



July 12, 2019

Mr. Rob Salisbury
Santa Clara County Planning Dpt.
70 West Hedding Street
East Wing, 7th Floor
San Jose, CA 95110

RE: Lehigh Southwest Cement Company Proposed Permanente Quarry Reclamation Plan Amendment Application

Dear Mr. Salisbury,

The Midpeninsula Regional Open Space District (District) submits the following preliminary comments on the May 2019 application from Lehigh Southwest Cement Company (Lehigh) for a proposed Reclamation Plan Amendment (2019 Amendment). Our comments raise concerns regarding the proposed expansion of the quarry operations into the protected Scenic Easement area. These concerns are focused on four main issues: inadequate geotechnical solutions to stabilize the existing quarry walls; continued water quality impacts of both groundwater and Permanente Creek; visual impacts resulting from the increased height of the West Materials Storage Area (WMSA) and lowering of the ridgeline; and the potential for increased air quality impacts. Additionally, the District is concerned that the proposed amendment would also result in continued implementation delays to fulfill current stream restoration obligations along Permanente Creek.

Protection of the Permanent Ridge Scenic Easement

The Permanente Ridge Scenic Easement owned by Santa Clara County (County) is extremely important to the District, our visitors, neighbors, and all County residents who value the scenic views of the prominent hillside. This easement protects the views looking to the north towards Lehigh Quarry. Even though the massive quarry is located just over the ridgeline from Rancho San Antonio Open Space Preserve, the scenic easement ensures that the viewshed remains one of natural splendor to be enjoyed by preserve visitors, neighbors and everyone in the Santa Clara Valley region. The scenic easement explicitly prohibits the mining activities proposed in the 2019 Amendment. To conform with existing legal requirements and uphold the intent of the scenic easement, the District urges that the County require Lehigh to amend its 2019 Amendment application to ensure compliance with County rules and regulations, and with the land use restrictions that apply to this important scenic easement. At a minimum, Lehigh should be required to provide an alternative in their application that complies with the scenic easement before the application is deemed complete.

Geotechnical Stability

The District raises significant concerns that recent mining activities remain out of compliance with the County-approved 2012 Reclamation Plan. These activities have created over-steepened quarry wall

slopes with insufficient benches, resulting in a less stable hillside that is prone to erosion and landslides. These over-steepened slopes are not properly mitigated in the 2019 Amendment, and should be reviewed by the County Geologist, State Office of Mine Reclamation, and State Mining and Geology Board immediately.

The District also has concerns regarding Lehigh's proposal to mine the ridge that is protected by the Permanente Ridge Scenic Easement. The 2019 Amendment cites the need to address potential erosion and stability issues created by mining the northern quarry slope. However, the proposal to mine the ridge that lies within the Scenic Easement in reality does little to lessen the slope steepness. To sufficiently address the stability issues, Lehigh should be required to follow the approved 2012 Amendment that calls for buttressing the mined slope with material from the WMSA. Expanding the mining area into the area protected by the Scenic Easement is not an acceptable approach to rectifying a condition created by past mining practices. It appears that the main driving benefit in mining this protected ridge protected is to extract additional product for additional profit by the quarry.

Water Quality

In the application, Lehigh cites water quality concerns associated with backfilling the quarry pit and buttressing the north quarry slope with the material stockpiled in the WMSA. However, the Regional Water Quality Control Board (RWQCB) developed and issued their recent 2018 Waste Discharge Requirements (WDR's) based upon the existing 2012 Reclamation Plan, which included relocating the WMSA into the quarry pit and buttressing the steeply mined quarry walls, indicating that water quality objectives are achievable using this approach. Lehigh does not provide material evidence to support their position, except for their desire to stop treating the groundwater they have intercepted through mining activities. Again, one has to assume that increasing the profit of the quarry through reductions in operating costs are the main driver for this proposal.

Important to a successful reclamation will be the non-limestone materials used to backfill the lowermost elevations of the quarry pit (including elevations below the water table that have been mined since the 2012 Amendment approval). Lehigh's proposed 2019 Amendment estimates that 80% of the total volume in the WMSA contains non-limestone rock. Lehigh has also stockpiled substantial volumes of non-limestone rock (primarily greenstone) elsewhere in the quarry. Given the volume of non-limestone material needed to backfill the large mining pit, it is critical to retain all existing non-limestone material onsite to use as backfill. This material should not be sold or hauled off site. Using existing onsite material avoids the added environmental impacts related to greenhouse gas emissions, traffic, and diesel exhaust that would otherwise occur if the County accepts Lehigh's proposal to sell and off-haul existing material for profit and import and in-haul outside fill for an additional profit. The trucking of this material is substantial – with an estimate given of up to one-million cubic yards of construction soil imported annually to the site from throughout the South San Francisco Bay Area. The application fails to describe the environmental impacts to Cupertino, surrounding communities, and Rancho San Antonio Open Space Preserve related to the off-haul and in-haul of this material. Moreover, the proposed use of imported soil (rather than onsite material) to fill in the mining pit is anticipated to extend the current 5-year reclamation timeline by an additional 25-30 years. The resulting extensive delay is unacceptable.

Visual Impacts

Lehigh's proposed 2019 Amendment would raise the WMSA an additional 160 feet in elevation. This proposal runs fully contrary to the prior approved 2012 Amendment, which requires removal of the WMSA. As part of the 2012 Amendment, the County recognized the visual impact of the expanded WMSA and allowed Lehigh to temporarily retain the WMSA during mining activities with the requirement that the WMSA be removed as part of reclamation activities. Adding 160 feet of additional

elevation would clearly result in greater visual impacts than the current 2012 Amendment and negate the original agreements made between the County and Lehigh.

Air Quality Impacts

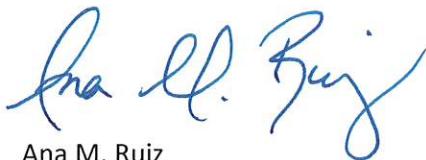
The proposed mining of the scenic easement and additional storage at the WMSA are ridgetop construction activities subject to wind erosion. The District conducted an extensive air monitoring study in 2013-2014 at Rancho San Antonio Open Space Preserve (Winegar Air Sciences, October 2104). The study noted a correlation in the increase of particulate matter with proximity to the Lehigh quarry. The air was clearly degraded by particulate matter at a sample point located closest to Lehigh when compared with up-wind monitoring locations. Concentrations of particulate matter 10 micrometers or less in diameter (PM10) exceeded the California Standard at the monitoring site closest to Lehigh. The proposed mining activities pose a significant new air quality concern to the District and should be sufficiently addressed in the application

Delays in Completing the Permanente Creek Restoration Area

The ongoing delay in completing the Permanente Creek Restoration Area (PCRA) is of continued concern to the District. The 2019 Amendment states that “The proposed reclamation plan amendment would not change the reclamation approach or requirements for the PCRA”. What appears to change is the timeline. Under the existing 2012 Amendment, PCRA restoration is to be completed by 2030. Per the 2019 Amendment, the timeframe for restoration is 10-20 years from approval, an extension of up to an additional 10 years – out to potentially 2040. Lehigh’s existing slow pace for submitting necessary items requested by the County to comply with the 2012 Amendment raises serious concerns that the same slow approach and resulting delays would occur if the proposed 2019 Amendment is approved. Our concerns for the creek were recently justified and heightened by recent landslides from the Yeager Yard area into Permanente Creek. The PCRA restoration should be completed as soon as possible, and should not be delayed for another decade. The 2019 application should also be deemed incomplete because it lacks specificity in describing the timeframe for restoration of the PCRA.

The County holds the authority to uphold its commitment to the surrounding communities by protecting the Permanente Ridge Scenic Easement and requiring the timely implementation of the approved 2012 Amendment. It is clear that the existing 2012 Reclamation Plan is far superior to the Proposed 2019 Amendment by remaining much more protective of human health, the surrounding environment, and scenic vistas. The County is asked to deem Lehigh’s 2019 Reclamation Plan Amendment application as incomplete until all the issues discussed above are adequately addressed.

Sincerely,



Ana M. Ruiz
General Manager
Midpeninsula Regional Open Space District

cc: Midpeninsula Regional Open Space District (District) Board of Directors
Erika Guerra, Environmental Director, Lehigh Quarry
Brian Malone, Assistant General Manager, District
Kirk Lenington, Natural Resources Manager, District