seems the only logical recommendation is not to allow any new operations on the Lehigh site that will generate any form of pollution.

Lehigh may lose a small amount of profit if they are not allowed to go forward with the new South quarry, yet the residents of Santa Clara County will gain a better quality of life with less exposure to pollution that no dollar amount could ever compensate.

Sincerely, Marylin McCarthy 10159 Cass Place Cupertino, CA 95014

408 973-8679

From: "Matt" <mpamukcu@comcast.net> Date: March 16, 2011 8:35:25 AM PDT To: <marina.rush@pln.sccgov.org> Cc: <mpamukcu@comcast.net> Subject: Comments regarding "Notice of Preparation of an Environmental Impact... (State Mine ID No.91-43-004) Reply-To: <mpamukcu@comcast.net>

Dear Ms. Rush,

I understand Lehigh cement plant has changed its fuel from coal to petroleum coke. Further, the plant has multiple short-stacks rather than the traditional long-stacks.

Recent scientific literature and various studies have clearly shown that the emissions from coal-burning produce significantly high levels of hexavalent chromium. Further, flyash produced as the waste material has many deadly toxins and various pollutants. I have studied the existing documents and have not found one scientifically-sound and well-thought study to assess environmental damage to plants, animals and people, especially to children. Evidence developing in the scientific literature points out to harmful emissions from coal-burning plants as one of the potential triggers that may cause onset and progression of many childhood diseases, including asthma, allergies and autism. The silicon valley is one of the regions in the US where autism, for example, is among the highest in the nation.

Although reliably measuring speciated compounds of elemental toxins (such as hexavalent chromium, methylmercury, inorganic mercury, etc.) have been a challenge, today there are proven and reliable analytical measurement tools and methods that can measure many of these toxins with unprecedented levels of accuracy. RCRA EPA Method 6800, codified in 2008, is the gold standard in these types of measurements. Using Method 6800, it is possible to identify sources of specific toxins and prove what is anthropogenic and what is not. I

encourage you to explore the possibility of a retrospective study of the perimeter around the Lehigh plant that might have been affected by Lehigh's prior use of coal and the impact of emissions of petroleum coke.

The current fuel, petroleum coke, contains less harmful toxins than coal and therefore harmful emissions might be lower but emissions might still pose health risks. There are many types of petroleum coke. I recommend requiring the company to disclose what type of petroleum coke it is using, so it can be analyzed for its isotopic signature. Once the isotopic signature of the fuel material is known, it would be relatively simple to monitor the environmental impact of the plant's current operation because it will be possible to accurately measure and tell whether a particular speciated toxin in the environment is produced by the plant. THIS TYPE OF ANALYSIS is now possible using the RCRA EPA Method 6800 and an analytical tool called Inductively Coupled Plasma Mass Spectrometer.

I have not been able to find a document that provides the rationale behind the utility of multiple short-stacks in the plant, rather than the traditional long-stacks. It is clear to me that multiple short-stacks only heighten the health risks to the workers of the plant and the local habitants within a shorter diameter of the plant.

I can provide scientific evidence on new, advanced metrology mentioned above and additional information about EPA Method 6800.

Regards,

Mehmet Pamukcu 851 Stella Court Sunnyvale, CA 94087 From: "Brosseau, Kimberly" <Kimberly.Brosseau@PRK.SCCGOV.ORG> Date: March 23, 2011 3:33:15 PM PDT To: "Marina Rush" <Marina.Rush@pln.sccgov.org> Cc: "Mark, Jane" <Jane.Mark@PRK.SCCGOV.ORG>, "Rocha, Don" <Don.Rocha@PRK.SCCGOV.ORG> Subject: File No 2250-13-66-01EIR - Lehigh Quarry

March 23, 2011

Hi Marina,

Attached please find a copy of the Parks Department comment letter regarding the Notice of Preparation of an EIR for the Reclamation Plan Amendment for the Lehigh Quarry. Please let me know if you have any questions. A hard copy will follow.

Thanks, Kim

Kimberly Brosseau Park Planner III Santa Clara County Parks & Recreation Department 298 Garden Hill Drive Los Gatos, CA 95032 (408) 355-2230 kimberly.brosseau@prk.sccgov.org

CommentLtr_NOPforEIR_PermanenteQuarry_3_23_11.pd f ¬

County of Santa Clara

Parks and Recreation Department

298 Garden Hill Drive Los Gatos, California 95032-7669 (408) 355-2200 FAX 355-2290 Reservations (408) 355-2201 www.parkhere.org



MEMORANDUM

- DATE: March 23, 2011
- TO: Marina Rush, Planner **County Planning Office**
- FROM: Kimberly Brosseau, Park Planner **County Parks Department**
- **SUBJECT:** Notice of Preparation of an Environmental Impact Report for the Reclamation Plan Amendment and Conditional Use Permit for Permanente Quarry (File No. 2250-13-66-10EIR)

The County Parks Department has reviewed the Notice of Preparation (NOP) of an Environmental Impact Report (EIR) for the Permanente Quarry Reclamation Plan Amendment and Conditional Use Permit for issues related to park use, trails, and implementation of the Countywide Trails Master Plan and submits the following comments.

The Trails Element of the Park and Recreation Chapter of the 1995-2010 County General Plan indicates a trail alignment nearby the subject parcel. Per the General Plan, Countywide Trail Route R1-A (Juan Bautista de Anza NHT) is located northeast of the project site. The Santa Clara County Countywide Trails *Master Plan Update*, which is an adopted element of the General Plan, designates the countywide trail as a "trail route within other public lands" for hiking, off-road cycling, and equestrian use. This trail route provides an important connection between the City of Cupertino and Rancho San Antonio County Park. The City of Cupertino's approved Final Stevens Creek Trail Feasibility Study also indicates this trail route as an important connection between Rancho San Antonio County Park and the City of Cupertino.

Visual Resources

The quarry is located adjacent to Rancho San Antonio County Park (Diocese Property). Since the County Parks Department is an adjacent property owner, modifications to the Reclamation Plan should take into account the potential aesthetic/visual impacts of the quarry and mitigation of views from these public parklands and trails.

The project is located in a Zoning District with a Design Review overlay for the Santa Clara Valley Viewshed (d1). It is expected that the applicant will construct as per the submitted plans and comply with design guidelines towards screening the project from public views.



An adequate vegetated buffer between the degraded hillsides and the adjacent County parkland and trails should be incorporated into the Reclamation Plan for the quarry.

Biological Resources

The EIR for the Reclamation Plan Amendment should discuss whether or not the project would have an impact on Permanente Creek and endangered species such as the California red-legged frog (CRLF) and California tiger salamander. The CRLF currently exist in mitigation sites on the adjacent Diocese property.

Surface Hydrology, Drainage and Water Quality

The EIR for the Reclamation Plan Amendment should evaluate potential hydrological impacts resulting from any grading, recontouring and seeding of the site. The EIR should also discuss if there are any proposed modifications to the riparian corridor or Permanente Creek. The Reclamation Plan Amendment should also take into account adequate erosion control measures and proposed grading and the potential impacts it may have to the adjacent County parkland and trails.

The Santa Clara Valley Water District (SCVWD) certified a Final EIR for the Permanente Creek Flood Protection Project in November 2010, which includes a proposed flood detention basin facility to be constructed, operated and maintained at Rancho San Antonio County Park Diocese Property as the Project's Recommended Alternative. This Permanente Creek Quarry's Reclamation Plan should evaluate future hydrological modifications that may impact the District's Permanente Creek Flood Protection Project for portions of Permanente Creek through Rancho San Antonio County Park.

Noise Impacts

The EIR for the Reclamation Plan Amendment should evaluate any potential noise impacts to the adjacent Rancho San Antonio County Park and impacts that noise from the quarry may have on park users.

Air Quality

The EIR for the Reclamation Plan Amendment should evaluate any potential air quality impacts as a result of the quarry operations and associated truck trips generated to and from the quarry on the adjacent Rancho San Antonio County Park and impacts that may occur on park users.

The County Parks and Recreation Department appreciates the opportunity to provide comments on the NOP of an EIR for the Permanente Quarry Reclamation Plan Amendment and Conditional Use Permit. We look forward to reviewing the EIR once it becomes available. If you have any questions regarding this letter, please contact me at (408) 355-2230 or by email at: <u>Kimberly.Brosseau@prk.sccgov.org</u>.

Sincerely,

Kimberly Brosseau Park Planner

cc; Jane Mark, Senior Planner

Don Rocha, Natural Resources Management Program Supervisor

From: "Debbie Pedro" <dpedro@losaltoshills.ca.gov> Date: April 11, 2011 8:46:58 AM PDT To: "Marina Rush" <marina.rush@pln.sccgov.org> Subject: RE: Lehigh Permanente Quarry- Public Comment

Hi Marina,

For the Lehigh Permanente Quarry EIR, can you please include a "view point location" in Los Altos Hills for modeling for aesthetics? I would suggest a location at or near Bill Almon's residence at 10570 Blandor Way. Residents living in the southeastern part of Los Altos Hills have a direct view of the quarry, specifically the WMSA.

If you have any questions or need further clarification, please feel free to call me at 650-947-2517. Thank you.

Debbie

Debbie Pedro, AICP, LEED AP Planning Director Town of Los Altos Hills Phone: (650) 947-2517

dpedro@losaltoshills.ca.gov

From: Marina Rush [mailto:marina.rush@pln.sccgov.org] **Sent:** Friday, March 11, 2011 8:21 AM **To:** Marina Rush **Cc:** Rob Eastwood; Gary Rudholm; mike.lopez@pln.sccgov.org Lopez; Jody Hall Esser; Lizanne Reynolds **Subject:** Lehigh Permanente Quarry- Public Meeting Notice

Good morning,

There will be a public meeting/scoping session regarding the Notice of Preparation (NOP) of an Environmental Impact Report (EIR) for the

proposed Comprehensive Reclamation Plan Amendment and Conditional Use Permit for Lehigh/Permanente Quarry. Lehigh has applied to amend the current reclamation plan, and includes an expansion area with a new mine pit.

The purpose of the meeting is to obtain comments from the public on possible environmental issues related to the proposal. County staff and our consultant will provide a short presentation on the project proposal and open the meeting to public comments. You may submit your comments either verbally or in writing. The public comment period for this NOP will close on April 11, 2011, 5:00 PM. Following the NOP comment period, the County will begin work on the environmental studies and analysis for the EIR. We anticipate the public Draft EIR will be available Fall 2011.

NOP Public Scoping Meeting:

Wednesday, March 30, 2011, 7:00-9:00 PM City of Cupertino, Quinlan Center (Cupertino Room) 10185 N. Stelling Road, Cupertino, CA 95014

Attached to this email is a summarized project description and list of environmental topics that will be addressed in the EIR. The complete project proposal can be viewed on the County's website at: <u>www.sccplanning.org</u>. If you cannot view the attachment or have questions, please contact me at (408)299-5784.

Phillip P. Pflager Anne E. Pflager 22380 Palm Ave. Cupertino, CA 95014 4/3/2011

County of Santa Clara Planning Office Attn: Marina Rush 70 West Hedding, 7th Floor East Wing San Jose, CA 95110

RE: Notice of Preparation of an Environmental Impact Report Comprehensive Reclamation Plan Amendment and Conditional Use Permit for Permnanente Quarry (State Mine ID# 91-43-004)

Dear Ms. Rush;

When the Environmental Impact Report is prepared we would like the County of Santa Clara to consider and investigate the following points:

1. The visual impact of the open pit mining operation has grown over the years. When we moved to Cupertino in the sixties the operation was not easily seen. Today the mountain removal operation is clearly visible and will be more so if the new 200 acre pit is approved.

2. Permanente Creek flows to the bay. It is important to define what is flowing from the mining operation into the creek. It is important to test the creek water above and below the mining operation to determine the level of contaminants added by the mining operation.

3. Currently the noise from the plant is minimal but when the economy improves and the new 200 acre open pit mine is in operation it is reasonable to expect an increase in noise level. We live roughly one mile from the operation and are presently disturbed by noise from the operation on nights we leave our windows open to cool the house. In the past the noise has been worse and we expect with the expanded operation it will be worse in the future.

4. We would like the mining operation to conform to current standards, not standards that were in place sixty to one-hundred years ago. Please evaluate the counties ability to enforce current standards on the operation.

a metal that and the stores. Yours truly, Vinne E Pflager Phillip P. Pflager

Phillip P. Pflager Anne E. Pflager

From: "Frank Rittiman" <its4u@comcast.net> Date: March 15, 2011 11:12:08 AM PDT To: <tbui@baaqmd.gov> Cc: <marina.rush@pln.sccgov.org> Subject: Permanente Quarry

Hi Thu and Marina;

We have lived VERY CLOSE (10405 Melissa Ct., Cupertino CA, 95014)to the quarry for 36 years.

The air quality (dust pollution)has been a major issue for us, for that whole time period. The ongoing aggravation (noise, dust, traffic) from the quarry trucks, and associated CHP activity to control them never ends.

I had a representative of the air resources board visit, based on my requests in the past, to complain about this. No resolution. He even suggested that I couldn't count the visual dust plume from Stevens Creek Blvd., especially when the sun is behind the quarry (too obvious). Even worse on weekends, when Permanante Cement seems to make things even worse.

Our air quality (dust)inside the house is very bad, let alone outside. Cars need to be washed nearly every other day-we gave up....

I have attended a couple of meetings at Cupertino City Hall, in the past. Everyone seemed to have the same issues, but after all this time, nothing has improved. In fact, it has gotten worse.....

I scanned the FAQ. Etc. Lots of discussion. Our conclusion... Follow the money.... Tax dollars trump environmental concerns.

Now it seems it's REALLY going to get WORSE....Hard to believe.

I can't tell from the map, exactly how much closer and worse this is

going to become.

Is it worth our time to attend the 3/30/2011 Meeting, or is it hopeless?...

Sincerely Frank & Joan Rittiman Its4u@comcast.net 408-257-9113

5750 ALMADEN EXPWY SAN JOSE, CA 95118-3686 TELEPHONE (408) 265-2600 FACSIMILE (408) 266-0271 www.valleywater.org an equal opportunity employer

File:

2985 Permanente Creek

April 1, 2011

Santa Clara Valley Water District 🔥

> Ms. Marina Rush County of Santa Clara Planning Office 70 West Hedding, 7th Floor, East Wing San Jose, CA 95110

Subject: Notice of Preparation - Comprehensive Reclamation Plan Amendment and Conditional Use Permit for Permanente Quarry

Dear Ms. Rush:

The Santa Clara Valley Water District is a special district with jurisdiction throughout Santa Clara County. The Water District acts as the county's groundwater management agency, principal water resources manager, flood protection agency and is the steward for its watersheds, streams and creeks, and underground aquifers.

We appreciate the opportunity to comment on the scope for the EIR for the Comprehensive Reclamation Plan Amendment and Conditional Use Permit for Permanente Quarry. This letter transmits comments that focus on the areas of interest and expertise of the Water District:

- The Draft EIR should analyze discharges to Permanente Creek from quarry operations. These discharges may impact water quality, hydrology and flood potential, and biological resources adjacent to and downstream of the quarry. The Water District is concerned about the long-term impacts to stream maintenance downstream from sediment originating on-site.
- The project should be analyzed to ensure that it is consistent with the Guidelines and Standards for Land Uses Near Streams prepared by the Santa Clara Valley Water Resources Protection Collaborative, which the County was a member of.
- The future reclamation of the site needs to include enforceable provisions with appropriate financial backing to ensure that adequate monitoring and restoration is completed after quarry operations end. Reclamation must ensure that the site does not contribute to water quality or sedimentation problems in Permanente Creek after the operator leaves.
- The Water District is in the design phase for the Permanente Creek Flood Protection Project. The project will address erosion control, maintenance, structural repair, and habitat restoration in the Permanente Creek watershed. The Water District's Board of

Ms. Marina Rush Page 2 April 1, 2011

Directors certified a Final EIR for the project on June 17, 2010. The Draft EIR for the Reclamation Plan Amendment should consider the Water District's project in the consideration of cumulative impacts.

 As part of the Permanente Creek Flood Protection Project, the Water District may consider additional options for providing flood protection in the Permanente Creek Watershed. This could include flood detention facilities in the upper watershed. We encourage the County and the project proponent to work with the Water District in providing flood benefits that are mutually beneficial.

District staff is available to meet and discuss the above areas of concern. Please provide a copy of the Draft EIR to the Water District for review when it becomes available. Please reference District File Number 2985 on further correspondence regarding this project. If you have any questions or need further information, you can reach me at (408) 265-2607, extension 3095.

Sincerely,

dad Mertic

Michael Martin Environmental Planner Community Projects Review Unit

cc: S. Tippets, C. Elias, S. Hosseini, U. Chatwani, File

2985_54010mm04-01



Loma Prieta Chapter

San Mateo Santa Clara San Benito Counties

April 7, 2011

County of Santa Clara Planning Office, Attn: Marina Rush County Government Center, 7th Floor 70 West Hedding Street, 7th Floor San Jose, California, 95110

Re: Comments on Scoping of the EIR for the Comprehensive Reclamation Plan Amendment and Conditional Use Permit for Permanente Quarry (State Mine ID # 91-43-004)

Dear Ms. Rush:

Writing on behalf of the Sierra Club's Loma Prieta Chapter's Air Quality Committee we wish to provide the following comments:

- 1. The method of supervision of Lehigh's operation must be a subject of the EIR. The subsequent items simply reflect our desire that Lehigh operate and maintain the facility in accordance with the existing environmental regulations. However, there is considerable local sentiment that the history of the current management is to delay conforming to the prevailing regulations. Since the pollution emitted depends on a wide variety of operational parameters, it is essential that Lehigh conduct themselves in a manner consistent with an acute sensitivity to the health of the community.
- 2. Air Quality. Lehigh's emissions should conform to the current NESHAP and NSPS standards (see Federal Register September 9, 2010). Since the Portland Cement Association (PCA) has filed a lawsuit challenging the U.S. Environmental Protection Agency's decision to cut toxic air pollution from cement kilns, and these regulations are critical to the safety of the population of the South Bay, we believe Lehigh must commit unequivocally to conform to the specific regulations as they stand today. Lehigh must continue to conform even if the regulations are diluted by either time delays or emission-level criteria.
- 3. Health Risk Assessment. Lehigh must be responsive to a professionally conducted Health Risk Assessment (HRA). The HRA mentioned in the recent permit renewal was, in our opinion, inadequate. In particular, a sensitivity analysis to the various input parameters for the air dispersal codes should be performed No data should be summarily disregarded, as was done in the December 6, 2010 letter to Mr. Scott Lutz of BAAQMD (see Table 1 entries for 3/26 and 3/27/2009). Additionally, and very importantly, the HRA prepared on November 2008 by the BAAQMD used an unsubstantiated analytic technique of presuming one-seventh of the chromium emitted was in the poisonous form of chromium

VI. Any future assumptions must be thoroughly justified. In the absence of a detailed, quantitative understanding, all chromium emitted should be assumed to be chromium VI.

- 4. Greenhouse Gas Emissions. In evaluating alternative fuels, the complete production cycle of the fuels must be considered. Biofuels, in particular, are often not genuinely effective reducers of greenhouse gases. The Sierra Club is resolutely opposed to the combustive use of coal products generally and we are awestruck that such usage is contemplated in what is otherwise considered to be an environmentally aware community of political and regulatory entities. From the information available to us, it appears that natural gas would be the least harmful fuel and therefore should be seriously examined in the EIR. Train transportation should also be evaluated relative to truck transportation, as train transportation is more efficient.
- 5. Air Quality Impacts to Water Quality. The facility is located next to the Stevens Creek Reservoir so that potentially air pollution could precipitate out of the exhaust gases and fall into the lake. The EIR should thoroughly examine for this possibility as well as for direct material intrusion into the reservoir.

Thank you for the opportunity to contribute to the EIR process at this early stage. Although the cement products produced by this facility are of value to the community, we believe it is essential that those products be produced in a fashion that does not cumulatively degrade our community health, nor leave it in public doubt.

Sincerely,

bray tathar

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Gary Latshaw, Ph.D. Chairman of the Air Quality Committee Loma Prieta Chapter of the Sierra Club Contact: glatshaw@gmail.com; 408-499-3006

\$3921 E. Bayshore Road *Palo Alto, California 94303
\$650-390-8411* fax 650-390-8497* www.lomaprieta.sierraclub.org

From: Ken Smyth <kend_smyth@yahoo.com> Date: April 8, 2011 12:07:13 AM PDT To: marina.rush@pln.sccgov.org Subject: Lehigh EIR Input

Hi Marina,

Thank you for the opportunity to speak at the recent public meeting in Cupertino regarding the Lehigh EIR for their request to expand their quarry operations. I am opposed to the Lehigh expansion and I'm writing you to submit my input on why and I'm submitting the enclosed presentation.

I feel the Santa Clara Board of Supervisors is naive about the dangerous toxicity of mercury and have included the following video about how mercury, a neurotoxin, that causes brain neuron degeneration, especially in humans and animals with developing fetuses, <u>http://movies.commons.ucalgary.ca/mercury/</u>

I have included this link in my presentation and wanted to make sure it was included in my submission.

Also enclosed is the University of Texas Medical Center (San Antonio) study that was conducted over several years confirming that the rate of autism increases relative to the proximity to cement kilns, quarries, and power plants.

Thank you for the opportunity to submit input on this important matter. Contact me for questions you may have. Enjoy the weekend.

Regards,

Ken Smyth Cupertino Resident SCC EIR Input_UT Mercury Std Deviations_Cupertino Schools.pdf ¬Palmer_UT_et al_Proximity to Point Sources_proofs.pdf ¬

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Keywords: Mercury; Autism; Environment; Distance; Industry

Introduction

35 Mercury is a heavy metal found naturally in trace amounts in the earth's atmosphere in differing forms-as 37 elemental vapor, reactive gaseous compounds, or particulate matter. Studies show that background levels of 39 environmental mercury deposition have steadily increased several fold since the pre-industrial era (Schuster et al., 41 2002), with the largest source of potentially adverse exposures coming primarily from coal-fired utility plants 43 (33%), municipal/medical waste incinerators (29%) and commercial/industrial boilers (18%)-estimated to be 45 responsible for 158 tons of environmental mercury released per year in the US (Environmental Protection Agency, 47 Report to Congress, 1997). Other sources include hazardous waste sites, cement factories, and chlorine production 49 plants. According to the Agency for Toxic Substances and Disease Registry (ATSDR), next to arsenic and lead, 51

> *Corresponding author. Tel.: +12108277681. E-mail address: palmerr@uthscsa.edu (R.F. Palmer).

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mercury is the third most frequently found toxic substance in waste facilities in the United States (ATSDR, 2001).

Mercury is now widespread in the environment (EPA, 1997; ATSDR, 2001). The long-range atmospheric transport of mercury (Ebinghaus et al., 2001), and its conversion to organic forms through bio-accumulation in the aquatic food chain has been known for some time (MacGregor, 1975; Mahaffey, 1999). Notwithstanding, there are emerging concerns over the potential adverse effects of ambient levels of environmental mercury during early childhood development. There is sufficient evidence that children and other developing organisms are particularly susceptible to the adverse neurological effects of mercury (Landrigan and 71 Garg, 2002; Grandjean et al., 1995; Ramirez et al., 2003; Q3 Rice and Barone, 2000). 73

Evidence from animal studies suggests that neonates lack the ability to efficiently excrete both methylmercury (Rowland et al, 1983) and inorganic mercury (Thomas Q5 and Smith, 1979), and that there is a higher lactational transfer of inorganic mercury than methylmercury (Sundberg et al., 1991a, b). Correspondingly, it has been shown that infants exposed via milk from mothers who were

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JHAP : 609

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2

R.F. Palmer et al. / Health & Place I (IIII) III-III

- accidentally poisoned by methylmercury-contaminated bread in Iraq accumulated higher mercury concentrations
 in their blood than did their mothers (Amin-Zaki et al.,
- 1988) and the Faroe Island studies show that hair mercury
 concentrations in infants increased with the duration of the nursing period (Grandjean et al., 1994). It has also been
 shown that maternal dental amalgams have been linked to
- Q6 higher body burdens in infants (Oskarsson et al., 1996).
- A 10-year longitudinal cohort monitoring study in Finland demonstrated that median hair total mercury
 concentrations increased in individuals who lived 2 km from a mercury polluting power plant compared to
 unexposed reference groups living further away (Kurttio
- et al., 1998). A study performed in China demonstrated that higher mercury concentrations are present in soil sediments and rice fields that are in close proximity to mercury emitting industrial plants and mining operations
- compared to areas that are more distant (Wang et al., 2003). A variety of similar investigations involving human,
- 2005). A variety of similar investigations involving futman, plant, and animal studies performed in different global locations consistently demonstrate that mercury concen-
- trations are inversely associated with distance to the environmental source (Ordonez et al., 2003; Fernandez et al. 2000; Hardauser et al. 2002; N
- al., 2000; Hardaway et al., 2002; Navarro et al., 1993; Z5 Kalac et al., 1991; Moore and Sutherland, 1981).
- A 2000 report by the National Academy of Sciences' National Research Council estimates that approximately 60,000 children per year may be born in the US with neurological problems due to in utero exposure to methylmercury (NAS, 2000). The neurotoxicity of lowlevel mercury exposure has only recently been documented
- (NAS, 2000; EPA, 1997) and little is known about
 persistent low-dose ambient exposures coming from
 environmental sources or its influence on childhood
 developmental disorders such as autism—a condition
 affecting impairments in social, communicative, and
 behavior development typically present before age 3 years
- manifested by abnormalities in cognitive functioning,
 learning, attention, and sensory processing (Yeargin-Q7 Allsopp et al., 2003; CDC, 2007).
- One hypothesis, which has been advanced to explain the 41 recently observed increases in autism in the US and 43 Europe, is that biological damage from neurotoxic substances such as mercury may play a causal role 45 Q8 (Bernard et al., 2002). Holmes et al. (2003) found that mercury levels in the hair of autistic children were significantly lower than non-autistic controls indicating, 47 according to the authors, that autistic children retain 49 mercury in their body due to impairments in detoxification pathways. After the administration of a heavy metal chelating agent, Bradstreet et al. (2003) demonstrated that 51 autistic children, relative to controls excreted more 53 mercury in urine than non-autistic controls. Two recent studies have shown that body burden of mercury, as indicated by increased levels of urinary porphyrins specific 55 to mercury exposure, are significantly higher in autistic

children than in non-autistic children (Nataf et al., 2006; Geier and Geier, 2006).

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While the association between autism and thimerisol (a mercury-based preservative formerly used in the childhood vaccination schedule during the 1990s) has not been scientifically established (Freed et al., 2002; Schechter and Grether, 2008), two studies have demonstrated an association with environmental sources of mercury and autism. Windham et al. (2006) demonstrated that ambient air mercury was associated with elevated autism risk in a case-control study in California, and Palmer et al. (2006) demonstrated that environmental mercury pollution was associated with point prevalence estimates of autism using EPA reported mercury release data from 254 counties in Texas. A major limitation to this study was that the crosssectional design precluded any causal inferences. In addition, exposure was inferred from total pounds of environmentally released mercury aggregated at the county level at a specific point in time. Using distance to potential exposure sources may be a more reasonable proxy for exposure than one defined by total amount contained within artificial county boundaries. Given the literature on the relevance of proximity to the source of mercury and body burden, we suspect that distance to the source of mercury exposure may actually explain, at least in part, the association between increased autism rates and environmental mercury pollution found in both the Palmer et al. (2006) and Windham et al. (2006) studies.

The objective of the current study is to determine if proximity to major sources of mercury pollution is related to autism prevalence rates.

Methods

Data source and sample

Data for environmentally released mercury were obtained from the United State Environmental Protection 95 Agency Toxics Release Inventory (TRI) (USEPA-TRI, 2006). TRI collects information about chemical releases 97 and waste management reported by major industrial facilities in the US. The TRI database was established by 99 Section 313 of the Emergency Planning and Community Right-To-Know Act of 1986 (EPCRA). Under EPCRA, 101 industrial facilities in specific sectors are required to report their environmental releases and waste management 103 practices annually to the EPA. Facilities covered by this act must disclose their releases to air, water, and land of 105 approximately 650 toxic chemicals, as well as the quantities 107 of chemicals they recycle, treat, burn, or otherwise dispose of on-site and off-site. The current analysis used the 1998 109 county pollution report that industrial facilities provided to TRI. Data for environmentally released mercury by coalfired power plants were obtained from TRI and from the 111 Texas Commission for Environmental Quality. In all, 39 coal-fired power plants and 56 industrial facilities in Texas 113 were used in the analysis.

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JHAP : 609

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R.F. Palmer et al. / Health & Place I (IIII) III-III

Measure of distance from mercury sources

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The address location of coal-fired power plants and 3 industrial facilities were entered into Arc-view V 9.0 5 Geographic Information Systems software along with polygonal shapes or boundaries of the school districts of 7 Texas. GIS was then used to assign the XY location coordinates (latitude and longitude) of each plant and facility as well as to locate the centroid or XY geographical 9 center of each school district. The amount of mercury 11 emitted by each plant and by each facility was weighted on the XY coordinate of each plant's and facility's location. 13 Using SPSS version 14 software, the distances between the XY coordinate of each source of emission and the XY coordinate of each school district centroid were calculated. 15 As a result, each school district received a distance-in-miles 17 measurement calculated separately for power plants and industrial facilities.

School district data

Administrative data from the Texas Education Agency 23 (TEA) were analyzed. In compliance with the Texas Education Code, the Public Education Information Management System (PEIMS) contains data necessary for the 25 legislature and the TEA to perform their legally authorized functions in overseeing public education. The database 27 consists of student demographic, personnel, financial, and organizational information. Data descriptions are available 29 at the TEA website http://www.tea.state.tx.us/data.html. Autism counts per school district were obtained by special 31 request from the TEA. Data were from 1040 school districts in 254 counties in Texas. Diagnoses of autistic 33 disorder are abstracted from the school records and are made by qualified special education psychologists em-35 ployed by the TEA or from psychologists or medical 37 doctors outside the TEA system. While diagnoses were not standardized, there is considerable evidence that diagnoses of autistic disorder are made with good reliability and 39 specificity in the field (Eisenmajer et al., 1996; Hill et al., 2001; Mahoney et al., 1998). Autism prevalence rates from 41

2002 were used as the outcome and 1997 rates were used as a covariate in multivariate regression models.

We have identified the key covariates from prior work
(Palmer et al., 2005, 2006), which were used in this study to adjust for potential confounding. Urbanicity and School District Resources have been demonstrated to be important covariates as they relate to greater identification of autism
spectrum disorders. We also include a measure of ethnicity (percent white in school district).

Urbanicity

Eight separate demographically defined school district regions were used in the analysis as defined by the TEA:
major urban districts and other central cities (1) major suburban districts and other central city suburbs (2) nonmetropolitan and rural school districts (5).

In the current analysis, dummy variables were included in the analysis coding urban (dummy variable 1, and suburban (dummy variable2), contrasted with non-metro and rural districts which were the referent group. Details and specific definitions of urbanicity categories can be obtained at the TEA website http://www.tea.state.tx.us/ data.html.

Racial composition was accounted for by the proportion of White children enrolled in schools within each district.

Total number of students reflects all enrolled students in the districts 2002 school year and was used as the denominator in calculating autism rates.

District population wealth was calculated as the district's total taxable property value in 1998 as determined by the Comptroller's Property Tax Division (CPTD), divided by the total number of students in the district in 1998. Property value was determined by the CPTD as part of its annual study, which attempts to present uniformly appraised property valuations statewide. The CPTD value is calculated by applying ratios created from uniform independent appraisals to the district's assessed valuations.

Statistical methods

District autism data in 2002 were treated as event counts and used as the outcome in a Poisson regression model 83 predicted by pounds of environmental mercury release 1998, distance to sources of the release, and the relevant 85 covariates. Total number of students enrolled in each district for 2002 defined the rates for each district. An over 87 dispersion correction was applied due to the mean and variance not being equal. Due to the hierarchical structure 89 of the data (e.g. districts nested within counties), the Poisson model was fit using MlWin multilevel modeling 91 software (Rasbash et al., 1999) to obtain unbiased standard 010 errors. Polynomials were added to the model to determine 93 if a non-linear association was present between pounds of mercury, distance and autism rates. Regression coefficients 95 of the models are reported as incident rate ratios by exponentiating the Poisson model coefficients. 97

Modeling strategy

Pounds of mercury release were first entered into the 101 model followed by polynomial functions to access nonlinear associations with autism rates. Next, distance was 103 entered into the model to determine if it decreased the effect of *pounds*. Finally all covariates were entered: 105 baseline autism rates in 1997, urbanicity, racial composition, proportion of economically disadvantaged students, and 107 district population wealth. Note that mercury release data from 1998 are used to predict autism rates in 2002; it is 109 plausible to postulate that releases during 1998 would have exposure potential for a cohort who was in utero in 1997. If 111 an effect was present, this would be reflected in the 2002 school district records-the age (5 years old) this cohort 113 would be entering the system.

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R.F. Palmer et al. / Health & Place (())

Results

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3 Table 1 shows the descriptive statistics of the study variables. Note that there is considerable variation in each 5 variable. Table 2 shows the Poisson regression coefficients and the corresponding Incident Risk Ratio (IRR) for the 7 models exploring the linear and non-linear association between 1998 mercury release from industrial sources, 9 distance, and 2002 autism rates. Model 1a shows that environmentally released mercury in 1998 is significantly 11 associated with autism rates in 2002. We multiplied the coefficient by 1000 to reflect increases in autism rates per 13 1000 pounds. The coefficient yields an IRR of 1.026,

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Table 1

17 Descriptive statistics of study variables

indicating that for every 1000 pounds of release in 1998, there is a corresponding 2.6% increase in 2002 autism rates. In model 1b, the squared term for pounds was entered into the model. Note that the linear coefficient is no longer significant and the polynomial term is. This indicates that the association between industrial sources of mercury release is non-linear-e.g. for every 1000 pounds there is an associated 1.1% accelerated risk. Adding distance to the equation in model 1c shows that for every 10 miles away from the source there is a decreased autism Incident Risk of 1.4%. Adding non-linear terms for distance (distance squared and the square root of distance) (not depicted) was not significant and therefore not utilized

	Mean or percent	Standard deviation	Range
edictor variables			
tal number pounds of mercury per year for power plants	12251b	946	8-2516
tal number pounds of mercury per year for industrial facilities	15261b	1909	3-6685
nimum distance to industrial facilities	39.7 miles	29.3	0.34-170.4
nimum distance to power plants	71.7 miles	53.2	0.74-305.8
levant demographic covariates			
lue of taxable property	\$265,148	\$328,631	0-\$3,481,369
rcent urban	4%	_	-
rcent suburban	15%	_	-
rcent White	61.5%	_	0-100%
oportion autism 1997 (rate per 1000)	0.85	2.1	0-26.3
tcome variable			
oportion autism 2002 (rate per 1000)	2.0	3.2	0-39.5
	edictor variables tal number pounds of mercury per year for power plants tal number pounds of mercury per year for industrial facilities nimum distance to industrial facilities nimum distance to power plants <i>levant demographic covariates</i> lue of taxable property rcent urban rcent suburban rcent Suburban rcent White oportion autism 1997 (rate per 1000) <i>utcome variable</i> oportion autism 2002 (rate per 1000)	edictor variables tal number pounds of mercury per year for power plants 12251b tal number pounds of mercury per year for industrial facilities 15261b nimum distance to industrial facilities 39.7 miles nimum distance to power plants 71.7 miles <i>levant demographic covariates</i> 15265,148 lue of taxable property \$265,148 rcent urban 4% rcent suburban 15% rcent White 61.5% oportion autism 1997 (rate per 1000) 0.85 <i>utcome variable</i> 2.0	edictor variables12251b946tal number pounds of mercury per year for power plants12251b946tal number pounds of mercury per year for industrial facilities15261b1909nimum distance to industrial facilities39.7 miles29.3nimum distance to power plants71.7 miles53.2 <i>levant demographic covariates</i> 15265,148\$328,631ue of taxable property\$265,148\$328,631rcent urban4%-rcent suburban15%-rcent White61.5%-oportion autism 1997 (rate per 1000)0.852.1 <i>utcome variable</i> 2.03.2

Table 2

01 2002 Autism rates as a function of industrial release of mercury

	Model 1: 2002 autism rates as function of 1998 pounds of mercury emission from industrial sources	Amount of Hg (per 1000 lb)	Amount of Hg (per 10001b) ²	Distance to industrial sources per 10 miles	1997 autism rates	District Wealth (per \$100,000)	Urban vs. rural	Suburban vs. rural	Percent White
Q2	Model 1a Regression coefficient (standard error) Incident Risk Ratio	.026(.010)* 1.026	_	_	_		_	_	
	Model 1b	1.020							
	Regression coefficient (standard error)	007 (.014) ^{ns}	.018(.006)**	_	_	_	_	_	_
	Incident Risk Ratio	-	1.018	-	_	-	_	-	-
	Model 1c								
	Regression coefficient (standard error) Incident Risk Ratio	.021 (.015) ^{ns}	.02(.006)** 1.020	014 (.006)* 0.986	_	_	_	_	_
	<i>Model 1d</i> Regression coefficient (standard error)	.003 (.011) ^{ns}	.018 (.005)**	02 (.008)*	.16 (.01)***	.047 (.01)**	.29 (.04)***	.33 (.04)***	.004 (.001)**
	Incident Risk Ratio	_	1.018	.980	1.170	1.048	1.33	1.39	1.004

Note: Second column reflects the amount of mercury squared, the non-linear polynomial term.

p*<.05. *p*<.01.

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*****p*<.001.

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55 57	51 53	49	47	45	43	39 41	37	35	33	31	27	25	23	21	17 19	15	13	11	7 9	5	3	1
Table 3 2002 Autism 1	ates as a	functio	in of pov	ver plan	ıt release	e of mercur	ŕ															
Model 2: 2002 pounds of mer sources	autism ra cury emis:	ites as fi sion fro	unction o m power	f 1998 plant	Ч <u>Ч</u>	ounds of H _{ er 1000	g Nor (Por	1-linear te unds of F 0) ²	irm Ig per	Distanc industri per 10	e to al sources niles	1997 rate	7 autism s	SI & D	strict ealth (per 00,000)	U E	ban vs. al	S E	ıburban vs. ıral	Pero	ent White	n
<i>Model 2a</i> Regression coe Incident Risk 1	fficient (st tatio	tandard	error)		0.1	37 (.018)* .037	I I			I I		I I				I I				I I		I
<i>Model 2b</i> Regression coe Incident Risk 1	fficient (st Xatio	tandard	error)		0	44 (.020)* .044	.050	(.030) ^{ns}		1 1		1 1								1 1		
<i>Model 2c</i> Regression coe Incident Risk l	fficient (st tatio	tandard	error)		0.	17 (.022) ^{ns}	1.1			0.) 111. 989.	40)*	1 1		1 1		1 1		1 1		1 1		
<i>Model 2d</i> Regression coe Incident Risk J	fficient (st Łatio	tandard	error)		0.	03 (.011) ^{ns}	-1 1			.014 (.0 .986	45)*	.161	$(.01)^{***}$ 0	.0	45 (.01)**)56	.29 1.3	0 (.04)**: 3	* . :.	30 (.04)*** 39	.005	(.001)** 5	
Note: Second * $p < .05$. ** $p < .01$. ** $p < .01$.	column r	effects 1	the amou	int of m	ercury :	squared, th	e non-lin	ear polyı	nomial t	erm.												1

AP:609

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R.F. Palmer et al. / Health & Place (())

in other models. Model 1d is the fully adjusted model 59 depicting that the positive non-linear term for pounds, and the inverse association for distance, remain independently associated with 2002 autism rates after adjustment for 1997 61 autism rates, urbanicity, racial composition, and district wealth. Urbanicity and 1997 autism rates demonstrate to 63 be the strongest predictors of 2002 autism rates in the final model. 65

Table 3 shows the Poisson regression coefficients and the corresponding IRR for the models exploring the linear and 67 non-linear association between 1998 mercury release from power plant sources, distance to these sources, and 2002 69 autism rates.

Model 2a shows that environmentally released mercury 71 from power plants in 1998 is significantly associated with autism rates in 2002. For every 1000 pounds of release 73 there is a corresponding 3.7% increase in autism rates. In model 2b, the squared term for pounds was entered into the 75 model and was not significant and therefore, not used in the subsequent models. Adding distance to the equation in 77 model 2c shows that for every 10 miles away from the source, there is a significant 1% decrease in the autism 79 Incident Risk. A 20-mile distance would yield a 2.2% decreased risk. Adding non-linear distance terms (distance 81 squared and the square root of distance) (not depicted) was not significant and therefore not utilized in the next model. 83 Most importantly however, in model 2c, the coefficient for pounds is no longer significant. This suggests that the direct 85 effect between pounds of release in 1998 and 2002 autism rates are fully explained by distance to the source of 87 release. The fully adjusted model 2d shows that this effect 89 remains independent after adjustment for the covariates.

Discussion

These results build upon two prior studies demonstrating 93 an association between environmental mercury release and autism rates (Palmer et al., 2006; Windham et al., 2006). 95 The current study shows that environmental mercury in 1998 is associated with autism rates in 2002 after adjusting 97 for other relevant sociodemographic covariates including autism rates in 1997. This is consistent with the prior 99 reports. The novel findings in this study are that distance to the sources of mercury release was independently related to 101 autism rates. In the separate analysis of power plant emissions, distance to the source fully explained the 103 association between total pounds of mercury release and autism rates. 105

We also found that the association between releases from industrial rather than power plant sources was non-107 linear—e.g. increases in pounds from industrial sites were 109 associated with an accelerated risk function. This difference in the shapes of the exposure-response curve for industrial release (exponential increase) versus release from power 111 plants (linear) might be explained by the fact that pollution from industrial sources are relatively more localized and 113 not as far spreading as pollution from power plants. It is

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R.F. Palmer et al. / Health & Place \blacksquare (\blacksquare) \blacksquare

1 reasonably to suspect that greater local release could cause exponential effects as compared to more widely distributed releases 3

On the other hand, the non-linear functions for distance 5 were not significantly related to the outcome. It is plausible to suspect that exposure mediated by distance from the 7 source depends more on other factors such as characteristics of the physical environment and predominant wind

9 or rain patterns rather than simply distance alone. Exposure from power plants can potentially span thou-11 sands of miles and modeling the kinds of factors that affect

exposure over time would require data that are not readily 13 available. Notwithstanding, the results demonstrate an overall inverse association between distance to the source

15 of release and subsequent autism rates. While these effects are relatively small, they are significant and demonstrate 17 potential public health risks.

Although a major limitation to this study is that we cannot verify exposure at the individual level, a host of 19 other plant, animal and human studies have demonstrated

that distance to sources of environmental mercury ex-21 posure are related to increased body burdens of mercury

23 (Ordonez et al., 2003; Fernandez et al., 2000; Hardaway et al., 2002; Navarro et al., 1993; Kalac et al., 1991; Moore

and Sutherland, 1981). However, the effects of duration 25 and dose amounts of environmental exposures are not 27 currently known-and we do not know that body burden of mercury is in fact related to the potential exposure measures used in these analyses. 29

Mercury is a known immune modulator (Moszczynski,

31 1997). These effects include the production of autoanti-Q11 bodies to myelin basic protein (El-Fawal et al., 1999) and effects on the ratio of Th1/Th2 immunity factors (Kroemer 33 et al., 1996). This is consistent with the literature demonstrating similar types of altered immune function 35

in autistic children (Singh et al., 1997; Singh and Rivas,

37012 2004; Krause et al., 2002; Cohly and Panja, 2005; Vojdani et al., 2003). However, unlike the specific vector known 39 about exposure through fish consumption, very little is

- known about exposure routes from seemingly randomly 41 distributed ambient exposures in the environment-particularly in air.
- Even if ambient air, ground exposure routes, and low-43 level toxic thresholds can be identified by researchers,

45 differential genetic susceptibilities in the ability to metabolize heavy metals and other pollutants would still need to

47013 be considered in future research (Herbert et al., 2006). While inconclusive to date, the existing studies warrant the

- 49 need for further investigation on environmental mercury pollution and the developmental health of children.
- There are some important limitations to this manuscript 51 that should be addressed. First, these data do not reflect
- 53 the true community prevalence rates of autism, largely because children who are not of school age are not counted
- in the TEA data system. This is reflected in the $\frac{1}{500}$ autism 55 rates for 2002 present in Table 1-which are lower than the current CDC reports of $\frac{1}{150}$ (CDC, 2007). 57

Further, individual risk cannot be inferred from 59 population-based ecological studies such as this. Further, conclusions about exposure are limited, because distance was not calculated from individual homes to the pollution 61 source, but from school district centroids of varying sizes. Rural school districts are usually larger in size than urban 63 school districts and are one good reason to include urbanicty as covariates in these models. 65

This study should be viewed as hypothesis generating—a first step in examining the potential role of environmental 67 mercury and childhood developmental disorders. Nothing is known about specific exposure routes, dosage, timing, 69 and individual susceptibility. We suspect that persistent low-dose exposures to various environmental toxicants, 71 including mercury, that occur during critical windows of neural development among genetically susceptible children 73 (with a diminished capacity for metabolizing accumulated toxicants) may increase the risk for developmental 75 disorders such as autism. Successfully identifying the specific combination of environmental exposures and genetic susceptibilities can inform the development of targeted prevention intervention strategies. 70

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Santa Clara County EIR Input

No Expansion of Lehigh Mining Operations due to Excessive Toxic Emissions

Ken Smyth Cupertino Resident



West Valley Citizens Air Watch (WVCAW)

Lehigh should not be granted expansion of mining operations because:

- Excessive release of dozens of toxins to the region
 - Lehigh facility is the #1 polluter in the Bay Area
- Levels are mercury are especially high: 500+ lbs in 2010
 - Mercury is the #2 most toxic element on earth
- Mercury is a neurotoxin and causes brain neuron degeneration. View this video,

http://movies.commons.ucalgary.ca/mercury

Quarry No

- The Santa Clara County Supervisors are naïve about mercury and need to be educated on this highly toxic material

• Medical Center study correlates the rate of autism to the proximity of cement kilns and quarries.



Study Links the Autism Risk to the proximity of Mercury emitting sources

October 2, 2006 January 15, 2008 (revised)

University of Texas (UT) Health Science Center San Antonio

Dr. Raymond Palmer, Dr. Steve Blanchard, and Robert Wood

> UT Study Mercury & Autism



40,000 children diagnosed in 2009

12/09 – CDC confirms autism rate is 1-in-91 children; 1-in-57 for boys

1% of children in US are now diagnosed with autism

The costs for special education and adult services for autism is becoming an increasingly serious cost burden to local, state, and federal budgets.



Sources of data used in the study

Data for environmentally released mercury were from the "United States Environmental Protection Agency Toxics Release Inventory." Data for releases by coal-fired power plants came from the same inventory and from the Texas Commission for Environmental Quality.

Data for school district autism rates came from the Texas Education Agency • Mercury-release data examined were from 95 facilities in Texas 39 coal-fired power plants, and 56 industrial facilities)

Quarry No

- Autism rates examined were from 1,040 Texas school districts.
- For every 1,000 pounds of mercury released by all industrial sources in Texas into the environment in 1998, there was a corresponding 2.6 percent increase in autism rates in the Texas school districts in 2002.
- For every 1,000 pounds of mercury released by Texas power plants in 1998, there was a corresponding 3.7 percent increase in autism rates in Texas school districts in 2002.
- Autism prevalence diminished 1% to 2% for every 10 miles from the source.
- Mercury exposure through fish consumption is well documented, but very little is known about exposure routes through air and ground water.
- There is evidence that children and other developing organisms are more susceptible to neurobiological effects of mercury.



Mercury Estimates – Std. Deviations WVCAW

Quarry No



Quarry No

After review of University of Texas Medical Center and the direct negative health impact on communities across the state, the Texas State legislature reduced the number of future coal-burning power plants to be built in the state from 15 to 3. "We suspect low-dose exposures to various environmental toxicants, including mercury, that occur during critical windows of neural development among genetically susceptible children may increase the risk for developmental disorders such as autism"

- Dr. Robert Palmer

Quarry No

University of Texas, Medical Center, San Antonio

"...mercury ends up in cord blood, enters the placenta and into a developing fetus. A future study of blood samples in areas where conception occurred (down the street level) would be helpful in determining a hypothesis of high levels of ambient mercury in a region could be linked to genetic susceptibilities being triggered. Thus, there are potential consequences living in such an area, especially for pregnant women."

Dr. Steve Blanchard (UT research team member)



The U.S. Environmental Protection Agency (EPA) estimated environmental mercury releases at 158 million tons annually nationwide in the late 1990s

According to the Centers for Disease Control and Prevention, eight percent (8%) of American women of childbearing age have mercury in their bodies at levels high enough to put their babies at risk of birth defects, loss of IQ, learning disabilities and developmental problems.





Autism Trend in Cupertino



WVCAW

Autism Rate in Cupertino - 2008 WVCAW

Students with Autism: 2008

Quarry No

Region Rate per 1.000 Ranges 0 - 2 Serie Clars Councy 0.6 Region Enterper 1.000 Aum Rock Union Elementary 6.8 Dempione Union Elementary 6.8 Campbell Union Elementary 11.8 Campbell Union Elementary 5.6 Campbell Union Elementary 5.6 Campbell Union Elementary 5.6 Description Union Elementary 5.6 Campbell Union Elementary 5.6 Description Union Elementary 5.6 Campbell Union High 5.6 Everyward Elementary 12.3 Franktich-Matchowy 7.9	
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Mipitas Unified 5.4	
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Mt. Pleasant Elementary 10.6	
Oak Gross Hernentary 8.4	

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Orchard Elementary	15.7	
Palo Alto Unified	9.3	
San Jose Unified	7.4	
Santa Clara Unified	9.6	
Saratoga Union Elementary	12.1	
Sunnyvale Elementary	12.9	
Union Elementary	11.3	

Definition: Number of public school students with autism who are enrolled in special education per 1,000 students. District level data show district of residence; that is, the district in which students live. Some students with disabilities attend school outside their district of residence.

Data Source: State of California Department of Education, DataQuest. <u>http://data1.cde.ca.gov</u> /<u>dataquest/</u> Retrieved 10/01/08.

Footnote: Years presented are the final year of a school year, e.g., 2006-2007 is shown as 2007. NE (Low Number Event) means that the number of cases was less than 10, too small to calculate a rate.

Orchard Elementary ranks #1
 Cupertino Union ranks #2

 (almost double the autism rate of Santa Clara County

Source: State of California Dept of Education



Autism Rate

WVCAW



The latest figures on autism show the average rate is nearly one in 150, higher than previously thought.

Prevalence of developmental disorders among 8-year-old children, per 1,000

Montol rotordation

Rate is now 1-in-91 For children and 1-in-57 for boys!!

- 7.

Mental retaruation	
	12.0
Autism	
6.6	NOTE:
Cerebral palsy	Figures from
3.1	a 2000 study in Atlanta
Hearing loss	except autism
1.2	rate, which is
Vision impairment	study in 14
1.2	states
SOURCE: Centers for Dise Control and Prevention	ase AP

Mercury Estimates – Std. Deviations

Quarry No

WVCAW





1 – Steven Creek 2 - Lincoln 3 – Kennedy 4 - Regnart 5 – Monte Vista 6 – Cupertino Middle 7 –
Homestead High 8 - Garden Gate 9 – Faria – 10 – Nimitz 11 – Stocklmeir 12 - Lawson 13 – Eaton 14
– Meyerholz 15 - Blue Hills 16 – Collins 17 Sedgwich 18 – Hyde 19 – Dilworth 20 – Miller 21 - Muir 22 – McAuliffee 23 – Eisenhower 24 – De Vargas 25 – Murdock Portal 26 – Cupertino High





Stevens Creek Elementary
School District: Cupertino UnionCLEATODAYNational Rank: 28th percentile35,316 of 127,809 schools have worse airExposure to cancer-causing toxics: Ranked 4 of 10Note: Rankings are based on modeled concentrations and severity of chemicals
known or believed to cause cancer.

Exposure to other toxic chemicals: Ranked 3 of 10

Quarry No

Note: Rankings are based on modeled concentrations of chemicals that cause health problems other than cancer.

Chemicals most responsible for the toxicity outside this school

Hydrochloric acid **43%** of overall toxicity Mercury and mercury compounds **37%** of overall toxicity Nickel and nickel compounds **12%** of overall toxicity Chromium and chromium compounds **4%** of overall toxicity Manganese and manganese compounds **1%** of overall toxicity **Polluters most responsible for toxics outside this school** Lehigh CementCupertino, California United States Pipe & Foundry Co LlcUnion City, California WVCAW



1st grade Special Needs classroom

- 8-12 students
- 1 teacher
- 3 aides

• 1-2 additional specialists (speech, physical therapist, etc.) attend class weekly for 1 or more students for an hour or more

4th grade mainstream (normal) classroom

- 32 students
- 1 teacher

Autism is a <u>brain development disorder</u> characterized by impaired <u>social interaction</u> and <u>communication</u>, and by restricted and repetitive behavior, and difficulties with play and leisure activities. These signs all begin before a child is three years old.[1] Autism involves many parts of the <u>brain</u>; how this occurs is not well understood.[2] Autism is one of five disorders diagnosed under a group of developmental disorders called "Autism Spectrum Disorders" (ASD's). The other ASD's are Asperger Syndrome, Rett Syndrome, childhood disintegrative disorder, and Pervasive developmental disorder not otherwise specified (PDD-NOS).

Quarry No

Autism has a strong genetic basis, although the <u>genetics of</u> <u>autism</u> are complex and it is unclear whether ASD is explained more by rare <u>mutations</u>, or by rare combinations of common genetic variants.[3]



Cement Kilns in US – 127

WVCAW

Lehigh has13 cement kilns in the US = 10.2% of the capacity

http://maps.google.com/maps/ms?hl=en&ie=UTF8&msa=0&msid=100120143528261920895.00044f685a5cea97 39225&ll=36.597889,-95.449219&spn=29.173596,56.051945&source=embed





Lehigh has 13 cement kilns in US or 10.2%

http://maps.google.com/maps/ms?hl=en&ie=UTF8&msa=0&msid=100120143528261920895.00044f685a5cea97 39225&ll=36.597889.-95.449219&spn=29.173596.56.051945&source=embed

Location	Lbs of Mercury 2010	Comments
Tehachapi, CA		1748 (was #1 in 2008)
Union Bridge, MD		1539 in 2008
Evansville, PA		
Glen Falls, NY		
Leeds, AL		
Mitchell, IN		
Redding, CA		
York, PA		
Waco, TX		
Cupertino, CA	500+	
Catskill, NY		
Blandon, PA		
Buda, TX		



No expansion plans recommended for Lehigh

• Toxic emission releases to the community, especially mercury, are causing numerous health problems and the rate of autism increase is linked to cement kiln and quarry operations based on University of Texas multi-year research

• Lehigh should provide regional materials requirements from their other California facilities to provide raw materials for the Bay Area supply chain.

 47% of the US cement materials is imported from China; import a small amount more to offset the Lehigh output.

- US produces only 3% of the cement production worldwide. Lehigh output is minuscule

From: Paula Wallis <wallis.notoxicair@gmail.com> Date: April 11, 2011 3:20:38 PM PDT To: Marina Rush <Marina.Rush@pln.sccgov.org> Subject: Lehigh scoping for EIR

Hi Marina,

I would like the EIR on Lehigh's permit for a new quarry to include information on whether Lehigh will be able to conduct mining operations in both the current and the new pit mine at the same time. So in essence, will they be allowed to increase the number of earth movers and blasting etc., to quarry in both the current pit, until it's exhausted, and also the new pit mine, if its approved? If so, can you please assess the increased impact to the community in the EIR.

I understand the the cement plant determines the quarry production rates, but can the quarry stock pile raw limestone, and if so, where, and how much can it stock pile and will this aspect of their operation be included in the EIR. I would like it to be if it is not already.

Thank you. Paula Wallis 650 722 0644 Barbara West 10670 Cordova Road Cupertino, CA 95014 WestB@me.com March 30, 2011

Via First Class Mail and email

Marina Rush, Planner III Rob Eastwood, Senior Planner County of Santa Clara Department of Planning and Development Planning Office County Government Center, East Wing, 7th Floor 70 West Hedding Street San Jose, California 95110

Re: Comments on the Notice of Preparation (NOP) of an Environmental Impact Report (EIR) for the proposed Comprehensive Reclamation Plan Amendment and Conditional Use Permit for Lehigh/Permanente Quarry

Dear Ms. Rush and Mr. Eastwood:

Simply Stated: Expanded mining and related activities should not increase fugitive dust, toxics, or noise currently experienced in adjacent neighborhoods.

Specifically Stated: In accordance with the California Environmental Quality Act (CEQA), comments on the subject NOP/EIR are submitted below for your consideration before the 11 April 2011 deadline.

<u>AIR QUALITY</u> (This Is A Comment On The Permanente Quarry Expansion, <u>Not</u> On The Cement Plant)

The top soil and overburden mining waste to be stored at various new project locations is not benign. This material has been exposed to decades of numerous contaminants (including arsenic and hexavalent chromium) from the nearby cement manufacturing facility and these contaminants accumulate in soil over time. Further, mercury and other contaminants are a naturally occurring part of the mined ore and overburden.

This top soil and overburden mining waste should not be the source of wind-driven toxic fugitive dust contaminating nearby residential neighborhoods.

The Bay Area Air Quality Management District (BAAQMD) is recording ambient toxic air contaminants and particulates in a nearby neighborhood park (Monta Vista Park, Cupertino). See project description at: <u>http://www.baaqmd.gov/Divisions/Technical-Services/Special-Projects/</u> Cupertino.aspx. See an example of the type of data collected at: <u>http://www.baaqmd.gov/sitecore-s/~/</u> <u>media/Files/Technical%20Services/Cupertino_toxics.ashx</u> See PM 2.5 collected in Cupertino by BAAQMD at: <u>http://gate1.baaqmd.gov/aqmet/aq.aspx</u>. Data collected by the BAAQMD in Cupertino and at Monta Vista Park should be used as the baseline measurement for air quality pre-quarry expansion.

Potential increases in toxic air contaminants and particulates from the expanded quarry operations beyond the baseline recorded by the BAAQMD should be considered a significant impact, and reasonable mitigation measures such as daily wetting of the disturbed area during the dry months to prevent fugitive dust followed by yearly hydro-seeding with nitrogen-fixing legumes or other suitable plants should be required mitigation measures.

<u>NOISE AND VIBRATION</u> (This Is A Comment On The Permanente Quarry Expansion, <u>Not</u> On The Cement Plant)

Santa Clara County residents that are near the proposed expanded quarry live mainly in quiet rural neighborhoods. In fact, the lack of noise was, in many cases, a reason for selecting our current locations.

Expanded quarry and mining operations should not be permitted to exceed the Santa Clara County General Plan Noise Ordinance Standards based on careful characterization of pre-quarry expansion ambient noise.

More specifically, since the Santa Clara County General Plan and Noise Ordinance Standards for maximum permissible exterior sound levels by receiving land can be based on the maximum ambient noise level at the receiving land (see General Plan, Sec. B11-192 (1)(c)), ambient noise should be characterized before quarry operations are expanded and for all the times provided in Table B11-192 and in all neighborhoods and streets near the proposed expanded quarry operations.

The EIR should evaluate noise and vibration impacts from the proposed mining and reclamation activities. Any potential noise impacts in excess of the the County Noise Ordinance Standards (using the pre-expansion ambient noise) should be considered significant impacts and be mitigated.

The above comments are made after considerable review, and with the intent of providing specific, helpful, and realistic comments with respect to the NOP/EIR

Respectfully submitted,

Barbara West On Behalf Of West Cupertino Residents

cc (via email): Sandra James

Public Relations and Community Affairs Manager Lehigh Southwest Cement/Permanente Quarry 24001 Stevens Creek Boulevard Cupertino, CA 95014-5659

From: Ken Yew <ken_yew@yahoo.com> Date: April 11, 2011 10:55:46 AM PDT To: marina.rush@pln.sccgov.org Subject: Comments for Lehigh Permanente Quarry Scoping

Dear Ms. Rush:

Thank you for the opportunity to comment on the Lehigh Permanente Quarry Reclamation Plan Amendment.

Please add the following for view shed analysis -Hyannisport and Bubb Stevens Creek just East of Janice (at top of small incline) Voss Ave, just West of Foothill Stevens Creek near Cupertino Post Office Stevens Creek at intersection with Stelling

Also include the cement plan in the reclamation plan amendment as it meets the definition of "Mined Lands" according to SMARA.

Please do noise analysis of trucks braking at intersection of Stevens Creek and Foothill. The noise in the middle of the night in intolerable and must stop. What are the health dangers of this noise and noise from the trucks operating in the quarry? What effects are there on loss of productivity? Please include an assessment in the draft EIR.

Do an analysis of dust fallout. There has been an increase in dust in the neighborhood recently. It is unclear if it is from the increased use of East Material Storage Area or other factors. Based on document reviews from Santa Clara County and BAAQMD neighbors have been complaining for decades without any real response from regulating authorities, yet it continues and even worsens. Attached is a picture of an orange picked off of a tree from my yard, it did not fall on the ground or any other dirty surface. It is covered in dust that is difficult to wash of, especially the little pits of the orange skin. This dust covers our cars, homes and also enters our lungs. Why have the regulating authorities ignored this for so long? Why is the dust situation getting worse? Include an analysis of the dust, especially for hazardous materials such as asbestos.

Please include an analysis of the health benefits of not allowing this quarry to expand into more mercury laden limestone. Include the health benefits of no

cement plant in the "no project" option. Include decreases in autism, cancer, respiratory function, cardiac function, etc and corresponding decreases in economic damages and death that occur with the "no project"option. Complete a detailed analysis of the decreased exposure to particulate matter, heavy metals, benzene and other carcinogens. Include a separate evaluation of the health dangers of allowing so many trucks to pass on roads with sensitive receptors (Sunnyview Retirement and Monarch Christian Preschool) and highly densely populated areas in general and also include economic damages from loss of life, decreased productivity and associated health care costs.

Include all the raw data and calculations in the Draft EIR and post it online so that concerned citizens and other groups have easy access to review them. There have been many "errors" in these calculations in the past that always seem in favor of Lehigh and documents have sometimes been difficult to access via public record requests.

Include economic and health damages of not being able to consume fish in Steven Creek Reservoir and San Francisco Bay due to mercury and other pollutants.

Evaluate the improvement/ no loss of value for the real estate in the area for the "no project" option. Look at the benefits of increased tourism/recreation that would occur if the "no project" option is selected.

Do a detailed traffic analysis of Stevens Creek and Foothill Ave. as there are many traffic jams, especially during the early morning rush hours.

Sincerely,

Karen Del Compare and Ken Yew

10136 Camino Vista Dr Cupertino, CA 95014 (Please do not post my address online)



Chris Vongsarath Editor Cupertino Courier-Sunnyvale Sun

1095 The Alameda San Jose, CA 95126 408.200.1039

LETTER RE: LEHIGH CEMENT PLANT CUPERTINO RINTED IN COURIER 2-18-2011

-----Original Message-----From: HARRELL BELL [mailto:halsbels@pacbell.net] Sent: Thursday, February 10, 2011 1:55 AM To: Vongsarath, Chris Cc: Thu Bui Subject: Lehigh Permanente Cement Plant & Quarry

How can Lehigh Permanente Plant and Quarry have had a "long history of elevated mercury emissions" as stated by two members of NoToxicAir when mercury has not been recognized as a toxic pollutant for all that long?

I'm also not inclined to put much faith in their claim of 24 BAAQMD violations in four years with 11 still pending when a Courier article dated September 23, 2009 stated that Lehigh had no ongoing violations or pattern of violations according to District officials.

My husband and I moved to Cupertino in 1959 when Lehigh was Kaiser Permanente Cement Plant. We have always been in favor of allowing it to continue as it has since 1939 when there were very few residents living here. Over the years, as people intermittently complained about dust, gravel, trucks and trains associated with production of cement, we have often wondered why city fathers allowed housing to be built close to the plant. Even more have we wondered why people failed to check out the environment before buying homes there. It reminds one of those who buy near airports and then complain about the noise.

Current complaints about the plant started with ostensible concern about the effect mercury emissions might have on schoolchildren, but it turns out that only one school in all of Northern California is in the supposed "danger zone". It has been monitored constantly for air pollution and has been essentially cleared. Furthermore, mercury emissions from cement plants account for only about 3.2% of the worldwide amount. We are all no doubt in greater danger from broken fluorescent light bulbs that we are urged to use in our homes than from mercury in the air.

Rowena Bell 21361 Columbus Avenue Cupertino, California 408 253-0620

Rowena Bell

DEPARTMENT OF TRANSPORTATION

P.O. BOX 23660 OAKLAND, CA 94623-0660 PHONE (510) 622-5491 FAX (510) 286-5559 TTY 711

May 20, 2011



Flex your power! Be energy efficient!

SCL-280-11.45 SCL280357 SCH2010042063

Ms. Marina Rush County of Santa Clara 70 West Hedding Street 7th Floor, East Wing San Jose, CA 95110

Dear Ms. Rush:

Comprehensive Reclamation Plan Amendment and Conditional Use Permit for Permanente Quarry – Notice of Preparation (NOP)

Thank you for including the California Department of Transportation (Department) in the environmental review process for the proposed project. We have reviewed the NOP and have the following comments to offer.

As lead agency, the County of Santa Clara is responsible for all project mitigation, including any needed improvements to state highways. The project's fair share contribution, financing, scheduling, implementation responsibilities and lead agency monitoring should be fully discussed for all proposed mitigation measures. The project's traffic mitigation fees should be specifically identified in the environmental document. Any required roadway improvements should be completed prior to issuance of project occupancy permits. While an encroachment permit is only required when the project involves work in the State Right of Way (ROW), the Department will not issue an encroachment permit until our concerns are adequately addressed. Therefore, we strongly recommend that the lead agency ensure resolution of the Department's California Environmental Quality Act (CEQA) concerns prior to submittal of the encroachment permit application. Further comments will be provided during the encroachment permit process if required; see the end of this letter for more information regarding the encroachment permit process.

While the County of Santa Clara conducts its traffic studies in accordance with guidelines, which conform to the <u>local</u> Congestion Management Program managed by the Santa Clara County Valley Transportation Authority, the Department's thresholds are primarily concerned with potential impacts to the State Highway System. We encourage the County of Santa Clara to coordinate preparation of the study with our office to help sharpen the focus of your scope of work and answer any questions you may have. Please see the Departments' "*Guide for the Preparation of Traffic Impact Studies*" at the following website for more information:

http://www.dot.ca.gov/hq/traffops/developserv/operationalsystems/reports/tisguide.pdf

348 ·

Specifically, a detailed Traffic Impact Analysis (TIA) should identify impacts to all affected state facilities with and without the proposed project. The TIA should include, but not be limited to the following:

"Caltrans improves mobility across California"

Ms. Marina Rush/County of Santa Clara May 20, 2011 Page 2

- 1. Information on the project's traffic impacts in terms of trip generation, distribution, and assignment. The assumptions and methodologies used in compiling this information should be addressed.
- 2. Average Daily Traffic (ADT), AM and PM peak hour volumes on all significantly affected streets and highways, including crossroads and controlling intersections.
- 3. Schematic illustration of the traffic conditions for: 1) existing, 2) existing plus project, and 3) cumulative for the intersections in the project area.
- 4. Calculation of cumulative traffic volumes should consider all traffic-generating developments, both existing and future, that would affect the State Highway facilities being evaluated.
- 5. Mitigation measures should consider highway and non-highway improvements and services. Special attention should be given to the development of alternate solutions to circulation problems that do not rely on increased highway construction.
- 6. All mitigation measures proposed should be fully discussed, including financing, scheduling, implementation responsibilities, and lead agency monitoring.
- 7. Impacts to transit systems, pedestrians and bicyclists. Please develop and apply pedestrian bicycling and transit performance or quality of service measures and model pedestrian, bicycle and transit trips that your project will generate so that impacts and mitigation can be quantified. In addition, analyze secondary impacts on pedestrians and bicyclists that may result from any traffic impact mitigation measures. Describe any pedestrian and bicycle mitigation measures and safety countermeasures that would therefore be needed as a means of maintaining and improving access to transit facilities and reducing vehicle trips and traffic impacts on state highways.

We look forward to reviewing the TIA, *including* Technical Appendices and the environmental document for this project. Please send two copies to:

Brian Brandert Office of Transit and Community Planning Department of Transportation, District 4 P.O. Box 23660 Oakland, CA 94623-0660 Ms. Marina Rush/County of Santa Clara May 20, 2011 Page 3

Encroachment Permit

Work that encroaches onto the State ROW requires an encroachment permit that is issued by the Department. To apply, a completed encroachment permit application, environmental documentation, and five (5) sets of plans clearly indicating State ROW must be submitted to the address below. Traffic-related mitigation measures should be incorporated into the construction plans during the encroachment permit process.

Office of Permits California DOT, District 4 P.O. Box 23660 Oakland, CA 94623-0660

See the website link below for more information. http://www.dot.ca.gov/hq/traffops/developserv/permits/

Should you have any questions regarding this letter, please contact my staff member Brian Brandert, Transportation Planner, at (510) 286-5505 or brian brandert@dot.ca.gov.

Sincerely,

(orborn hoa

LISA CARBONI District Branch Chief Local Development – Intergovernmental Review

c: Scott Morgan (State Clearinghouse)


May 23, 2011

Marina Rush County of Santa Clara Planning Office 70 West Hedding, 7th Floor San Jose, CA 95110

RE: Environmental Impact Report for the Comprehensive Reclamation Plan Amendment and Conditional Use Permit for Permanente Quarry

Dear Ms. Rush,

No Toxic Air believes that the California Environmental Quality Act (CEQA) and CEQA guidelines require Santa Clara County to consider the following issues within the Environmental Impact Report (EIR) for the Comprehensive Reclamation Plan Amendment and Conditional Use Permit for Permanente Quarry (the Permanente Quarry expansion project):

1. A quantitative assessment of air quality impacts caused by industrial uses of quarry materials, including air pollutant emissions from the Lehigh Southwest Cement Plant

Section 15126.2 of the CEQA Guidelines state:

"An EIR shall identify and focus on the significant environmental effects of the proposed project. In assessing the impact of a proposed project on the environment, the lead agency should normally limit its examination to changes in the existing physical conditions in the affected area as they exist at the time the notice of preparation is published, or where no notice of preparation is published, at the time environmental analysis is commenced. Direct and <u>indirect significant effects of the project on the environment shall be clearly identified and described</u>, giving due consideration to both the short-term and long-term effects."

Section 15358 of the CEQA Guidelines further state:

"(a) Effects include:

(2) <u>Indirect or secondary effects which are caused by the project and are later in time or farther removed in distance, but are still reasonably foreseeable</u>. Indirect or secondary



effects may include growth-inducing effects and other effects related to induced changes in the pattern of land use, population density, or growth rate, and related effects on air and water and other natural systems, including ecosystems."

Section 15064(d) of the CEQA Guidelines further clarifies:

"(d) In evaluating the significance of the environmental effect of a project, <u>the lead</u> <u>agency shall consider</u> direct physical changes in the environment which may be caused by the project and <u>reasonably foreseeable indirect physical changes in the environment</u> which may be caused by the project.

(2) <u>An indirect physical change in the environment is a physical change in the environment which is not immediately related to the project, but which is caused indirectly by the project.</u> If a direct physical change in the environment in turn causes another change in the environment, then the other change is an indirect physical change in the environment. For example, the construction of a new sewage treatment plant may facilitate population growth in the service area due to the increase in sewage treatment capacity and may lead to an increase in air pollution."

Air quality impacts caused by industrial uses of quarry materials, including air pollutant emissions from the Lehigh Southwest Cement Plant, are clearly "indirect impacts" of the proposed Permanente Quarry expansion project that the CEQA guidelines will require Santa Clara to assess within the EIR for the project. These air quality impacts are not only "reasonably foreseeable indirect physical changes in the environment which may be caused by the project," these impacts will result because of the <u>intended design</u> of the project to supply limestone for the Lehigh Southwest Cement Plant.

Failure of Santa Clara County to assess the air quality impacts caused by industrial uses of quarry materials, including air pollutant emissions from the Lehigh Southwest Cement Plant will prevent a required comparison of the proposed project to the 'no project' alternative.

Section 15126.6(e) of the CEQA Guidelines states:

(e) "No project" alternative.

(1) The specific alternative of "no project" shall also be evaluated along with its impact. The purpose of describing and analyzing a no project alternative is to allow decision makers to compare the impacts of approving the proposed project with the impacts of not approving the proposed project.



It is reasonably foreseeable that under the no project alternative, operations at the Lehigh Southwest Cement Plant will cease because of the lack of an affordable supply of raw materials. Under this reasonably foreseeable scenario, air pollutant emissions from the Lehigh Southwest Cement Plant cease and air quality in the vicinity of the plant will improve, including air quality in the City of Cupertino. An assessment of the no project alternative will therefore include the extent to which air quality would improve if operations at the Lehigh Southwest Cement Plant cease, an indirect impact of the no project alternative. If Santa Clara County does not assess the air quality impacts caused by industrial uses of quarry materials, including air pollutant emissions from the Lehigh Southwest Cement Plant, then this would deprive decision-makers, including citizens of Cupertino and adjoining communities of Santa Clara County, of essential information decision-makers need" to compare the impacts of approving the proposed project with the impacts of not approving the proposed project."

Indirect impacts of the project on air quality is also required because of the relatively uncommon proximity of the Lehigh Southwest Cement Plant to a densely-populated residential area.

The Notice that Santa Clara County issued on March 10, 2011 states:

"The EIR will not evaluate emissions related to existing plant operations."

For the reasons elaborated above, if this means that the EIR will not assess the air quality impacts caused by industrial uses of quarry materials, including air pollutant emissions from the Lehigh Southwest Cement Plant, then the EIR will be in violation of CEQA and CEQA Guidelines and, therefore, the EIR would not be a permissible basis for clearance of the proposed project.

2. A quantitative assessment of the mercury content of the limestone that would be excavated from the proposed South Quarry and other possible locations where the applicant may obtain raw materials and aggregates

Section 15125(a) of the CEQA Guidelines states:

"<u>An EIR must include a description of the physical environmental conditions in the</u> <u>vicinity of the project</u>, as they exist at the time the notice of preparation is published, or if no notice of preparation is published, at the time environmental analysis is commenced, from both a local and regional perspective. This environmental setting will normally constitute the baseline physical conditions by which a lead agency determines whether an



impact is significant. The description of the environmental setting shall be no longer than is necessary to an understanding of the significant effects of the proposed project and its alternatives."

Mercury is a toxic air contaminant. The amount of mercury emissions from a cement plant depend entirely on the mercury content of the raw materials it uses, of which limestone is the dominant raw material. The mercury content of the limestone the applicant is currently extracting from the North Quarry has some of the highest mercury content in the nation -0.36 parts per million (ppm). In a 30-day survey conducted in March-April of 2009, the mercury content of limestone at the existing quarry was highly variable, with some samples containing mercury at a level of 1.4 ppm.

In September 2010, the U.S. Environmental Protection Agency (U.S. EPA) adopted new National Emission Standards for Hazardous Air Pollutants (NESHAP) that will require existing cement plants, such as the Lehigh Southwest Cement Plant to reduce mercury emissions to no more than 55 pounds of mercury per million tons of clinker produced. U.S. EPA (September 9, 2010) "National Emission Standards for Hazardous Air Pollutants from the Portland Cement Manufacturing Industry and Standards of Performance for Portland Cement Plants," 75 FR 54970. At the rate at which Lehigh Southwest Cement Plant uses limestone, it will be required to remove at least 94% of mercury emissions in order to comply with the new U.S. EPA NESHAP for cement plants. This will require operators of the cement plant to employ multiple control measures for capturing mercury, as no one technology alone, including activated carbon injection, removes more than 90% of mercury emissions. Ibid. No combination of control technologies is capable of removing more than 98% of mercury emissions. Ibid.

Because of the heterogeneous and variable nature of the occurrence of mercury in limestone, it is reasonably foreseeable that the mercury content of limestone from the proposed South Quarry may be even higher than the mercury content of limestone from the North Quarry. If this were the case, then it might render the limestone unusable as a raw material for the production of cement because no combination of control technologies is capable of removing more than 98% of mercury emissions, and the operators of the Lehigh Southwest Cement Plant would be unable to use such limestone and comply with the U.S. EPA NESHAP for cement plants.

A quantitative assessment of the mercury content of the limestone that would be excavated from the new quarry areas is needed as part of the EIR to understand the significant effects of the proposed project and its alternatives. If it is found that the mercury content of the limestone from the proposed South Quarry is too high, then operators of the Lehigh Southwest Cement



Plant may not use limestone from this source. If this fact is discovered before the Permanente Quarry expansion project commences, then the applicant may choose to abandon the project and the adverse environmental impacts of the proposed project might be avoided. If this fact is discovered <u>after</u> the Permanente Quarry expansion project commences, then the applicant may choose to abandon the project, but too late to avoid the adverse environmental impacts of the proposed project.

3. An assessment of the alternative of sourcing raw materials for the Lehigh Southwest Cement Plant more sustainably by using ash, demolished concrete, and other cementitious materials

Section 21002 of CEQA states:

"The Legislature finds and declares that it is the policy of the state that <u>public agencies</u> <u>should not approve projects as proposed if there are feasible alternatives</u> or feasible mitigation measures available <u>which would substantially lessen the significant</u> <u>environmental effects of such projects</u>, and that the procedures required by this division are intended to assist public agencies in systematically identifying both the significant effects of proposed projects and the feasible alternatives or feasible mitigation measures which will avoid or substantially lessen such significant effects."

Section 15126.6(a) of the CEQA Guidelines states:

"(a) Alternatives to the Proposed Project. <u>An EIR shall describe a range of reasonable</u> alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives."

The applicant's stated basic objective of the project is to supply raw material, chiefly limestone, for the continued operation of the Lehigh Southwest Cement Plant because the supply of such materials in the existing North Quarry is nearly exhausted.

Because of the unsustainability of relying on local supplies of limestone for cement plants, and because of the inherent greenhouse gas emissions associated with the calcination of limestone, increasing attention is turning to the use of alternative materials. A recent publication of a scientist from the University of Wisconsin-Milwaukee states:



"Concrete is one of the most widely used construction materials in the world. However, the production of Portland cement, an essential constituent of concrete, leads to the release of significant amounts of CO2, a greenhouse gas (GHG); production of one ton of Portland cement produces about one ton of CO2 and other GHGs. The environmental issues associated with GHGs, in addition to natural resources issues, will play a leading role in the sustainable development of the cement and concrete industry during this century. For example, as the supply of good-quality limestone to produce cement decreases, producing adequate amounts of Portland cement for construction will become more difficult. There is a possibility that when there is no more good-quality limestone in, say, a geographical region, and thus no Portland cement, all the employment associated with the concrete industry, as well as new construction projects, will be terminated. Because of limited natural resources, concern over GHGs, or, both, cement production is being curtailed, or at least cannot be increased to keep up with the population increase, in some regions of the world. It is therefore necessary to look for sustainable solutions for future concrete construction. A sustainable concrete structure is constructed to ensure that the total environmental impact during its life cycle, including its use, will be minimal. Sustainable concrete should have a very low inherent energy requirement, be produced with little waste, be made from some of the most plentiful resources on earth, produce durable structures, have a very high thermal mass, and be made with recycled materials. Sustainable constructions have a small impact on the environment. They use "green" materials, which have low energy costs, high durability, low maintenance requirements, and contain a large proportion of recycled or recyclable materials. Green materials also use less energy and resources and can lead to highperformance cements and concrete. Concrete must keep evolving to satisfy the increasing demands of all its users. Designing for sustainability means accounting for the short-term and long-term environmental consequences in the design." Naik, T.R. (2008) Sustainability of Concrete Construction," Practice Periodical on Structural Design and Construction, Vol. 13, No. 2, May 2008, pp. 98-103.

A recent publication of a scientist from the Columbia University states:

"The concrete industry is known to leave an enormous environmental footprint on Planet Earth. First, there are the sheer volumes of material needed to produce the billions of tons of concrete worldwide each year. Then there are the CO2 emissions caused during the production of Portland cement. Together with the energy requirements, water consumption and generation of construction and demolition waste, these factors



contribute to the general appearance that concrete is not particularly environmentally friendly or compatible with the demands of sustainable development.

"This paper summarizes recent developments to improve the situation. Foremost is the increasing use of cementitious materials that can serve as partial substitutes for Portland cement, in particular those materials that are by-products of industrial processes, such as fly ash and ground granulated blast furnace slag. But also the substitution of various recycled materials for aggregate has made significant progress worldwide, thereby reducing the need to quarry virgin aggregates. The most important ones among these are recycled concrete aggregate, post-consumer glass, scrap tires, plastics, and by-products of the paper and other industries." Meyer, C. (2009) "The greening of the concrete industry," Cement and Concrete Composites, 31(8):601-605.

Materials that the applicant has submitted to Santa Clara County assume that quarrying virgin aggregates is the <u>only</u> alternative available to supply raw material, chiefly limestone, for the continued operation of the Lehigh Southwest Cement Plan. Clearly, this assumption is erroneous. Therefore, the EIR for the proposed project must also assess the alternative of sourcing raw materials for the Lehigh Southwest Cement Plant more sustainably by using ash, demolished concrete, and other cementitious materials.

4. In assessing impacts of the proposed action on water quality, the EIR must evaluate a scenario under which the applicant continuous to discharge wastewater to Permanente Creek in violation of the Clean Water Act

Section 15144 of the CEQA regulations state:

"Drafting an EIR or preparing a Negative Declaration necessarily involves some degree of forecasting. While foreseeing the unforeseeable is not possible, an agency must use its best efforts to find out and disclose all that it reasonably can."

On February 10, 2010, the U.S. EPA conducted an industrial storm water inspection of the quarry that the applicant wishes to expand. The inspection recorded numerous violations by the applicant resulting in adverse water quality impacts to Permanente Creek and included these photos of the applicant's impact on water quality in Permanente Creek:





Photograph 18 – Close-up view of pollutant-laden discharge to Permanente Creek from Pond 17.



Photograph 19 – View downstream along Permanente Creek.



In a letter dated February 18, 2011, the California Regional Water Quality Control Board reviewed the applicant's discharge of polluted water:

"Lehigh's substantial and ongoing non-storm water discharges are unpermitted and prohibited by the Industrial Storm Water General Permit.

"Lehigh is in violation of the Industrial Storm Water General Permit Effluent Limitation 3 due to inadequate erosion and sediment controls."

These violations demonstrate that the applicant has forfeited the presumption that in the future it will comply with the Clean Water Act. Considering the applicant's "substantial" and "ongoing" unpermitted and prohibited discharges that have impacted water quality in Permanente Creek, Santa Clara County must take into account that the applicant might operate the Permanente Quarry expansion project in a manner comparable to its existing quarry operations. Therefore, the EIR must quantitatively predict how water quality in Permanente Creek might change as a result of the Permanente Quarry expansion project under two scenarios: 1) operation of the proposed project in compliance with the Clean Water Act; and 2) operation of the project in no better compliance with the Clean Water Act than how the applicant managed its existing quarry operations in 2010.

Sincerely,

Barry Chang, Chair No Toxic Air, Inc.

Hi Marina

Thanks for following up with me and me not getting around to comment. I am actually in the gold country with 4 th graders and not only learning about the old rush but also the serious consequences if all the mercury that was used and the impact it is still having on the environment locally but as far away as the bay area.

Being impacted today by activity 160 years ago it is mind boggling that the county it even still considering to allow Lehigh to expand allowing them to continue spewing nasty chemicals into the air and having them monitor how much they are polluting our air, water, environment, animals and humans

Knowing that there are serious water quality violations I am wondering what it would take to have the county district attorney look how it is possible to look at enforcing these water quality violations and probable air quality violations. I'm wondering just how much mercury LeHigh could spew into our air before the County would take some action. Is that limit 500 lbs a year or more for our community? Should I as a mother be concerned about my children breathing this air? There are longterm health consequences to the decisions County staff and our Board of Supervisors are making that are not properly understood. We know these chemicals are bad and should apply some level of reasonable to protect our community .

Secondly, as a citizen and parent living in Cupertino I am very concerned with the fact that the county doesn't seem to represent me and my neighbors interests in providing a safe environment for us to live in. It rather seems that personal interest and relationships are being honored and maintained on behalf of unsafe, unhealthy and for the future really bad decisions that will impact our area and environment for a really long time. I am sure the county officials are aware of these relationships and the impact they have on the county's residents.

I would like to know how the county is judging that the data the agencies measuring the impact of Lehigh's pollution is based??? I would like to suggest that an independent agency be contacted to do some research as to the severity of the environmental impact.

The amount and efforts put in place and spent on this case from the county and other agencies should hopefully soon be put to an end. It doesn't seem from any of the publicly available research on mercury that all this work and research should at all take place. Why do we have to pretend that there is a good reason for them to do business when it is so clear that what they do is not legal, it is dangerous and has ever lasting damaging impact on our environment. Common sense is enough to make a decision to completely stop what they are doing until there are no impact to the environment and for them not to be allowed to expand. Looking forward to some serious right decisions from the county to take place in the near future.

Best regards,

Mette Christensen

Cell 408 348 3637

Planning Commission:

I want to voice my support of the expansion of the Lehigh Facility west of Cupertino. As a civil engineer, I am well aware of the rising cost of construction materials. Curtailing the operations of the Lehigh Plant will only increase the cost of construction in the Bay Area and stall the recovery of an ailing economy. I am also a 33 year resident of Cupertino and I am frustrated by people who bought houses near the plant with full knowledge that the plant was there and now complain about it. Before it was the noise and dust, now it is toxic air. You have to wonder why they Hi bought or built a house where there was a cement plant if they are so concerned about the noise, dust and air. Attached is a letter to the Cupertino Courier in response to comments from a group representing NoToxicAir.com. This group as well as others who want to stop the Lehigh Plant from operating refer to studies that have been selected for their bias and misuse of the scientific method. If you look into these studies. you will find that their assumptions are based on

extraordinary circumstances that have no basis in fact. Like so much of the environmental movement these days, their study is based on the improper use of the statistical method, improper modeling and erroneous

interpretation of the data.

Respectfully submitted Mark Fantozzi Cupertino, CA

----- End of Forwarded Message

NoToxicAir.com is a website with an agenda. Curtail or stop the operation of any industry that uses fossil fuels or produces refined products from fossil fuels through draconian regulation. NoToxicAir refers to studies that have been selected for their bias and misuse of the scientific method. Sinks and Wallis site a study by Windham and Palmer about the incidence of autism with respect to hazardous air pollutants and they go so far as to say that for each 1000 pounds of mercury released there is a significant increase in special education services and autism. We have not seen that here or anywhere in Santa Clara County even though the plant has been in operation since 1939. What is the basis of their study, how did they come to these conclusions? If you look into the report, you will find that their assumptions are based on extraordinary circumstances that have no basis in fact. Like so much of the environmental movement these days, their study is based on the improper use of the statistical method, improper modeling and erroneous interpretation of the data. For an unbiased report on mercury in the environment, visit: *www.junkscience.com/feb05/MercuryinPerspectiveReport.pdf*

The EPA has proposed rules that would require the Lehigh Southwest Cement plant in Cupertino to cut mercury emissions by up to 93% from current levels. The rules and regulations governing emission standards for cement plants and similar industries are wrought with errors which make it difficult if not impossible to comply. An example of the abuses of regulatory authority, people should refer to *www.killcarb.org*. The 100 pounds per year emissions level is a number based on improper modeling of mercury emissions. Many of the existing programs for modeling mercury emissions make worst case assumptions regarding the form of the mercury as it is emitted as well as the transformation path that the mercury takes once it is released to the environment. It is therefore critical that any modeling take into account the actual molecular form and valence state of any mercury that is emitted and make realistic assumptions regarding transformation of mercury emitted to the environment.

As we have seen with the global warming (now called climate change) and the banning of DDT, the environmental movement demonstrates a defined bias and a concerted effort to block any scrutiny of their data or analysis methods. There was no statistical correlation between the use of DDT and bird deaths or any other claims made by Rachael Carson. Go to *www.junkscience.com* and search DDT in their archives and you will find numerous studies, by highly reputable scientists, that debunk the DDT claim but did not get the attention they deserved. The UN estimates that over 1 million children have died from malaria as a result of the ban. If environmentalism is so concerned about the children, why didn't they secure a suitable alternative to DDT before an outright ban? Also remember that these are the same people that are making it necessary to replace all of the incandescent light bulbs in your home with CFL light bulbs despite the fact that the each CFL bulb contains enough mercury to contaminate 6000 gallons of water. If you break a CFL, it releases 300 times the EPA limit of mercury vapor. With CFL's, the average home will contain more mercury than you will ever be exposed to from the Lehigh Cement Plant in your lifetime.

Mark Fantozzi 33 year resident of Cupertino

From: "Rhoda Fry " <fryhouse@earthlink.net> Date: May 23, 2011 11:38:24 AM PDT To: <marina.rush@pln.sccgov.org> Subject: Request for inclusion in EIR scoping

Dear Marina -

Over the years, your office has received many comments regarding Lehigh Southwest and I hope you will use them as inspiration for EIR scoping. There were a number that came in during the vested rights process.

Here is one from 2007 from the State of California Attorney General's office which is equally applicable today (it is enclosed as an attachment as well): <u>http://ag.ca.gov/globalwarming/pdf/comments_Hanson_Quarry.pdf</u>

As others have pointed out, under CEQA, the quarry cannot be looked at as an independent project. In addition to examining the adjacent cement plant, the effects on the adjacent aggregate facility must be taken into account as well.

There should also be a comprehensive history of land use because this project proposed as significant change in land-use. The EIR should include a comprehensive list of historical structures, their content, removal, and associated impacts.

I was fascinated by the vested rights hearing process, where vested rights were granted to a parcel that for 50+ years had been used for manufacturing by a different company even though as far as I could tell, any mining rights had actually been abandoned. Anyway, what I learned is that there were a number of products manufactured on the hill that involved toxic materials – in fact the county fined the operator and the EPA did an extensive study of the property as did the department of environmental health etc...

There were many structures on the property above and below ground, some still stand many don't. We need to understand the history of these structures and how the change of use will affect them. Although the county did show demolition permits for some of these structures, there was no record online of final inspection – this worries me. We need to understand the inspection history on these and others on the property. Net net a complete audit of current and past structures on the entire property must be conducted.

Regards,

Rhoda Fry, Cupertino comments_Hanson_Quarry.pdf ¬

State of California DEPARTMENT OF JUSTICE



1515 CLAY STREET, 20TH FLOOR P.O. BOX 70550 OAKLAND, CA 94612-0550

Public: 510-622-2100 Telephone: 510-622-2145 Facsimile: 510-622-2270 E-Mail: sandra.goldberg@doj.ca.gov

November 20, 2007

By Electronic Mail and Telecopy

Mark J. Connolly County of Santa Clara Planning Office 70 West Hedding St., 7th Floor, East Wing San Jose, CA 95110

RE: Hanson Quarry Reclamation Plan -- File Number: 2250-13-66-07P-07EIR

Dear Mr. Connolly:

The Attorney General submits these comments on the Notice of Preparation of an environmental impact report ("EIR") for the Hanson Permanente Reclamation Plan Amendment ("the project"). Although the deadline for filing comments on the Notice of Preparation has passed, we request that you consider these comments in preparing the draft EIR.

The Hanson Quarry, located west of the City of Cupertino, consists of a limestone mine and cement plant, including a 250 foot cement kiln heated primarily with coal. The current Reclamation Plan for the Hanson Quarry was approved in 1985 and will expire in March 2010. The proposed project would expand the 330-acre area covered by the 1985 Reclamation Plan, to authorize 917 acres of mining and reclamation activity and extend operations for 25 years, until 2035. The project would authorize about 30 acres of new mining area, plus additional buffer areas, and reclamation of already disturbed areas that extend beyond the areas covered in the 1985 Plan.

The Notice of Preparation identifies the primary environmental issues that the EIR will address, but greenhouse gas ("GHG") emissions and/or impacts on climate change are not included. The effect of this project would be to authorize cement mining and manufacturing that has significant emissions of carbon dioxide, the leading GHG, for another 25 years. Therefore, California Environmental Quality Act requires the County to evaluate and mitigate the GHG emissions and climate change impacts from the project.

Climate Change Background

Emissions of GHG on the Earth's surface accumulate in the atmosphere: the increased atmospheric concentration of these same gases in turn adversely affects the climate.^{1/} The

^{1. (}Intergovernmental Panel on Climate Change, Fourth Assessment Report (IPCC 4th) (2007), Working Group (WG) I, Frequently Asked Question 2.1, *How do Human Activities Contribute to Climate Change and How do They Compare with Natural Influences?*

atmospheric concentration of carbon dioxide (CO₂), the leading GHG, is now 379 parts per million (ppm), higher than any time in the preceding 650,000 years.^{2/} According to some experts, an atmospheric concentration of CO₂ "exceeding 450 ppm is almost surely dangerous" because of the climate changes it will effect, "and the ceiling may be even lower."^{3/}

Currently, atmospheric GHG concentrations are far from stable. "The recent rate of change is dramatic and unprecedented[.]"^{4/} Over just the last 17 years, atmospheric concentrations of CO₂ have risen 30 ppm, a rate of change that, in pre-industrial times, would have taken 1,000 years.^{5/} Experts are clear that if we continue our "business as usual" emissions trend, atmospheric concentrations of CO₂ will likely exceed 650 ppm by the end of the century.^{6/}

In short, our past and current GHG emissions have pushed us to a climatic "tipping point." If we continue our business-as-usual emissions trajectory, dangerous climate change will become unavoidable. According to NASA's James Hansen, proceeding at the emissions rate of the past decade will result in "disastrous effects, including increasingly rapid sea level rise, increased frequency of droughts and floods, and increased stress on wildlife and plants due to rapidly shifting climate zones."^{T/} And, the experts tell us, we have less than a decade to take decisive action.^{8/}

The need to make substantial cuts in emissions drives the global targets embodied in the Kyoto Protocol and the State's targets established by the Governor 's Executive Order S-3-05, and AB 32, the CA Global Warming Solution Act of 2006. In California, by these authorities,

2. (IPCC 4th, WG I, Frequently Asked Question 7.1, *Are the Increases in Atmospheric Carbon Dioxide and Other Greenhouse Gases During the Industrial Era Caused by Human Activities?* <u>http://ipcc-wg1.ucar.edu/wg1/Report/AR4WG1_Pub_FAQs.pdf</u>.)</u>

3. (http://www.nasa.gov/centers/goddard/news/topstory/2007/danger_point.html.)

4. (IPCC 4th, WG I, Frequently Asked Question 7.1, *Are the Increases in Atmospheric Carbon Dioxide and Other Greenhouse Gases During the Industrial Era Caused by Human Activities*? <u>http://ipcc-wg1.ucar.edu/wg1/Report/AR4WG1_Pub_FAQs.pdf</u>.)</u>

5. (*Id.*)

6. (http://www.epa.gov/climatechange/science/futureac.html.)

7. (<u>http://www.giss.nasa.gov/research/news/20070530/;</u> see also *Hansen et al., Dangerous Human-Made Interference with Climate* (2007) 7 Atmos. Chem. Phys. 2287–2312 <u>http://pubs.giss.nasa.gov/docs/2007/2007_Hansen_etal_1.pdf</u>.)

8. (*Id.*) For further discussion of dangerous climate change, see IPCC 4th, WG III, Ch. 1 at pp. 6-7 <u>http://www.mnp.nl/ipcc/pages_media/FAR4docs/chapters/CH1_Introduction.pdf</u>.

http://ipcc-wg1.ucar.edu/wg1/Report/AR4WG1_Pub_FAQs.pdf.)

we are committed to reducing emissions to 1990 levels by 2020, and 80% below 1990 levels by 2050. To achieve the 2020 target, California must reduce its current emissions by 25%.^{9/}

CEQA Requirements

Project Impacts and Potential Mitigation Measures

The Hanson Quarry is one of 11 cement facilities in California. California produces approximately 11.4 million tons of cement per year, out of 101 tons produced in the entire United States. These 11 cement facilities use large amounts of energy, including 2.3 million tons of coal per year.^{15/} This accounts for most of the coal used in all industrial and commercial

10. See Pub. Res. Code section 21083.05, subd. (a); see also Sen. Rules Com., Off. of Sen. Floor Analyses, Analysis of Sen. Bill No. 97 (2007-2008 Reg. Sess.) Aug. 22, 2007.

11. Public Resources Code § 21002.

12. Public Resources Code §§ 21002.1(b) and 21081; see also, *Mountain Lion Foundation v. Fish and Game Commission*, 16 Cal.4th 105, 134 (1997).

13. Citizens of Goleta Valley v. Board of Supervisors of Santa Barbara County (1990) 52 Cal.3d 553, 564-65.

14. Public Resources Code § 21002.1(a); Cal. Code Regs., tit. 14, § 15130, subd. (b)(5).

15. Draft Expanded List of Early Action Measures to Reduce GHG Emissions in CA Recommended For Board Consideration, Cal/EPA, Air Resources Board, October 2007, at C-27.

^{9. (}Office of the Governor, *Gov. Schwarzenegger Signs Landmark Legislation to Reduce Greenhouse Gas Emissions*, Press Release (Sept. 27, 2006) http://gov.ca.gov/index.php?/press-release/4111/.)

operations in California, which is approximately 2.6 million tons (2004 data).^{16/} Coal is a highcarbon intensity fuel, emitting over 210 pounds of CO2 per million Btu compared to only 117 pounds of CO2 per million Btu for natural gas. The Air Board estimates that the total CO2 equivalent emissions from cement manufacturing in California are 10.8 million metric tons per year. (See fn. 15).

According to the Bay Area Air Quality Management District ("BAAQMD"), the Hanson Quarry emitted 1,115,075 metric tons CO2 equivalent in 2002. Approximately 60% of this is attributed to direct emissions from the manufacturing process (the "calcination" process that transforms limestone into clinker), and about 40% is from burning fuel (primarily coal). A third, but smaller, source of GHG emissions from the facility is electricity use. Thus, it is clear that the project will result in significant future GHG emissions.

Increasing the energy efficiency of cement facilities is recognized as a potential way to reduce GHG emissions in California. It is one of the proposed "early actions" for climate change mitigation that the Air Board is evaluating pursuant to AB 32. (See fn. 15 at p.16). The strategy involves "reducing CO2 emissions from fuel combustion, calcination, and electricity use by converting to a low-carbon fuel-based production, decreasing fuel consumption, and improving energy efficiency practices and technologies in cement production." (Id.) The Air Board does not plan to consider this measure formally until the 4th quarter of 2010. (Id. at C-27). However, there are feasible opportunities to reduce energy use and carbon emissions from cement manufacturing that can be implemented now; therefore, this is an appropriate mitigation measure to evaluate in the EIR.

Using biofuels as a supplemental fuel for the cement kiln is a potential way to reduce GHG emissions. A BAAQMD report on large stationary sources lists biofuel combustion for cement manufacturing on a "prioritized short list of mitigation technologies" that provide a favorable reduction to cost relative ratio.^{17/} A cement facility in Redding (Shasta County) owned by Lehigh Southwest Cement Company ("Lehigh") recently began using sawdust as a supplemental fuel.^{18/} This should significantly reduce the facility's use of coal and therefore reduce its GHG emissions. (We are informed that the same company, Lehigh, recently purchased the Hanson Quarry). In addition, the BAAQMD indicates that the Hanson Quarry is evaluating the use of solid biofuels, such as nut shells, as a supplemental fuel. (See fn. 17, at p. 6-3). Other types of wood waste (from orchards or construction, for example) and sewage

^{16.} Inventory of California GHG Emissions and Sinks: 1990 to 2004 (CEC, December 2006) and information provided by Webster Tasat, California Energy Commission.

^{17.} See "Opportunities for Further Greenhouse Gas Emission Reductions for the BAAQMD Stationary Sources" Final Report (March 2007) prepared for the Bay Area Air Quality Management District, Table 4-2.

^{18.} Shasta County Air Quality Management District issued an "Authority to Construct, Secondary/Supplemental Fuel System; Approval of Medium Density Fiberboard Sawdust as Auxiliary Fuel" on 5/16/06 and revised Permit to Operate (#85-PO-14) on 9/27/07.

sludge are other potential biofuels. A facility is under construction in Rialto, California to convert sewage sludge into fuel for cement kilns.^{19/} Increasing the use of natural gas as a fuel would also reduce carbon emissions. (See fn. 15 at C-28).

Other mitigation measures that could be evaluated include the feasibility of co-generation (which is currently used at one California cement plant); to identify and remedy any areas of heat loss from the kiln; to evaluate, maintain and repair the kiln seals; and to identify opportunities to reduce electricity use. The Cemex facility in Victorville, California completed an Energy Savings Assessment in May 2007 through a DOE program and identified feasible, cost-effective actions to reduce its electricity use of 5.2 million kWh/year by 1.9 million kWh/year.^{20/} An audit could be conducted of the Hanson facility prior to issuance of the draft EIR to identify any opportunities to reduce energy use and heat loss, and the identified actions could be evaluated in the EIR and adopted as mitigation measures if they are feasible. The EIR could also evaluate reducing the project's emissions of GHG (and criteria pollutants as well) from vehicle trips by using alternative fuel vehicles and/or vehicles with lower emitting engines and other measures.

Accordingly, it appears there may be several feasible mitigation measures that the County could evaluate and adopt in the EIR for the Hanson Quarry project. In addition, offsite mitigation may be an appropriate measure to address the facility's remaining climate change impacts. We urge the County, in this EIR and Reclamation Plan Amendment, to take the opportunity to show leadership in the state's efforts to avoid catastrophic climate change.

Thank you for your consideration of these comments. We would appreciate the opportunity to meet with you to discuss these issues, at your convenience.

Sincerely,

S/

SANDRA GOLDBERG Deputy Attorney General

For EDMUND G. BROWN JR. Attorney General

cc: Supervisor Liz Kniss

^{19.} See "EnerTech and HDR Begin Construction of the First Full-Scale SlurryCarb Facility in Rialto, CA (4/19/07) at http://www.californiagreensolutions.com/cgibin/gt/tpl.h,content=343

^{20.} ESA-021-2 CEMEX Inc. - Victorville Facility, Final Public Report, available at: www.eere.energy.gov/industry/saveenergynow/partners/pdfs/esa-021-2.pdf

From: Frank Geefay <fgeefay@yahoo.com> Date: May 23, 2011 4:01:11 PM PDT To: Marina Rush <marina.rush@pln.sccgov.org> Cc: Frank Geefay <fgeefay@yahoo.com> Subject: Public Comments for EIR & Use Permit for Lehigh Cement's Proposed Mine

It occurs to me that the primary objection to the new 210 acre open pit mine is its unsightly visibility to the general public. To this I add my objection. The present quarry has largely been hidden behind ridges of foothills for over 70 years, only slightly visible to a few nearby residents and to those hiking some of the nearby ridge trails. Lehigh Permanente Cement and Quarry's current proposal for a new open pit mine will make the upper southern exposure of the mine (about one third) clearly visible to residents and visitors of the Cupertino-Saratoga area because it is higher than the ridgelines which hide the present quarry. This white color blight would make Lehigh Permanente Quarry very prominent and broadcast Lehigh's unsightly presence to the general public. The upper portion of the quarry would be visible for many decades before the limestone is mined out and the pit returned to its natural state, assuming Lehigh honors the proposed reclamation plan. Lehigh would likely feel the wrath of local residents and increasing opposition as mining operations become progressively more prominent.

It is also my understanding that explosives are used to assist in the excavation of the limestone. The present mine is surrounded by hills that blocks or greatly muffle these explosive events. That would not be the case once the proposed new mining operation progresses beyond the blocking ridgelines. Many more residents would be exposed to loud explosions disturbing their peace. Noise created by heavy machinery use to excavate and transport the mined limestone would also become much more prominent as the mine progresses beyond the ridgelines. This noise would be noticeable 24 hr. a day all year round

for many decades as mining operations progress disrupting the peace and quiet, especially at night time, of nearby residents.

The issue for a new open pit mine does not have to be a matter of approval for the proposal by Lehigh Permanente Cement or of denial for the new mine as suggested by many residents. Perhaps there is a compromise that would satisfy both Lehigh's need for more limestone and resident's object to the sight and sounds posed by the new mining operation. I propose that the southern most portion of the proposed open pit mine that is widely visible above the foreground ridgeline be excluded from the current proposal and that mining rights be granted for only those areas that is not visible. If at some time in the distant future Lehigh Permanente Cement desires to extend their mining operations they can submit another proposal at that time for an extension of the mine or perhaps fine another area that is less visible and troublesome to residents. The limestone below the ridgeline will probably satisfy the cement plant's needs for limestone for several decades and give them more time to plan for the more distant future. New technology may then be available to make it feasibly to extract limestone in less limestone rich areas allowing them to mine in less visible areas. This will satisfy the cement plant's immediate needs for more limestone for decades and leave the beautiful foothills undisturbed for all to enjoy in relative peace.

Frank Geefay 7961 Sunderland Dr. Cupertino, Ca 95014 From: "Peter Hargreaves \(PHearth\)" <peterharg@earthlink.net> Date: May 18, 2011 12:22:01 PM PDT To: <Marina.Rush@pln.sccgov.org> Subject: Objection to Lehigh Quarry Expansion in Cupertino

Hi Marina,

I write as a resident on the Cupertino/Sunnyvale border and a frequent amenity user of the foothills for running and walking and appreciating nature.

Please record my strong objection to any expansion by Lehigh Southwest Cement or any other company of its quarry operations in the beautiful Cupertino foothills. The Santa Clara County representatives should reject this planning application on many grounds including :

 irreparable damage to the countryside, both in the immediate proposed quarry area and by destroying views from many angles,
risks to human health of industrial byproducts released into the air related to the quarrying,

3) impact in a residential area of heavy freight vehicles.

Thank you,

Peter Hargreaves 525 Alberta Avenue Sunnyvale CA94087

From: Vicky Ho <vickyyueho@yahoo.com> Date: May 23, 2011 12:00:45 PM PDT To: Marina Rush <marina.rush@pln.sccgov.org> Subject: Re: Lehigh - NOP Extending Comment Period for NOP

With the high content of mercury in the rocks being mined in the hills emission of toxic air is a foregone conclusion.

The bottom line is: the site is not suitable for mining and cement ma I do not understand how the county council could overwhelmingly ap use of not only what they asked for and then some more, inspite of t their staff to do otherwise and the loud protests of the citizens.

If this EIR is not a farce, they should really consdier for the health of Santa Clara is a now a densly populated area and the huge amount is poisonous to everyone. If for no one elsee, think of your grand kid breathe in the toxic air, day in and day out.

Thanks, Vicky Ho 22600 ALpine Dr, Cupertino, CA --- On **Wed, 4/20/11, Marina Rush <***marina.rush@pln.sccgov.org*

From: Marina Rush <marina.rush@pln.sccgov.org> Subject: Lehigh - NOP Extending Comment Period for NOP To:

Cc: "Rob Eastwood" <Rob.Eastwood@pln.sccgov.org>, "Terry Mars <tmarshall@lehighcement.com>, "Marvin E. Howell" <Marvin.Howel Date: Wednesday, April 20, 2011, 4:03 PM

Everyone,

Please note, the County of Santa Clara is extending the public common of Preparation of an Environmental Impact Report for the Lehigh/Per Comprehensive Reclamation Plan Amendment and Use Permit properiod, which started March 11, 2011, will close on MAY 23, 2011,

Attached is the Notice of Preparation, including a brief project descrie effects of the project proposal. For your reference, the complete ap plans can be viewed on the County website at: <u>www.sccplanning.or</u>

Thank you in advance, and please submit written comments regardi EIR to the following: Marina Rush, Planner III County of Santa Clara Planning Office 70 West Hedding Street, East Wing, 7th Floor San Jose, CA 95110

email: <u>Marina.Rush@pln.sccgov.org</u> Phone: (408) 299-5784 Fax: (408) 288-9198

Sincerely,

Marina Rush

From: Nancy Mautino <nancy@mautino.com> Date: May 18, 2011 4:07:30 PM PDT To: Marina.Rush@pln.sccgov.org Subject: Lehigh Quarry Expansion

Hi Marina Rush,

I live in Saratoga and I'd like to put a vote down for being against expansion for Lehigh Quarry. I believe that the quarry has already affected the health of one of my children and I feel that expansion would only put more of us at risk for health issues. Thank you.

Nancy Mautino



Midpeninsula Regional Open Space District

May 17, 2011

Marina Rush, Planner III County of Santa Clara Planning Office 70 West Hedding Street, East Wing, 7th Floor San Jose, CA 95110

GENERAL MANAGER Stephen E. Abbors

BOARD OF DIRECTORS Pete Siemens Yoriko Kishimoto Jed Cyr Curt Rifflê Nonette Hanko Larry Hassett Cecily Harris

RE: Notice of Preparation of an EIR Comprehensive Reclamation Plan Amendment and Conditional Use Permit for Permanente Quarry (State Mine ID# 91-43-004)

On behalf of Midpeninsula Regional Open Space District (District), I would like to provide the following comments on the scoping of the Environmental Impact Report (EIR) for the Lehigh Permanente Quarry Comprehensive Reclamation Plan Amendment and Conditional Use Permit (State Mine ID # 91-43-004). The District has previously commented on prior notices of preparation for Permanente Quarry Reclamation Plan Amendments dated June 20, 2007, May 20, 2010, and February 3, 2011. These comments remain valid due in part to the fact that the most current Comprehensive Reclamation Plan Amendment encompasses the same geographic areas. Prior written comments are therefore included as attachments to this comment letter.

The District is deeply troubled that the intent of the 2007 Comprehensive Reclamation Plan Amendment has expanded from an attempt to bring into compliance a grossly out-of-compliance quarry operation, to an Amendment that includes a new 250-acre quarry pit with a new 20-30 year life span. Since the 2007 Amendment, the East Materials Storage Area, referenced as "the main overburden storage site for the mining operation" was activated. The waste pile continues to grow in size even without having completed an adequate visual impact or human health analysis to understand the magnitude of the environmental and cumulative impacts or the mitigation measures that can be put in place to address these issues. In fact, an environmentally superior alternative exists, as is discussed at the end of this letter. The District urges the County to consider this permit review as an opportunity to relocate the waste material into the existing North Quarry rather than increase the existing waste storage area to avoid compounding the visual impacts and scenic easement issues associated with this project.

The following environmental concerns should be addressed in the proposed EIR:

Visual Impacts

The East Materials Storage Area is proposed to transition into the Central Materials Storage Area and result in a new terraced, unnatural ridge composed of dumped quarry waste that would ultimately lie at a considerable height above the natural existing ground surface. If permitted, this proposed new landform would be grossly out of compliance with Santa Clara County's scenic hillside protection policies. The District requests that the visual impact analysis in the proposed EIR include views from Cristo Rey Drive, at the entrance to Rancho San Antonio County Park and Open Space Preserve, and from the PG&E Trail, which lies adjacent to the proposed storage areas. Additionally, the analysis should include vantage points from the nearby scenic Monte Bello Road.

Dust Impacts

Dust impacts to sensitive resources and the recreating public at the adjacent County Park and Open Space Preserve must be analyzed in the proposed EIR.= Given the past decades of ongoing quarry operations at this location, cumulative long-term impacts due to dust are of great concern. As such, the District strongly recommends including a continuous air quality monitoring and reporting program as mitigation and as a condition of approval for any future quarry expansion or permit revision. This monitoring and reporting program should continue through the life of the operation and include monitoring stations within 100 feet of the adjacent PG&E Trail, which passes near the proposed and current materials storage areas. Monitoring parameters should include particulate matter and the suite of potentially toxic substances known to occur in the quarry waste.

Noise Impacts

Noise impacts associated with the proposed and ongoing waste materials storage areas should also be evaluated at the Quarry/Open Space boundary to assess compliance with County noise regulations. To note, according to the Santa Clara County General Plan, the maximum level of noise a new land use (in this case, it is an expanded land use) may impose on neighboring parks, open space reserves, and wildlife refuges, shall be the upper limit of the "Satisfactory Noise Level" (currently at 55 decibels).

Cumulative Impacts

The District is concerned that the currently full West Materials Storage Area has the potential to be re-mined for construction aggregate. This same concern exists for the new proposed storage areas. This concern, and real possibility, highlights the need to evaluate the extended length of use of these sites to then identify, analyze, and mitigate potential cumulative long-term impacts. For example, the cumulative visual impacts associated with the existing and proposed material storage areas need to be thoroughly evaluated against current County hillside protection policies, the existing scenic ridge easement language, and County General Plan goals for park and open space. This analysis should include a historic visual analysis since the visual impact has dramatically increased over time. The cumulative water resources impacts need to evaluate potential impacts to Permanente Creek given that Permanente Creek has been severely impacted by past quarry practices. It is reasonable to assume that an increase in quarry operations consisting of a new 250 acre South Quarry pit within the relatively pristine half of the watershed will result in a substantial cumulative impact.

Alternatives Analysis

Lastly, the EIR should identify and evaluate a range of reasonable alternatives. As previously stated in prior comment letters, feasible alternatives exist for the waste pile that would avoid creating an artificial, ridge-like mound adjacent to public recreation land and within full view of surrounding communities and the valley floor. An alternative that suspends fill placement in the East Materials Storage Area, eliminates the Central Materials Storage Area, and instead immediately begins backfilling the existing North Quarry Pit for reclamation should be evaluated as a potentially superior environmental alternative. This alternative may serve to balance long-standing quarry deficiencies, halt the unprecedented acceleration of visual impacts, and provide the quarry with future raw materials. The no project alternative, and alternatives that allow quarry expansion only on vested property, should also be evaluated as feasible alternatives.

The County's review of the proposed use permit amendment presents an opportunity for the County to reevaluate the current and proposed quarry practices and to identify any changes that would allow the County to more closely and effectively manage quarry operations. The District urges the County to consider this permit review as an opportunity to relocate the waste material into the existing North Quarry rather than increase the existing waste storage area to avoid compounding the visual impacts and scenic easement issues. The District also asks that any mitigation measure identified through the environmental process also be added as a condition of approval of the use permit.

Thank you for the opportunity to provide comments for the scoping of the subject EIR. Please feel free to contact me by email at <u>mbaldzikowski@openspace.org</u> or by phone at 650 691-1200 if you have any questions regarding this or any prior comment letters.

Sincerely,

Maro Balinhuli:

Matt Baldzikoski, Resource Planner II

cc: District Board of Directors Stephen E Abbors, District General Manager



Midpeninsula Regional Open Space District

February 3, 2011

County of Santa Clara Board of Supervisors County Government Center 70 West Hedding St. 10th Floor, East Wing San Jose, CA 95110

Re: Public Hearing Regarding Permanente Quarry/ Lehigh Southwest Cement Company Legal Non-Conforming Use Determination

Members of the Board:

The Midpeninsula Regional Open Space District (District) manages over 59,000 acres of Open Space Preserves (OSP) within Santa Clara, San Mateo, and Santa Cruz Counties, including the Monte Bello and Rancho San Antonio OSPs which share common parcel boundaries with Lehigh's Permanente Quarry owned properties. The District supports and applauds the Board of Supervisors (Board) decision to deliberate the issue of vested rights on the Quarry properties. From the District's perspective, this review is long overdue given the 2010 sunset of the 1984 Reclamation Plan.

The District remains extremely concerned with the numerous Reclamation Plan Amendments and ongoing operations of Lehigh Southwest Cement Company's Permanente Quarry (Permanente Quarry). We have previously submitted comments related to the Reclamation Plan Amendments proposed for the Permanente Quarry dated June 20, 2007 and May 21, 2010. Copies of these letters are attached for your convenience.

The remainder of this letter summarizes our concerns related to the Permanente Quarry Legal Non-conforming Use Analysis completed by the County, as well as documents prepared by Diepenbrock- Harrison on behalf of the Permanente Quarry.

Proposed East Materials Storage Area

We concur with the County Analysis that the proposed East Materials Storage Area (EMSA) is not a vested portion of the Permanente Quarry. Documents provided by the Quarry and County clearly show that the proposed EMSA parcel was a part of the manufacturing or 'Plant" operations that began in 1939 when former owner Kaiser applied for a use permit for the adjacent cement plant. The subsequent wartime construction of the magnesium plant, and conversion to an aluminum plant confirm the use as manufacturing or "plant" facilities that are not quarry related. Therefore the EMSA is not a vested portion of the quarry operations.

Viewshed impacts have always been prominent issues related to the Permanente Quarry. The 1979 dedication of the Permanente Ridge scenic easement to the County by Kaiser, 1985 Reclamation Plan visual impacts discussion, and the County General Plan designation of Hillside Resource Conservation Areas are examples of the importance of this issue. The EMSA proposal is particularly troubling with regard to visual resources and is inconsistent with viewshed protection values that have long been recognized. Santa Clara County Parks, together with the District, jointly manage Rancho San Antonio Park/OSP. We continue to field complaints on a regular basis from park users and District staff from our onsite Field Office related to ongoing visual impacts and dust impacts from quarry use of the EMSA. The massive and growing quarry tailings piles are clearly visible to a large portion of public who visit Rancho San Antonio Park/OSP. A survey, recently completed by the District, shows that Rancho San Antonio Park/OSP receives more than 500,000 visits by the public each year.

The Permanente Quarry does not have a vested right for quarry operations in the proposed EMSA location. The existing placement of quarry overburden has already been identified by the County as a violation and there are significant visual impacts ongoing as noted above. The District requests that the County enforce its Notice of Violation and prohibit any additional placement of material at this location and that the County require Lehigh Southwest Cement Company to implement all measures necessary to completely mitigate the visual impacts of the subject quarry overburden.

Original Quarry Parcel

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Regarding the vesting of quarry operations, the 1971 analysis completed by County Counsel at the time noted that quarry operations could expand throughout the entire original parcel. The current analysis states that it is unclear which "original parcel" County Counsel was referring to. Parcel 351-09-013 is a very uniquely shaped parcel that appears to be shaped like a quarry pit. It is quite possible that this is the "original parcel" referenced. The July 14, 1977 Mineral Property and/or Mill and Processing Plant Report prepared by the California Division of Mines and Geology appears to map the Kaiser Permanente Quarry within the above mentioned parcel.

Regardless of how this original quarry parcel issue is resolved by the County, the expansion of quarry operations to new areas should not be allowed.

New Proposed South Quarry

In addition to correcting past and present violations, Permanente Quarry has added a new (South) quarry pit to their Reclamation Plan Amendment proposal. This addition is extremely troubling in light of Permanente Quarry's representatives attempt to make the case that they have vested rights on the former Morris parcel proposed as a portion of the new South Pit (Morris 351-11-001). The arguments made by Permanente Quarry representatives for vested rights on this parcel do not stand up to an analysis of the facts.

The quarry haul road identified in the far northeast corner of the Morris parcel appears to be Permanente Road, dedicated to the public in 1893, predating any quarry operations. It is entirely inappropriate to identify it as a quarry haul road to justify a vested rights determination. The road is also separated from the rest of the parcel by Permanente Creek and steep topography. Lehigh has not demonstrated unequivocal evidence of prior intent to mine this property.

Conclusion

While it is troubling that the County did not recognize that the Permanente Quarry had disturbed an area nearly three times the size allowed in the 1985 Reclamation Plan, all parties knew that the 1985 Reclamation Plan would sunset in 2010. We are now past that time and the existing quarry pit appears to be completely mined and the storage areas full. The County has required Permanente Quarry to submit Reclamation Plan Amendments to address existing violations, but the fact is that the Quarry needed a Reclamation Plan Amendment anyway to continue to operate. We are concerned that the County not be pressured by Lehigh to make hasty decisions or further compound the substantial existing deficiencies.

We ask that dumping in the EMSA be suspended immediately, and that the County take the steps needed to regain control of its quarry oversight responsibilities.

Sincerely,

Stephen E. Abbors General Manager Midpeninsula Regional Open Space District

cc: MROSD Board of Directors Paul Fong, California State Assemblymember Marina Rush, County Planning Brian Schmidt, Committee For Green Foothills



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Midpeninsula Regional Open Space District

GENERAL MANAGER Stephen E. Abbors

BOARD OF DIRECTORS Pete Siemens Mary Davey Jed Cyr Curt Riffle Nonette Hanko Larry Hassett Cecily Harris

May 21, 2010

County of Santa Clara Planning Office Attn: Marina Rush County Government Center 70 West Hedding St., 7th floor, East Wing San Jose, CA 95110

RE: Lehigh Hanson Permanente Quarry 2010 Reclamation Plan Amendment for the East Materials Storage Area, File # 2250-13-66-09EIR

Ms. Rush,

On behalf of Midpeninsula Regional Open Space District (MROSD), I would like to provide the following comments on the scoping for the Environmental Impact Report (EIR) that will assess the Lehigh Hanson Permanente Quarry 2010 Reclamation Plan Amendment proposed for the East Materials Storage Area.

Prior Comments and Review

MROSD staff commented on a previous Reclamation Plan Amendment proposed for the Permanente Quarry in a letter dated June 20, 2007. The original Reclamation Plan was approved in 1985. The 2007 Reclamation Plan Amendment included the proposed East Materials Storage Area (EMSA). It is our understanding that the County is now proposing to divide the Reclamation Plan Amendment area into a smaller area and evaluate the environmental impacts of this smaller area separately to address the quarry's active placement of waste material outside of the permitted area. The County issued a violation notice in 2008 and required that the quarry owner apply for a Reclamation Plan Amendment to rectify the violation.

Importance of Anticipating Future Issues

The EMSA was previously analyzed under a prior EIR process that was scoped in 2007, appropriately within the context of the entire quarry operation. MROSD understands that there are substantial new issues that need to be addressed and will take some time to evaluate, and that the 2007 Reclamation Plan Amendment had a sunset date of March 2010. Unfortunately, these issues were not previously anticipated years ago by the parties involved. The current EIR intends to address these unanticipated issues and expedite a resolution of the violation. In light of the current need to reevaluate the quarry's operations to address the violation, we urge the County to take an aggressive approach to consider and assess all potential issues that may emerge as a result of ongoing quarry activities and the proposed Reclamation Plan Amendment to ensure that these are reviewed in a timely manner to preempt a future violation.

330 Distel Circle Los Altos, CA 94022 | p 650.691.1200 | p 650.691.0485 | www.openspace.org |

Significant Adverse Visual Impacts

The quarry appears to have a waste material disposal problem. The West Materials Storage Area (WMSA) appears to be full. In fact based on the 1985 Reclamation Plan Staff Report and Environmental Assessment, the WMSA appears to also be in violation. Specifically, Condition of Approval #8 states that the maximum height of deposition in Area "A" (WMSA) shall not exceed the top of the ridgeline bordering to the north. The upper limit of the WMSA is clearly visible from the valley floor when viewed from the north and therefore, does not meet the requirement of this condition. This condition was deemed necessary to mitigate a significant potential adverse visual impact that was a prominent issue in the 1985 Reclamation Plan and County environmental review.

The proposed EMSA would dramatically expand the area of disturbance visible from surrounding communities and Public Open Space. It appears that the top elevation of the EMSA proposed in the 2010 Reclamation Plan Amendment is substantially higher in elevation than the ridgeline to the north (known as Kaiser or Permanente Ridge). This would create a new, prominent, unnaturally benched and stepped ridgeline behind the existing "protected" scenic ridgeline when viewed from Rancho San Antonio Open Space Preserve, County Park, and surrounding communities. This would be a significant visual impact that could be avoided if the waste material was instead disposed of within a portion of the quarry pit or other suitable location.

The County General Plan Scenic Resources policy includes the strategy to minimize development impacts on significant scenic resources, including prominent areas such as ridgelines. The Kaiser/ Permanente Ridge is unquestionably of scenic significance. Additionally, all of the ridge areas surrounding the proposed EMSA have the General Plan designation of Hillside Resource Conservation Area. While the EMSA itself appears outside of the designated Hillside Resource Conservation Area, building an artificial new ridgeline in the middle of and at a higher elevation than the protected ridgelines, would fail to minimize development impacts on these significant scenic resources.

The scenic importance of the Kaiser/Permanente Ridge has long been recognized by the nearby communities, County, and the Quarry, resulting in the dedication of a permanent scenic easement granted by then owner Kaiser Cement Company to the County years before the 1985 Reclamation Plan. All parties clearly recognized the visual significance of the ridgeline. The proposed EMSA as an unnatural, massive fill site that competes with the ridgeline is counter to the scenic protection benefit that was widely recognized years ago. The benefit of the County's scenic easement will either be lost or impaired unless the scenic value of the Kaiser/Permanent Ridge is protected.

Additional Waste Disposal Issues and Potential Solutions

It appears that both material storage areas may be in violation. The 2007 Reclamation Plan Amendment was previously required to address existing quarry disturbance areas of approximately 900 acres, exceeding the 330 acre area covered by the 1985 approved Reclamation Plan. It may not be appropriate to separate 89 acres to allow additional waste disposal given these conditions.

It also appears that the quarry waste disposal problem is somewhat self-inflicted. A possible solution to this dilemma is to dispose of waste material within the existing quarry pit. A thorough evaluation of the existing quarry pit area and depth should be undertaken to determine if opportunities exist within the pit for waste material disposal. The remaining areas to be quarried that would generate the waste material proposed for placement within the EMSA should also be identified and quantified. Waste material may be advantageous to buttress landslide areas or stabilize over-steepened quarry benches. A number of landslides have already encroached into the dedicated scenic ridge easement over the past decade unabated, and the 1987 "main landslide" has yet to be addressed. The material proposed for placement in the EMSA could be utilized to stabilize these landslides, and the 2007 Amendment includes this

possibility. This again illustrates the need for a comprehensive evaluation of the quarry operations to anticipate potential future issues and remedies.

Lack of Reclamation

The visible quarry area continues to grow. The Surface Mining and Reclamation Act (SMARA) requires that reclamation occur concurrently with quarry disturbance activity, yet very little final reclamation has occurred over the substantial period of mining. Waste disposal within the quarry pit together with concurrent reclamation would actually meet the reclamation requirements of SMARA.

Waste Disposal Timeline

The timeline for waste disposal within the EMSA is also of concern. At the recent April 28th public hearing it was stated that existing quarry sales are 50% of normal. This has the potential to double the projected 5-year timeframe, which already seemed overly optimistic. It is also unclear if the waste material could be re-mined for construction aggregate as is the case for the material placed in the WMSA. This again could dramatically lengthen the timeline of operation and disturbance.

Determination of Vested Rights

Lastly, we remain concerned with the issue of vested rights at the Permanente Quarry. The EIR proposes only to evaluate the environmental impacts associated with the reclamation of the quarry, based on the conclusion that the environmental baseline for the project is the post-mining site condition that includes ongoing mining and processing operations (vested quarry operation). The significant new acreage that has been disturbed by quarry activities, including the EMSA, is of concern. Our concern is whether this expansion really is vested, and if not, that the potential environmental impacts associated with the quarry expansion necessitate a thorough analysis. We urge the County to complete a determination of what is actually vested at the Permanente Quarry. This determination is necessary for any new proposal related to quarry operations at the site, and should include references, maps, deeds, and other exhibits that support the conclusion.

We appreciate the opportunity to comment on the EMSA proposal for the Lehigh Hanson Permanente Quarry. If you have any questions regarding this letter, please contact Matt Baldzikowski, Resource Planner II, at (650) 691-1200.

Sincerely,

Ana Ruiz, AICP Planning Manager Midpeninsula Regional Open Space District

cc: Stephen E. Abbors, MROSD General Manager Matt Baldzikowski, MROSD Resource Planner II
Regional Open Space

MIDPENINSULA REGIONAL OPEN SPACE DISTRICT

June 20, 2007

County of Santa Clara Planning Office Attn: Mark J. Connolly County Government Center 70 West Hedding St., 7th floor, East Wing San Jose, CA 95110

RE: Hanson Permanente Quarry Reclamation Plan Amendment EIR

Mr. Connolly,

On behalf of the Midpeninsula Regional Open Space District's (District), I'd like to provide the following comments on the scoping of the Environmental Impact Report (EIR) for the Hanson Permanente Quarry Reclamation Plan Amendment (Hanson Quarry).

The EIR proposes only to evaluate the environmental impacts associated with the reclamation of the Hanson Quarry, based on the conclusion that the environmental baseline for the project is the post-mining site condition that includes ongoing mining and processing operations (vested quarry operation). The significant new acreage that has been disturbed by quarry activities, and is the subject of the proposed EIR is of concern. Our concern is whether this expansion really is vested, and if not, that the potential environmental impacts associated with the quarry expansion have never been analyzed. Please provide a discussion within the EIR on how the determination regarding the vested operation was made and include references to maps, deeds, or other exhibits that support this conclusion.

Visual resources are an obvious concern to the surrounding Monte Bello and Ranch San Antonio Open Space Preserves operated by the District. The visual appearance of the reclaimed quarry landform, and the reclamation revegetation are of particular interest. The reclaimed landform should blend with the surrounding un-mined landform as much as possible. The District remains concerned with the relatively recent appearance of a portion of the west materials storage area that is visible above Permanente Ridge when viewed from the north. An evaluation and discussion of this storage area should be included in the EIR. The short-term erosion control species and long-term reclamation species should be compatible with the surrounding landscape, and should utilize locally collected and propagated native species wherever possible. The control of invasive species is also a significant concern, and should be included in the EIR and Financial Assurance.

Geology and slope stability issues associated with the ongoing operations at the Hanson Permanente Quarry remain a serious concern to the District, particularly the slopes and landslide

MIDPENINSULA REGIONAL OPEN SPACE DISTRICT

in the northeast corner of the quarry pit. These have been identified along with a landslide on the northern wall of the quarry as "caused in part if not in whole, by the mining operation" in the Executive Officer's Report for July 13, 2006 meeting of the State Mining and Geology Board.

The landslide in the northeast corner of the quarry pit has the potential to continue to fail, and impact the significant scenic easement along Permanente Ridge. A failure at this location could daylight through the top existing ridge and into the scenic easement. This area was the subject of a Request for Emergency Grading Authorization (#2002-4) from the County of Santa Clara, and to our knowledge this work was never completed. The District is unclear on how and when remedial grading will occur to alleviate the slope stability and scenic easement concerns. This area was the subject of a land exchange between the District and Hanson, for the purpose of implementing remedial grading to stabilize the slopes. The property recently transferred to Hanson doesn't appear to qualify as a "vested" portion of the quarry operation appears to require either a grading permit or a mining amendment. We are particularly concerned that the remedial grading for slope stability and scenic concerns be completed as soon as possible, and not be subject to delays associated with a potentially long EIR process. This issue may determine the condition of the post-mining site at this location, and therefore identify what the reclamation plan should address.

Drainage and quarry waste materials from the West Materials Storage Area have impacted District road infrastructure down slope to the north in the past. Future drainage from the active and reclaimed materials storage area should be designed to avoid future impacts.

We appreciate the opportunity to comment on the scope of the EIR for the Hanson Permanente Quarry, and request that the District be kept informed about the status of the EIR process, and that a copy of the DEIR is sent to the District for review upon completion.

Sincerely,

Mars Ballihuh:

Matt Baldzikowski Resource Planner Midpeninsula Regional Open Space District 330 Distel Circle Los Altos CA 94022-1404 Phone (650) 625-6537, Fax (650) 691-0485 From: Wanda Ross <wanda1ross@gmail.com> Date: May 21, 2011 3:04:12 PM PDT To: Marina Ruch - Santa Clara Planning Office <Marina.Rush@pln.sccgov.org> Subject: Comment regarding the EIR for the Quarry Reclamation Plan and proposed New South Quarry Pit (Lehigh Quarry)

Hello Marina,

We live on San Juan Road near the Lehigh Quarry and very highly encourage you NOT to allow any expansion of the quarry. Allowing them to expand will increase health risks to those of us living in the area. I already have been treated for excess mercury in my body; please do not expose us to even more.

In addition, our housing values will be subtantially negatively impacted as green space we so value would be replaced by an ugly open quarry. We already have an ugly open quarry right off Stevens Canyon Road. This area enjoys high housing prices because of the great schools. Don't you want to support the high housing values rather than diminish them?

I wonder why you would consider expanding the quarry. It would seem you'd want to improve the city and close down both quarries.

Thank you for considering my view, Wanda Ross 650-302-2312 m

From: randy shingai <randyshingai@gmail.com> Date: May 20, 2011 11:09:44 AM PDT To: Marina.Rush@pln.sccgov.org Cc: "ken.yeager" <ken.yeager@bos.sccgov.org> Subject: Comment on the proposed South Quarry Pit in the Cupertino foothills

Dear Ms. Rush,

Please do not allow the expansion. We visit Rancho San Antonio Park several times a week, and can see what is happening at the Lehigh complex. We do not want that company to expand their operations.

I also spoke at the vested rights hearing earlier this year, so we have strong feelings on this issue.

thank you,

Randall Shingai Naomi Makihara residents and registered voters of District 4

From: "Janet Warrington" <janet@jestech.net> Date: May 18, 2011 4:51:21 PM PDT To: <Marina.Rush@pln.sccgov.org> Cc: <jon@jestech.net> Subject: NO expansion of the open pit mine by Lehigh

Dear Marina,

As concerned residents, property owning tax payers and parents of two young children, we urge you to not allow expansion of the open pit mine by Lehigh. We are deeply troubled by the potential health risks posed by increased exposure to metals, mercury etc., as well as the environmental impact of the expansion.

Sincerely,

Janet A. Warrington, Ph.D. and Jonathan E. Saunders

1656 Christina Drive Los Altos, CA 94024 1. Is there a complete Geological study on the impact of an Earthquake? This mine is sitting on the world famous San Andres fault.

2. How are they going to protect the endanger specices?

3. What would be the alternatives? Can Lehigh close its operation here and expand the operations in Redding or Southern California?

4. How Lehigh is going to cross Permenante Creek? build a big bridge? What is the impact to Permenante Creek?

5. Is there a fully study on the impact of the cumulative mercury emission to the air, water and ground in the area?.

6. We want to ask about transport of materials and risk of upset.

7. Please tell us your plan regarding storage, handling, transport, and disposal of toxic materials, both those Lehigh might be using in mining or processing and those (e.g., mercury) contained in the minerals they're mining.

8. What would be the Traffic impacts?

9. What are the impacts of our air and water quality?

10. Lehigh is the number 2 Greenhouse Gas producer in Santa Clara county? How are you going to deal or reduce it? What is Lehigh's energy use & what they're doing to reduce CO2 production?

11. What plan they have to reduce or at least monitor the massive air pollution caused by the hundreds of aging diesel trucks going through the residential neighborhood each day. Majority of these trucks are not conforming with the state laws and refuse to take the state incentive grant to upgrade their engines. The diesel traffic is a well known primary mobile source of severe air pollution contributing nearly 50% of the dirty air to our environment on daily basis and 24x7 all year around.

No Toxic Air, Inc.