



Midpeninsula Regional
Open Space District

For Immediate Release

Date: November 29, 2012

Contact: Shelly Lewis, Media Communications
Supervisor, 650-625-6571
Kirk Lenington, Natural Resources Manager,
650-625-6540
Sheryl Schaffner, General Counsel, 650-625-6505

Lehigh Southwest Cement Company Faces Legal Challenge to Environmental Impact Report

**– Midpeninsula Regional Open Space District’s lawsuit cites
concerns over Reclamation Plan’s impacts on air and water quality,
visual resources, recreation, and hazardous materials –**

Los Altos, California [November 29, 2012] The Midpeninsula Regional Open Space District today will file a lawsuit challenging the adequacy of the Environmental Impact Report (EIR) for the recently-approved Reclamation Plan for Lehigh Southwest Cement Company’s Permanente Quarry near Cupertino. The quarry and cement plant are adjacent to the District’s Rancho San Antonio Open Space Preserve, which receives over 500,000 visitors annually.

“Our deep concerns for the quarry’s air and water quality impacts, hazardous materials, and related recreational impacts remain unaddressed,” said Board President Curt Riffle. “These issues affect us, our visitors, and the employees who work and live on our Preserve. We have therefore directed staff to seek the assistance of the courts.”

The District’s elected Board of Directors announced its decision to file the lawsuit at its public meeting on Wednesday, November 28. The Board’s decision came after the District had voiced its concerns throughout the multi-year administrative proceedings and then engaged in months of unsuccessful negotiations with the Lehigh Southwest Cement Company following approval of the plan.

The Board also directed staff to pursue independent air quality monitoring, apart from the litigation, to help the District get a better understanding of pollutants that are in the air and the levels of these pollutants that staff and visitors are breathing at the Preserve.

Lehigh submitted its updated plan to Santa Clara County for review and approval in 2011. The District, San Francisco Bay Regional Water Quality Control Board, community organizations, environmental groups, neighbors, and concerned citizens expressed their views that the environmental analysis and mitigation of the project’s impacts were inadequate. The Board of Supervisors nevertheless approved the plan and certified the EIR in June 2012.

“A lawsuit is the very last course of action for us,” said District General Manager Steve Abbors. “However, since many issues of concern were not adequately addressed through other channels, we feel we must turn to the courts to help us resolve this matter.”

The lawsuit states that the final approved EIR and plan lack sufficient analysis of air quality, water quality, biological resources, hazardous materials, baseline conditions, and visual impacts. The EIR fails to recognize or evaluate the potential toxic legacy of the site which included a half-century of munitions and metal manufacturing. Under the approved plan, areas with potentially toxic soil from this era could be disturbed and buried by mining waste before proper analysis of the contamination is completed.

The suit also points to the serious effect that the voluminous dumping of quarry waste at the East Material Storage Area has, and will continue to have, on air quality and visual resources, including obstructing views of the Santa Cruz Mountains. The lawsuit also notes that the County allowed Lehigh to analyze the impacts of the new plan under a series of deeply flawed assumptions that appear aimed at minimizing its true environmental effects.

Rancho San Antonio Open Space Preserve is heavily used by hikers, joggers, cyclists, equestrians, and families. The Preserve houses Santa Clara County Park and the City of Mountain View’s Deer Hollow Farm, a popular educational center geared toward school-aged children. A day camp for children operates at this location each summer. The District estimates that over half a million visitors enjoy the Preserve each year. In addition to visitors, the Preserve has 3 residences for staff and their families onsite and more than 30 additional staff who work there daily.

Michael Newburn, an Area Superintendent for the District, manages the field staff of rangers and maintenance workers at the Preserve. “I feel responsible for my staff and the visitors who come to Rancho San Antonio Open Space Preserve,” states Newburn. “I am grateful that the District is urging the quarry and the County to do a better job of understanding the effects of future activity. We all breathe the air here and have contact with Permanente Creek, so we need to know that the air and water are safe for both people and wildlife.”

In addition to providing recreational opportunities for area residents, Rancho San Antonio Preserve is home to an array of wildlife including two federally listed threatened species: steelhead trout in Permanente Creek and the California red-legged frog.

General Manager Abbors acknowledged the economic importance of Lehigh, which provides about 50% of the cement used in the Bay Area. “Cement manufacturing has been part of Santa Clara County since 1939. We understand the economic importance of Lehigh to the region and know it’s tough to compete in a global market. We are not against quarrying or cement manufacturing, but as stewards of the land, which the taxpayers have funded and supported for 40 years, it is our obligation to exercise all of our legal options to minimize environmental impacts and potential health concerns.”

Contact Shelly Lewis at 650-625-6571 or slewis@openspace.org for a copy of the legal complaint.

#####

Created by voters in 1972, the Midpeninsula Regional Open Space District has successfully protected more than 60,000 acres of open space. The District is a California special district governed by an elected board of directors. The District’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. www.openspace.org.

445064.6