



**DISCUSSION ITEM**

**Agenda Item # 10**

**AGENDA REPORT SUMMARY**

**Meeting Date:** November 9, 2021

**Subject:** Lehigh Subcommittee Report

**Prepared by:** Council Members Lee Eng and Meadows

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Background

- Lehigh (Lehigh Permanente Quarry, Lehigh Hanson) is a limestone and aggregate mining operation in the unincorporated foothills of Santa Clara County, Cupertino.
- The Lehigh cement plant is an authorized use operating under a use permit issued May 8, 1939.
- Lehigh quarry is a “vested mine” operation, as determined by the Board of Supervisors on February 8, 2011. A “vested mine” is a mine that was established legally within the regulations in place at the time and is allowed to continue until the use ceases.
- A Reclamation Plan, detailing how the quarried lands will be restored, was originally approved in 1984 and amended in 2012.

Current Status

- Lehigh affects a broad residential area (Cupertino, Mountain View, Los Altos, Los Altos Hills) with significant environmental impacts including:
  - Air quality, dust and odors
  - Water quality
  - Natural environment and habitat loss
  - Noise
  - Traffic
- Santa Clara County is partnering with the Midpeninsula Regional Open Space District (Midpen) to share enforcement rights for the scenic easement on the ridgeline.
  - The County approved the Memorandum of Agreement (MOA) with Midpen in August
  - Midpen and the County will share enforcement of the preservation easement (granted in 1972) that protects land adjacent to Rancho San Antonio County Park (owned by the County and managed by Midpen), and Rancho San Antonio Open Space Preserve (owned and managed by Midpen).
  - The MOA grants Midpen the right to monitor and inspect the protected ridgeline and surrounding habitat that is part of the Lehigh Cement Plant & Quarry property and enforce identified violations of the ridgeline easement through the process contained in the MOA.
- Earlier this year, Lehigh filed a lawsuit requesting that the court declare that modifications proposed in the Reclamation Plan Amendment (RPA) do not amount to a

substantial change or impermissible intensification of Lehigh's vested rights; and to order the County and its Director of Planning and Development to process the RPA without administratively reviewing whether the proposed modifications fall within the scope of Lehigh's vested rights.

- On September 14, 2021, the court ruled in favor of the County by sustaining the County's demurer. The court granted the demurrer with prejudice, meaning that the court denied Lehigh the opportunity to further amend the complaint and prolong the lawsuit.
- The appeal period is ongoing, but no appeal has been filed yet.
- The County is working on the EIR for the creek restoration project which was required of Lehigh by their settlement with the Sierra Club in 2012/13.
- County staff did their annual SMARA (State Mining and Reclamation Act) inspection in September
- Later in October, Lehigh should submit their updated financial assurance documents to the county for review (bonds to ensure there are funds to clean close the facility)
- Steven's Creek Quarry applied to the Santa Clara County Planning Commission for a determination as to whether the importation and processing of unprocessed material from Lehigh Quarry to Stevens Creek Quarry was an allowed use (see Questions for Council below)
  - In August, the Commission unanimously denied the Zoning Interpretation application (i.e. determined that the application was NOT for an allowed use) and that the denial is exempt under CEQA.

#### Environmental Commission Lehigh Subcommittee

- At their September 13, 2021 meeting, the Environmental Commission appointed Shiao-ping Lu and David Klein to the Commission's Lehigh subcommittee.

#### Questions for the Council

- What direction should Council give the Environmental Commission subcommittee (e.g. to monitor news regarding Lehigh)?
- Does the Council want to give direction to the Council subcommittee to expand scope to include Steven's Creek Quarry, a) when issues overlap with Lehigh, or b) as part of a broadened scope?
  - The Stevens Creek Quarry is a bluestone aggregate mining operation located in the unincorporated Santa Clara County, Cupertino, in the Monte Bello Ridge canyon.

The potential impact of Lehigh is significant, and it is important to continue monitoring activity and developments.