



Midpeninsula Regional  
Open Space District

R-21-162  
Meeting 21-33  
December 8, 2021

**AGENDA ITEM 6**

**AGENDA ITEM**

Update on items of mutual interest related to Lehigh Hanson Heidelberg Cement and Midpeninsula Regional Open Space District

**GENERAL MANAGER'S RECOMMENDATION** *deur*

Receive a presentation by a representative from Lehigh Hanson Heidelberg Cement. No Board action required.

**SUMMARY**

In August 2014, the Midpeninsula Regional Open Space District (District) agreed to dismiss its judicial appeal challenging Lehigh Southwest Cement Company's (Lehigh) Environmental Impact Report (EIR) for the 2012 Reclamation Plan in exchange for various public benefits (R-14-98). One of the important conditions of the settlement was an agreement for the District and Lehigh to participate going forward in regular, open public meetings to discuss opportunities and issues of mutual concern. Meetings were held twice in 2015 and once in 2017 and 2018.

Lehigh proposed a Reclamation Plan amendment in 2019. In 2019 and 2020, Lehigh presented the proposed amendment to District staff and provided tours of the Lehigh Quarry to District Board of Directors (Board) to explain current operations and the proposed reclamation plan. The District has requested Lehigh to present the latest status of the proposed Reclamation Plan and discuss other topics of mutual interest at the December 8 Board Meeting.

**DISCUSSION**

The Board of Directors (Board) received presentations from Lehigh and its predecessors on May 27, 2015 (R-15-84), October 14, 2015 (R-15-147), May 10, 2017 (R-17-55), and November 14, 2018 (R-18-127). In May of 2019, Lehigh submitted a Reclamation Plan amendment to Santa Clara County (County) that proposes increased mining in several areas of the property and a new approach for Reclamation, principally filling the main quarry pit with construction fill from various sources around the Bay Area instead of re-placing the West Materials Storage Area back into the quarry pit, as approved in the 2012 Reclamation Plan. Lehigh met with District staff to present the plan prior to and after submitting the application. Lehigh also offered tours of the quarry to Board members and District staff.

On June 10, 2020, the Board formed an Ad-Hoc Committee to review to the proposed Reclamation Plan (R-20-61). The District submitted a letter to Lehigh in March 2021 on the proposed Reclamation Plan amendment that communicates District concerns on a number of critical issues (Attachment 1). On August 16, 2021, the Board adopted a Resolution approving a

Memorandum of Agreement (MOU) with Santa Clara County regarding the inspection and enforcement of the Ridgeline Easement held by the County on Lehigh Quarry lands and authorizing the General Manager to execute the Agreement (R-21-110). On August 17, 2021, Santa Clara County Board of Supervisors approved the MOU to assign inspection rights and give the District rights to enforce Ridgeline Easement violations if the County chooses not to do so. The Ridgeline Easement buffers and separates quarry operations from Rancho San Antonio Open Space Preserve and County Park. The environmental review process for the proposed Reclamation Plan has not begun and is awaiting payment from Lehigh to the County. After 15 meetings, the District's Lehigh Quarry Review Ad Hoc Committee was dissolved as of the October 27, 2021 Board meeting.

The letter to Lehigh from the District outlines a number of concerns related to the 2019 Reclamation Plan. Some important concerns include:

- The proposed ~100-foot lowering of the Ridgeline Easement area that separates the quarry operations from Rancho San Antonio and the surrounding communities, and potential increased impacts from dust, noise, and the permanent loss of 20 acres of habitat and headwaters.
- The proposed use of construction fill to reclaim the main quarry pit in lieu of placing the West Materials Storage Area, as approved in the 2012. This would leave the waste rock pile as a permanent feature of the landscape and the construction fill would require 600 truck trips a day for 30 years - a serious pollution, greenhouse gas, and public safety issue.
- The District believes the permanent protection of the undeveloped parcels west of quarry operations within City of Palo Alto boundaries is critical to maintaining the ecological integrity of the region.

## **FISCAL IMPACT**

Presentation by Lehigh Hanson Heidelberg Cement has no fiscal impact. Future contracts or services related to the environmental review process will come before the Board at a later time.

## **BOARD AND COMMITTEE REVIEW**

The Lehigh Quarry Review Ad Hoc Committee met 15 times to review the 2019 Reclamation Plan and these efforts resulted in the District becoming a working partner with the County to protect the Ridgeline Easement.

## **PUBLIC NOTICE**

Public notice was provided as required by the Brown Act.

## **CEQA COMPLIANCE**

This item is not a project subject to the California Environmental Quality Act.

**NEXT STEPS**

Should Santa Clara County initiate the environmental review process for the proposed Reclamation Plan amendment, District staff will recommend a process to the Board to continue its engagement on this important topic. District 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.

**Attachment:**

1. March 23, 2021 Letter from the District to Lehigh Quarry regarding the 2019 Reclamation plan amendment

Responsible Department Head:  
Ana Ruiz, General Manager

Contact Person and Prepared by:  
Aaron Hébert, Senior Resource Management Specialist



Midpeninsula Regional  
OpenSpace

Midpeninsula Regional Open Space District

GENERAL MANAGER  
Ana M. Ruiz

BOARD OF DIRECTORS  
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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

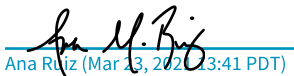
Board to monitor and manage water quality is critical to a healthy ecosystem and safe drinking water.

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*.<sup>1</sup>

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 3:41 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  
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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

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