Midpeninsula Regional
Open Space District

Memorandum

DATE: October 27th, 2021

MEMO TO: Board of Directors

FROM: Lehigh Ad Hoc Committee: Director Yoriko Kishimoto (Chair), Board President Curt Riffle, and Director Karen Holman

CC: Ana Ruiz, General Manager

SUBJECT: Dissolution of the Lehigh Quarry Review Ad Hoc Committee

---

SUMMARY

The Lehigh Quarry Review Ad Hoc Committee (the Committee) was formed by the Midpeninsula Regional Open Space District (District) Board of Directors at the June 10, 2020 meeting (R-20-61) to "serve the purpose of reviewing and guiding the District's response to the Reclamation Plan Amendment and the County's response to Lehigh's application."

The Committee met 15 times. We reviewed the spectrum of potential environmental impacts, prioritized top concerns for the District and reviewed a letter summarizing these concerns, which was shared widely with Lehigh, the county and our neighboring cities and non-profits (see attached.) The Committee and staff advocated for the protection of the Ridgeline Easement held by Santa Clara County (County) that protects Rancho San Antonio Open Space Preserve and the surrounding community from the operations of Lehigh Quarry. The Ad Hoc Committee was instrumental in working with the County to conceive of a Memorandum of Agreement, which was approved by the District Board and the County Board of Supervisors in August 2021. The agreement confers upon the District an important role in monitoring and, if needed, enforcing the protections held in the Ridgeline Easement.

Lehigh's proposed Reclamation Plan amendment and the County's processing of the application have made limited progress since the formation of the Ad Hoc Committee. Lehigh Quarry has so far refused to pay the County to start the environmental review process and has sued the County regarding its processing of the application and its right to hold a hearing concerning the scope of the "vested rights" that affect the permissible uses on the site. The suit was recently dismissed by the Santa Clara Superior Court. The outcomes of the vested rights hearing will likely dictate the timeline for the Reclamation Plan amendment process going forward, likely over the next two years. Therefore, the Committee and staff recommend the Lehigh Quarry Review Ad Hoc Committee be dissolved at this time. Should the Reclamation Plan process restart, staff or the Board could consider whether an Ad Hoc committee is needed again. Staff may also return to the Board at future dates to provide status updates, and to obtain authorization for contracts for consultants to support the District's review of the Reclamation Plan amendment. Unless directed otherwise by the full Board, the current Lehigh Quarry Review Ad Hoc Committee will be considered dissolved as of today's Board meeting.

Attachment 1: Letter from the District to Lehigh Quarry on 2019 Reclamation plan amendment

Midpeninsula Regional OpenSpace | Midpeninsula Regional Open Space District

GENERAL MANAGER
Ana M. Ruiz

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 (Mar 13, 2020 13:41 PDT)

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