



COMMITTEE FOR
GREEN FOOTHILLS

March 17, 2004

Ann Draper, Planning Director
Santa Clara County Planning Office
70 West Hedding
San Jose, CA 95110
Fax (408) 288-9198

Craig Britton, General Manager
Midpeninsula Regional Open Space District
330 Distel Circle
Los Altos, CA 94022-1404

Dear Ann and Craig;

The Committee for Green Foothills urges Santa Clara County and the Midpeninsula Regional Open Space District to take action regarding the giant, highly visible scarring of a ridgeline above the Hanson Permanente Quarry, a scar that can be seen for miles throughout the Peninsula. In particular, the Committee urges the County and MROSD to seek a resolution of this problem together with potential violations by Hanson of publicly-owned property. We request that the County and MROSD confirm publicly whether these violations have occurred; that they seek an agreement with Hanson to reduce the scarring impact at the same time that public property is protected; and that the two agencies work together in resolving these problems.

Scarring from overburden deposit. For the last several years, Hanson has deposited quarry waste rock on a ridgeline overlooking Cupertino. This ridgeline deposit constitutes a uniquely visible scar on the hillsides, as all the other parts of the quarry are concealed within a valley and visible only from certain angles. The ridgeline deposit, by contrast, can be seen for miles. We understand that Hanson plans to continue depositing quarry waste in the area until it reaches the height limit specified in its Reclamation Plan, a process which could increase the unsightly scarring for a year or more. It will take several more years for a revegetation program to work in reducing the scarring. We further understand that Hanson plans to place additional waste rock in other areas of the ridgeline where the deposits supposedly will not be visible.

The Committee is not aware of any legal violations directly connected to the waste rock deposit, but the scarring is unquestionably a terrible aesthetic impact on the hillsides. We ask the County and MROSD to address the scarring in negotiations with Hanson over other likely legal violations.

Probable violation of the County's easement. In 1972, the previous owner of the Hanson Quarry (Kaiser Permanente) signed over to the County a Ridgeline Protection Easement, granting a property right to the County that prevented the quarry operators from lowering a ridgeline. County records now indicate that Hanson Quarry has violated this easement, apparently by quarrying so close to the ridgetop that it partially collapsed. It is not clear from the records we reviewed whether quarry operators simply disregarded the promised protection for the easement, or if they were insufficiently cautious and removed too much supporting material, leading to the ridgeline collapse. Regardless, Hanson appears to have violated a property right owned by the people of Santa Clara County. We request confirmation from the County that the public's rights have been violated.

Probable landslides onto MROSD property caused by the Quarry. County records also suggest that quarrying activities have either caused landslides onto adjacent property owned by MROSD or caused MROSD land to collapse. Again, the records we reviewed do not indicate why the landsliding occurred, but assuming that this activity did cross the property line (as suggested by the County records), it is either a trespass or a failure to provide support for adjoining property, both of which constitute legal violations. It raises the danger of reoccurrence, and also suggests a pattern where public property rights have been damaged by quarry operations. The Committee requests confirmation from MROSD that these violations have occurred.¹

Appropriate solutions for potential violations and the hillside scarring. The Committee supports actions by the County and MROSD to fully and aggressively protect public property rights. Protecting those rights could include requiring Hanson to rebuild and stabilize the ridgeline in the easement area; to remove or stabilize the landslide material and prevent future landslides caused by the quarrying from affecting MROSD land; and to provide compensation for damages, including potential punitive damages.

We expect that Hanson may try to negotiate to do less than it would be legally required to do to fix the damages it has caused to the County-owned easement and to MROSD property. In particular, we note that the consultant hired by Hanson recommended in its January 22, 2002 letter that the company do virtually nothing about its easement violation, and potential future easement violations, other than plant a few trees.

The Committee strongly believes that letting Hanson do anything less than what would be fully required of it is unacceptable, unless Hanson also takes concrete steps to remedy the increasing visual impact from its ridgeline scarring. The common element between legal violations and the ridgeline scarring is the potential visual impact to the hillsides caused by the quarry. If Hanson seeks flexibility from government agencies, the company should show a similar flexibility with respect to public rights, and reduce the visual impact of the hillside scarring.

Reasonable steps to reduce visual impacts from scarring. Hanson Quarry should take the following steps to reduce the harm from scarring:

- Make a binding promise to finish placing overburden on the visible portion of the ridgeline by a date certain, preferably by the end of 2004. This will allow the revegetation process to be completed as soon as possible.
- Verify that alternative locations planned for overburden deposit after 2004 will not create scarring that is visible from the valley floor. The height limit for these locations should be adjusted if needed to keep scarring from becoming visible.
- Limit the active deposit of quarry waste to one section of the exposed ridgeline at a time, while revegetating the other sections. One way this could work would be to actively deposit the overburden waste rock on the southern third of the exposed ridgeline, while revegetating the northern two-thirds for an interim period. When the southern third reaches its height limit, permanent revegetation could begin for that section immediately, while the quarry

¹ One map in the County records shows an "Existing Rim 2002" from quarrying activities that crosses over MROSD property, suggesting the possibility that the quarry has illegally trespassed on and quarried several acres or more of MROSD land. The Committee requests clarification of this issue.

reopens the middle third for active deposit, until that section reaches its height limit. The process could be repeated for the northernmost third. Other methods for limiting the visual impact of the scarring and speeding up the revegetation process could also be considered. While these methods may be inconvenient or more expensive for the quarry operators, the inconvenience should be something that Hanson would be willing to accept in return for flexibility from government agencies in how Hanson must repair the harm it has caused.

None of the above is meant to suggest that either the County or MROSD has responded inadequately to the potential legal violations. The Committee simply wants more public involvement in this process, and wants the environmental harm caused by the ridgeline scarring to be considered in the process of resolving the legal violations.

Please contact us if you have any questions. We look forward to hearing from you.

Sincerely,

<signed>

Brian Schmidt
Legislative Advocate, Santa Clara County