

Santa Clara Valley Audubon Society  
Founded 1926

June 4<sup>th</sup>, 2010

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

Dear Ms. Rush,

Thank you for your willingness to consider Santa Clara Valley Audubon Society's (SCVAS) scoping comments on the proposed amendment to an existing reclamation plan for the Permanente Quarry for the overburden storage area (East Materials Storage Area, EMSA), which is not encompassed in the existing 1985 Reclamation Plan (File Number: 2250-13-66-09EIR Assessors Parcel Number: 351-09-022, 351-10-005, 351-10-037 and 351-10-038).

We understand that part of the site has, and continues to be, used for overburden fill storage with no environmental review in place and in violation of the California Environmental Protection Act (CEQA), the State Mining and Reclamation Act (SMARA) requirements, and the Clean Water Act, and that the currently proposed amendment is aimed to belatedly rectify this problem.

We argue that the repeated violations of CEQA, SMARA and the Clean Water Act by Lehigh Hanson at the quarry necessitate a drastic measure, and that dumping of fill at the site must be curtailed until all a new, comprehensive EIR is produced for the entire cement factory and mining operation on site. The areas that were disturbed with no environmental review should be restored immediately (or the quarry must be required to pay maximum fines for each day that it continues to violate the law). As proposed, the amendment would simply allow violations to continue unhampered while environmental degradation continues.

The NOP states "This amendment does not involve mining operations, reclamation in the main mining pit, west materials storage area, or the operations of the adjacent Lehigh Southwest Cement" and that "This Reclamation Plan Amendment is being processed separately from the 2007 Reclamation Plan Amendment. However, cumulative effects of the two projects together will be examined in this EIR." We believe that this is not in adherence to California environmental law. CEQA prohibits piece

*p. 1 of 5*

mealings of environmental review by segmenting a large project into several smaller projects, each with a minimal potential impact on the environment, which cumulatively may have disastrous consequences. We believe that the county must consider "the whole of the action" meaning that a complete reclamation plan must be prepared for the entire quarry site and operations, and that CEQA review must also include the cement plant and all of its impacts. We expect integrity in the planning and permitting process, and insist that no new or unpermitted activities or disturbances should be allowed, until a comprehensive, all inclusive, SMARA compliant reclamation plan is put out for public scoping, a dEIR produced and put out for public comment and a final and compliant EIR is approved and published.

### **Potential Environmental Effects**

SCVAS believes that the impacts of selenium, mercury, and other toxic substances released from mining associated activities, including storage, must be included in Sections:

B) Biological Resources: this section should include impacts on fish in the upper reaches of Permanente Creek that are designated for Cold Freshwater Habitat

D) Geology and Soils; This section should reveal the toxic metals that are released into Santa Clara County watersheds.

E) Surface Hydrology, Drainage and Water Quality. The East Materials Storage Area has the potential to impact two watersheds: Permanente Creek and Stevens Creek (due to the diversion of water from Permanente to Stevens Creek). Both should be included in the analysis. The bioaccumulation of Selenium in aquatic ecosystems and its impact on fish, birds, fish and wildlife must be considered as an ongoing impact, and not limited to storm events. Impacts on federally- threatened Central California Coast steelhead should be evaluated.

AND - In addition, an Environmental Justice segment is needed to evaluate the impacts of selenium and other toxic elements on the public parks and schools included in the Permanente Creek Flood protection Project (specifically, impacts on off-stream flood detention facilities at Rancho San Antonio County Park, Blach Intermediate School, Cuesta Park Annex, and McKelvey Park) should be considered).

### **Toxicity and Selenium in Permanente Creek**

In February 2009 the San Francisco Bay Regional Water Quality Control Board approved the 303(d) listing for Permanente Creek for toxicity and Selenium in creek water. Section 303(d) of the federal Clean Water Act requires the State to identify waters within the State for which water quality standards are not attained.

The listing resulted from consistent water toxicity and consistent exceedences for Selenium in two monitoring sites along Permanente creek. One site is located at the

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mouth of the creek. The other site (PER070) is at Rancho San Antonio Regional Park, downstream from the Lehigh quarry and cement plant. The upper reaches of Permanente creek are designated by the San Francisco Bay Regional Water Quality Control Board for the beneficial use of Cold Freshwater Habitat and thus are designated to support an ecologically healthy creek habitat.

## 1. General Toxicity

Water samples in 2002 from Stevens and Permanente Creeks had by far the most numerous incidences of observed toxicity of any watershed in the nine Bay Area stream study. In Permanente creek, significant toxicity to fish and to invertebrates was found at site (PER070) at Rancho San Antonio Regional Park

The current Basin Plan of the San Francisco Bay Regional Water Quality Control Board has the following objectives: "All waters shall be maintained free of toxic substances that are lethal to or that produce other detrimental responses in aquatic organisms" and "There shall be no chronic toxicity in ambient waters. Chronic toxicity is a detrimental biological effect on growth rate, reproduction, fertilization success, larval development, population abundance, community composition, or any other relevant measure of the health of an organism, population, or community." These objectives were not met, thus Permanente creek is listed for toxicity.

## 2. Selenium

Selenium-induced fish kills in Belews Lake, North Carolina in the late-1970s resulted in a substantial amount of research on selenium effects to aquatic life. Similarly, selenium-induced teratogenesis in aquatic birds at Kesterson Reservoir, California in the mid-1980s resulted in extensive research on selenium effects to aquatic birds. **Unlike many other contaminants for which water exposure is the critical pathway for environmental effects, selenium ecotoxicology is driven by bioaccumulation in invertebrates and exposure to fish and birds via the diet. At sufficiently high levels, these exposures result in embryo teratogenesis and reduced survival of larval fish and bird chicks.**

Water samples collected in the upper Permanente Creek (site PER070, Ranch San Antonio) in 2002/2003 and again in 2006/2007 consistently exceeded the National Toxics Rule (NTR) of continuous total Selenium concentration objective of  $5.0\mu\text{g/L}$  (California Toxics Rule Criterion for Continuous Concentration of Selenium is the same). This objective is applicable in streams with waters that support coldwater ecosystems, including preservation or enhancement of aquatic habitats, vegetation, fish, or wildlife, including invertebrates. The upper reaches of Permanente creek are designated for the beneficial use of Cold Freshwater Habitat, and yet Selenium concentration consistently

*p. 3 of 5*

exceeded the criterion, and one water sample from site PER070 tested Selenium concentration of over 12  $\mu\text{g/L}$ . When a creek is listed for a pollutant, the authorities must develop a TMDL (Total Maximum Daily Load) for the pollutant. TMDLs for Selenium and toxicity at Permanente Creek are expected to be developed by 2021.

On March 26, 2010, Lehigh Southwest was issued "NOTICE OF VIOLATION and required corrective actions for failure to protect stormwater at industrial facility" by the California Regional Water Quality Control Board, San Francisco Bay Region. The Water board noted numerous water quality violations (RWQCB) including the National Pollutant Discharge Elimination System (NPDES) General Permit for Discharges of Storm Water associated with Industrial Activities Excluding Construction Activities, Order No. 97-03-DWQ (Permit1) and the San Francisco Bay Water Quality Control Plan (Basin Plan2). Inspection by RWQCB revealed discharges that are in violation of, at a minimum, Basin Plan Prohibition 7 that prohibits solid wastes into surface waters or at any place where they would contact or where they would be eventually transported to surface waters, including flood plain areas.

On April 1<sup>st</sup>, 2010, Sandra James of Lehigh Hanson reported to Council Member Barry Chang of the Cupertino City Council that Lehigh's "voluntary analysis of stormwater runoff samples revealed levels of selenium that have triggered further evaluation of on-site sources of the element". Lehigh explained that they are "proactively working with the Regional Water Quality Control Board to ensure the most effective and efficient management of the presence of this naturally occurring element". In addition, "Lehigh has submitted a report to the RWQCB that describes the Best Management Practices currently being used and the process for developing additional protection measures if needed."

As suggested by Lehigh's Ms. James, Selenium is indeed a naturally occurring element that is commonly found in the soil and rock found in the Cupertino area. However, Lehigh explanation that "Selenium levels in the soil and rock at the Permanente site are consistent with naturally occurring levels in Santa Clara County" is misleading, given that no other creek in Santa Clara County have ever been listed for Selenium. The implication of Ms. James' statement should be that Santa Clara County is the wrong place to mine, and that the county be cautious and avoid the release of hazardous metals into our watersheds.

The levels of Selenium found in Lehigh 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 mining and fill operations at the quarry on fish and wildlife along Permanente and Stevens Creek watersheds and the San Francisco Bay must be properly analyzed in a comprehensive, all inclusive way.

*p. 4 of 5*

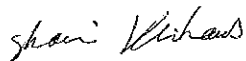
**Conclusion:**

SCVAS expect that CEQA processes should be followed with integrity. By rushing a Reclamation plan amendment for the EMSA alone, the County is indicating approval of the overburden pile dumped by Lehigh Southwest Cement Company outside of their permitted boundary and of repeated violations of CEQA, SMARA and the Clean Water Act. Instead, the maximum fine should be imposed, the pile should be required to be moved to a permitted area, and the area impacted should be restored. The risks of releasing Selenium into our watersheds and the San Francisco Bay must be adequately addressed in a comprehensive analysis of the Lehigh Hanson Company operations and associated activities.

Since other plans and permits for the Lehigh Hansen site are currently in process at various agencies including Santa Clara County, SCVAS argues that separating the EMSA amendment from a full environmental review of the Lehigh site and all its operations (quarry, storage, cement plant and traffic) is piecemealing of the project. We argue that a new reclamation plan and an inclusive, comprehensive CEQA analysis must be prepared instead of the attempt to patch a 1985 outdated plan. Approval of the current proposal may limit future CEQA analysis of reclamation and industrial projects on the site, and thereby may contravene the intent and perhaps the law of CEQA.

Please keep us informed as to the progress of this, and any other, projects on the Lehigh Hanson site.

Respectfully,



Shani Kleinhaus  
Environmental Advocate  
Santa Clara Valley Audubon Society  
22221 McClellan Rd.  
Cupertino, CA 95014  
[shani@scvas.org](mailto:shani@scvas.org)



CUPERTINO

OFFICE OF COMMUNITY DEVELOPMENT

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(408) 777-3308 • FAX (408) 777-3333 • [planning@cupertino.org](mailto:planning@cupertino.org)

May 24, 2010

VIA EMAIL

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

RE: NOP of EIR for the Reclamation Plan Amendment for Permanente Quarry,  
East Materials Storage Area (EMSA)

Dear Marina:

Thank you for the opportunity to respond to this Notice of Preparation for the above captioned project. The future reclamation of the EMSA will have a significant impact on this visually-sensitive area. It is imperative that the overburden fill be mixed and topped with the appropriate topsoil that will successfully support a succession of native vegetative communities that mitigates erosion, facilitates the wildlife communities and restores the visual quality of the area.

If you have any questions, feel free to contact me at [colinj@cupertino.org](mailto:colinj@cupertino.org)

Sincerely,

  
Colin Jung  
Senior Planner

File 2250-09EA

**From:** Joyce M Eden <comment@sonic.net>  
**Subject:** **Scoping Lehigh Southwest EMSA, comments from WVCAW**  
**Date:** May 21, 2010 4:45:36 PM PDT  
**To:** marina.rush@pln.sccgov.org  
**Cc:** lizzanne.reynolds@cco.sccgov.org,  
daisy.chu@bos.sccgov.org

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County of Santa Clara Planning Office  
Attn: Marina Rush  
70 West Hedding St., 7th Floor, East Wing  
San Jose CA 95110  
[marina.rush@pln.sccgov.org](mailto:marina.rush@pln.sccgov.org)

May 21, 2010

Marina Rush, Planning Dept., Santa Clara County (SCC)

Re: West Valley Citizens Air Watch (WVCAW) Scoping comments: Lehigh Hanson (Lehigh Southwest), Incorporated, File Number: 2250-13-66-09EIR Assessors Parcel Number: 351-09-022, 351-10-005, 351-10-037 and 351-10-038.

**WVCAW objects to the proposed EIR for the East Materials Storage Area (EMSA). The process for and scope of this proposed EIR is fatally flawed.  
We ask that it be withdrawn from consideration.**

## SOME REASONS THIS PROCESS AND PROPOSED RECLAMATION PLAN AMENDMENT NEEDS TO BE HALTED AND REDONE.

A. Santa Clara County proposed to partially amend the current, inadequate 1985 "reclamation" plan.

To date, 31 years after the adoption of SMARA, no adequate reclamation plan under SMARA exists for the current Lehigh Southwest Cement Company quarry (Pit #1) nor for the other mining and related activities.

The 1985 "Reclamation" Plan, Attachment L to the application, is seriously inadequate and completely lacking in numerous criteria to fulfill State Mining and Reclamation Act ( SMARA) requirements. For example, SMARA requires a reclamation plan to determine the approved end use so that appropriate reclamation plans can be built towards this end, SMARA Section 3700. Nor does it include reclamation planning to fulfill Section 2712, p 1, "mined lands are reclaimed to a usable condition which is readily adaptable for alternative land uses."

In addition, the Office of Mine Reclamation (OMR) stated that the cement operation should be included in the reclamation plan. (Attachment A of 3/6/2007, revised 6/21/2007 from a document obtained from the SCC Planning Department.) . SCC Planning Department has ignored the request of OMR as well as repeated oral and written requests from local citizens to include it. In fact, at the first Scoping Meeting for the DEIR in June, 2007, and again after that, SCC Planning Department representatives stated specifically that the cement plant would not be included in the DEIR. That is not acceptable. (1)

Due to the many and serious inadequacies of the 1985 "reclamation" plan, no new disturbances or mining should be proposed, let alone allowed, until a comprehensive, all inclusive, SMARA compliant reclamation plan is put out for public scoping, a dEIR produced and put out for public comment and a final and compliant EIR is put out to the public.



**A new comprehensive overall and all-inclusive Reclamation Plan, including all the areas of disturbance from mining operations and which complies with SMARA needs to be put out for scoping to the public when the detailed geology analysis is completed. This geological analysis needs to be adequate and released to the public for review when it is completed.**

B. Santa Clara County proposes to put out an EIR process for the EMSA alone, separated from an overall, and way overdue, comprehensive reclamation plan for the mining and quarrying operations. If SCC does not see this as a classic case of piecemeal planning, then it appears that once again their CEAQ processes need to be rectified. The public has the right to review the EMSA together with the rest of the mining and quarrying areas for reclamation. Piecemeal planning is not allowed under the California Environmental Quality Act (CEQA).

C. By rushing a separate "Reclamation" plan amendment for the EMSA, the County is making the overburden pile dumped by Lehigh Southwest Cement Company outside of their permitted boundary (see SCC's findings) a fait accompli. Instead, the maximum fine should be imposed and the pile should be required to be moved to a permitted area. Not only was it a resident and member of WVCAW; not SCC which discovered the aforementioned pile ; **but she had to repeatedly call SCC and BAAQMD to try to get someone from one of the agencies to inspect the situation.**

D. Is the County assuming that parts or the whole of the EMSA has vested rights? If so, a public hearing is necessary which will present whatever proof there might be to determine its validity, if any.

In fact, in the summer of 2007, WVCAW asked for proof of vested rights for the proposed Pit #2 area which the county planner said we would get in one month. We never received any information regarding that, so it appears that there are no vested rights for that area.

## ADDITIONAL COMMENTS AND OBJECTIONS

"The Reclamation Plan Amendment area is approximately 89 acres, located on the northeast portion of the Quarry." (p2, NOP, signed Ap 13 and 14, 2010)

One can see comparing the areas in yellow in the East Materials Storage Area from the 2007 Reclamation Plan Amendment, designated in the key as, Mining and Overburden Storage Progression Under Amended Reclamation Plan," to the Reclamation Plan Amendment (RPA) Area, Figure 2.3-1, that a huge portion appears undisturbed habitat. This could be 40% of the area. It could be around 30 to 40 acres of new degradation and destruction.

The NOP states on p. 3, "This Reclamation Plan Amendment is being processed separately from the 2007 Reclamation Plan Amendment. However, cumulative effects of the two projects together will be examined in this EIR." Is the County kidding? The public has the right to review an entire Reclamation Plan and to determine for themselves the cumulative effects. Since the other document is not out for public review, how can the public properly evaluate the cumulative impacts? ESP? Could this be an inappropriate attempt to overcome piecemeal planning?

The Notice of Preparation (NOP) does not include that a viable no project alternative should be included for the public to review, if new mining impacts are, inappropriately, included in a RPA.

On p. 3 of the NOP, Section B. claims much of the site is currently disturbed. However, we are doubtful of that evaluation. See the map. "Much" is too vague a description. What percentage is being claimed to be disturbed? What is the proof of that? At what date did it start to be "disturbed" as there has been a lot of new activity in the FMSA in the last 3 years. What is the

has been a lot of new activity in the EMSA in the last 5 years. What is the baseline from 2000, from 2006, from 2007, 2008, 2009, 2020?

No new disturbances should take place until: 1. a new SMARA compliant reclamation plan is in place, and 2. a new CEQA document is put out for public scoping for any new areas of mining and mining operations.

The EMSA is in our neighborhoods. Lehigh Southwest Cement Plant has moved their operations into our neighborhoods by SCC allowing the new impacts that are going on their every day. This is not ok and needs to stop. The existing quarry, Pit #!, and the West Materials Storage Area is much further from our neighborhoods. We object to the new and serious disturbances of sediment into Permanente Creek which flows to the San Francisco Bay.

The RWQCB has recently issued a serious NOV for violations. We have NO confidence that the EMSA will comply with storm water, hazardous waste, sediment control and other compliance requirements. The RWQCB's photos of the hazardous materials sloshing around the Lehigh Plant are disgusting. Apparently the environmental oversight by Leigh leaves much to be desired. They are dirtying and polluting our land, water and air.

The Leigh Southwest Cement Company operations have taken our clean air, our views, our land, violated boundaries, slope requirements, safety requirements, polluted Permanente Creek, put noise and dust and spewed significant, cumulative and ongoing toxic air contaminants into our environment; they now propose to add injury to injury by proposing to expand their already harmful operation into our backyards and decrease our quality of life as well as our property values -- and all this without even the minimum required SMARA compliant reclamation plan for the lands they have already used.

The Leigh Southwest Cement Company has been allowed by Santa Clara County and other agencies to violate their permits. Santa Clara County proposes to reward Lehigh Southwest Cement Co. by redrawing the permitted boundary. Instead, the Company should be fined and made to move the pile and, when the geological studies are completed, be required to put out an overall reclamation plan compliant with SMARA and rigorously overseen by the County with the help of OMR, with all inspections and the raw data made available to the public on the SCC Planning Department web site, in real time or within weeks of the inspections.

The job of Santa Clara County is not to fulfill the wishes of Lehigh Southwest Cement Company.

The job of Santa Clara County is to ensure that an overall reclamation plan that complies with SMARA is produced AND is required and ensured to be fulfilled with adequate Financial Assurance (FACE) in the account of SCC for reclamation. Otherwise, it will be the taxpayers of Santa Clara County who will end up paying for the majority of the mess left, meanwhile Lehigh Southwest Cement Company will have left with its profits taken from our health, our land and our coffers.

The county has a poor record of monitoring the Lehigh operation and of CEQA compliance. It's time for the county to set this straight and not continue on this path, as evidenced by this fatally flawed "scoping" period to amend the current, 1985, so-called "reclamation" plan.

WVCAW herein incorporates our previous written and aural comments from the 2007 scoping period(s) for a new EIR reclamation plan.

Please keep us informed on a timely basis of the ongoing processes.

Thank You,

Joyce M Eden, for West Valley Citizens Air Watch  
408 973 1085  
<[comment@sonic.net](mailto:comment@sonic.net)>

(1)

"Mined Lands' include the surface, subsurface, and ground water of an area in which surface mining operations will be, are being, or have been conducted, including private ways and roads apartments to any such area, land excavations, workings, mining waste, and areas in which structures, facilities, equipment, machines, tools, or other materials or property which result from, or are used in, surface mining operations are located." (SMARA Section 2729, p 5)

LOS ALTOS HILLS



CALIFORNIA

May 21, 2010

Bay Area Air Quality Management District  
Attn: Board Members  
939 Ellis Street  
San Francisco, CA 94109

RECEIVED MAY 24 2010 *int*

County of Santa Clara, Board of Supervisors  
County Govt. Center, E. Wing  
70 W. Hedding St., 10th Fl.  
San Jose, Calif. 95110

Brian Thompson, CEG, CHG  
San Francisco Bay Regional Water Quality Control Board  
1515 Clay St., Suite 1400  
Oakland, CA 94612

**Re: Request to the Agencies with Regulatory Authority over the Lehigh Hanson Quarry**

Dear Members of the Bay Area Air Quality Management Board, Santa Clara County Supervisors, and the San Francisco Bay Regional Water Quality Control Board:

The Town of Los Altos Hills ("Town") appreciates this opportunity to comment on the current operation and possible permitting of the Lehigh Quarry and Cement Plant ("Lehigh"). The Town submits these comments on behalf of the Town's citizens to ensure that the Bay Area Air Quality Management District ("BAAQMD"), the County of Santa Clara Board of Supervisors ("County") and the San Francisco Regional Water Quality Control Board ("SFRWQCB") (collectively referred to as the "Regulatory Agencies") diligently exercise their regulatory authority and responsibility over Lehigh. The Town recognizes the need for aggregate production in the San Francisco Bay Area, however we urge the Regulatory Agencies to ensure that the health and welfare of the citizens of the region are fully taken into consideration when contemplating any future permitting of operations for Lehigh.

On March 10, 2010, The United States Environmental Protection Agency ("EPA") issued Lehigh a Notice of Violation ("NOV") regarding its current Title V operating permit. The NOV identifies increases in nitrous oxide and sulfur dioxide air emissions and production capacity resulting from its plant modifications. In addition, on March 26, 2010, the SFRWQCB issued Lehigh a Notice of Violation for failure to comply with stormwater protection requirements. Also, residents have recently presented the Town with lab results from independent monitoring of airborne dust generated from Lehigh's quarry pit. Those test results indicated that the dust contains levels of arsenic and lead that exceed established State health standards. Taken together, these developments are particularly concerning, as portions of the Town sit just over a mile from the quarry pit, and Lehigh is seeking extension of its operating permits.

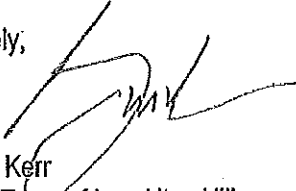
26379 Fremont Road  
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California 94022  
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Fax 650/941-3160

BAAQMD; Santa Clara County Supervisors; SFRWQCB  
Re: Request to the Agencies with Regulatory Authority over the Lehigh Hanson Quarry  
May 21, 2010  
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The Town's primary concern is that the Regulatory Agencies may not be using their regulatory authority in a manner that effectively monitors Lehigh's operations. Lehigh is now requesting a new Reclamation Plan and a new Title V permit to continue operations for the next twenty-five years. Through this letter, the Town is formally asking the Regulatory Agencies to fully consider the potential impacts that continued operation of Lehigh may have on the environment and the health of area residents. Further, the instances of violations suggest that attention and monitoring of Lehigh should be a priority of any regulatory actions. The Town requests the BAAQMD install a temporary monitoring station at Foothill College. Lastly, the Town requests formal notice of all further proceedings involving Lehigh.

Thank you for your consideration of the Town's comments.

Sincerely,



Breene Kerr  
Mayor, Town of Los Altos Hills

cc: Jeffrey V. Smith, County Executive, County of Santa Clara

Jody Hall Essser, Director, Department of Planning and Development, County of Santa Clara

Jack Broadbent, Executive Officer/APCO, Bay Area Air Quality Management District



Regional  
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Midpeninsula Regional Open Space District

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Jed Cyr  
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Larry Hassett  
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May 21, 2010

County of Santa Clara Planning Office  
Attn: Marina Rush  
County Government Center  
70 West Hedding St., 7<sup>th</sup> 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.



*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*

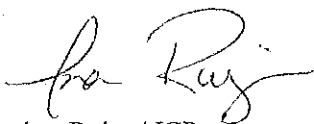
The timeline for waste disposal within the EMSA is also of concern. At the recent April 28<sup>th</sup> public hearing it was stated that existing quarry sales are 50% of normal. This has the potential to double the projected 5-year timeframe, which already seemed overly optimistic. It is also unclear 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

# 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](http://www.parkhere.org)



### MEMORANDUM

**DATE:** May 13, 2010

**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 for Permanente Quarry East Materials Storage Area (File No. 2250-13-66-09EIR)

The County Parks Department has reviewed the Notice of Preparation (NOP) of an Environmental Impact Report (EIR) for the Permanente Quarry Reclamation Plan Amendment for the East Materials Storage Area 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 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.

#### **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.

#### **Biological Resources**

The EIR for the Reclamation Plan Amendment should discuss whether or not the project would have an impact on Permanente Creek and the California red-legged frog (CRLF) and California tiger salamander. The CRLF has 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) is currently preparing a Final EIR for the Permanente Creek Flood Protection Project, 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.

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 for the East Materials Storage Area. 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: [Kimberly.Brosseau@prk.sccgov.org](mailto:Kimberly.Brosseau@prk.sccgov.org).

Sincerely,



Kimberly Brosseau  
Park Planner

cc: Jane Mark, Senior Planner  
Don Rocha, Natural Resources Management Program Supervisor  
CEQA responses to County Planning file

**QUARRYNO.COM**  
**10570 Blandor Way**  
**Los Altos Hills, CA 94024**

**May 12, 2010**

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

**Dear Ms. Rush,**

**I hereby submit our written comments regarding the Environmental Impact Statement for the proposed amendment to the existing Permanente Quarry (State Mine ID#91-43-004) 1985 Reclamation Plan incorporating the new East Materials Storage Area.**

**We submit these comments under protest as the County has already acquiesced to the Quarry expansion in a flawed process and the expansion has been underway for the past year. The public has been asked to comment apparently only to satisfy procedural rules and not the substance of Quarry operation and Expansion.**

**We regard the simultaneous processing of two amendments to an expired Reclamation plan that is 25 years old to border on the absurd. There must be a totally new Reclamation Plan incorporating all proposed changes and not continuous amendment of an expired Plan.**

**This multi faceted process is justified on the basis of saving time but that is not believable after the County has sat on the EMSA Amendment Plan for over a year. Consequently it appears the entire flawed process is simply to provide a way for Lehigh (Permanente) to escape violating the 1985 Plan, as described in the NOP, by expanding without County Approval.**

**A new Reclamation Plan must be prepared incorporating all proposed changes and expansion rather than this piecemeal approach. It must include restoration "so that mined lands are reclaimed to a usable condition which is readily adaptable for alternate land uses and create no danger to public health or safety" per SMARA.**

**A mine pit 700 feet deep and a half mile across is a definite threat to alternate usage and public safety. This means the Pit must be filled in as has occurred elsewhere in California. In that case the East and West Materials Areas become truly storage**

areas and are exhausted as they are used for fill and not treated as permanent scars on the hillsides as they currently are. It should be noted that the original 1985 Plan treated them as transition elements and stated "ultimate reclamation of the pit area will be addressed in a revised reclamation plan to be submitted around the year 2005".

This further suggests that the EMSA should be located elsewhere closer to the Pit and hence further from residential housing. While the proposed EMSA is only 2,000 feet away from residences it is even closer (1500 feet) to other occupied facilities such as the Gate of Heaven Cemetery offices.

In addition we remain very concerned over the Geological risks. We have as yet no data available to the public on the Geological Testing recently completed by Lehigh. However the testing was significant enough to delay the processing of the 2007 Reclamation Plan Amendment until now.

We also see only limited mention of the Berrocal Fault that adjoins the San Andreas Fault. This Fault adjoins Permanente Creek and actually bisects the new proposed EMSA area but it is dismissed as insignificant based on the 2008 Golder Analysis even though Golder was not able to test every soil type and based its conclusions mainly on earlier work done on the WMSA.

If this 850 foot high slope of mine waste goes all that will impede it from falling into Permanente Creek is the rickety Silt Fence that is the last line of defense. This is probably the lowest cost solution but not one inspiring great confidence.

Given that the final slopes of the EMSA are the most critical condition for stability and its proximity to homes and the creek we feel a much more rigorous analysis must be conducted including integration of the recent Geological Pit tests and positive determination of the Berrocal Fault Line. An alternative would be to move the EMSA away from Permanente Creek and the residential area as mentioned earlier.

Related to our Seismic concerns is our concern over the material to be dumped on the EMSA. It is labeled "overburden" but is more commonly called mine waste. It is treated here as benign but limestone when crushed releases arsenic and other toxins and this "overburden" must be extensively tested prior to any final EIR. The WMSA today is a strong reminder that seeding and nature won't restore the EMSA.

Lastly we are very concerned over the endangered species presently on the EMSA. The Dusky-footed Woodrat and White-tailed kite are identified as present in the EMSA but the California Red Leg Frog, while identified, is stated to be not impacted by the EMSA. This is incorrect. The Red Legged Frog is presently in abundance along Permanente Creek which will receive significant run off from the EMSA.

**Far more dramatic all endangered species here will be wiped out and their habitat completely destroyed as mine waste up to 120 feet deep is dumped on their homes. Over 10 acres of Native Oak Woodland will go as well.**

**Consequently the ongoing grading must be stopped and a new and more detailed endangered species inventory must be immediately accomplished. It would appear from recent aerial photos that at least half of the Wood Rat nests are already plowed under.**

**In summary this EMSA expansion without an EIR in place should have never happened. A new complete Reclamation Plan must be prepared, not the multiple amendments of the 1985 expired Plan. The land must be restored to useable condition which means restoration of the Pit. Geological Fault lines must be verified and not just projected. The Overburden must be rigorously analyzed to prove it is not toxic. The Endangered Species must be protected per current law.**

**Bill Almon  
Acting for the Members**

**DEPARTMENT OF TRANSPORTATION**

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



*Flex your power!  
Be energy efficient!*

April 30, 2010

SCL280357  
SCH2010042063

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

Dear Ms. Rush:

**Permanente Quarry Reclamation Plan Amendment– 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 local 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>



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:

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.

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

Jay Vega  
Office of Transit and Community Planning  
Department of Transportation, District 4  
P.O. Box 23660  
Oakland, CA 94623-0660

### ***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

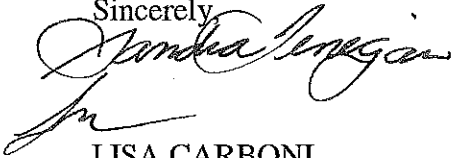
See the website link below for more information.

<http://www.dot.ca.gov/hq/traffops/developserv/permits/>

Ms. Marina Rush  
April 30, 2010  
Page 3

Should you have any questions regarding this letter, please call Jay Vega of my staff at (510) 286-0585.

Sincerely

A handwritten signature in cursive script, appearing to read "Lisa Carboni".

LISA CARBONI  
District Branch Chief  
Local Development – Intergovernmental Review

c: Scott Morgan (State Clearinghouse)

**From:** Vicky Ho <vickyueho@yahoo.com>  
**Subject:** More comments: EIR for EMSA at Lehigh Cement Plant  
**Date:** April 29, 2010 12:31:06 PM PDT  
**To:** marina.rush@pln.sccgov.org

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- 1) An EIR should not be put out BEFORE a scoping period. It appears that decisions have already been made by the county before the public gets to comment.
- 2) The current "reclamation" plan is not following many of the important reclamation standards in the State Mining Law, SMARA. Therefore it should not be amended. Instead a new "reclamation" plan which follows the law should have a scoping period.
- 3) A new reclamation plan which includes all the disturbed areas from the mining operations including the quarry and the East Material Storage Area should be put out for scoping. All the impacts need to be taken into consideration in ONE document.
- 4) The county should not be rewarding Lehigh for their violation of placing a huge pile of materials in an unpermitted area. Instead the county should fine Lehigh for this blatant violation of their permit and levy meaningful fines. (It was a citizen, NOT the county who discovered the pile and had to push and push scc to get them to investigate. )
- 5) The county has a poor record of monitoring the Lehigh operation and of CEQA and SMARA compliance. It's time for the county to set this straight and not continue on this path, as evidenced by this "scoping" period to amend the current so-called "reclamation" plan. And penalty terms should be specified and carried out.

Vicky Ho  
22600 Alpine Dr, Cupertino, CA 95014

Barbara West  
10670 Cordova Road  
Cupertino, CA 95014  
April 28, 2010

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

Hand Delivery At The Public Scoping Session On April 28, 2010 on April 28, 2010 and via email to [Marina.Rush@pln.sccgov.org](mailto:Marina.Rush@pln.sccgov.org)

**Re: Comments on the Notice of Preparation Of An Environmental Impact Report For The Reclamation Plan Amendment For Permanente Quarry (State Mine ID# 91-43-004) East Material Storage Area (EMSA)**

**POTENTIAL ENVIRONMENTAL EFFECTS, ITEM M, "CUMULATIVE IMPACTS"**

It is critically important that both the quarry Owner (Hanson Permanente Cement, Inc.) and the quarry Operator (Lehigh Southwest Cement Company) as well as their assigns and successors in interest assume full financial responsibility for the EMSA Reclamation Amendment consistent with Section 3702 of the Surface Mining and Reclamation Act and Section 2773.1 of the Public Resources Code.

The concern is that a successor in interest may not live up to the terms of the EMSA Reclamation Agreement or provide adequate financial assurances or resources. To assure any potential successor in interest of the Quarry Owner or Operator is also bound to the terms of this EMSA Reclamation Agreement, it is suggested that Section 3.11 of the Reclamation Agreement be changed to read as follows:

**Section 3.11 "Statement of Responsibility"**

"Hanson Permanente Cement, Inc. and Lehigh Southwest Cement Company have authorized their legally authorized representative(s) to execute this Amendment.

Hanson Permanente Cement, Inc. and Lehigh Southwest Cement Company collectively and individually accept responsibility for reclamation as set forth in this Amendment and further will require any assign or successor in interest whether by way of merger, consolidation, or acquisition to assume all responsibilities, obligations, and liabilities under this Amendment."

Respectfully submitted,

Barbara West

Barbara West  
10670 Cordova Road  
Cupertino, CA 95014  
April 28, 2010

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

Hand Delivery At The Public Scoping Session On April 28, 2010 and via email to  
[Marina.Rush@pln.sccgov.org](mailto:Marina.Rush@pln.sccgov.org)

**Re: Comments on the Notice of Preparation Of An Environmental Impact Report For The Reclamation Plan Amendment For Permanente Quarry (State Mine ID# 91-43-004) East Material Storage Area (EMSA)**

**POTENTIAL ENVIRONMENTAL EFFECTS. ITEM M. "CUMULATIVE IMPACTS"**

It makes absolutely no sense to develop an Environmental Impact Report based on a Reclamation Plan Amendment that, by its own terms, can be completely undone.

Specifically, Section 3.9, "Effect of Reclamation on Future Recovery of Mineral Resources" states "(t)his Amendment does not preclude future extraction or overburden placement activities within the RPA Area, other areas of the site or on surrounding lands".

To have a meaningful Environmental Impact Report, the Reclamation Plan Amendment must be amended so that the RPA Area is not subject to future extraction or overburden activities once the reclamation activities are complete.

Accordingly, it is recommended that Section 3.9 "Effect of Reclamation on Future Recovery of Mineral Resources" be modified to read:

"This Amendment does not preclude future extraction or overburden placement activities in areas other than the RPA area."

Respectfully submitted,

Barbara West

NOP

April 23, 2010

To: County of Santa Clara

Attn: Marina Rush

Phone: 408-299-5770

From: Cathy Helgerson

Regarding: East Material Storage Area at the Lehigh Southwest Cement and Quarry location is not part of the existing 1985 Reclamation Plan and so Santa Clara County is holding a scoping meeting that is being held at the City of Cupertino's City Hall Wednesday, April 28, 210 at 6:30 P. M.

The problem with this is that SCC gave Lehigh permission to use the east end area over a year ago and never gave the public a chance to object or approve the storage area addition. I called the SCC and told them about the fact that Lehigh was destroying the mountain and that I felt no one at SCC really knew or understood the magnitude of the destruction and that they needed to get up to Lehigh right away and see what was going on. I do not think that the SCC ever expected Lehigh to destroy the mountain and I also believe that Lehigh has definitely gone over and above what SCC was giving them permission to do. I also called the State Conservation Department who would not take charge of the responsibility to do anything about what was going on.

The storage area contains waste products and probably Petroleum coke that contains radio active material along with the coal that they have been piling up over many months. I was there Wed. 21<sup>st</sup> and noticed that the piles are higher and there are more of them and also that they have rock and a black product being dumped on top that I suspect maybe coal but I am not sure.

I have complaints in to the SCC Hazardous Environmental Dept. who have also sited them in the past for the Petroleum coke storage violations. I have called the BAAQMD and reported them because of the dust and pollution they are causing and they are investigating that. I also called your office and left you a message the other day suggesting that you get yourself or someone to view what is happening at the site first hand and I would also suggest now that you will be taking pictures for your records.

I suspect that they are in violation of the EPA Clean Air Act - BAAQMD and also SCC Hazardous Environmental regulations on storage with added violations to maintain a certain level of moisture in the piles to control the dust that is going everywhere. We need to know what is in the piles and why they are not completely contained in containment silos or boxed compartment of some kind.

The runoff from these piles is going into the groundwater, watershed and the Permanente Creek and it is very much suspected it is also going into the Stevens Creek Creek, the Wells that are inoperative and operative and the eventually all this is going into the Aquifer. The water companies California Water and San Jose water are pulling water up though the wells and we are drinking and using this water that is contaminated by Lehigh Southwest Cement and Quarry, Steven Creek Quarry, Stevens Creek Reservoir and probable Apple Computer's R & D Manufacturing Facility. Apple has a manufacturing facility that makes resin mold prototypes and they are using resin to make the molds that are heated up in their thermotron ovens that is being released next to an operating well that feeds 58,000 people. This well is next to my home and so is Apple Computer not even 100 feet away.

My husband and I have both had cancer and I also had a daughter born with brain damage who died when she was 3 1/2 years old all this and more from what I believe to be the pollution from

2250-09EA

the Companies above. I have a great deal more to share about my health problem and my family health problems if you care and want to help.

The situation is desperate and this pollution needs to stop and I have written the SCC and phoned many times trying to get the personnel and people responsible for this problem to help but have had no luck. I am continually ignored. I have been told by SCC representatives that I need to prove that Lehigh Southwest Cement and Quarry are a public health hazard and a danger to the community well I think I have done that and am continuing to do so. There will be a major report from me to follow and a copy will be going to SCC.

In conclusion the public citizens of Cupertino and the Valley are tired of being polluted to death and we want Lehigh Southwest Cement and Quarry closed down immediately with out delay to insure that the public is protected from this blight on the community. Lehigh can not contain their polluted emissions and because of a cumulative effect from the pollution in our bodies over time which is causing cancer and other health problems it must be shut down once and for all and a Super Fund established to clean this mess up.

Lehigh Southwest Company needs to pay for the disaster they have caused and we as citizens need to make sure they do.

I have a lot of information, records, reports and pictures I could share but it would take to much of your time right now so maybe we could meet sometime later let me know.

Thanks,

Cathy Helgerson

408-253-0490

NOT

**From:** Darwin <darwinlisa@yahoo.com>  
**Subject:** **Zero Emissions Schedule**  
**Date:** April 19, 2010 3:45:06 PM PDT  
**To:** marina.rush@pln.sccgov.org

Hi Marina,

Thank you for the opportunity and interest to consider zero emissions with regards to Lehigh Hanson, Inc (Permanente Quarry).

Heat, dust, noise, powder, cement, mercury, vibration, etc. are all "emissions" that can and should be measured and reported in real-time. These results should be posted on the Internet in real-time as a requirement for operation.

The longer term goal should not necessarily be to close a business but rather to make a business transparent and responsible. Factories are no different than automobiles and should strive to achieve zero emissions. The technology is all readily available and inexpensive.

Beyond the health and environmental benefits, mandating a path to zero emissions will also create a platform for new jobs, innovation and corresponding tax basis. Surprisingly, this will also make intelligent businesses including Lehigh more viable, competitive and profitable. An aggressive schedule will yield quicker returns.

Californians with the support of the EPA are and can be proud to lead the rest of the country and the world in measuring and openly reporting zero factory emissions.

Regards, Darwin

Darwin Chang  
10779 Juniper Court  
Cupertino, CA 95014  
650-967-3800  
[darwinlisa@yahoo.com](mailto:darwinlisa@yahoo.com)

F.1c 2250-09



**From:** Peter Coglianese <PeterC@Cupertino.org>  
**Subject: Public Scoping Video Online**  
**Date:** April 28, 2010 9:36:23 PM PDT  
**To:** Marina Rush <marina.rush@pln.sccgov.org>

---

Hi Marina,

The online video of the April 28th Public Scoping meeting is now available at the following links...

<http://www.cupertino.org/index.aspx?page=973> (Flash Video Normal - 320 x 240)

<http://www.cupertino.org/index.aspx?page=792> (Flash Video Large - 640 x 480)

[http://cupertino.granicus.com/MediaPlayer.php?publish\\_id=128](http://cupertino.granicus.com/MediaPlayer.php?publish_id=128) (Windows Media Normal - 320 x 240)

Thanks!

Pete Coglianese  
Media Coordinator  
City of Cupertino  
(408) 777-1358

-----Original Message-----

From: Marina Rush [<mailto:marina.rush@pln.sccgov.org>]