From:
To:
Public Comment

Subject: PUBLIC COMMENT AGENDA ITEM 11 - June 8, 2021

Date: Tuesday, June 8, 2021 12:26:12 PM

Dear City Councilmembers,

I am writing as an individual, not on behalf of the Environmental Commission, regarding potential City efforts to monitor and report on permitting activities for the Lehigh and Stevens Creek Quarry.

It is undeniable that the Quarry has significant negative impacts on the City's air and water quality as well as contributes to noise and dust pollution experienced by our residents living nearby. Lehigh has committed multiple regulatory violations and needs to be closely watched. It would, therefore, seem reasonable to include the monitoring of the quarry on the Environmental Commission's work plan and to dedicate staff resources to effort. However, I would urge you to consider the complexity of a robust monitoring effort and what the goal of such efforts would be given the fact that the City of Los Altos has no jurisdiction over the Quarry. The environmental monitoring of the Quarry is a complex task performed by a host of agencies, including: BAAQMD, Santa Clara County Planning, SF Regional Water Quality Control Board, SCVWD, Santa Clara Environmental Health, Office of Mine Reclamation, CARB, Water Resources Control Board, Cal-OSHA, EPA, Fish & Wildlife and USGS.

My concern is that attempting to comprehensively monitor Lehigh's impacts is both beyond the Commission's expertise and would divert time and attention from our other work plan activities, including the CAAP update. Likewise, I believe monitoring at the staff level would need to be supported by additional staff resources, not added to existing staff's duties.

If the intent is specifically to provide content for a comment letter to the County on the Quarry's proposed Reclamation Plan Amendment, which would allow for expansion and extension of mining operations, this is a much more well-defined task that seems a reasonable one for the Commission and staff to take on.

Thank you for carefully considering any direction you give and providing clear direction to the Commission and staff on the specific purpose and scope of any work product.

Sincerely,

Laura Teksler

 From:
 Public Comment

 Cc:
 City Council

Subject: Agenda Item 11 Lehigh Cement
Date: Tuesday, June 8, 2021 1:45:35 PM

Attachments: SCCMA Letter.pdf

Council, Staff, and interested members of the public,

My comment pertains to agenda item 11: Lehigh Hansen and Stevens Creek Quarry

The Lehigh cement plant at the Permanente Quarry emits nearly a third of Bay Area airborne mercury emissions. Mercury is a neurotoxin concentrated in the aquatic food web. Studies have correlated a higher occurrence of autism in local school districts, including the Cupertino Union School District, with higher levels of ambient mercury generated by the Permanente Quarry. This is in addition to the selenium poisoning of Permanente creek which the plant also caused. The toxic harms inflicted upon our air and our water are too numerous for me to list here.

In 2019 Lehigh submitted an application to amend its reclamation plan which would increase mining production at the Permanente Quarry by approximately 600,000 tons per year. The expansion of Lehigh's operations would result in the loss of 150 vertical feed of an adjacent ridgeline, forever damaging the Los Altos viewshed, and as many as 600 incremental daily truck trips to and from the plant. And how do many of these trucks get there? Foothill Expressway or Grant Road?

Thankfully, the county has yet to approve this application. In the first quarter of this year, Lehigh Southwest Cement Company announced a lawsuit against Santa Clara County for failing to approve the expanded operations.

The Santa Clara County board of Supervisors, and in particular, Supervisor Simitian, in whose district the plant operates, need to understand the stake our community has in the county's oversight. Historically, Supervisor Simitian and the Board seem to have assumed that the Quarry was primarily a Cupertino issue. Not true. Los Altos residents have critical vested interests as well.

I ask that council consider the undertaking the following actions:

- 1. Retain Fran Layton of Shute, Mihaly & Weinberger to represent the interests of Los Altos residents. Ms. Layton and her firm formerly represented the City of Cupertino in dealings with Lehigh and bring significant institutional knowledge to bear.
- 2. If it becomes appropriate at some time in the future, file Amicus brief in re Lehigh's suit against Santa Clara County. While Los Altos is not a party to that litigation, clearly the residents of Los Altos have substantial interests at stake.
- 3. Form a subcommittee tasked with tracking the issues and ensuring that the interests of our community are advanced, and that the health and safety of Los Altos residents are protected. I urge council to form this committee with Commissioner Weinberg, because of his experience as a land-use attorney and Commissioner Meadows, because of her degree in chemistry and her professional background, including work in the pharmaceutical industry and

past experience working with international chemical companies.

4. The Santa Clara County Medical Association (SCCMA) has written a letter to the county board of supervisors expressing concerns about the pollution from the quarry and the impact of Lehigh's expansion plan. I have included a link to that letter and a pdf copy of the letter here. I urge Council to write a letter expressing support for the SCCMA letter:

https://drive.google.com/file/d/1nbdKcxPNOHvp5XyGH2tFwSYpm3rTlCG3/view

Thank you for your consideration in this matter so critical to the health and safety of all Los Altans.
Regards
Pete Dailey



June 2, 2021

Santa Clara County Board of Supervisors 70 West Hedding Street East Wing, 10th Floor San Jose, CA 95110

Dear Santa Clara County Board of Supervisors:

The Santa Clara County Medical Association (SCCMA) has for many years had an interest in the operations of the Lehigh Southwest Cement Plant and Quarry in the foothills above Cupertino. As the single highest point source of airborne pollutants in the county, Lehigh has a significant health impact on the citizens that share the environment surrounding its activities. In 2010 the SCCMA Environmental Health Committee authored a resolution passed by the California Medical association to support the Environmental Protection Agency's National mercury emissions standards for cement kilns at limits based on the latest pollution control technology. In 2012 the SCCMA wrote a letter to the SCCBOS in support of new EPA emissions standards for the cement plant. Mercury emissions are not the only issue of concern. We are writing today to address filling materials in the quarry pit.

According to the 2019 Reclamation Plan Amendment, Lehigh has requested that outside materials be transported to the quarry to fill the quarry pit. The original plan set forth in the Reclamation Plan in 2012 was for overburden from the West Materials Storage Area (WMSA) be used to reclaim the pit. The use of outside fill would result in an extra 666 diesel truck trips per weekday through the surrounding neighborhoods of the quarry over a 30-year timespan.

Diesel truck emissions contribute to a substantial environmental health risk. According to the California Air Resources Board, about 70 percent of total known cancer risk related to air toxics in California is attributable to diesel particulate emissions. The Bay Area Air Quality Management District in 2020 convened a Scientific Advisory Board on Particulate Matter. They stated that "Particulate matter is the most important health risk driver in Bay Area air quality, both PM 2.5 as a criteria pollutant and diesel PM as a toxic air contaminant."

More than 90 percent of diesel particulate matter is less than 1 micrometer in diameter and thus falls under the subset of particulate matter less than 2.5 micrometers (PM 2.5). Such very small PM pollutants bypass the defense systems in the lungs and lodge in the small airways, some making their way into the cardiovascular system and then to all other organs. This infiltration of contaminants leads to inflammatory and carcinogenic processes that contribute to the risk of lung and cardiovascular diseases as well as cancer risk.

The addition of 666 additional daily truck trips in the densely populated area surrounding the quarry poses an extraordinary health risk to all the neighboring residents in that area. In addition to the risk



from airborne pollutants, such a substantial number of truck trips on local roads will heighten the accident risk.

The National Highway Traffic Safety Administration in 2017 found that year that there were 4102 truck-related traffic deaths, an increase of 52 percent since 2009. The Insurance Institute for Highway Safety in 2019 estimated that about 52 percent of truck-related accidents occurred on major roads other than interstates or freeways. The heavily trafficked roads along Foothill Boulevard and Steven's Creek Boulevard would qualify as major roads described in the study. The consequences of truck-related collisions are potentially devastating. Collision with a vehicle in transport was the first harmful event in 73 percent of fatal crashes involving large trucks, according to 2018 data from the Federal Motor Carrier Safety Administration.

In summary, the proposed Reclamation Plan Amendment poses serious health and safety risks to the community due to the extra 666 daily truck trips required to place outside fill into the quarry pit. Such activity over 30 years will lead to excess deaths and disability due to cancer, lung and cardiovascular disease, as well as heightened risk from traffic accidents. The overburden from the WMSA needs to be disposed of in any case so the logic behind receiving imported fill is inexplicable. The SCCMA asks that Santa Clara County NOT permit this revision of the Reclamation Plan to proceed.

- County of Santa Clara, Department of Planning and Development. 2019 Reclamation Plan Amendment for Quarry Expansion (File PLN19-01016). https://www.sccgov.org/sites/dpd/Programs/SMARA/PermanenteQuarry/Pages/PermanenteRP A.aspx
- 2. California Air Resources Board, *Overview: Diesel Exhaust and Health, 2012.* https://ww2.arb.ca.gov/resources/overview-diesel-exhaust-and-health
- 3. Advisory Council Particulate Matter Reduction Strategy Report. *Particulate Matter: Spotlight on Health Protection, December 16,2020*
- 4. National Highway Traffic Safety Administration, *Traffic Safety Facts 2017 Data: Large Trucks.* https://crashstats.nhtsa.dot.gov/Api/Public/ViewPublication/812663#:~:text=Fatalities%20in%20 crashes%20involving%20large,to%204%2C761%20fatalities%20in%202017.
- 5. Insurance Institute for Highway Safety, *Fatality Facts 2019: Large Trucks*. <u>https://www.iihs.org/topics/fatality-statistics/detail/large-trucks#where-and-when-large-truck-crashes-occurred</u>
- 6. Federal Motor Carrier Safety Administration, *Large Truck and Bus Crash Facts 2018*. https://www.fmcsa.dot.gov/safety/data-and-statistics/large-truck-and-bus-crash-facts-2018

Sincerely,

Cindy Russell, MD SCCMA President

Cindy Russell

cindyleerussell@gmail.com

From:
To:
Public Comment

Subject: PUBLIC COMMENT - AGENDA ITEM 11 - MEETING DATE: June 8 City Council Quarry Expansion Plans

Date: Tuesday, June 8, 2021 1:58:33 PM
Attachments: Lehigh Interest Letter 3-23-2021 signed.pdf

From: Rhoda Fry

Sent: Tuesday, June 8, 2021 1:51 PM

To: 'council@losaltosca.gov' <council@losaltosca.gov>

Subject: June 8 City Council Agenda Item #11 Quarry Expansion Plans

Dear Los Altos City Council,

Thank you for considering the impacts of the quarry expansion proposals on the City of Los Altos.

It is inconceivable that Lehigh would even contemplate mining our viewshed that is protected by the 1972 ridgeline protection easement deed. Their plan is to lower the protected ridgeline by 100 feet while raising another part of the ridgeline by 160 feet. Lehigh has a history of getting what they want. And Santa Clara County has a habit of giving them what they want. In fact, for years various organizations have decried the crumbling ridgeline. Attached is an image from Lehigh's plan showing the past, current, and proposed protected ridgeline elevations. Lehigh's proposal would permanently impact views from the valley floor and endanger special status flora and fauna. The edge of the ~218-acre mining-waste area is already visible from the library as a brown stripe on our hillside. Don't be fooled by the pretty pictures in Lehigh's plans. The vantage points are minimal and Lehigh's past revegetation efforts have left a moonscape (just take a look at google earth).

Lehigh's proposal at the ridgeline would be more impactful to Los Altos residents than to Cupertino residents. Nevertheless, the City of Cupertino has stepped up its oversight of the quarry by writing letters to the County and meeting with the County. The City of Los Altos needs to step up. Other major impacts are loss of recreational values at Rancho San Antonio, continuation of one of California's worst polluters, and major increases in truck traffic. Enclosed please find a recent letter from the Open Space District, a map of the quarry, and the ridgeline elevation image mentioned earlier.

The County must be more responsive to our needs. The County ignored Cupertino resident complaints about excess noise following the installation of a new smoke stack and illegal traffic between Lehigh and Stevens Creek Quarries. It was not until the City of Cupertino put forth effort that these issues were resolved. The County has also allowed Stevens Creek Quarry to continue operating in spite of a Conditional Use Permit that expired 7 years ago. There were no fines when Lehigh built a 40-foot wide illegal road without proper erosion controls or requisite wildlife studies. These issues and more have occurred on our Supervisor Simitian's watch.

Here are some low-cost ideas that the City of Los Altos could consider:

- 1. Opportunities to inform the public:
 - a) Put a link to County information on the City Website and Cupertino's information as well

https://www.cupertino.org/our-city/city-news/2018-2020-issues-between-lehigh-

quarry-stevens-creek-quarry-county-city

- 2. Opportunities to have a say in our future
 - a) Create a multi-City / Agency task force, such as the one with airports, with Los Altos, Los Altos Hills, Foothill College, and Cupertino, Open Space District to name a few
 - b) Sign on to letters that have been written by others such as the Open Space District, Cupertino, Sierra Club, and Los Altos Hills. A recent letter from the Open Space District is enclosed.
 - c) Urge County and Open Space District to purchase Lehigh property and terminate all industrial uses at Cement Plant industrial complex (Lehigh has mentioned importing cement)
- 3. Environmental Commission can request information from agencies
 - a) Lehigh is the #4 polluter of particulate matter in our State. What is its impact on solar panels?
 - b) Obtain better data on ridgeline profiles for quarry and waste areas and post at City, Library, and web.
 - c) Create 1 letter per quarter to the County that would be approved by City Council.
- 4. Ask County to guarantee that Lehigh has earmarked sufficient funds to restore land toward a secondary beneficial use as required by law (note, Lehigh is excluding the Yeager Yard Landslide above Permanente Creek and its industrial complex, which included manufacturing incendiary bombs during WWII).
 - a) Presently, there is approximately \$60M in bonds to ensure "reclamation" in case Lehigh walks away. The County has accepted Lehigh's estimate for reclamation at \$60M. If you consider that the Permanente Creek flood project cost tax payers \$84M, it is obvious that \$60M just isn't enough. If Lehigh walks away, the County will have to make up for the rest, siphoning funds from other important County projects.

Lehigh's Hanson Permanente inc. has walked away in the past and declared bankruptcy to avoid paying for asbestos lawsuits at multiple locations including Permanente where they manufactured a stucco product and a fertilizer product containing asbestos.

b) The City of Los Altos should be concerned about a man-made landslide above Permanente Creek that the County has been watching grow for years. A 1983 quarry-caused flood on Permanente Creek inundated Blach School 4 miles downstream. The County must guarantee no harm to residents or structures from the quarry's man-made landslide. Please refer to the below if you're interested in the details.

Sincerely, Rhoda Fry

More Information on Landslide Threatening Permanente Creek:

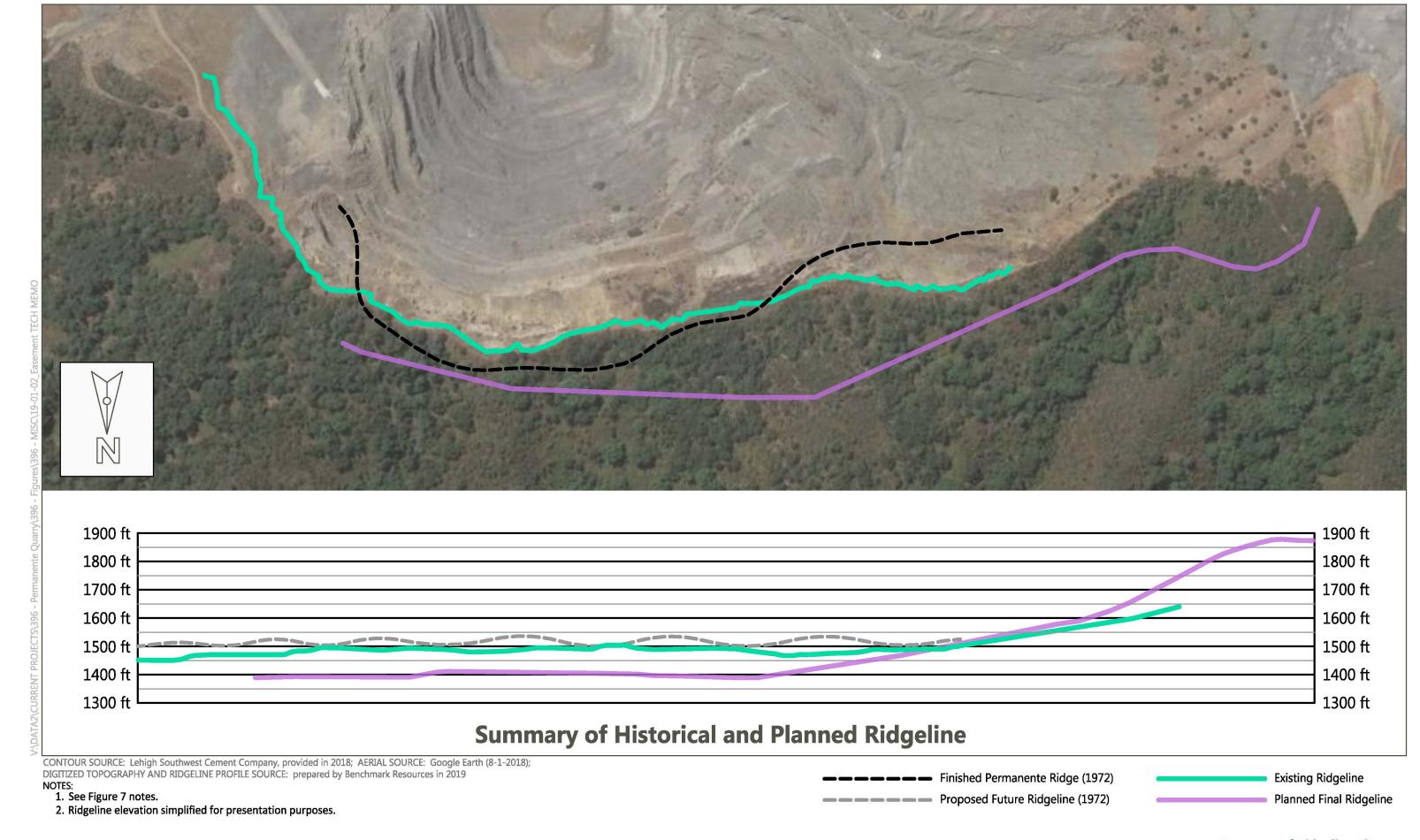
Public documents state that the Yeager Yard landslide is a health and safety hazard and threat to structures and homes downstream. Please consider that in 1983, mining / cement plant operations caused a major flood that went all the way to Blach school (narrative follows). In 1989, the USGS followed up with a 54-page report, "Effects of Limestone Quarrying and Cement-Plant Operations on Runoff and Sediment Yields in the Upper Permanente Creek Basin," with the conclusion that mining has likely increased sediment yields by 3.5 times: https://pubs.er.usgs.gov/publication/wri894130

1983 flood narrative from Valley Water: Permanente Diversion Around noon on

March 2, the plugging and sudden unplugging of an outlet from a private detention pond on an upstream reach of Permanente Creek caused a surge of floodwaters. More than 540 students were evacuated from Blach Junior High School and Miramonte, a private school, adjacent to Permanente Diversion. The school and grounds flooded to a depth of 1/2 foot. Street flooding also occurred, as well as minor mud damage to the garages of three homes on Altamead Drive. A great deal of sediment was transported with this wave of floodwater. District crews removed 9500 cubic yards of material from the channel in the two weeks immediately following the storm, leaving 8,000-10,000 cubic yards to be removed during the summer months. SOURCE:

https://www.valleywater.org/sites/default/files/1983%20Flood%20Report 0.pdf

The County seems to have little interest in getting the landslide fixed. We've been lucky that it has been dry. You can find additional information on this dropbox: https://www.dropbox.com/sh/mpplb5pff17mqm4/AADkL-atoPzzl0vDUZ3vamIaa? dl=0



BENCHMARK RESOURCES 0 150 300 600 Fee



Midpeninsula Regional Open Space District

GENERAL MANAGER

BOARD OF DIRECTORS
Pete Siemens
Yoriko Kishimoto
Jed Cyr
Curt Riffle

Karen Holman Larry Hassett Zoe Kersteen-Tucker

March 23, 2021

Lehigh Southwest Cement Company Attn: Erika Guerra, Environmental and Land Management Director 24001 Stevens Creek Blvd. Cupertino, CA, 95014

Dear Ms. Guerra,

Thank you for providing tours to the Midpeninsula Regional Open Space District (Midpen) Board of Directors (Board) on the Lehigh Quarry (Quarry) property. We appreciated Lehigh's proactive outreach to discuss the proposed 2019 Reclamation Plan amendment. As you know, the Quarry is adjacent to our most popular preserve, Rancho San Antonio Open Space Preserve (Rancho Preserve) and Rancho San Antonio County Park (Rancho County Park) (collectively Rancho). Rancho County Park is managed by Midpen through a management agreement with Santa Clara County. Rancho receives nearly 800,000 visitors annually, a number that is likely over 1 Million since COVID-19. Along with being the most visited site, Rancho Preserve is also home to our Foothills Field Office, where approximately 30 employees report to work.

We expect a long future as neighbors and provide the following comments to uphold the public's interest and Midpen's mission to protect scenic and open space values in perpetuity. Midpen's mission is "to acquire and preserve a regional greenbelt of open space land in perpetuity, protect and restore the natural environment, and provide opportunities for ecologically sensitive public enjoyment and education." In June, Midpen's Board of Directors formed the Lehigh Quarry Review Ad Hoc committee to focus on the 2019 Reclamation Plan Amendment Application. We have identified a number of critical issues and concerns that we wish to share with you now so that Lehigh has the opportunity to respond and to modify the proposed 2019 Reclamation Plan as the environmental review process gets underway.

The proposed modification of the Ridgeline Easement and the ridgeline in general are concerning for several reasons. The scenic, aesthetic, and ecological impacts of the proposed project are significant and irreversible. County residents, the Board of Supervisors, and Kaiser sought to protect those values of the ridgeline when the easement was conveyed to the County in 1972. That easement was a promise to the public that the ridgeline would forever be protected and held intact, limiting the expansion of the Quarry in the highest reaches of the ridgeline and minimizing visual impacts as seen from surrounding communities. Since then, landslides caused by mining that was conducted under previous ownership have literally removed sections of the ridgeline that were supposed to be protected by the easement. The focus should be on protecting and restoring the ridgeline, rather than degrading it. The District strongly urges Lehigh to identify an alternative that does not further compromise the existing ridgeline, to strengthen the easement to protect the entire ridgeline, and to include enforcement mechanisms to ensure that the easement is not violated in the future. Midpen worked with Lehigh in the recent past to rectify the undermining and loss of a portion of Rancho Preserve, due to over steepened slopes

created by mining, through a land exchange and a modern easement that protects lands that are now under Lehigh ownership. Midpen supports a similar strengthening of the existing easement held by the County.

In addition, the two parcels owned by Lehigh within the jurisdiction of the City of Palo Alto are crucial to protecting habitat surrounding the Quarry operations. The West Materials Storage Area now extends right to the boundary of those parcels and has buried natural habitat under waste rock. Midpen and Lehigh have a history of working on public access in these parcels. Lehigh has granted a trail easement to Midpen for public access for the existing Quarry Trail and on another parcel for a future planned extension of the Black Mountain Trail. Now is the time to protect these parcels. Midpen requests that Lehigh, as part of its application process, grant through easement or ownership an assurance to the public that these lands will be protected in perpetuity.

The West Materials Storage Area (WMSA) continues to be a large environmental issue for Midpen and the surrounding communities. The aesthetic impacts from the materials are significant, as viewed from many Rancho trails and from the District's Fremont Older Open Space Preserve. The 2012 Reclamation Plan committed to the removal of the WMSA and Midpen wishes to hold Lehigh accountable to that commitment. The District's preferred alternative is for the material in the WMSA to be returned to the quarry pit, as approved in the 2012 Reclamation Plan. The District opposes importing fill from outside the Quarry.

The proposed revegetation plan is not adequate to leave the property in an ecologically functional condition that will support biodiversity and climate resiliency in the lands surrounding Rancho. The District desires to see a focus on habitat connectivity in the revegetation plan. We are developing a conceptual plan as a guide and will submit this shortly in hopes of encouraging Lehigh to be more proactive and thorough on this issue.

Fugitive dust is a chronic issue in the area and is likely worsened by the proposed 2019 Reclamation Plan. Quarry dust coats District vehicles and everything in Rancho with a scale only removable with a vinegar solution. The District has received complaints from visitors who are only parked for several hours in Rancho that their car was coated in this dust, requiring a car wash. The expansion of mining, as well as the truck traffic from the import of fill, represent a new and significant dust source, on top of the already ongoing sources of dust emissions. Lowering the ridgeline will only increase dust in Rancho. We understand the Bay Area Air Quality Management District has issued a permit regulating the dust emissions for the property. Adherence to the terms of the permit is important to Midpen. As a good neighbor, Midpen requests that Lehigh go beyond permit conditions and work to control dust entering Rancho. We would appreciate a more detailed discussion with Lehigh on this topic.

The protection of Permanente creek and its habitats is very important to Midpen's mission protecting the natural environment. This creek and many environmental issues extend beyond the Quarry boundary and affect surrounding habitats in Rancho and downstream. Natural waterways like this provide invaluable ecosystem benefits and connect our visitors with the natural environment. The full realization and completion of the Permanente Creek Restoration project that Lehigh has already committed to (but has not yet implemented) is of the utmost importance because it will provide important benefits to the impacted watershed. We recognize the work Lehigh has done to treat selenium containing waters and to manage the discharge with the Regional Water Quality Control Board. The potential for selenium discharge is an issue that may outlast the mining operations on the property. Continued vigilance by Lehigh and the Water

Board to monitor and manage water quality is critical to a healthy ecosystem and safe drinking water.

Midpen is also interested in public access to Rancho off of Stevens Creek Boulevard. Midpen requests that Lehigh work with Union Pacific to grant a trail easement either via Lehigh's existing easement or on a new right of way to either the county or Midpen to provide public access to Rancho from Stevens Creek Boulevard. This potential trail connection is highlighted in the *Joint Cities Coordinated Stevens Creek Trail Feasibility Study*.¹

Midpen acknowledges that Lehigh conducts important activities that support our local economy and avoids the impacts of importing cement. Minimizing the significant local environmental effects of mining while expanding the scope of activities on Lehigh's property is a challenge and we hope that Lehigh will work with us to ensure that its activities are done responsibly. Midpen's mission requires a vision into 'perpetuity' for recreation and ecosystem resilience in the Permanente Creek area. We appreciate Lehigh's consideration of these issues.

One of the commitments Lehigh and Midpen made to each other was to for Midpen to host Lehigh at a Midpen Board meeting for an annual presentation. The last annual update was in November 2018. The Board would welcome Lehigh making a presentation to the Board on current operations and the proposed reclamation plan amendments in the next few months.

Sincerely,

Ana Ruiz

General Manager

cc:

Kristina Loquist, Office of Supervisor S. Joseph Simitian, County of Santa Clara

Rob Eastwood, Planning Manager, AICP, County of Santa Clara

Robert Salisbury, Senior Planner, County of Santa Clara

Elizabeth Pianca, Lead Deputy County Counsel, County of Santa Clara

Kirsten Struve, Valley Water, Sr. Water Resources Specialist

Lisa McCann, San Francisco Regional Water Quality Control Board

Lindsay Whalin, Engineering Geologist, San Francisco Regional Water Quality Control Board

Jim Baker, County Geologist, County of Santa Clara

Roger Lee, Acting Public Works Director, City of Cupertino

John Marvin, Air Quality Program Manager, Bay Area Air Quality Management District

Ed Shikada, City Manager, City of Palo Alto

Brad Kilger, Interim City Manager, City of Los Altos

Alice Kaufman, Legislative Advocacy Director, Green Foothills

Shani Kleinhaus, Environmental Advocate, Santa Clara Valley Audubon Society

James Eggers, Chapter Director, Sierra Club Loma Prieta Chapter

Midpeninsula Regional Open Space District Board of Directors

¹ Currently available at: https://sunnyvale.ca.gov/business/projects/stevens.htm

