

INVESTIGATIONS

the permanente quarry

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Introduction

The Permanente Quarry is a limestone and aggregate mining operation and cement plant, located in the unincorporated foothills of Santa Clara County, Cupertino. The quarry is owned by Lehigh Southwest Cement, and produces roughly 70% of the cement in Santa Clara County and half the cement in the Bay Area.

The quarry has faced staunch opposition from residents concerned about its environmental and household impacts.

“We were promised no new noise when the new smokestack was erected, but all of a sudden Cupertino residents lost sleep,” said Rhoda Fry, a resident who has been active in her opposition of the Quarry. “It took years of citizen effort to improve the noise level. As to dust, one study showed that limestone could fly up to 4.3 miles. Nearby residents report that they need acid to clean their cars, it “snows” in their yards, and their homes are dusty.”

Lehigh Cement is the biggest polluter in Santa Clara County and the third biggest in California. It produced 831,772 metric tons of greenhouse gases in 2017.

In May, Lehigh applied for a new quarry above the Stevens Creek Reservoir in addition to a more extensive mining area at the protected ridgeline between the large Quarry and Rancho San Antonio. The Quarry, already a source of concern for residents, has received further pushback for this move.

The City of Cupertino does not

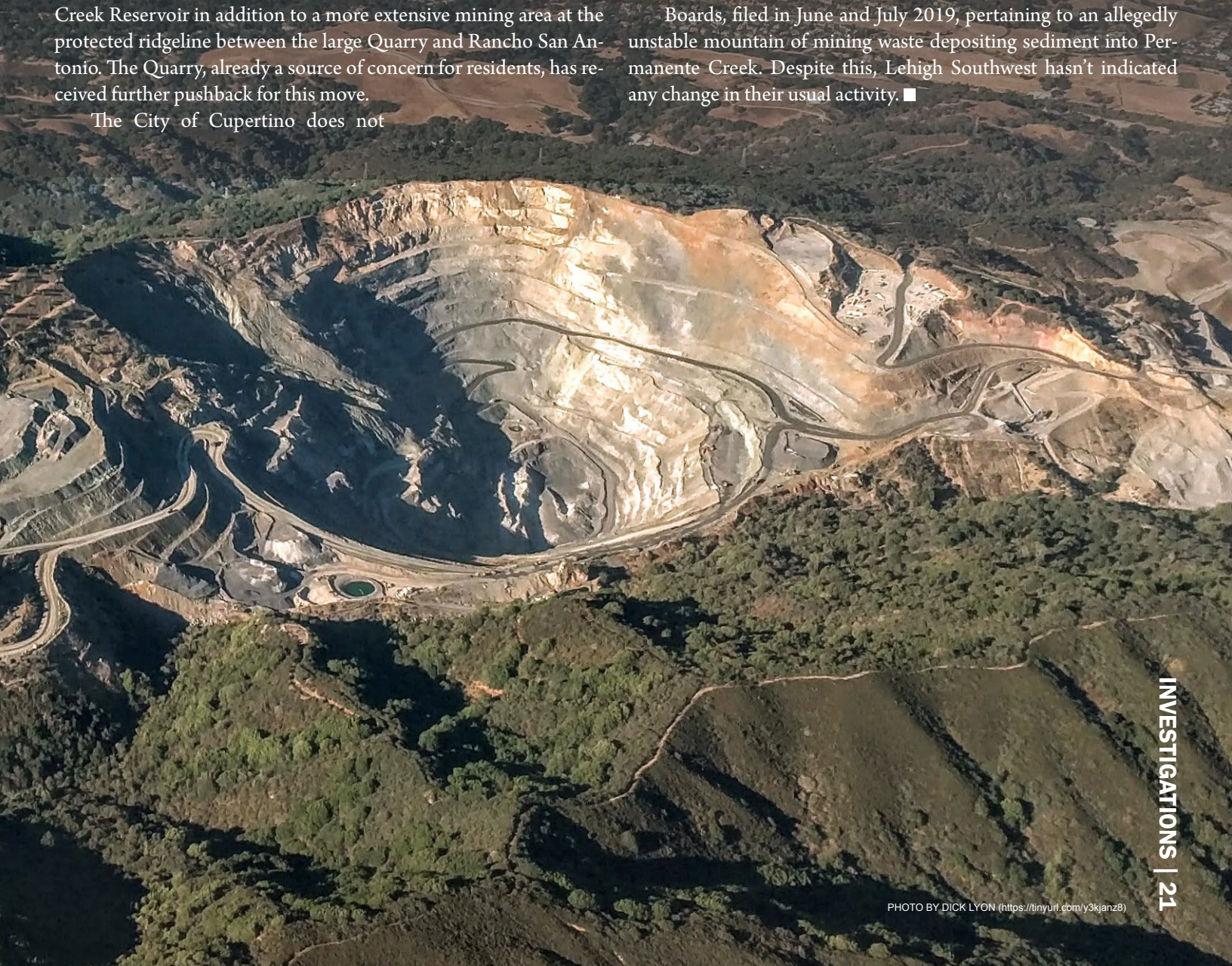
have direct jurisdiction over the Quarry because the facility is not located in the City. Still, The City pays attention to it as it may impact the health and safety of residents.

The Cupertino City Council wrote a letter of protest on July 3 directed towards the Santa Clara county board of supervisors. The letter expressed concern over emissions, seismic stability, and ridgeline protections and the view. It especially objected to the traffic and pollution from the 200,000 trips that transporting the soil for the quarry would require.

Lehigh Cement claims that its Quarry and the expansion plans are beneficial to the environment and industry. It states in their application for the reclamation plan amendment that its “unique local supply provides regional economic and environmental advantages by reducing travel time and vehicle miles traveled, which reduces air pollutants and greenhouse gas emissions.” It also stated that the quarry “would stabilize areas of erosion and improve the aesthetic quality of the existing quarry.”

In addition, Lehigh received two Notices of Violation from the County and the Water

Boards, filed in June and July 2019, pertaining to an allegedly unstable mountain of mining waste depositing sediment into Permanente Creek. Despite this, Lehigh Southwest hasn’t indicated any change in their usual activity. ■



Environmental Impacts

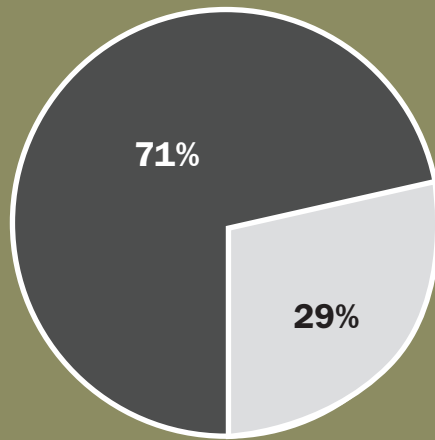
Lehigh Cement has long been a point of great contention in Santa Clara County and other cities around it because of the water and air pollution. They have been fined for millions of dollars over the past decade but have continued with their dangerous practices. According to Baykeeper, a nonprofit organization dedicated to pollution mitigation in the San Francisco Bay, Lehigh emits approximately 88 pounds of mercury from its smokestacks each year, making it the largest source of mercury pollution in the Bay Area.

In an interview with Rhoda Fry, the director of the Bay Area Clean Environment organization, she said, “Lehigh is able to pollute the air, water, and land without repercussions because the regulatory agencies are understaffed and their actual goal is not to regulate but to keep them in compliance.” As an example, she cites that the Stevens Creek Quarry Conditional Use Permit expired in 2015 but the County allows them to continue to operate.

This year, Lehigh faces county violation of the unwarranted waste rock dumping in Permanente Creek, which runs from Los Altos to Mountain View. The Yeager yard, northwest of the creek, located in the hills of Santa Clara County west of Cupertino, is used to store wasterock excavated from the nearby limestone quarry. However, the waste rock has seeped into the creek and led to an increase in selenium pollution which could pose a threat to aquatic life.

Among the many problems Lehigh faces, the cement company violated agreed-upon boundaries

Total Bay Area Airborne Mercury Emissions



The cement plant at the quarry has been fueled by petroleum coke since 2007. Petroleum and limestone, itself is a major source of mercury emissions. The cement plant is responsible for 29 percent of total Bay Area airborne mercury emissions and was shown to impact a rural site, Calero Reservoir, 20 miles (32 km) away.

Source: Sarah E. Rothenberg, Lester McKee, Alicia Gilbreath, Donald Yee, Mike Connor, Xuewu Fu (March 2010). “Evidence for short-range transport of atmospheric mercury to a rural, inland site”. Atmospheric Environment.

by expanding a road without County permission. This has drawn ire from residents that Lehigh has unlawfully done this and leads many to question what else Lehigh has done. Additionally, the company has filed to lower the ridgeline of the quarry by 100 feet, past the 3000 feet limit. However, the County Board of

Supervisors must first agree to change the 1972 ridgeline easement, which set the boundaries for Lehigh.

The cement plant first gained attention from residents with truck traffic being sent through city streets, especially when Cupertino found that Lehigh had been widening a fire access road unauthorized to transport materials. Noise and dust pollution played a part in numerous complaints. In their request to erect a new smokestack, Lehigh promised that noise and pollution would be kept to a minimum for nearby residents, however, it has significantly increased, prompting many meetings, forums and investigations into Lehigh’s practices.

Furthermore, according to Fry, the fact that Lehigh is “owned by one of the largest building materials companies in the world, HeidelbergCement Group of Germany, they haven’t been able (or willing to) figure out how to get their facility into compliance with the Clean Air Act and the Clean Water Act.”

This poses a major problem since the company is international and it is hard for them to directly enforce their plant to cooperate; it would need the plant itself to do that.

She also added that “The Bay Area does not need a cement plant. California has 8 cement plants. 16 States in the United States do not have cement plants and they make do.”

Lehigh did not respond to requests for an interview however, a recent televised meeting in Cupertino was held regarding truck traffic and pollution. ■

Legal History

The Lehigh Hanson Cement Company has been in and out of lawsuits for years. In 2013, subsidiary Hanson Permanente Cement Inc. was sued by the Sierra Club for its failure to report emissions in Cupertino. The environmental advocacy group mainly focused on the company's release of selenium into the Permanente Creek's water supply in violation of the Clean Water Act, and the subsequent damage to the creek's ecosystem. The two groups later settled under the provision that Lehigh Hanson Cement Company allocate at least \$10 million of its future budget towards implementing a water treatment system.

In 2015, the United States Environmental Protection Agency (EPA) sued the owners of a plant operated by Lehigh Southwest Cement Co, for not reporting their pollution of toxic chemicals in Cupertino. Investigations proved that the company had been producing thallium, lead, nickel, and mercury compounds at levels that exceeded the federal maximums. In their list of grievances, the EPA highlighted Lehigh Southwest Cement Co.'s illegal dumping of millions of gallons of industrial wastewater into the San Francisco Bay near Cupertino. The waste included selenium and other metals, and the plant was ordered to spend \$5 million in wastewater treatment and to pay a \$2.55 million fine.

These are a few of the many legal petitions that various groups have filed against the company. In 2016, as a result of the 14,000 pending lawsuits based on asbestos-related bodily injuries, their parent company HeidelbergCement AG officially filed for bankruptcy.

Lehigh is listed as an official

lobbying group for the city of Santa Clara and has met with officials five times in the past two years. Their meetings have consisted of facility tours, discussions regarding the plant's operations, reclamation plan amendments, exploring greenhouse gas reduction projects, and updates about their services.

In March of 2019, the Santa Clara Board of Supervisors (representing the city of Cupertino) conducted a public informational meeting to review local, state and federal agency oversight and permits for the

"Without the knowledge of the Board, Jack Broadbent and Lehigh entered an agreement in which Lehigh would be permitted to exceed the pollution limits as long as they pay extra fees to the BAAQMD. That year, Lehigh was able to exceed its [pollution] quota by 11,000 tons."

Head of Bay Area for Clean Environment, Rhoda Fry

Lehigh Cement Plant and Quarry. In the Board's official press release, they have announced their decision to increase oversight funding for the Lehigh Cement Plant and Quarry in the Cupertino Foothills. Their chief motivation in doing so has been Lehigh Hanson Cement Company's decision to file for a second mining pit.

Board President Joe Simitian says that "A project of this size and scope requires particular care, which is why we've increased our investment in expertise."

He further elaborates by acknowledging that because "at least eight regulatory agencies have a role to play at the site, it's particularly

important that [the board has] the expertise available – right from the start – to ensure a thorough, comprehensive review." Lehigh Southwest Cement Company will reimburse all increases in funding. The press release also includes an update that the company's application for a second pit is currently under review by the County's Planning Department.

Past regulation over Lehigh has been lax and at times deceptive, according to the head of Bay Area for Clean Environment, Rhoda Fry. "In 2013, the Bay Area Air Quality Management District (BAAQMD) finally established more stringent regulations, especially for mercury pollution." Under these new provisions, Lehigh would have to reduce its production to avoid exceeding the limits. The BAAQMD's CEO, Jack Broadbent, even vowed to shut down Lehigh if it failed to comply with the new laws.

Fry then said that "Jack Broadbent and Lehigh entered an agreement which permitted Lehigh to exceed the pollution limits, as long as they paid extra fees to the BAAQMD. That year, Lehigh was able to exceed its [pollution] quota by 11,000 tons." Neither parties notified the Board nor the surrounding community of the agreement.

There is currently a strong market demand for locally sourced cement, and Lehigh Cement Company is running out of materials in its existing mining site. Simultaneously, there has been an exceeding amount of concern from the community over Lehigh Cement Company's integrity and willingness to comply with the law. Ultimately, the County of Santa Clara will have the final decision on whether to grant the company's request to build a second pit. ■