



Midpeninsula Regional
Open Space District

R-23-92
Meeting 23-19
July 26, 2023

AGENDA ITEM 6

AGENDA ITEM

Update on Items of Mutual Interest Related to Heidelberg Materials (formerly Lehigh Hanson) and the Midpeninsula Regional Open Space District regarding the Permanente Quarry (also known as Lehigh Quarry)

GENERAL MANAGER'S RECOMMENDATIONS *deur*

Receive a Presentation by Heidelberg Materials staff. No Board of Directors action required.

SUMMARY

This Midpeninsula Regional Open Space District (District) Board of Directors (Board) meeting represents the latest joint public meeting between the District and Heidelberg Materials (Heidelberg) to discuss matters of mutual interest. The focus will include the latest 2023 Reclamation Plan Amendment application submitted to Santa Clara County (County) by Heidelberg for the Permanente Quarry site (Quarry) adjacent to Rancho San Antonio Open Space Preserve (Preserve). Heidelberg Materials is the new name of Lehigh Hanson, which was rebranded by its parent company, Heidelberg Materials AG, who purchased Lehigh Cement Company (1977) and Hansen PLC (2007).

BACKGROUND

In 2012, Lehigh Hanson now Heidelberg Materials; ('Lehigh', 'Heidelberg') received approval for an amendment to the Reclamation Plan governing the operations at Permanente Quarry (Quarry). The District identified a number of concerns over the environmental impacts and adequacy of the Environmental Impact Report (EIR) for the 2012 Reclamation Plan and challenged the EIR approval by Santa Clara County. Following an initial court decision in favor of Lehigh and after extensive discussions and negotiations, in August 2014, the District agreed to dismiss its judicial appeal challenging Lehigh's Environmental Impact Report (EIR) prepared 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 regarding opportunities and issues of mutual concern.

The Board has received annual presentations from Heidelberg/Lehigh and its predecessors starting in 2015. In May of 2019, Lehigh submitted a Reclamation Plan amendment to Santa Clara County that proposed increased mining in several areas of the property and a new approach for Reclamation, principally filling the main quarry pit with construction fill from around the Bay Area instead of re-placing the West Materials Storage Area (WMSA) back into the quarry pit, as approved in the 2012 Reclamation Plan (2012 RPA). Lehigh hosted Board tours of the

quarry site in 2019 and early 2020 to explain the 2019 Reclamation Plan Amendment application.

On June 10, 2020, the Board formed an Ad-Hoc Committee to review the proposed 2019 Reclamation Plan Amendment (R-20-61). The District submitted a letter to Lehigh in March 2021 communicating District concerns on a number of critical issues posed by the new proposed 2019 Reclamation Plan Amendment (Attachment 1), including:

- Environmental and visual impacts from the proposed ~100-foot lowering of the Ridgeline Easement area that separates the quarry operations from the Preserve and surrounding communities, including impacts from dust, noise, and the permanent loss of 20 acres of habitat and upper watershed lands.
- The proposed use of construction fill to reclaim the main quarry pit in lieu of using the West Materials Storage Area (WMSA) stockpile, as approved in the 2012 Reclamation Plan. This would leave the waste rock pile as a permanent feature on the landscape and the construction fill would require 600 truck trips a day for 30 years — a serious source of greenhouse gas pollution and public safety (truck traffic) issue.
- Threats to the permanent protection of undeveloped parcels west of the quarry operations within the City of Palo Alto's boundary to maintain ecological integrity of the region, including wildlife connectivity between Rancho San Antonio Open Space Preserve and the Santa Cruz Mountains region to the west, where the quarry represents a significant barrier and where proposed reclamation actions may not be sufficient.

Per Board direction to protect the ridgeline easement, staff and members of the Ad Hoc committee began discussions with County staff and Supervisors regarding potential mechanisms for the District to assist the County in protecting the ridgeline. On August 16, 2021, the Board adopted a Resolution approving a Memorandum of Agreement with the County of Santa Clara that is focused on the inspection and enforcement of the Ridgeline Easement held by the County on Lehigh Quarry lands (R-21-110). On August 17, 2021, the County assigned the inspection/monitoring provisions of the Ridgeline Easement to the District and provided enforcement authority to the District. This assignment allows the District to take an active role in safeguarding the environmental and visual qualities of the ridgeline as a strategic approach to protecting the natural resource values of the adjacent Preserve and the health and well-being of the surrounding communities.

The proposed 2019 Reclamation Plan Amendment did not move forward, likely in part to the County and the District taking steps to ensure the protection of the ridgeline. After 15 meetings, the District's Lehigh Quarry Ad Hoc Committee was dissolved on October 27, 2021. In March 2022, the District hired Cotton, Shires, and Associates, Inc., (CSA) to perform aerial and ground-based surveys to monitor the impacts of quarry operations on the Ridgeline Easement. Amendments to the consultant agreement in December 2022 and June 2023 added tasks that enable detailed comparison of topographic changes to the Ridgeline Easement and delineation of a separate Conservation Easement held by the District over the Quarry property. The Conservation Easement was previously surveyed in 2009. Currently the District is waiting for site access from Heidelberg due to stability issues from the winter storms to conduct the monitoring authorized under the Ridgeline Easement.

DISCUSSION

District staff have maintained conversations with Heidelberg (formerly Lehigh) staff to discuss items of mutual interest and schedule the next annual meeting. Previous staff contacts changed after Heidelberg sold off most of its west coast assets except for Permanente Quarry and the cement plant. In June 2023, Heidelberg submitted a revised Reclamation Plan Amendment Application (2023 RPA) and withdrew the 2019 Reclamation Plan Amendment Application (2019 RPA). The County Planning Division is currently reviewing the application for completeness. Once the application has been deemed complete, preparation of the required CEQA documentation shall commence. In the revised 2023 RPA, Heidelberg is proposing a major change in the operation of the Quarry property for those areas governed by the Reclamation Plan. Separately, they have announced cessation of cement production and permanent closure of the cement plant. From the perspective of protecting and preserving Rancho San Antonio Open Space Preserve, the proposed 2023 RPA represents a large improvement over the 2019 RPA, which proposed additional mining of the ridgeline between the Quarry and the Preserve. In addition, the cessation of operations of the cement plant and lessening of quarry activities has led to a significant decrease in the deposition of airborne dust from the Quarry property into the Preserve.

However, the District still has concerns over the difference between the approved 2012 RPA and the current 2023 RPA. The 2023 RPA application proposes to import construction fill to reclaim/fill the main quarry pit in lieu of using the WMSA stockpile. The prior approved 2012 RPA instead requires that the Quarry pit be refilled with WMSA stockpile. This would leave the waste rock pile as a permanent feature on the landscape and the use of construction fill would require 600 truck trips a day for 30 years - a serious source of greenhouse gas pollution and public safety (truck traffic) issue. The WMSA was never designed as a permanent storage location and over time there is a risk of instability and landslides into Permanente Creek or the Preserve. Additional concerns about the management of the Quarry site include restoration of Permanente Creek, preservation of surrounding undeveloped open space lands on the Quarry property, and the lack of sufficient restoration to improve habitat connectivity through the reclaimed quarry landscape.

A major concern also remains regarding the protection of the ridgeline separating the Quarry from the Preserve. Although expansion of mining of the quarry wall under and adjacent to the Ridgeline Easement area are no longer proposed, the District still has significant concerns over the long-term stability of that quarry wall and the potential for continued erosion and/or failure of that feature over time. The 2023 RPA delays the implementation of a buttressed fill to support the undermined Quarry wall and the “greenstone slide” area, given that it would take decades to fill the quarry pit through the gradual importation of construction fill material (as opposed to using the WMSA material that is readily available onsite). Other concerns relate to Heidelberg’s near-term and long-term management of the property and the eventual planned transfer upon cessation of commercial production activities to another entity.

FISCAL IMPACT

The presentation by Heidelberg has no fiscal impact.

PRIOR 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 in the protection of the Ridgeline Easement.

In addition, the full Board has received updates and considered actions relevant to the quarry at the following meetings:

- **August 13, 2014** District Board approved the settlement agreement with Lehigh ([R-14-98, minutes](#))
- **May 27, 2015** District/Lehigh Meeting ([R-15-84, minutes](#))
- **October 14, 2015** District/Lehigh Meeting ([R-15-147, minutes](#)) **May 10, 2017** District/Lehigh Meeting ([R-17-55, minutes](#))
- **November 14, 2018** District/Lehigh Meeting ([R-18-127, minutes](#))
- **During 2019/2020** Lehigh hosted several tours of the Quarry
- **June 10, 2020** Formation of Ad-Hoc Committee to review the proposed 2019 Reclamation Plan Amendment ([R-20-61, minutes](#))
- **August 16, 2021** Authorized entering into an agreement with the County regarding the Ridgeline Easement held by the County on Lehigh Quarry lands ([R-21-110, minutes](#)).
- **October 27, 2021** District's Lehigh Quarry Ad Hoc Committee was dissolved ([FYI](#))
- **December 8, 2021** District/Lehigh Meeting ([R-21-162, minutes](#))

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

District staff will review the 2023 RPA when the environmental review process begins. District staff will work with the Board President to form a new Ad Hoc Committee, as previously approved by the Board, to guide the review process for the 2023 RPA. District staff may also return to the Board at future dates to provide status updates and to obtain authorization for consultant contracts to support the District's review of the 2023 RPA.

Attachment

1. March 23, 2021 Letter from the District to Lehigh on 2019 Reclamation Plan Amendment

Responsible Department Head:
Ana Ruiz, General Manager

Contact Person and Prepared by:
Brian Malone, Assistant General Manager
Kirk Lenington, Natural Resources Manager



Midpeninsula Regional
OpenSpace

Midpeninsula Regional Open Space District

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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*.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 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
 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>