

cc 3/5/19 Oral Communications

Mayor Scharf, Council Members and Staff

My name is Gary Wong, a 21 year resident of Cupertino

As you know, the prior Council approved the draft Feasibility Study of the Regnart Creek on August 21, 2018. The Santa Clara Valley Water District raised numerous issues with the approved Study. Revisions were made to the Study and a Final Study was posted to the City's website in September. The website noted that only administrative changes were made.

At prior Open Communications, a number of errors in the Feasibility Study, both draft and Final have been shared. At the City Council Meeting held on February 19, 2019, Councilman Willey and Vice Mayor Chao, inquired as to the changes made, and received a response similar to the website, that the Final study contains administrative changes.

We are submitting a comparison of the Draft Study, the Final Study and issues raised by the Water District. It is our conclusion, that there are many issues of substance that are not addressed in the District's letter, are inconsistent with the District's letter and merits reconsideration by the current Council.

With tens of millions of dollars potentially allocated to City trails, the practicality of the proposed trails, and the cost – benefits thereof, also merit serious consideration in light of the many competing needs for city projects and available financial resources.

Regnart Creek Trail Studies – Comparative Changes between City Council Approved Draft 8/21/18 and Final Report, September 2018

Prepared by: G. Wong, Feb. 23. 2019

Note: Per City website, “Final Feasibility Study was prepared which incorporated Santa Clara Valley Water District comments and other minor administrative edits”.

Observations: The Feasibility was amended to include substantive changes raised by Water District. However, it is our view that these are not MINOR administrative errors as represented to the Council. The Final Feasibility should seek confirmation from Santa Clara Valley Water District as to its acceptability and the Final study should be resubmitted to Council for approval.

Council Resolution 18-081 states that SCVWD concerns and needs have been addressed whereas the letter from SCVWD on 8/21/18 proves that the statement in the resolution is inaccurate.

Page	Council Approved Study 8/21/18	Final Feasibility Study(partially includes SCVWD comments)	SCVWD Comments Letter dated 8/21/18	Resident Observations
2		Inserts: “SCVWD COORDINATION Four coordination meetings between the City and SCVWD were held in preparation of the study. As SCVWD is the owner of Regnart Creek, the study takes into consideration their needs and concerns. The meetings focused on trail alignment, features, maintenance responsibility, and liability. The City will continue coordination with SCVWD throughout subsequent phases of the project”.	Letter issued on day Council considers and votes on Trail Feasibility Study and approves funding for design and environmental impact study.	States SCVWD concerns and needs are addressed, which is counter to SCVWD 8/21/18 letter which implies it did not see a draft of the Study prior to release or Council approval.

3		Inserts: "Trail head amenities may be provided where they do not conflict with or reduce SCVWD maintenance access"	States access road have limited space for amenities such as information boards, seating.	Trail head illustrations differ from site constraints.
4	Alternative 1 is recommended	Silent on SCVWD preferred alternatives 4 or 5	SCVWD states preference for Alternative 4 or 5, with limited impact to SCVWD maintenance and operations. States Alternative 1 is most impactful	Alternative 1 is recommended by HMM. No change nor mention of SCVWD preference for Alternate 4 or 5. Council and public were not informed of SCVWD preferences
7		Silent on SCVWD concerns.	SCVWD expresses concern that designating trails as transportation corridors can be a problem when considering future uses of right of way for SCVWD purposes. It confers a duty onto SCVWD, through CEQA, to mitigate for any loss of or adverse impacts to the transportation corridor, in addition to any lost recreational use. The Joint Use Agreement will provide that the City be responsible for trail closures, trail detour routes, signs and maps, CEQA documentation and	City will need to hold SCVWD harmless, take full responsibility and assume liability. Such costs are not considered in the Study.

			mitigation required to implement the trail closures.	
8		Under Agencies & Stakeholders, inserts “as depicted in property documentation and record maps.”	Suggests verification of ingress-egress rights of PG&E and AT&T be verified through actual title documentation.	Trail widths constraints exists and could be further constrained by utility access rights.
14		<p>Inserts: “SCVWD as-builts depict the widths varying from 10 feet to 15 feet throughout the corridor”.</p> <p>Leaves in: Field measurements taken in preparation of this study recorded widths varying from 12 feet to 25 feet from the fence line to top of bank.</p> <p>At the end of the last paragraph, inserts “The City’s responsibilities and liabilities regarding the trail will be outlined and specified in future joint use agreements between the City and SCVWD”.</p>	The Study states maintenance road varies from 12 to 25’. District as-builts show maintenance road widths between 10-15 ft., however this width has been reduced in many areas due to ongoing erosion and deterioration. The document should be revised to reflect this.	Despite SCVWD reports of 10-15 feet trail widths, with on-going erosion, the final Study maintains the corridor widths are from 12- 25 feet, providing misleading, confusing and conflicting information to the Council and public.
16	Table 3.1 indicates no erosion noted on Reach 1 and mild incised invert, spot erosion on Reach 2.	<p>Table 3.1 changed to Bank Erosion and undercutting on Reach 1 and Bank Erosion and undercutting on Reach 2.</p> <p>The Final Study is silent on bank erosion and the instability of the banks.</p>	SCVWD notes that the Feasibility Study states the channel has no erosion. The information appears to be taken from an outdated report. SCVWD have document reports of erosion and sediment conditions in all reaches of Regnart Creek. The banks	Erosion and bank instability suggests the Trail may be an unsuitable use or require extensive, costly repairs. Council and the public are not made aware of these conditions in the Final Study. The study misleads by using old data

			in these reaches are unstable . The section of the Study needs to be updated to reflect the current condition along Regnart Creek where the trail is proposed.	when new data was available from district.
22		<p>Inserts: "SCVWD as-builts depict the access road widths varying from 10 feet to 15 feet throughout the corridor. Field measurements taken in preparation of this study recorded widths varying from 12 feet to 25 feet from fence line to top of bank".</p> <p>Deletes: The existing road varies in width from 12 feet to 25 feet, constraining desired maintenance access widths in select locations.</p>	Same comment as right of way, indicating as built showing widths from 10 feet to 15 feet.	It is unclear how field measurements were made or what the boundary ranges are. Despite information to the contrary from the land owner, SCVWD, the Study continues to rely on its field measurements to promote the Trail.
23		<p>Deletes: "THE HDM, AASHTO, and ADA manuals provide definitive, mandatory standards for trail design and construction. The PM, DG, UD, UM, NACTO, TK and MUTCD provides guidelines and recommendations that are no mandatory features for a proposed trail."</p> <p>Inserts: "The listed design resource manuals provide guidelines and recommendations that are not mandatory features for a proposed trail."</p>	No comment from SCVWD	Removed the Mandatory guidelines to be followed because there is no space to build a standards compliant trail. This confirms the Regnart Creek Trail may not conform to broadly accepted trail criteria.

25		<p><u>Deletes:</u> “SCVWD allows the trail tread width to a minimum of 8 ft where existing access road is narrow.”</p> <p><u>Inserts:</u> “Use of motorized vehicles on countywide trails shall be prohibited, except for wheelchairs, maintenance vehicles, and emergency vehicles.</p> <p>Under Trail Closures, <u>inserts:</u> “The City is responsible for temporary trail closures when construction, repair, and maintenance of the creek and or trail are required. These closures responsibilities may include notification to the public and implementation of detour routing.”</p> <p><u>Deletes:</u> “Private access to public trails is discouraged, but in some instances it can occur. Criteria that shall be used to evaluate the appropriateness of private access to public trails include: visibility of access points, self-closing and self-locking features of gates, alignment between entry point and the actual trail head; and maintenance cost and responsibilities.”</p> <p><u>Inserts:</u> “Private access to public creek trails on SCVWD right-of-way is prohibited. All access points to and from the trail shall</p>	<p>SCVWD does not have allowable trail tread width standards. Trails should accommodate fully loaded maintenance equipment and any damage to the trail will be City responsibility.</p> <p>City will take full responsibility for trail closures when needed for District flood protection maintenance purposes.</p> <p>District does not allow or permit private access to public trails. All access points must be public access points controlled by the City.</p>	<p>SCVWD asks that certain inaccurate representations be deleted.</p>
----	--	---	---	---

		be public access points controlled by the City.”		
26		<p>Trail Monitoring and Maintenance. <u>Deletes:</u> “Local and managing agencies are responsible ... work. <u>Inserts:</u> “The City of Cupertino is responsible for patrolling the trail for potential maintenance and corrective work.” “Routine maintenance and repair of the trail and trail features is the responsibility of the City.”</p> <p><u>Inserts:</u> “A level of service approach should be used by the managing agency to operate and maintain trails. Table UM-1 provides a general management framework for normal trail-related stewardship activities” (UM-3.0)</p>	<p>SCVWD states “managing agencies” be changed to City of Cupertino.</p> <p>City should specify its maintenance and inspection criteria.</p> <p>Study should state that the City will prioritize and implement immediate repairs on District Right of Way where problems are impacting Regnart Creek or maintenance activities.</p>	Material costs for trail maintenance and operations are not stated in the Study and are permanent additions to the City’s operating budget.
27		The Study is silent on SCVWD participation or notification of public outreach.	SCVWD requests invitation to participate in future outreach efforts so that we can be aware of community concerns related to the proposed use of our right of way and the City’s plans for addressing those concerns.	Key stakeholder, SCVWD was excluded from public outreach, as well as receiving feedback on draft Study before adoption by the council. The question is why? Has SCVWD expressed its acceptability of the Final Study?
32		<u>Inserts:</u> Agency Coordination added to the Study explaining sensitivity to the needs and concerns of SCVWD		Seems contradictory when SCVWD has not seen the study before release and

				staff recommended approval from city council without disclosing SCVWD concerns.
34-38		Does not address SCVWD comment	Alternative 1 would be most impactful to the District's operation and maintenance activities. It will increase maintenance costs any work we do in this area, and the bridges may not be feasible without more detailed information on how their construction will affect our maintenance access. Additionally, it has been our experience that pedestrian bridge abutments cannot usually be constructed without removing the adjacent creek bank, which will require regulatory approvals.	Key concern by SCVWD is not addressed or documented in the study.
39		Third diagram added: 6.7, 6.8 and 6.9 6.7: Trust Bridge increases from 42' to 46' 6.8 New Diagram Added showing 10' bike/pedestrian path.	SCVWD requests actual cross sections on this page at the most restrictive pinch points to show how the existing maintenance road access width will be	Shows 10' trail width but is unclear of the width reduction with wood split-rail, which could impact vehicle passage.

		6.9 Removable wood split-rail added to diagram	impacted. Study should specify how quickly the City will respond to requests to remove their bridges when requested by the District.	
40-41		Diagram 6.13. The 2 foot shoulder is removed. Truss is increased from 40' to 46'.	Railing will not be allowed along the top of the bank, unless it is outside the District right of way as it impedes our ability to access the channel from the top of the bank.	The diagram doesn't seem to be to scale. Though the truss bridge was increased by 6 feet, the footings seem to be positioned at the same spot the diagram it updated. It would seem the longer truss bridge would take up more room from the current trail path. 6 feet is a meaningful distance where trail widths are already narrow.
42		<p>Cantilever Structure at Lozano Lane <u>Inserts:</u> "and was unacceptable to the Santa Clara Valley Water District".</p> <p>Box Culvert at Lozano Lane <u>Inserts:</u> "The SCVWD was unwilling to accept the negative environmental and slope stability consequences of this concept".</p>	SCVWD ask that these designs were unacceptable to the District. New language suggesting these alternatives would cause erosion, affect seasonal wetlands and restrict District maintenance for flood protection. These alternatives were not selected based on sound engineering principle and	These alternatives were offered to residents on Lozano Lane and De Palma Lane.

			do not represent the District's opinion.	
44		<u>Inserts:</u> " Trailhead and access features shall be implemented as to not restrict or limit SCVWD's ability to access the creek for maintenance. The City will be responsible for the maintenance of trailhead features".	Trailhead features should not limit ability for the District's maintenance equipment to enter and leave maintenance roads.	
45		<u>Not addressed</u>	Plantings and decorative pavement at entrances are subject to damage and may be in the way of maintenance activities.	
47		<u>The Final Study is silent on safety concerns</u>	Safety railing and features make maintenance and inspection of District facilities difficult. At 3:1, no fencing is required, but most bank slopes are steeper than 3:1. A fence 2 feet from top of bank reduces usable space understanding that a vehicle needs more than 8' +/- width of the vehicle when there are constraints/wall on either side. Secondary screening fences will take another 18 inches or so, further reducing the width of the maintenance road.	<p>The Final Study is silent on safety concerns next to a steep creek , which is significant when a path is proposed as a safe route to school</p> <p>The final study still maintains that railing is allowed which is inaccurate while negotiations are still going on.</p>

			Removing fencing is also a lot of work and setting the fencing 2 feet back from the top of the bank will reduce the District's maintenance footprint to 10 feet in some places which is not enough room for maintenance equipment	
51-53		The Final Study is silent on these concerns.	The cost for these additional measures adds costs and time to operations. It limits when and how we inspect our facilities, increase public frustration with the District when facilities must be closed and increases labor hours to work around.	Adds increased operational costs for the City and District.
56		Trail Alignment. Insert: "the City will work closely with these residents to implement an appropriate screening solution". Insert: "Mitigation for any loss or adverse impacts to the trail is the responsibility of the City. The City is also responsible for coordination with CEQA to provide pertinent documentation regarding trail		Is there an increase in insurance premiums to the City for this increased liability? The Study is silent on this matter.

		closures associated with flood protection work performed by SCVWD”.		
57		<u>Insert:</u> “The porous paved trail will be designed to withstand maintenance vehicle loads. Swales, ditches, and drainage systems will not restrict or limit maintenance vehicle access widths”.	Trail Surface Porous pavement must be designed to withstand maintenance loads and swale/drainage designs cannot restrict maintenance path width.	
59		<u>Insert:</u> “The porous paved trail will be designated to withstand maintenance vehicle loads. Swales, ditches, and drainage systems shall not restrict or limit maintenance access widths”. <u>Insert:</u> “The city will coordinate directly with the County Sheriff’s office to establish patrol resources and scheduling commitments”. <u>Insert:</u> “In the event that creek side railings need to be temporarily removed to allow SCVWD to perform maintenance work or construction, the City will initiate trail closures and railing removals within 24 hours of notification as to not impede SCVWD from performing work”.	County wide, Police Departments are strapped for resources and cannot provide consistent patrolling. The Study states removable fencing is consistent with many Creekside trails. There are few Santa Clara County trails that have top of bank fencing. This is a significant impact to the District which must be addressed.	
61		Cross Section 4-4, 2 feet shoulder removed.		Further narrows the trail width in an already constrained location.

Co 2

California

Air Resources Board Under
Assembly Bill 32

CC 3/5/19 Oral Coman

Listed as FY 2015-16 Emissions Fees

Non-Vehicular Source Fees Fical Year 2015 - 2016

Page 1 of 2

Reduce G H G emissions

Facilities ID	District	Facilities Fee Payer	2013 Emissions (Tons)	\$Per Ton Fee	Fee
11	Bay Area AQMD	Shell Martinez Refinery	4,269	\$289.18	\$1,234,509.00
<u>17</u>	Bay Area AQMD	<u>Lehigh Southwest Cement Co.</u>	<u>3,082</u>	<u>\$289.18</u>	<u>\$891,253.00</u>
10	Bay Area AQMD	Chevron Products Company	2,840	\$289.18	\$821,271.00
14628	Bay Area AQMD	Tesco Refining & Marketing Co.	1,973	\$289.18	\$570,552.00
12626	Bay Area AQMD	Valero Refining Co. Ca.	1,287	\$289.18	\$372,165.00
21360	Bay Area AQMD	Phillips 66 Carbon Plant	1,242	\$289.18	\$359,162.00
21359	Bay Area AQMD	Phillips 66 Carbon Plant SF	955	\$289.18	\$276,167.00
11661	Bay Area AQMD	Solvey USA Inc.	324	\$289.18	\$93,694.00
30	Bay Area AQMD	Owens-Brockway Glass Container	274	\$289.18	\$79,235
9	Eastern Kern APCD	California Portland Cement Co.	2,617	\$289.18	\$756,784.00
21	Eastern Kern APCD	National Cement Company	1,105	\$289.18	\$319,544.00
<u>20</u>	<u>Eastern Kern APCD</u>	<u>Lehigh Southwest Cement Co.</u>	<u>756</u>	<u>\$289.18</u>	<u>\$218,620.00</u>
11800001	Mojave Desert AQMD	Mitsubish Cement	2,772	\$289.18	\$801,607.00
100005	Mojave Desert AQMD	Cemex - Black Mountain Quarry	2,456	\$289.18	\$710,226.00
1200003	Mojave Desert AQMD	Riverside Cement Company	1,613	\$289.18	\$466,447.00
900002	Mojave Desert AQMD	Searles Valley Mineral	1,566	\$289.00	\$452,856.00
3100068	Mojave Desert AQMD	Southern Ca. Gas South Needles	867	\$289.00	\$250,719.00
3101437	Mojave Desert AQMD	Southern Ca. Gas Co. Blythe	350	\$289.00	\$101,213.00
970	North Coast Unified AQMD	Humbolt Redwood Co. Sawmill	269	\$289.00	\$77,789.00
3	North Coast Unified AQMD	Sierra Pacific Industries	319	\$289.00	\$92,248.00
477	San Joaquin Valley Unified APCD	Pikington North America, Inc.	551	\$289.00	\$159,338.00
593	San Joaquin Valley Unified APCD	Owens-Brockway Glass Cont.	347	\$289.00	\$100,345.00
948	San Joaquin Valley Unified APCD	PPG Industries	334	\$289.18	\$96,586.00
2073	San Joaquin Valley Unified APCD	Covanta Stanislaus Inc.	325	\$289.18	\$93,984.00
801	San Joaquin Valley Unified APCD	Ardagh Glass Inc.	308	\$289.00	\$89,067.00
598	San Joaquin Valley Unified APCD	Guardian Industries Corp.	284	\$289.00	\$82,127.00
1662	San Joaquin Valley Unified APCD	Gallo Glass Company	268	\$289.00	\$77,500.00
2234	San Joaquin Valley Unified APCD	California Resources Elk HS LLC	255	\$289.00	\$73,741.00

continued Listed as FY 20125-16 Emissions Fees

Non - Vehicular Source Fees Fiscal Year 2015 - 2016 Page 2 of 2

Facilities ID	District	Facilities Feepayer	2013 Emissions (Tons)	\$per Ton Fee	Fee
1547	San Joaquin Valley Unified APCD	Aera Energy LLC	253	\$289.00	\$73,163.00
43	Shasta County AQMD	Wheelabrator Shasta	536	\$289.00	\$155,000.00
2	Shasta County AQMD	Lehigh Southwest Cement	461	\$289.00	\$133,312.00
800089	South Coast AQMD	Exxon Mobil Oil Corp.	2,148	\$289.00	\$621,159.00
174655	South Coast AQMD	Tesoro Refining & Marketing, Co., LLC-Carson	1,834	\$289.00	\$530,356.00
800030	South Coast AQMD	Chevron Products Co.	1,346	\$289.00	\$389,236.00
800036	South Coast AQMD	Tesoro Refining & Marketing, Co., LLC-Carson	642	\$289.00	\$185,654.00
171109	South Coast AQMD	Phillips 66 Co., -LA Refinery	633	\$289.00	\$183,051.00
171107	South Coast AQMD	Phillips 66 Co., LA Refinery Wilmington	580	\$289.00	\$167,724.00
44577	South Coast AQMD	Long Beach City, SERRF Project	311	\$289.00	\$89,935.00
174591	South Coast AQMD	Tesoro Refining & Marketing, Co., Wilmington	300	\$289.00	\$86,754.00
800026	South Coast AQMD	Ultramar, Inc.	263	\$289.00	\$76,054.00
Total			42,915	\$289.00	\$12,410,160.00

\$289.18 = 213.57 Base Fee + \$75.61 Supplemental Fee

Legend

AQMD Air Quality Management District

APCD Air Pollution Control District

Note: The Fiscal Year is the date of the invoice the information is based on 2 years prior.

To look up the reports go to the Air Resource Board web site and type in Lehigh look under the Title Non - Vehicular Source Fees Fiscal Year pull up the year you want to look at.

The listings are for all of the Air Resource Board Facilities FeePAYERS



[About](#) [Our Work](#) [Resources](#) [Business Assistance](#) [Rulemaking](#) [News](#)

ARB Fact Sheet: Air Pollution and Health

This page reviewed December 2, 2009

Despite significant success in reducing overall pollution levels, air pollution continues to be an important public health problem. Air monitoring shows that over 90 percent of Californians breathe unhealthy levels of one or more air pollutants during some part of the year. Health-based ambient air quality standards set by the California Air Resources Board (ARB) identify outdoor pollutant levels that are considered safe for the public - including those most at risk of adverse effects with exposure to air pollution, such as children, the elderly, and people who are active outdoors. The ARB has set standards for eight "traditional" pollutants, such as ozone and particulate matter. In addition to setting standards, the ARB identifies other air pollutants as toxic air contaminants (toxics) - pollutants that may cause serious effects with long-term exposure, such as cancer, when exposure level is low. Most toxics have no known safe levels and some may accumulate in the body from repeated exposures. The Board has identified about 200 pollutants as toxics, and measures continue to be adopted to reduce emissions of toxics. Both traditional pollutants and toxic air contaminants are measured statewide to assess the success of programs for improving air quality. The ARB works with local air pollution control districts to reduce air pollution from all sources.

What are the health effects of some common air pollutants?

The table below shows the health effects of some of the common pollutants found in our air and examples of some of the sources of these pollutants.

POLLUTANT	HEALTH EFFECTS	EXAMPLES OF SOURCES

<p>Particulate Matter</p> <p>(PM_{2.5} and PM₁₀: less than or equal to 2.5 or 10 microns, respectively)</p>	<ul style="list-style-type: none"> • Hospitalizations for worsened heart diseases • Emergency room visits for asthma • Premature death 	<ul style="list-style-type: none"> • Cars and trucks (especially diesels) • Fireplaces, woodstoves • Windblown dust from roadways, agriculture and construction
<p>Ozone (O₃)</p>	<ul style="list-style-type: none"> • Cough, chest tightness • Difficulty taking a deep breath • Worsened asthma symptoms • Lung inflammation 	<ul style="list-style-type: none"> • Precursor sources*: motor vehicles, industrial emissions, and consumer products
<p>Carbon Monoxide (CO)</p>	<ul style="list-style-type: none"> • Chest pain in heart patients** • Headaches, nausea** • Reduced mental alertness** • Death at very high levels** 	<ul style="list-style-type: none"> • Any source that burns fuel such as cars, trucks, construction and farming equipment, and residential heaters and stoves
<p>Nitrogen Dioxide (NO₂)</p>	<ul style="list-style-type: none"> • Increased response to allergens 	<ul style="list-style-type: none"> • See carbon monoxide sources
<p>Toxic Air Contaminants</p>	<ul style="list-style-type: none"> • Cancer • Chronic eye, lung or skin irritation • Neurological and reproductive disorders 	<ul style="list-style-type: none"> • Cars and trucks (especially diesels) • Industrial sources, such as chrome platers • Neighborhood businesses, such as dry cleaners and service stations • Building materials and products

*Ozone is not generated directly by these sources. Rather, chemicals emitted by these precursor

sources react with sunlight to form ozone in the atmosphere.

****Health effects from CO exposures occur at levels considerably higher than ambient.**

If you have questions or comments regarding this web page, please contact Barbara Weller
at (916) 445-1324.

ARB Fact Sheet

CONTACT US

(800) 242-4450 | helpline@arb.ca.gov
1001 I Street, Sacramento, CA 95814
P.O. Box 2815, Sacramento, CA 95812



[ACCESSIBILITY](#)

[PRIVACY POLICY](#)

[CONDITIONS OF USE](#)

[LOCAL AIR DISTRICTS](#)

[REGISTER TO VOTE](#)

The California Air Resources Board is one of six boards, departments, and offices under the California
Environmental Protection Agency.

Copyright © 2019 State of California

[CalEPA](#) [CalRecycle](#) [DPR](#) [DTSC](#) [OEHHA](#) [SWRCB](#)

County of Santa Clara Department of Planning and Development

To: Housing, Land use, Environment, and Transportation Committee (HLUET) - & the Board of Supervisors

From: Cathy Helgerson – Citizens Against Pollution – cathyhelger@gmail.com – 408-253-0490

Reg: Recent Activities at Steven Creek Quarry and Lehigh Permanent Quarries and more

Pgs. 223 agenda Packet pg. 9, 10, 11, & 12

Meeting Date: February 21, 2019

The delivery of aggregate material from Lehigh Permanent Quarry to Stevens Creek Quarry for processing and resale on an illegal haul road used as an access road by PG & E between the quarries may have prompted this meeting but there is much more involved. In reading the Staff Report by Jacqueline R. Onciano, Director, Dept. of Planning and Development regarding the issues and history of the matters it is evident that a great deal of oversight if you could call it that by Santa Clara County was extremely lacking. There has been no mention of Lehigh Permanent now called Lehigh Hanson Company using the Stevens Creek Blvd road for 100 years to transport their processed cement to customers and that they turned left on to Foothill Blvd. or use 280 HW to deliver their product seems to have been omitted from the paperwork. This still continues to this day and I wonder why no one has stopped the dust and pollution on to this road for many decades with condos right next door. I am totally bewildered by the fact that the people in those condos on both sides of Stevens Creek Blvd. on the road up to Lehigh are not fighting to prevent the dust and pollution that is coming into their homes. I had walked around in the area getting signatures years ago and 97 people signed up not only in the condos but also private homes that said they wanted to close the Lehigh Permanent Cement Plant and quarry at the time I provided Santa Clara County with this petition and they never did anything to stop Lehigh. I asked how many signatures did they need and was never told I suppose there could never be enough signatures to satisfy Santa Clara County because of the revenue the County receives from Lehigh and the Steven Creek Quarry. I would love to see this matter taken up with the voters and allowing the public to vote is important because I believe the public should know all of the truth and then decide what kind of industry they want in their community there should be no new quarry.

The delivery of the polluted unprocessed rock from Lehigh Hanson on the Foothill Blvd. to Stevens Canyon Road is first coming down the Stevens Creek Blvd. and then the trucks are turning right was the major issue regarding unauthorized truck traffic. The major disturbances and pollution drove the public of over 150 people to a City of Cupertino meeting to protest the use of the roads which seemed to have opened the eyes of the City of Cupertino. The City of Cupertino also had been overlooked by Lehigh Hanson to get permission to use either City streets or the illegal road the illegal haul road had been partially built on incorporated City of Cupertino land and now it was evident that the City of Cupertino had to do something about it. The letter that they wrote to Santa Clara County says a great deal but we need to dig even more into what is really going on here and the question is should this matter be taken to court in order for it to be settled? Santa Clara County is definitely to blame they knew way ahead of their cease and desist order that Lehigh Hansen was building this road but did nothing until the road was finished. The destruction of 50 trees to widen the road did not seem to matter to any of them Lehigh should pay for their criminal act.

The unprocessed aggregate rock is overburden taken from the quarry and now they want to call it green rock and they want to state there seems to be nothing wrong with this rock and this is not true. In the past Lehigh has processed this same rock on their own property and is still set up to do so with the equipment still on the Lehigh site property and so the question remains why are they farming out this work to the Stevens Creek Quarry? This rock was first supposed to be used to fill the Lehigh quarry pit for reclamation but it looks like it will not be used for that purpose there is no reason for Lehigh to move this rock and any water pollution captured is sent to the Lehigh Waste Water Treatment Plant.

Lehigh Hanson Company and the Stevens Creek Quarry have been under the watch and scrutiny by the State Regional Water Quality Control Enforcement Department because of their pollution and the use of a chemical that was hurting the aquatic life. The Stevens Creek Quarry will provide water tests in May 2019 from the illegal dammed up ponds and also water tests from the rainwater that has flowed over the unprocessed aggregate rock overburden delivered by Lehigh to the Stevens Creek Quarry to process. The question in my mind and I have asked the State Regional Water Quality Control Enforcement Department is why are you not testing the rock at Lehigh before ever deciding to allow transport to Stevens Creek Quarry? I mentioned they now need to test both locations and also that they need to stop moving the rock on Cupertino City streets to the Steven Creek Quarry. I also asked why is the State Regional Water Quality Control waiting until May 2019 to get any water test from Stevens Creek Quarry we should be able to get information now. I am also not happy with SCQ doing testing even with a legitimate lab the State Regional Water Quality Control Enforcement Division should conduct testing and we hope that their testing is honest.

The vested right determination by Santa Clara County regarding Lehigh stating there is no need for a use permit for Lehigh's ongoing surface mining activities is a travesty and should have never been allowed. This matter should be reopened by the State or Federal Government and Justice should be served by imposing the need for a use permit. The need for a use permit regulating the processes at Lehigh would have

possibly protected the public from harm now there is no telling what harm in the future will come of their wrong decision. The threat of a new mine by Lehigh in the future is the public's worst nightmare please Santa Clara County don't let it happen.

The sad realization in my view is that the agencies give out Permits and Mediated Agreements that give the polluters Lehigh Hanson Company and the Stevens Creek Quarry the right to pollute. Reclamation Agreements are also designed to reclaim the land that will never ever be the same. The Reclamation Agreement is in itself a form of pollution allowance it gives Lehigh and the Stevens Creek Quarry the go ahead to pollute and it justifies their existence. How can anyone ever put back the historic limestone and the land back to any real use this is a terrible horrible shame and we all should be ashamed for not doing anything about it but it is not too late to stop the next Lehigh mine in our valley.

The Air, Water and Soil have been polluted by the Lehigh Hanson Cement and Quarry Company and the Stevens Creek Quarry and it is still going on. The levels of pollution set by the agencies do not take into consideration the cumulative effect and the chemical cocktail effect these dangerous pollutants are killing the public and it seems that cement and tax revenue from these polluters is more important than human life.

Santa Clara County needs to look past the property tax revenue and sales taxes taken in when they make any decisions about polluters and the pollution they spread human life, animal and aquatic life is important no one is immune from the destruction from the horrible diseases and sicknesses that their pollution emits and spreads. The Lehigh Cement Plant is destroying the Silicon Valley and the SF Bay area with their pollution in the Air, Water and Soil we the people need to unite in this cause to shut the polluters down.

The Internal illegal haul road or the new proposed road by Lehigh neither of these roads should be allowed especially when there is no real need for them. The question needs to be addressed how much more unprocessed rock needs to be moved and does either Lehigh Hanson or Stevens Creek Quarry have the right to set up new business between them? I say no they do not and I think that they also have no right to ask for a use permit or any other permit to do business. I would think that the public should have the right to decide what kind of businesses they want in their community and I for one say I do not want this polluted rock to be exported or processed. I am also wondering if it should even be allowed to be returned to the Lehigh Hanson Quarry upon Reclamation this should also be looked into and if not it should be transported to a place that allows for polluted quarry waste to be disposed of legally and without harm to the public. We are not sure what Lehigh is also transporting besides and the WMSA has been a place that Lehigh has dumped their cement waste in for years this matter is serious and needs to be investigated. The State Regional Water Quality Control Enforcement Division should look into this matter and I understand they have their own labs and could test this pollution in the water themselves.

The Environmental Protection Agency and other agencies set high pollution limits so as to allow such companies such as Lehigh Hanson Company and Stevens Creek Quarry to operate otherwise they could not operate this is wrong. The EPA and agencies may come down in the level they set for a pollutants but it is never enough because the public is still made ill and many people are dying. The EPA does not regulate all pollutants and many people are not aware of that this needs to be made known to all people. The so called Best Available Technologies are not the best this is just an excuse for the truth the Best Available Technologies cannot save people's lives it just sounds impressive, Governments and Companies need to find new technologies that actually stop the pollution and if it means closing down Lehigh Hanson Cement and Quarry and the Stevens Creek Quarry then so be it. The public is fooled by false promises made by Governments and Agencies this pollution is causing global climate change and the drought in California is not over even with all of the rain we have had. The fires we have seen in Paradise and Napa Valley the terrible destruction is not over we must inform our Local, State and Federal Government that we the people want change and we need to have it now. There is a strong possibility that Santa Clara County or another form of Government is allowing seeding of clouds here in our valley and in California to make it rain allowing pollution to flow from the chemicals they release causing all kinds of climate disasters this needs to stop. There needs to be a great deal of investigation into this matter and if it is causing more harm than good it should be stopped.

The failure of Santa Clara County to impose fines on Lehigh and Stevens Creek Quarry for their violations is hard to apprehend. The polluters and violators who use regulations and permits to hide behind in order to conduct their businesses continue to violate, why are they not made to pay high fines for their criminal acts against humanity. The small fines if at times they are imposed may not be enough the polluters consider these fines operating expenses and just go out and violate again and again no one shuts them down for their continued law breaking actions. It seems that no agency, State, County or City wants to shut them down seems no one has the enforcement power this should send us all a clear message the polluters are more important and their pollution is just part of doing business. The fact that we are all getting or going to get sick and die sure does not matter to the greedy people who would even sit working at Lehigh exposing themselves to pollution they seem to think they are immune to the illnesses brought on by the dust they are breathing in each day. I must tell them they are not immune and some people at Lehigh have gotten sick and died one person even went crazy and killed his fellow workers has everyone forgotten what happened? I do not think that Lehigh has forgotten they erected a memorial right outside of their gate in honor of these people so each day they can go by and view this monument. The real problem there is they are not thinking that just maybe someone else may go crazy again and God help us do it again. Please Santa Clara County do not let this happen again if Lehigh had been shut down as I had been suggesting to everyone prior to this crime these people that were killed would still be alive and living lives with their loved ones. The man who did this was I believe dying and he knew it unfortunately Lehigh management should have realized how much he was suffering and helped him instead they did nothing.

The issue of the road is just a prelude to an even more serious matter and I want to bring up the issue of Lehigh Hansen Company and the real possibility that they will put in an application to mine a new pit, which will be in the area near the either the illegal road or the new road they have an application for at this time. The Treatment Plant they built has also been a prelude to justify the new quarry are we going to allow this to happen if they do put in a new quarry people will not be able to live in this valley. The new quarry may also usher in the next major earth quake in California because there are so many fault lines around the area it would be a great disaster.

I cannot see why Lehigh Hansen does not stop all of this pollution the company is very wealthy and they really do not need to farm out this rock to the Stevens Creek Quarry except that I believe the State Water Board has told them to dispose of it all this has caused a great deal of problems. I agree with the letter from City of Cupertino wrote to Santa Clara County about this road and the problems and upset it caused the public. The City of Cupertino finally got involved instead of saying they have not jurisdiction over Lehigh and their lack of keeping our City safe.

There is I believe another reason for all of this happening and that is that I think that Lehigh Hansen Company has mined down to the aquifer water table and now they are pulling water up from there to clean in their Lehigh Wastewater Treatment Plant. The EPA years ago did a Superfund Site Investigation of Lehigh Hansen Company and the Stevens Creek Quarry there was justification but they did not issue a Superfund Cleanup. I asked for this investigation and wondered after all of the work they did why did they not close them down and do a Superfund Site Cleanup. I think they did not do one because the EPA told all involved to clean up this mess or we will, well they never cleaned it up in 14 years until now because finally Lehigh Hansen is running out of Limestone and they have reached the aquifer water table. The aquifer is filled with the water from the Stevens Creek Quarry and also other reservoirs in the valley which are highly polluted with Mercury and other pollution the Santa Clara Valley Water District does nothing to clean them up. Lehigh Hansen is pulling water up from the aquifer water table below the quarry via many ejection wells and this water is pulled up and then is transported to the Lehigh Hansen Wastewater Treatment Plant but the Treatment Plant does not treat the water down to zero pollution levels. The water is then sent down the Permanente Creek to the SF Bay area this water is polluted not only with pollution but with chemicals they are treating the water with.

I am sorry to say I do not know what Santa Clara County or the City of Cupertino will do now but history will record what they did not do and should have done. I can only hope they make the right decision and have been an advocate against Lehigh Hansen Cement and Quarry and the Stevens Creek Quarry for going on 14 years and counting never giving up my dream to stop them. This land should be used for a State or Federal park for all to use in the future preserved in any way possible with the agencies and our representative doing all they can to preserve it sure would be a pity if it all goes to waste with another Lehigh Hansen Quarry. Please do not forget what damage the Cement Plant does dust is every place and the Bay Area Air Quality Management District and the EPA Region 9 does nothing to really stop this pollution to the Air, Water and Soil.

I would like to end here by saying that me and my family have suffered of years and continue to suffer many health issues and there even was the death of my daughter and my husband who suffered from the pollution and died the details are too horrible to bring up now. My son has ADD and Dyslexia and it is a miracle that he was ever born, I had infertility problems and two miscarriages and each day I breathe in and eat the dust from Lehigh Hansen cement that has caused my breast cancer, diabetes, asthma and other symptoms. I can tell when the Lehigh Cement Plant is operating because it is very difficult to breath. I must ask who will fight for the future of our children and the next generation I can only hope that all reading this paper will do your part and fight there is no time to waste all of our lives depend on it.

Thank you

Tickets are on sale now!
tinyurl.com/FUHSSpringFling2019

cc 3/5/19 Oral Communications

SPRING FLING 2019

80'S PARTY

DE ANZA COLLEGE CAMPUS CENTER
21250 STEVENS CREEK BLVD CUPERTINO, CA

FRIDAY, MARCH 29 6-9:30PM

2019 FUHS FOUNDATION SPRING FLING FUNDRAISER AND SHOWCASING OUR STUDENTS

80'S PARTY

FOOD, DRINKS, DANCING, CASINO,

AUCTION, RAFFLE, AND STUDENT SHOWCASE

TICKETS ARE \$50 BEFORE MARCH 22ND AND \$55 AFTER THAT DATE

TO PURCHASE TICKETS AND SEE MORE INFORMATION AT:

<https://fuhsfoundation.org/spring-fling-2019/>

HOSTED BY: FREMONT UNION HIGH SCHOOLS FOUNDATION

TaxID#94-2907804 589 West Fremont Sunnyvale CA 94087

408-773-1218 | info@fuhsfoundation.org

