



Midpeninsula Regional
Open Space District

R-24-127
Meeting 24-28
October 23, 2024

AGENDA ITEM 7

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Presentation by Heidelberg Materials/Lehigh Southwest Cement Company on Actions of Mutual Interest regarding the Permanente Quarry

GENERAL MANAGER'S RECOMMENDATION

Receive a Presentation by Heidelberg Materials/Lehigh Southwest Cement Company on the status of the proposed 2023 Reclamation Plan Amendment and other topics of mutual interest. No formal Board action required.

SUMMARY

The Midpeninsula Regional Open Space District (District) Board of Directors (Board) will receive an oral presentation by staff of Heidelberg Materials/Lehigh Southwest Cement Company (Lehigh) on the status of Permanente Quarry, plans for the closed cement plant operations, and status of their application for the proposed 2023 Reclamation Plan Amendment (RPA). In June 2023, Lehigh submitted a major Reclamation Plan Amendment application to Santa Clara County (County), which was deemed incomplete in December 2023. In May 2024, Lehigh submitted materials responding to the County's incomplete determination and the application has been in review by the County for a completeness determination since that time.

BACKGROUND

In August 2014, the District agreed to dismiss its judicial appeal challenging Lehigh's 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 regarding opportunities and issues of mutual concern. The Board has received presentations from Lehigh and its predecessors roughly annually starting in 2015 with the latest meeting in July 2023.

2019 Reclamation Plan Amendment (RPA)

Lehigh proposed a RPA for Permanente Quarry in 2019 and provided tours for District Board members that same year and in 2020. On June 10, 2020, the Board formed an Ad-Hoc Committee to review the proposed 2019 RPA (R-20-61). On August 16, 2021, the Board adopted a Resolution approving a Memorandum of Agreement with the 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, the County assigned the inspection and enforcement provisions of the Ridgeline Easement that buffers and separates quarry operations from Rancho San Antonio Open Space Preserve (Rancho) to the District. The 2019 RPA proposed mining in the quarry and lowering the

ridgeline protected by the Ridgeline Easement, which would have required County approval to amend the Ridgeline Easement. After the County and the District's agreement to monitor and enforce violations of the Ridgeline Easement, Lehigh withdrew the application for the 2019 RPA. After 15 meetings, the District's Lehigh Quarry Review Ad Hoc Committee was dissolved as of the October 27, 2021 Board meeting.

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. CSA conducted a baseline survey in 2022 and monitoring surveys in 2023 and 2024 and determined that no significant alteration of the ground surface has occurred along the existing top of the quarry rim, or within the District's Triangular Easement by either natural processes or grading since the baseline survey of 2022. The quarry walls, however, remain highly unstable and the large 1987 landslide remains active. Additionally, grading within the District's Triangular Easement occurred sometime between 2010 to 2014, which likely destroyed Easement Monument 943. Per the easement conditions, Lehigh is replacing the monument.

In June of 2023, Lehigh submitted another Reclamation Plan Amendment (2023 RPA) application with the County. The 2023 RPA proposes cessation of mining activities, re-using quarry waste rock for aggregate sale, and a new Reclamation approach -- principally filling the main quarry pit with construction fill from around the Bay Area instead of re-placing material from the West Materials Storage Area back into the quarry pit, as approved in the 2012 Reclamation Plan.

In August of 2023, the County and Lehigh agreed to a binding agreement to permanently close the Lehigh Cement Plant, which is separate from the quarry operations and not included in the approved 2012 RPA or the proposed 2023 RPA. Lehigh is developing plans for reuse of the cement plant site.

DISCUSSION

The District submitted a letter to Lehigh in October 2024 on the proposed 2023 RPA that communicates and restates the District's concerns on several critical issues (Attachment 1). Some important concerns include:

- The proposed use of construction fill to reclaim the main quarry pit in lieu of filling the quarry pit with material from the West Materials Storage Area (WMSA), as approved in the 2012 RPA. This would leave the waste rock pile as a permanent feature of the landscape, representing a significant visual impact to the region. The construction fill would require at least 600 truck trips a day, 5 days a week, for 30 years — a serious source of pollution, greenhouse gas, and public safety issues. In addition, the WMSA was not designed for permanent storage and has failed both with a slide into Permanente Creek and a debris flow into Rancho San Antonio Preserve in the past. While the 2023 RPA application proposes some slope stabilization work, substantial removal of the WMSA and placing it in the quarry pit would provide long term stability.
- The proposed revegetation plan will not restore adequate ecological functions to the quarry lands. Importantly, establishing wildlife corridors across the quarry property to connect Rancho San Antonio Preserve to other open space areas and habitats is an important reclamation goal.
- The permanent protection of the undeveloped parcels surrounding the quarry owned by Heidelberg is critical to maintaining the ecological integrity of the region.

The District's basic position is that the existing 2012 Reclamation Plan is preferable to the 2023 RPA application.

FISCAL IMPACT

None - future contracts or services related to District review of the County's environmental review process will come before the Board at a later time.

PRIOR BOARD AND COMMITTEE REVIEW

The Lehigh Quarry Review Ad Hoc Committee met 15 times to review the 2019 RPA, and these efforts resulted in the District becoming a partner in the protection of the County owned Ridgeline Easement.

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

- **August 13, 2014** Board approved the settlement agreement with Lehigh ([R-14-98, minutes](#))
- **May 27, 2015** District/Lehigh Update Meeting ([R-15-84, minutes](#))
- **October 14, 2015** District/Lehigh Update Meeting ([R-15-147, minutes](#))
- **May 10, 2017** District/Lehigh Update Meeting ([R-17-55, minutes](#))
- **November 14, 2018** District/Lehigh Update 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 RPA ([R-20-61, minutes](#))
- **August 16, 2021** The Board authorized entering into an agreement with the County regarding the Ridgeline Easement 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 Update Meeting ([R-21-162, minutes](#))
- **July 26, 2023** District/Lehigh Update Meeting ([R-23-92, 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

When the County deems the 2023 RPA complete and begins the environmental review, 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 to provide status updates and to obtain authorization for contracts for consultants to support the District's review of the RPA.

Attachment(s)

Attachment 1: Letter from the District to Lehigh Quarry regarding the 2023 RPA application

Responsible Department Head:

Ana Ruiz, General Manager

Contact Person and Prepared by:

Brian Malone, Assistant General Manager

Kirk Lenington, Natural Resources Manager



GENERAL MANAGER
Ana M. Ruiz

BOARD OF DIRECTORS
Craig Gleason
Yoriko Kishimoto
Jed Cyr
Curt Riffle
Karen Holman
Margaret MacNiven
Zoe Kersteen-Tucker

October 14, 2024

Heidelberg Materials

Attn: Vice President Environment and Sustainability Gregory Ronczka

Transmitted via Email: gregory.ronczka@heidelbergmaterials.com

Dear Gregory Ronczka

As we look forward to hosting Heidelberg/Lehigh Southwest Cement Company (Lehigh) at our upcoming Midpeninsula Regional Open Space District (Midpen) Board of Directors (Board) meeting on October 23, 2024, we wanted to provide you with an outline of Midpen's continued concerns regarding the proposed 2023 Reclamation Plan Amendment (RPA) for the Permanente Quarry (Quarry). We also want to acknowledge Heidelberg's proactive outreach to discussing the proposed Reclamation Plan Amendment and appreciate your work to maintain a dialogue with Midpen as you work towards the eventual closure and reclamation of the Quarry.

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 and collectively Rancho receives over 1 Million visitors annually, making it our most popular and highest visited preserve. Along with being the most visited site, Rancho Preserve is also home to our Foothills Field Office, where ~30 employees report to work.

We provide the following comments to express our desire to uphold the public's interest and Midpen's mission "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." These critical issues and concerns are much the same as we have previously submitted to both you and Santa Clara County in 2021 and we wish to reiterate them now, as the proposed 2023 Reclamation Plan Amendment application fails to adequately address many of these concerns.

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 Fremont Older Open Space Preserve, as well as regionally throughout the greater southern San Francisco Peninsula area. The WMSA also presents long term issues of stability and water quality. It was not intended for permanent waste material storage and has failed at least twice with a slide into Permanente Creek in the Yeager Yard and with a debris flow into Rancho San Antonio Preserve in the past. The 2012 Reclamation Plan committed to the removal of the WMSA and Midpen would like to hold Lehigh accountable to that commitment. Midpen's

preferred alternative is for all suitable material in the WMSA to be returned to the quarry pit, as approved in the 2012 Reclamation Plan. Midpen opposes importing fill from outside the quarry until all reasonable sources within the reclamation area, including the WMSA and EMSA are expended. Importing fill material unnecessarily from outside the Quarry will introduce unacceptable emissions, safety issues, and noise that will dramatically impact Lehigh's neighbors.

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. Midpen desires to see a focus on habitat connectivity in the revegetation plan. Establishing habitat corridors to connect Rancho to other open space habitats adjacent to the western boundary of the Quarry will entail both designating these corridors and developing revegetation plans that can reclaim and restore these areas to functional habitat corridors for target wildlife species such as mountain lion that is proposed as a threatened species under the California Endangered Species Act. The permanent protection of undeveloped lands around the reclamation area either through conservation easements or transfer to Midpen would enhance the development of wildlife corridors through the reclamation area by preserving intact wildlife habitat.

Ten undeveloped parcels and portions of three parcels, in the jurisdictions of Palo Alto, Cupertino and Santa Clara County owned by Lehigh are crucial to protecting habitat surrounding the Quarry reclamation area. 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 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 from 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 trails from Stevens Creek Boulevard. This potential trail connection is highlighted in the *Joint Cities Coordinated Stevens Creek Trail Feasibility Study*.

Midpen recognizes that Lehigh has taken a major step towards addressing the significant environmental effects of the Quarry and cement production that has been a fixture on the local landscape for multiple generations by closing the cement plant and ceasing new quarrying operations on the property. The last significant step is to return the lands to "a usable condition readily adaptable for alternate land uses," which Midpen sees including open space and important habitat functions. We hope that Lehigh will work with us to ensure that its reclamation 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.

Sincerely,

Brian Malone
Assistant General Manager

cc:

Kelsey Martinez Combellick, Office of Supervisor Jos Simitian, County of Santa Clara
Robert Salisbury, Principal Planner, County of Santa Clara
Keith Roberson, Senior Engineering Geologist, San Francisco Regional Water Quality Control Board
Chad Mosley, Public Works Director, City of Cupertino
Ed Shikada, City Manager, City of Palo Alto
Pamela Wu, City Manager Cupertino
Gabriel Engeland, City Manager, City of Los Altos
Alice Kaufman, Legislative Advocacy Director, Green Foothills
Shani Kleinhaus, Environmental Advocate, Santa Clara Valley Audubon Society
James Eggers, Senior Chapter Director, Sierra Club Loma Prieta Chapter