

REPORTER'S TRANSCRIPT OF  
BAY AREA AIR QUALITY MANAGEMENT DISTRICT  
PUBLIC COMMENT HEARING REGARDING  
THE PERMIT EVALUATION AND STATEMENT OF BASIS:  
SITE A0017, LEHIGH SOUTHWEST CEMENT COMPANY  
2400 STEVENS CREEK BOULEVARD  
CUPERTINO, CALIFORNIA 95014

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QUINLAN COMMUNITY CENTER  
10185 N. STELLING ROAD  
CUPERTINO, CALIFORNIA 95014

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SEPTEMBER 17, 2009

Reported by: CAROL NYGARD DROBNY, CSR #4018

Public Comment Hearing 9/17/2009

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1 MS. SANDOVAL: I'll call out the first few  
2 names. Lee Hornback.

3 Guitan Ray.

4 Mr. Ray from Los Gatos?

5 CITIZEN RAY: Citizen Ray?

6 MS. SANDOVAL: Oh, yes. Citizen Ray.

7 CITIZEN RAY: Citizen Ray.

8 MS. SANDOVAL: I apologize.

9 CITIZEN RAY: Thank you.

10 MS. SANDOVAL: Followed by Dr. G. William  
11 Walster, followed by Karen Del Compare.

12 CITIZEN RAY: Am I first?

13 MS. SANDOVAL: You are first.

14 CITIZEN RAY: Wow.

15 Madam Chairman, one thing I never do in a  
16 public meeting is talk with my back to we the people  
17 behind me, so I will turn to the corner here to address  
18 you folks and also address the bosses, because it's  
19 America. I don't know whether you folks really  
20 understand that.

21 Now, I want to give you a little insight.

22 I've been in Los Gatos for 10 years. I've  
23 been suffering in spring, summer, and so forth with  
24 nasal congestion --

25 FROM THE AUDIENCE: We can't hear you back

1 here.

2 CITIZEN RAY: Oh, yeah. You got to get this.

3 FROM THE AUDIENCE: Raise it up.

4 CITIZEN RAY: The mike was off; do you believe  
5 that?

6 I'll take some -- I'll take an additional  
7 fresh start -- if you don't mind.

8 MS. SANDOVAL: Here you go.

9 CITIZEN RAY: Ooooooh. Ooooooh.

10 Thank you for bringing the point up.

11 Yeah. I've been in Los Gatos 10 years, and  
12 for 10 years I've been suffering with eyes going crazy  
13 certain days, my nose locking up tight, headaches like  
14 you wouldn't believe -- always figured it was something  
15 natural.

16 The wind would blow, and pollen, the grass,  
17 the trees, et cetera.

18 So I bought Claritin end upon end; okay?

19 Never did any good.

20 And finally figured out what goes on when the  
21 wind blows. They fire up the cement plant, and I live  
22 directly downwind from the cement plant in Los Gatos.

23 So when they fire it up, all that cement plant  
24 dust comes billowing right down over Saratoga,  
25 Cupertino, right in to Los Gatos on down the road; okay?

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1           It is unbelievable what these people at that  
2           cement plant have been doing to the public interests, to  
3           we the people who live downwind.

4           You live downwind, now you got an answer.

5           Yesterday -- yesterday I decided -- or Tuesday  
6           the wind came up. All of a sudden my eyes are going  
7           crazy. I knew the plant was running.

8           So I go down to Stevens Creek Boulevard just  
9           to be sure. I go beyond Stevens Creek about four or  
10          five blocks, and all of my symptoms disappeared.

11          With a hundred percent certainty it is the  
12          cement plant that is raping my life.

13          So Tuesday I said, I'm going to find out how  
14          big that cloud is. So my eyes went crazy, my nose  
15          locked up.

16          So I drive up to Stevens Creek to the plant.

17          Then I head south on 85 to see how big the  
18          cloud is.

19          Guess how long it took me before my symptoms  
20          disappeared? Camden. Camden off 85. That's 15 miles  
21          from the plant.

22          That's how big the cloud is; okay?

23          Then I went south on 17 to see how broad the  
24          tail was. My symptoms didn't disappear until I hit the  
25          old Tafts Restaurant(ph.) on 17. That's a four or

1 five-mile swath of pure poison for people like me, and I  
2 think most everybody else, particularly children.

3 I can't believe you people in the Air Quality  
4 would sit still and let the kids be poisoned like  
5 they're being poisoned.

6 Also -- I guess I'm getting close; okay?

7 There it is right there.

8 Well, how do you like that?

9 I just found out that we're not going to have  
10 the issue before the Board. It's going to be before one  
11 person, this guy Broadband, and he's not even here  
12 today.

13 I can't believe it.

14 What happened to our American democracy?

15 MS. SANDOVAL: Thank you, Mr. Ray.

16 CITIZEN RAY: One man is going to decide the  
17 permit.

18 MS. SANDOVAL: Thank you.

19 CITIZEN RAY: Where's our American democracy?

20 In the toilet, no thanks to you people.

21 MS. SANDOVAL: Dr. William Walster.

22 CITIZEN RAY: What do you think?

23 (Applause)

24 CITIZEN RAY: Whooooo.

25 What a way to start; huh?

1 FROM THE AUDIENCE: There you go.

2 MR. WALSTER: I have a number of questions  
3 that I hope will get answered at some point, and I'll  
4 try to go quick.

5 I presume from the introduction that the  
6 requirements that must be met singly and/or collectively  
7 for a Title V permit renewal to be approved by the  
8 BAAQMD are on the website or in the document; okay?

9 And that implies that if any of those are not  
10 met, the permit will not be granted; correct?

11 Well, you're not going to answer.

12 Also, if there are any conditions that singly  
13 or collectively are not met, will it force the BAAQMD to  
14 not grant the permit?

15 Those need to be highlighted and made public.

16 The reason I ask is because it's been recently  
17 in the press that with respect to water quality there's  
18 gross violations nationwide of virtually all the  
19 requirements because there isn't sufficient monitoring  
20 to find out what's going on, and you can find that in  
21 the "New York Times" website.

22 If the BAAQMD does not renew the Lehigh Title  
23 V permit, can the cement kiln and/or quarry continue to  
24 operate anyway?

25 I've heard that they can.



1           What other permits and/or licenses are  
2 required for the Lehigh cement kiln and/or quarry to  
3 continue and/or expand operations?

4           We need to know what those are.

5           Is there a level of public outrage at the  
6 pollution caused by the cement kiln and/or expansion of  
7 its operation quarry that will cause the BAAQMD not to  
8 renew the Lehigh Title V permit, or are we just here to  
9 talk?

10          Is the cement kiln required to shut down on  
11 Spare the Air days?

12          Can the BAAQMD require the cement kiln to  
13 adhere to -- I'm sorry -- to abide by all applicable EPA  
14 and State clean air requirements as they become law, in  
15 other words, no grandfather clauses?

16          In short, as you might guess, I am outraged  
17 because I live in the neighborhood of the plume, and I  
18 will continue to do everything in my power to see that  
19 the entire operation is shut down.

20          Thank you.

21          (Applause)

22          MS. SANDOVAL: Thank you, Dr. Walster.

23          Karen Del Compare, followed by Ken Yew,  
24 followed by Srini Vasan.

25          Karen Del Compare.

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1 MS. COMPARE: Yes.

2 My name is Karen Del Compare, and I'm a member  
3 of the Valley West Citizens Air Watch.

4 That's okay.

5 I am opposed to the renewal of this permit for  
6 several reasons which I will go in to.

7 First of all, the current permit states that  
8 visible particulate emission shall not result in fallout  
9 on adjacent property in such quantities as to cause a  
10 public nuisance.

11 They are in violation of this on a daily  
12 basis, and I called the complaint line about this as  
13 well.

14 There's dust all over our cars, all over our  
15 yards, on our fruit trees, in our houses, and, most  
16 importantly, in our lungs, and this has got to stop;  
17 okay?

18 FROM THE AUDIENCE: Here. Here.

19 MS. DEL COMPARE: And we don't really know  
20 what the health impacts of this cement plant are, and  
21 I'll give you one example.

22 The autism levels in the Cupertino schools are  
23 much higher than in the surrounding communities, and, as  
24 we all know, that the cement plant omits huge amounts of  
25 mercury.

1           According to the 2005 EPA toxic release  
2 inventory, 585 pounds of mercury were released by the  
3 cement plant. That is a huge amount of mercury.

4           It's estimated that it only takes about a  
5 teaspoon to contaminate a whole lake with mercury, so  
6 you can imagine how much 585 pounds will contaminate.

7           There's a nearby Permanente Creek which flows  
8 in to the San Francisco Bay, and we know that there's  
9 high levels of mercury in the fish in the San Francisco  
10 Bay and there's Fish Advisories there.

11           In nearby Stevens Creek there's also Fish  
12 Advisories.

13           And all this really needs to be looked in to  
14 before we can even consider renewing this permit.

15           The EPA has done studies, and they found 1 in  
16 6 women of child-bearing age have mercury levels high  
17 enough to damage a fetus.

18           They need to look at sensitive receptors, even  
19 if they're beyond the thousand foot limit. There's  
20 several, you know, Cupertino Preschool and the Monte  
21 Vista Park, there's several schools and retirement  
22 communities on Foothill Boulevard that are also very  
23 close to the cement plant, and not just close to the  
24 cement plant, but also right along the truck route for  
25 both the cement plant and two quarries in Cupertino.

1           And I was very disheartened that the Air  
2 District did not see fit to retrofit diesel trucks and  
3 six other communities were chosen instead of Cupertino.  
4 Thank you.

5           MS. SANDOVAL: Thank you.

6           Ken Yew.

7           (Applause)

8           MS. SANDOVAL: Thank you.

9           Followed by Srini Vasan, Al DeRidder, followed  
10 by Debbie Harris.

11          MR. YEW: Hello. My name is Ken Yew.

12          I'm also a member of the West Valley Citizens  
13 Air Watch. I'm also a member of the Santa Clara County  
14 Medical Association Environmental Health Committee.

15          And so our committee is concerned about this  
16 Title V process from a number of different points, the  
17 first of which was mentioned by Ms. Del Compare, which  
18 was the issue of mercury toxicity.

19          There has been evidence according to EPA that  
20 the LeHigh Southwest Cement Plant has a history of  
21 emitting mercury in extremely high quantities, over 500  
22 pounds per year during certain years, which is reputed  
23 to be the fourth leading mercury emitter in the nation,  
24 and there's certainly circumstantial evidence from a  
25 study done by Lucille Packard suggesting that the rates

1 of autism in this community is much higher than in  
2 surrounding communities.

3 The other issue which we're concerned about is  
4 the issue of monitoring.

5 As you know, the Lehigh plant doesn't have a  
6 central stack, so there's no way to efficiently monitor  
7 a hundred percent of the emissions like practically all  
8 the other cement kilns in the nation.

9 There's only three cement kilns in the entire  
10 country which do not have a central stack such as  
11 Lehigh, and it seems as if it's being monitored through  
12 these -- a sampling of the 32 vents that -- that Lehigh  
13 has, and being extrapolated to be representative of the  
14 total, which is not as good as having a central stack  
15 which measures a hundred percent of emissions  
16 continuously.

17 So we really have no idea what the precise  
18 amounts of emissions of hazardous air and pollutants are  
19 from that plant.

20 You know, Santa Clara County has a history of  
21 having really bad air. The American Lung Association's  
22 database gives Santa Clara County a failing grade from  
23 the point of view of ozone emissions and particulate  
24 matter emissions.

25 So, you know, I urge the Air District to

1 stringently enforce the regulations that it can.

2 The other thing that you might be aware of is  
3 the EPA has a proposal in the works to more stringently  
4 monitor mercury emissions, and we would like to see that  
5 enforced as soon as it becomes a rule.

6 Thank you very much.

7 (Applause)

8 MS. SANDOVAL: Mr. Srini Vasam followed by Al  
9 DeRidder.

10 MR. VASAN: Hello. I am present for the Forum  
11 at Rancho San Antonio, which is a senior retirement  
12 community for senior residents, and along with staff and  
13 vendors coming, we have a thousand people on the site  
14 every day.

15 We are exposed to these dust. We are right  
16 down the street from the concrete plant.

17 If you come to our parking lot, you'll see  
18 this gray ash covering all our cars, the new ones, and  
19 the old ones, and the trucks, and it -- it's hard to get  
20 clean.

21 But it's more important to remember what is it  
22 coming out. Many of you may not realize when Mr. Kaiser  
23 got -- brought -- he got the Almaden Mercury mine, which  
24 is the old mercury mine that supply mercury to the  
25 people who panned gold in the Gold Rush, so when they

1 get this limestone, they are, unfortunately, bringing a  
2 witch's brew of mercury, chromium, and all the other  
3 things they can't separate. They have to catch it.

4 And I'll give you an idea of how it can be  
5 done. The silicon that comes out is very fine, and can  
6 be arrested by children as well as the seniors. It  
7 affects the seniors.

8 We have the people in a health care facility,  
9 which is on our property. Someone on the border of  
10 dementia and Alzheimer's it can affect, and, as you  
11 know, silicon is a very hostile particle, it goes in to  
12 your lung and causes silicosis.

13 So it causes a reaction, and it's not good for  
14 your health, our bodies, for these people.

15 So we suggest that the company -- we've been  
16 asking them to come to our property, and we open the  
17 parking lot for them to come and test along with a  
18 mutually agreed lab, testing lab, to see what the  
19 contents and the particle sites -- not really a particle  
20 site, but the silicon appear like a little chard of  
21 glass almost. Even asbestos is much softer than this  
22 glass.

23 The other thing we -- we see dioxane and  
24 chromium coming from the same -- the process. They are  
25 very toxic in the air.

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1                   For fuel they got the cheapest fuel they can  
2                   get.

3                   MS. SANDOVAL: Thank you. Your time is up.

4                   MR. VASAN: One minute now, please.

5                   MS. SANDOVAL: You're invited to submit  
6                   written comments.

7                   MR. VASAN: You see, it's really the bottom of  
8                   a barrel disposed by refineries, and then --

9                   MS. SANDOVAL: Thank you, Mr. Vasan.

10                  Thank you, Mr. Vasan.

11                  MR. VASAN: Thank you.

12                  (Applause)

13                  MS. SANDOVAL: Mr. Al DeRidder.

14                  MR. DERIDDER: Good evening, my name is Al  
15                  DeRidder, I've been a long-time resident here of  
16                  Cupertino, and a couple of things I'd like to say.

17                  We're going to hear a lot of people that say  
18                  "not in my back yard."

19                  I'm sorry. They're not in your back yard.  
20                  You're in their front yard.

21                  You chose to move close to the cement plant,  
22                  so that's your choice. You have a choice to move away  
23                  from it; okay?

24                  Now, a couple other things I'd like to say.

25                  Yes, there is pollution.



1 Yes, there is dust.

2 Their main product is dust, and we understand  
3 that. They have spent millions upon millions of dollars  
4 to collect that dust because that's their product.

5 Now, sure, some of it is getting away, and  
6 they're continuing to spend millions of dollars to  
7 collect that dust.

8 The thing I've been hearing from other people  
9 here, that there's various other chemicals including  
10 mercury and other things that are escaping in to the  
11 atmosphere around here.

12 Yeah, let's get them to clean it up. I agree  
13 with that.

14 But, as far as shutting it down, what do we  
15 do?

16 Where do we go?

17 Where do we get our cement?

18 We want to have our homes, and our  
19 hide-a-ways, our places of business. Where does that  
20 cement come from? Right up on the hill here.

21 You know, now, if we close this down, where  
22 are we going to get it from?

23 We're going to get it from China, where nobody  
24 cares anything about pollution.

25 You know, all you have to do is go to some of

1 the major cities in China and find out how dirty the air  
2 is.

3 Do we want to send our business over there to  
4 let them pollute the world, and do we want to have that  
5 stuff shipped over here using the ships that pollute the  
6 air also?

7 And the pollution that's -- that comes in the  
8 air from China or any place else drifts across the ocean  
9 on the air currents and still affects us.

10 So I know it's a tough decision you guys have  
11 to make.

12 I would not like to see this cement plant  
13 close, but it's a good thing to clean it up, and it's  
14 important we find out about its problems, the chemicals,  
15 and so on that are being released.

16 I think you have a big job of making sure that  
17 they comply with the requirements, and I thank you for  
18 hearing me.

19 (Applause and boos)

20 MS. SANDOVAL: Thank you.

21 Debbie Harris, followed by Josh Bennett,  
22 followed by Roman Yanovsky, followed by June Stough.

23 And I apologize for mispronouncing last names.

24 Thank you.

25 Debbie.

1 MS. HARRIS: My name is Debbie Harris, and I  
2 wasn't planning on speaking. I was just planning on  
3 coming to get answers to my questions.

4 My daughter and I started renting a place  
5 about four years ago in Stevens Creek -- about four  
6 years ago, so we've been in the area quite a while.

7 And, listening to all the people that have  
8 been talking, it brought up some things maybe I hadn't  
9 thought about in the past.

10 A couple of years ago I started with this  
11 really strange cough that wouldn't go away.

12 First I thought I was coming down with  
13 something, and then I ended up going to the doctor  
14 because it wouldn't go away, and it's progressed to  
15 being almost like an asthmatic cough which I have to  
16 take medicine every day, and it was concerning because I  
17 had never had any bronchial problems in the past, and I  
18 didn't think about the cement plant, even though we live  
19 right down the street, and, yes, we live right on  
20 Stevens Creek.

21 This dust is on our car. You have to rinse  
22 off your car, and within an hour maybe, you know, it's  
23 like what's the point of rinsing off your car.

24 The other thing is I tend to jog almost daily,  
25 and the trucks, when they go by, if you happen to be

1 there when they're going by, it's more than just -- I  
2 don't know how to describe it. Its more than an exhaust  
3 that you inhale. It's almost like a choking type of  
4 emission.

5 So just all these things -- I mean, again,  
6 listening to the other people, they're just making me  
7 more and more concerned.

8 And what really sparked my concern is at the  
9 beginning of the summer, when I heard they were going to  
10 put the emissions monitors at Stevens Creek, so it looks  
11 like from what I hear they have gotten some initial  
12 data, but, again, it's concerning because out of the  
13 seven samples it looks like four were positive.

14 I think it would be smart to collect more data  
15 before we decide for sure what we want to do.

16 So, anyway, I just wanted to share my  
17 concerns, and hopefully whatever will be decided will be  
18 in the best interests of the citizens.

19 Thank you.

20 MS. SANDOVAL: Thank you, Ms. Harris.

21 (Applause)

22 MS. SANDOVAL: Mr. Josh Bennett, followed by  
23 Mr. Roman Yanovsky, followed by June Stough.

24 MR. BENNETT: Good evening.

25 My name is Josh Bennett.

1 I'm a local resident concerned, just as  
2 everybody else here is, and just wanted to bring up a  
3 few issues regarding the renewal and where the exigency  
4 is.

5 I think, you know, some time between all the  
6 statements that have been produced a decision is  
7 warranted.

8 As several speakers have already indicated,  
9 Lehigh is the largest source of toxins in Santa Clara  
10 County, concerns all of us.

11 A renewal of a facility such as that warrants  
12 a lot of consideration above and beyond its normal  
13 permit.

14 Now, I don't think that the renewal should  
15 occur immediately until the EPA rules for hazardous air  
16 pollutants comes out and is addressed specifically from  
17 the study -- the report for the Portland cement  
18 manufacturing industry is finalized.

19 I think the findings of that study should be  
20 included in any permit going forward, at least in  
21 consideration of a permit like that going forward,  
22 especially when we currently don't know exactly what's  
23 coming out of the -- of the quarry and the kiln.

24 I don't think anything should occur until the  
25 applications for the two storage piles is reviewed and

1 looked at as well as your application to modify their  
2 existing permit conditions regarding the emission of  
3 toxic air contaminants in to the air, and I think that  
4 this District is actually looking at that as well.

5 So both those -- both those factors warrant --  
6 warrant consideration.

7 I don't think that a renewal issue should  
8 occur until the Distract staff completes its study and  
9 more stringent tests on both nitrogen dioxide and  
10 sulphur dioxide levels that are coming out of the plants  
11 and the kiln as well as their impacts on the  
12 environment, as well as on -- on the community.

13 I don't think that the renewal should occur  
14 until the EPA completes its review and approves fuel  
15 change from the coal to the coke, which we currently  
16 see, and also that the rule change does not trigger  
17 federal PSE permit requirements.

18 And, now, the majority of these things should  
19 have already been accomplished, but I think they're all  
20 expected to be done by March 2010, so definitely within  
21 that window we can wait this out and see what the  
22 findings are and the results about these studies, and  
23 any -- five-year permit that goes forward should, you  
24 know, contain all these safeguards that will -- and  
25 considerations that will come out when the studies do

1 come out, and we can't just ignore these significant  
2 unknowns that currently are in the permits.

3 And, just finally, legislative prudence is a  
4 virtue, and never more-so than when a community's  
5 livelihood and safety are at stake.

6 Thank you.

7 (Applause)

8 MS. SANDOVAL: Roman Yanovsky.

9 MR. YANOVSKY: Hello. My name is Roman  
10 Yanovsky.

11 I live on Cristo Rey Drive, right across, so  
12 -- for the past 18 years.

13 And for the past 18 years I've seen this  
14 plume.

15 Now, some 15, 20 years ago the neighborhood --  
16 the face of the neighborhood was very different, so I  
17 thought -- it was sparsely populated. Now it's a  
18 populated neighborhood, but the plumes are still there.

19 The cement plant is spewing this plume. I  
20 believe this is unacceptable, that the face of the  
21 neighborhoods have changed, and I believe that the  
22 permit should not be renewed.

23 Thank you.

24 (Applause)

25 MS. SANDOVAL: June Stough followed by Louis

1 Liang, Sri Kanth, Bill Almon.

2 Thank you.

3 MS. STOUGH: If this were a hog farm in the  
4 middle of Manhattan Island, they'd close it down in a  
5 New York minute.

6 The gentleman that thinks this is the only  
7 cement plant in the United States needs to take another  
8 look at what he's talking about.

9 But I have questions. I don't have comments.

10 I have questions that probably can't be  
11 answered tonight.

12 One is, how many trucks average per day go out  
13 of the facility?

14 If there's an answer tonight, we could take  
15 it, otherwise --

16 MR. BATEMAN: Ma'am, this part of the meeting  
17 isn't really structured for responding to comments, but,  
18 if you'd like, if we have time afterwards, we certainly  
19 would be happy to talk to you about that.

20 MS. STOUGH: Well, you don't need to just talk  
21 to me. It needs to be put on the website or something.

22 So I'll give you my questions. You can put it  
23 on the website for everybody to see.

24 How many trucks per day go out of the  
25 facility?



1           As an offshore corporation, do they pay  
2 corporate income tax on Federal and State?

3           I understand they pay property tax, but do  
4 they pay income tax, corporate income tax? Because  
5 they're an off-shore corporation.

6           They say they have between 150 to 200 people.  
7 Some of those people could be minimum pay people. I'd  
8 like to know what their total salaries are that go out  
9 of there.

10           So I guess my question to all of the people at  
11 the County is, why is it that you appear to be so  
12 determined to keep this detrimental facility going that  
13 is sundering the countryside to the detriment of so many  
14 residents, and I would like an answer to that on the  
15 website.

16           Thank you.

17           (Applause)

18           MS. SANDOVAL: I'll be calling the next six  
19 speakers up.

20           I understand you have a presentation that will  
21 -- that will show --

22           The speakers are as follows: Louis Liang, Sri  
23 Kanth, Bill Almon, Victor Yu, Dave Singhal, Shyamah  
24 Singhal.

25           Since you will not have the benefit of the

1 timer on the screen, I will time you.

2 MR. LIANG: I've got three minutes.

3 MS. SANDOVAL: I will tell you when the time  
4 is up.

5 MR. LIANG: I'm Louis Liang. I live in the  
6 (inaudible) neighborhood.

7 I wanted to talk about the inconvenient plume,  
8 inconvenience because most times it after 3:00 p.m. --  
9 conveniently.

10 They are -- I think it's totally unacceptable  
11 that we don't know what's in there. In the span of 20  
12 some days in August we observed visible emissions from  
13 the Lehigh Cement Plant almost on a daily basis.

14 We have taken numerous pictures, video clips,  
15 of the infamous plumes.

16 Unfortunately, I don't have time to show you  
17 all of them, but I can assure you they are not isolated  
18 incidences. They occur almost every day.

19 From the pictures you can clearly see the  
20 plumes are bad -- very bad, indeed, and we are breathing  
21 them. They surely cannot be good for our health.

22 You can also see exactly -- it's not  
23 working -- where they came from.

24 Additionally, there's dust everywhere in our  
25 neighborhood as shown by this mosaic, on our cars, in

1 our homes.

2 Trees and ground covers are turning gray -- on  
3 our roadways, near bus stations, on the benches,  
4 everywhere.

5 The only one that didn't see it is the  
6 District that's monitoring.

7 In summary, the fact sheet says only four  
8 violations are not true.

9 Visible emission levels daily. Complaints are  
10 ineffective. The plume typically starts after 3:00 p.m.

11 The system is not working. Facilities are out  
12 of compliance. Dust -- dust everywhere in our  
13 neighborhoods. The District doesn't see it.

14 In conclusion, what goes up will come down.  
15 That's the law of gravity.

16 What's in the plume?

17 We continue to be plagued by emission and  
18 dust.

19 Assumption of compliance is incorrect. Such  
20 assumption cannot be used to justify renewal permits.

21 I think the District fails its mission in  
22 particulate monitoring. Continuous on-site monitoring  
23 is a must.

24 Statement of basis for new permit is not based  
25 on fact. We must know what is in the plume before a new

1 permit is issued.

2 (Applause)

3 MS. SANDOVAL: Sri Kanth, followed by Bill  
4 Almon, followed by Victor Yu.

5 MR. KANTH: My name is Sri Kanth. I live in  
6 Cupertino, just about -- very close to the cement plant,  
7 and our kids go to school very close to the cement plant  
8 again, and I'm very concerned for their health as well  
9 as everybody else, I guess.

10 Let me show you some of what we saw in the  
11 previous slides, and then -- it's like I just want to  
12 know what's in there.

13 I mean, you can see it, but I just want to  
14 find out what's in there before we start giving these  
15 permits.

16 And here is some comments that I gathered from  
17 the neighbors, residents. They say that their homes,  
18 cars, and patios are covered with dust from the cement  
19 operation, and here's some photographs to prove those,  
20 and all the -- ash that goes up -- I guess that's what  
21 you see out here.

22 The trees, and the streets, in our homes, and  
23 in even in our lungs.

24 I mean, that's scary. I mean, this is what  
25 we're breathing, people.

1           It's really, really scary.

2           I'm so worried for my kids, and I'm seriously  
3 considering maybe that I have to move out if this thing  
4 goes on.

5           I mean, I have to go somewhere where I can get  
6 fresh air and clean air.

7           I mean, this looks like some kind of volcanic  
8 eruption, I mean, has just occurred, leaving -- look at  
9 that. And look at this.

10           It doesn't spare the enclosed spaces. It's  
11 corroding. And guess what it will do to your lungs if  
12 it can corrode that.

13           "I have a Volvo station wagon that sits in  
14 front of my house. There's no room in the garage. The  
15 paint sealant coating is peeling off and turning yellow  
16 after a couple years of sandblasting. I can't only  
17 imagine what it has done to my sinuses."

18           "I received \$3900 to repair my Mercedes. The  
19 ash eats up the clear coat and attacks the paint on the  
20 vehicle."

21           "We rarely park our cars outside, so we did  
22 not have any claim regarding our car. However, we, like  
23 many in our neighborhood, have skylight windows on the  
24 top of our roof. These windows all have been damaged by  
25 the limestone dust over the years. Each costs between

1 \$500 to \$1,000 to replace."

2 In conclusion, this is credible evidence that  
3 Lehigh Hanson is emitting visible particulate resulting  
4 in fallout on adjacent property in such quantities as to  
5 cause a public nuisance, Regulation 6-305.

6 And, before you give this permit, please tell  
7 us what's in it; okay?

8 Thank you.

9 (Applause)

10 MS. SANDOVAL: Thank you, Mr. Kanth.

11 Mr. Bill Almon, followed by Mr. Victor Yu,  
12 followed by Dave Singhal, followed by Dr. Shyamah  
13 Singhal.

14 MR. ALMON: Hi.

15 My name is Bill Almon. I'm from Los Altos  
16 Hills.

17 I would like to thank you for having scheduled  
18 this public hearing. It gives us all a chance to come  
19 and acquaint you with what we think is going on.

20 The dust that you've seen from the previous  
21 speakers is really everywhere, and the emissions that  
22 you heard described are also of great worry to the  
23 residents, and we finally have here an issue where you  
24 all apparently do not see this and we do.

25 And what we really need, we need some action.

1           The limestone dust cannot be removed by simply  
2           throwing water on it. An acidic rinse is required.

3           If you use an acidic rinse, vinegar will  
4           suffice, it will void the car warranty. Automotive car  
5           washes will not use such a rinse, so you cannot go to a  
6           car wash. You have to wash your car by hand.

7           That's not something that is difficult to do,  
8           however, to keep the car clean is a nuisance.

9           Sweeping patios is also a nuisance, but it's  
10          far more than a nuisance, and it's a violation of 6-305  
11          which has been part of the permit for many, many years.

12          We think it's time to move beyond this and  
13          take a look at what really is the damage.

14          Car warranty is voided. Repainting a car  
15          costs a minimum of \$2,000.

16          You saw earlier a comment from a resident  
17          saying \$3900. Another resident says they have to  
18          replace air filters in their car every month, \$25 a  
19          month, \$300 a year.

20          What you get to here is then a map, and the  
21          red dots you see are signed statements we have from  
22          residents that they have had their car impacted by dust.

23          And you can see the pattern. It goes all the  
24          way up until Los Altos Hills in the upper left. It  
25          comes down, follows 280, you can see both sides of 280,

1 and Foothill, and then it hugs 85, goes all the way on  
2 over to 85, and then beyond 85 there's one element.

3 If you take that area that I just described,  
4 we believe there's 9,000 cars in it, \$2,000 a paint job  
5 is 18 million dollars.

6 Replacing filters, it would be 1.5 million for  
7 those same cars.

8 This is just a sample, but we think a very  
9 credible sample, and we think it's credible evidence  
10 that there is violations occurring and they are not  
11 being corrected.

12 (Applause)

13 MS. SANDOVAL: Thank you, Mr. Almon.

14 Mr. Victor Yu, followed by Dave Singhal,  
15 followed by Cathy Helgerson.

16 MR. YU: I'm Victor Yu. I'm a resident of  
17 Cupertino living about four miles from the cement.

18 I choose to live here not because of the --  
19 it's because of the school, not because of the cement.

20 Saying that children should live closer to the  
21 cement is just like saying -- (inaudible)

22 FROM THE AUDIENCE: We can't hear.

23 MR. YU: Okay. Anyway, I want to talk about  
24 the HRA.

25 Can you hear me?



1           Okay. This is not the same thing.

2           By the way, I want to talk about a health risk  
3 assessment that we've seen every year by the Bay Area  
4 Quality organization, and we are assured that there is  
5 no risk, but if you look at the base for the report it's  
6 based on last year's -- this is out of sync -- and it's  
7 also based on Lehigh's report.

8           The models are not based on the real data, and  
9 it's only one source. The one source is the -- there's  
10 strong evidence for others sources, and they have been  
11 requested.

12           Fugitive dust suspect. Currently they're  
13 under review. The risk levels are rising, but we are  
14 told not to worry.

15           Toxic metals, third party monitoring by Lehigh  
16 is, obviously, a conflict of interest.

17           2001 erroneous chromium measurements not  
18 corrected until 2008, and yet the measurement was based  
19 on the 2007.

20           This is not moving.

21           No renewal should occur until all these are  
22 measured.

23           I'm waiting for the next slide. It's out of  
24 sync. These should slide automatically.

25           So -- it's not working.

1 Can you move forward?

2 Oh. All right.

3 So, anyway, in 2009 there's 3224 tons of  
4 carbon monoxide. Released 309 tons of sulphur dioxide,  
5 1,364 tons of nitrogen oxide, and in 2006 454 pounds of  
6 mercury.

7 And it was reported that they were the fifth  
8 largest mercury pollutant in the country.

9 So -- they were revised 238 pounds in 2007.

10 Thank you.

11 (Applause)

12 MS. SANDOVAL: Thank you very much.

13 Mr. Dave Singhal, followed by Shyamah Singhal,  
14 followed by Cathy Helgersen, followed by Mr. Barry  
15 Chang.

16 MR. SINGHAL: Hi. I'm Dave Singhal. I live  
17 in the area. I've been here all my life, and I've been  
18 in public service, so I really want to thank you for all  
19 your interest and your time to understand the community  
20 here and pay attention to what other factors may exist  
21 that haven't been considered before.

22 I was going to bring my five-year-old daughter  
23 here. I have a newborn as well.

24 I wanted to speak on her behalf because I  
25 think they're one of our most important constituents.

1           They're growing up in an era of openness, of  
2 public disclosure, of people saying, you know, boards  
3 are more and more responsible for actions that they take  
4 in the corporate world -- I guess not so much in the  
5 public world.

6           But they're trusting you. They believe in  
7 you. They believe in us to do the right thing, and I  
8 know you guys will.

9           When she's in her forties or fifties and her  
10 friends and herself may contract some disease or have  
11 some ailments, they may be at that time, 45, 50 years  
12 from now, when they discover there were some links to  
13 pollutants that we were responsible for that we didn't  
14 pay enough attention to.

15           You know, I'm sure that people who were  
16 responsible for the Fairchild pollution in south San  
17 Jose, the pollution in San Diego, they didn't think  
18 about it.

19           But we have to think about what's probably  
20 going to happen. We can extrapolate a little bit.

21           There are a lot of pollutants. There has to  
22 be some consideration.

23           There's a new field of study called  
24 synergistic toxicity. It's a field of medical science,  
25 and they say, well, one toxin potentiates the likelihood

1 of another toxin creating a disease.

2 Okay. So the toxins individually are below an  
3 individual level threshold, but -- and you guys probably  
4 know all this, but together they can comprise a  
5 significant threat, and we're not fully aware about all  
6 these things yet, but science is happening in real time.

7 So I don't want to take a lot of your time.  
8 I'm trying to finish as fast as I can.

9 And I wrote down some notes. She is supposed  
10 to go to Montclair Elementary School. It's in Los  
11 Altos. It's polluted according to "U.S.A. Today," some  
12 study that they posted.

13 We're not going to send her there.

14 I think I will give back all the rest of the  
15 time.

16 So I appreciate your consideration and  
17 everything you would do to consider these -- the younger  
18 generation.

19 Thank you.

20 (Applause)

21 MS. SANDOVAL: Dr. Shyamah Singhal, followed  
22 by Cathy Helgerson, followed by Barry Chang, followed by  
23 Ken Yu.

24 DR. SINGHAL: Hi. My name is Shyamah Singhal.  
25 I'm Medical Director of the Cancer Center at El Camino

1 Hospital, and I'm a physician and surgeon in the  
2 community. I live also in the area and I have two small  
3 children.

4 It came to my attention about a year ago when  
5 my Mom would come to visit, and she'd start to cough,  
6 and the kids would have allergies, and everyone was  
7 having upper respiratory coughing and illnesses, and so  
8 we came to know about the quarry.

9 We also came to know about the regulatory  
10 environment and about the monitoring that happens in our  
11 community.

12 We need to be more vigilant for our children,  
13 for our neighbors, for our patients that live in the  
14 area that have different diseases.

15 It is disappointing to me that the requirement  
16 of the central -- that we don't have continuous  
17 monitoring of the central stack of the emissions.

18 And these values and -- are not available to  
19 the community. We don't know what is being emitted from  
20 the central stack.

21 We have not thoroughly evaluated the -- the  
22 health risks based on local epidemiology data. All that  
23 has been published and all that has been sent out are  
24 models. No one has actually checked what the health  
25 risks are.

1           We, as physicians, and people who care for all  
2 the children and adults in the community need to look at  
3 all the risks these people face.

4           We would support the delay of granting the  
5 permit until such studies about the health risks to  
6 these people are actually available. Okay.

7           (Applause)

8           DR. SINGHAL: I would also like to make sure  
9 that there are no significant health risks based on the  
10 toxic metals, the toxic chemicals that are part of the  
11 plume that we know, we know just by seeing the pictures;  
12 okay?

13           I'd also ask that the facility be required to  
14 comply with the new EPA standards. There are new,  
15 stricter guidelines that are going to be available  
16 probably starting in March of this year, and I would  
17 support the delay of this permit until those EPA  
18 standards can be looked at and implemented to our  
19 community.

20           And so I appreciate your time, and I thank  
21 you, and I certainly hope that you'll look after the  
22 people of our community properly.

23           (Applause)

24           MS. SANDOVAL: Ms. Cathy Helgersen, followed  
25 by Mr. Barry Chang.

1 Mr. Barry Chang?

2 MS. HELGERSON: Hi. My name is Cathy  
3 Helgerson, and I've lived here for 28 years in  
4 Cupertino, and I believe in visual effect, so I'm not  
5 sure if I can, but I'm going to show you what I have  
6 here.

7 This is what I take everyday, my medications.

8 This is not for the swine flu. This is for  
9 me. This is what my doctor gave me; okay?

10 This is samples from my home. This is a  
11 sample -- or this is the fan in my home covered with  
12 this stuff; okay?

13 The last thing, this is what we're going to be  
14 involved in. We're going to be wearing this someday;  
15 okay?

16 (Applause)

17 MS. SANDOVAL: In order to record your  
18 comments please speak in to the microphone.

19 MS. HELGERSON: I'm not done.

20 MS. SANDOVAL: No. Please speak in to the  
21 microphone.

22 MS. HELGERSON: The Bay Area is in  
23 nonattainment of the particulate matter PM2.5 standards  
24 at 35 UGM 3. The EPA has required them to submit an  
25 attainment plan to the U.S. EPA by April 2012 and then

1 demonstrate containment of the new national standard by  
2 April 2014.

3 These requirements need to be pushed up to  
4 2010 with no delay in order to ensure that the health  
5 and safety of the public is -- is situated.

6 Okay. Now, what's happened here is -- what's  
7 happened here is that there is a monitor at the church,  
8 and they monitor for PM10 only, and they should be  
9 monitoring for the 2.5, and I do not believe that Lehigh  
10 can possibly ever reach that standard of monitoring that  
11 the EPA is going to be setting.

12 We, the citizens of Cupertino, cannot tolerate  
13 this injustice any longer, and we demand that the new  
14 proposed Title V Permit be rejected and that the Lehigh  
15 Southwest Cement Quarry be shut down immediately without  
16 delay because they are and have been for 70 years a  
17 community health safety and fire hazard.

18 I will be submitting an extended report with a  
19 lot more information.

20 I've been doing a lot of work and research on  
21 this subject, so I am going to submit to the panel here  
22 the petition of 72 people.

23 This is not the formal petition, which I will  
24 eventually give to Santa Clara County, the Board.

25 And this is short comment, and I will be



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1 probably providing a very detailed comment in many, many  
2 areas that Lehigh is in violation and includes the air,  
3 water, and the soil.

4 Thank you very much.

5 MS. SANDOVAL: Thank you.

6 (Applause)

7 MS. SANDOVAL: Mr. Chang, followed by Ignatius  
8 Ding, followed by Cindy Russell.

9 MR. CHANG: Thank you.

10 My name is Barry Chang. I have lived in  
11 Cupertino for the past 24 years.

12 I want to thank you guys for hosting this  
13 hearing, for the input.

14 I'm a trained civil engineer. I have a  
15 Master's Degree in civil engineering.

16 I know when you take a sample is what did you  
17 take a sample of and where did you take sample.

18 I've been very concerned about the plume  
19 coming out at the hours.

20 Many times I saw the big plume coming out, and  
21 I tried to call EPA, but it's after 5:00 p.m. No one is  
22 on the phone. You cannot get anybody.

23 So if you're not taking the sample in the  
24 right timing in the right place, you don't get the  
25 result.

1 Of course, you get the result, it's fine.

2 Okay. As an engineer as a civil engineer, I  
3 know that.

4 (Applause)

5 MR. CHANG: The history of the United States,  
6 all the pollutants, they all discharge their pollution  
7 to the air during the storm time to -- to the day, and  
8 that's how they find out.

9 The same thing here, they do it after hours,  
10 so you cannot have a sample. Then they come out say  
11 it's okay.

12 But I served eight years on the Cupertino  
13 School Board. The school has the highest autism rate in  
14 the country.

15 Why?

16 Also, the asthma rate for our children is  
17 higher than anywhere else in the country, and, more  
18 alarming is in the Bay Area women's breast cancer is  
19 much higher than in the nation, much higher compared to  
20 -- especially they have a study among the Asian women.  
21 The Asian women is five times here higher than in  
22 Shanghai or Taipei, the same person, just a different  
23 environment. So must be the environment.

24 So do we have any study on that?

25 Do we care about that?

1 Do we have a female? Some of you not female.  
2 You have a mother. Don't you care about their health?

3 This is an issue we have to really look in to.

4 There's no central stack on their -- on their  
5 -- the ways they pollute the air. There's no way to  
6 collect the data. How can you be accurate?

7 So this -- this -- and to me this is very  
8 important. We have to really look in to this, and then  
9 find out -- correct, accurate way to measure it, and  
10 then to calm the fear of the citizens and residents in  
11 the area.

12 Besides them, Cupertino -- Cupertino, they  
13 don't get a penny from this cement plant at all. County  
14 got it. We don't get any sales tax.

15 But our elected official was working for them.  
16 The past elected official working for them.

17 What happened?

18 You think about it.

19 Thank you.

20 (Applause)

21 MS. SANDOVAL: Thank you, Mr. Chang.

22 Mr. Ignatius Ding, Cindy Russell, Tim Brand,  
23 followed by Mike Weinstein.

24 MR. DING: My name is Ignatius Ding. I've  
25 been living in Cupertino for 32 years, and for the last

1 23 has been a mile downwind from the Lehigh.

2 The district staff is clever to point out they  
3 can only regulate by the existing standards.

4 However, AB 32 provision say reduction for CO2  
5 must be establishing new guideline by District.

6 I checked on-line. Other than air districts  
7 -- have to develop just protection of the children  
8 because the document we have on hand pointed to several  
9 times to the standards and guidelines says as long as  
10 it's not within one thousand feet from the school  
11 there's nothing they can do about it, however other  
12 school districts -- air districts also included  
13 sensitive areas such as senior community housing and  
14 convalescent homes, which we have, and hospitals and  
15 clinics, and day care, and none of these been taken in  
16 to account by our own air district.

17 The second point is the sister plant of Lehigh  
18 Southwest has just settled a lawsuit in Maryland and  
19 agreed to reduce more than 85 percent of their mercury  
20 emission by 2012, and that's the same issue we have  
21 here, and why our district are not doing the similar  
22 thing?

23 So that's a question.

24 (Applause)

25 MR. CHANG: There's a simple answer to this.

1           Every time we ask the District for information  
2 they point to there's no risk, the measuring is there,  
3 the monitor.

4           Where they get the data? They got it from  
5 Lehigh. They're asking the fox to watch the chicken  
6 coop.

7           Very simplistic in their approach.

8           Several people mention that the EPA rule.

9           We ask the District to put it to the permit  
10 process, all renewal, with subject to the EPA new rule,  
11 and if they decided to extend the permit to Lehigh, that  
12 the new rule must apply as soon as it take effect.

13           And we also like to invite the staff come in  
14 to our area, take a deep breath of the dust, because  
15 that's lining our lungs right in here.

16           And there's one thing, and -- and also  
17 surprised me, the District decide there's 20 violations  
18 and everything wasn't fixed within 24 hours.

19           As I remember, we showed a picture last time  
20 we met here. They are for a month the dry dust. We can  
21 see from the Post Office.

22           The Air District after that's a month, after  
23 nothing existed there, and nothing being done until we  
24 talk about here -- about the violation.

25           So the violation is not being paid attention

1 to and not being regulated.

2 I think it's not -- we can't blame the plant  
3 if the District is not doing its work.

4 MS. SANDOVAL: Thank you Mr. Ding.

5 Ms. Cindy Russell, followed by Tim Brand,  
6 followed by Mike Weinstein, followed by Mr. Vankat  
7 Ananthan.

8 DR. RUSSELL: Hi. I'm Cindy Russell.

9 I'm a physician. I work at El Camino  
10 Hospital. I'm a surgeon as well as Chair of the  
11 Environmental Health Committee of Santa Clara County,  
12 and I'm speaking here personally and also on behalf of  
13 the Environmental Health Committee.

14 I'd like to note the Santa Clara County  
15 Medical Association in its entirety has looked at this  
16 issue and they support the mercury reductions of four --  
17 proposed by the EPA and wrote a letter to this effect to  
18 EPA, so they're very interested in this issue.

19 And with regards to the Lehigh plant, we know  
20 it's an enormous polluter of sorts in many ways. It's  
21 the fifth largest emitter of mercury in the United  
22 States, and I found out this was more than all the power  
23 plants in New Jersey.

24 We know that mercury is very neurotoxic even  
25 in small doses and it's critical when it's the

1 development of children.

2 And also there are other hazards people have  
3 found in cement, chromium, cadmium, arsenic, particulate  
4 matter, many others people have found in cement.

5 We know it contributes to global -- even  
6 people that are reporting 15 miles away.

7 We know that 25 percent of the pollution in  
8 California, approximately some reports have said comes  
9 from China. So it's a global as well as local  
10 pollutant, certainly much more important as a local  
11 pollutant.

12 Health studies have shown that chromium and  
13 other heavy metals that are found in cement dust are  
14 very hazardous to workers and also people nearby.

15 Cement dust travels. It enters the body, can  
16 travel to all the heart, brain, muscles, respiratory  
17 systems, the organs, and can adversely affect these  
18 organs. It's also been shown toxic to the immune  
19 system, lymphatic system.

20 Studies have shown most common upper  
21 respiratory complaints such as rhinitis, bronchitis,  
22 laryngitis. They've also shown an increase in COPD in  
23 workers, and these are all consistent with the symptoms  
24 that the people are reporting here.

25 It's kind of interesting because, you know,

1 looking at the plumes, I haven't seen the plant there,  
2 but, I mean, I can see it just like you're essentially  
3 like a worker when you live nearby getting the same kind  
4 of dust.

5 They've even done studies on all the  
6 production and in areas where the cement plant was in  
7 Greece and they found a significant decrease in olive  
8 production.

9 There have been studies in workers in cement  
10 plants to be exposed to cement dust, and they found 72  
11 percent of these people that work in cement plants had a  
12 loss of -- significant loss of their surface enamel.

13 So it's very concerning because the  
14 hydrochloric acid -- and I know speaking with the people  
15 at the EPA there is actually no measurable hydrochloric  
16 acid found. There's a lot of data really there in  
17 regards to the pollutants in this plant, and,  
18 unfortunately, as I found, most of the data is from  
19 modeling of the toxins, it's not from real data.

20 So after discussion with the County Medical  
21 Association Environmental Health Committee we all felt  
22 strongly that this permit should not be renewed, and  
23 we're in agreement with delaying this permit until such  
24 time as the following requirements are met, one, there's  
25 a central stack built such that adequate monitoring can



1 be done, not the 32 vents as currently, also that  
2 adequate health risk assessment be performed because  
3 there's really inadequate studies and data, and we  
4 understand that the testing for chromium is --

5 MS. SANDOVAL: Thank you.

6 DR. RUSSELL: How much more?

7 MS. SANDOVAL: If you can -- that's it.

8 DR. RUSSELL: All right. Thank you very much.  
9 I'll wrap it up.

10 I just want to say that we appreciate this  
11 hearing. You have the authority and responsibility to  
12 stop this pollution for the health and well-being of the  
13 community, and I hope this is a first step in shutting  
14 it down or having it rebuild to more modern regulatory  
15 standards that don't pollute.

16 Thank you.

17 (Applause)

18 MS. SANDOVAL: Tim Brand, followed by  
19 Mr. Weinstein followed by Vankat Ananthan, followed by  
20 Robert Hogan.

21 MR. BRAND: Hi. My name is Tim Brand. I live  
22 about a mile from the kiln, and I appreciate you guys  
23 and mostly all of you being here tonight.

24 I know it's been a long day for all of us.

25 Visible particulate emissions from each source

1 shall not exceed or result in fallout in adjacent  
2 property in such quantities as to cause a public  
3 nuisance per Regulation 1-301. That is in the current  
4 Lehigh Title V permit.

5           Yet many in the neighborhood stopped  
6 contacting the Air Quality District years ago about  
7 dust, noise, and odors due to the owner's reporting  
8 process being required to be present yourself to make  
9 the report, waiting usually a long time for the  
10 inspector to arrive at your house, or having to go to  
11 the spot where you saw, heard, or smelled the nuisance.

12           Since the inspectors are out in the field and  
13 have a huge territory to cover, this requires a  
14 long-time commitment on the part of the resident, and we  
15 cannot do our own analysis due to the requirements that  
16 the sun be in a specific location at certain times of  
17 the day in relationship to the cement plant and that the  
18 readings must be taken behind the Lehigh plant requiring  
19 the inspector to first be admitted in to the gated  
20 Lehigh property to get behind the Lehigh plant.

21           Often the inspector arrives hours after the  
22 report is made and when the conditions have changed.

23           This is very frustrating to the community and  
24 results in few reports being made although the nuisances  
25 are significant and ongoing.

1           Secondly, why are Bay Area Air Quality  
2 Management District violations since 2002 apparently  
3 still pending at least five years later?

4           Why has the District not made information  
5 about this available to the public in a timely manner?

6           What are the present conditions?

7           Third, our group, West Valley Citizens Air  
8 Watch, got some information from the Air District about  
9 the mercury content of the petroleum coke which is now  
10 being burned in the kiln, and we were able to do a  
11 calculation showing that about three or four pounds of  
12 mercury per year was coming from that fuel, and yet the  
13 mercury per year that's emitted is somewhere between 240  
14 or 585 pounds per year, that later number coming from  
15 the EPA.

16           So the vast majority of this mercury is coming  
17 from the limestone. It is one of the dirtiest quarries  
18 in the country, possibly the world.

19           It also emits huge quantities of benzene and  
20 probably asbestos, which they have done a very poor job  
21 of testing.

22           Lastly, at least one Air Quality engineer in  
23 the Engineering Division has communicated and coached  
24 Lehigh to apply for a permit for switching from burning  
25 coal to petroleum coke by taking baby steps, by doing it

1 a little bit at a time, to circumvent public hearings  
2 and scrutiny.

3 It was not only a direct violation of the  
4 letter and intent of the California Environmental  
5 Quality Act, but also failed in its judiciary obligation  
6 as a public employee of the regulatory agency.

7 And also concerning to me is that a number of  
8 residents, 15 or 20 of us, sat in a meeting with the Air  
9 District in November of 2007 asking questions about how  
10 we could make this plant cleaner.

11 Could we switch to natural gas is one of the  
12 questions.

13 What about the trucks?

14 What can we do to clean up this plant?

15 MS. SANDOVAL: Mr. Brand, can you please  
16 finish up your comments.

17 FROM THE AUDIENCE: Let him finish.

18 MR. BRAND: And this permit process, taking  
19 these baby steps was ongoing at the time, and none of  
20 the Air District offered that up to us.

21 So it's kind of like, I guess, in a Court of  
22 Law where you're interrogating the witness and the  
23 witness doesn't want to answer your questions.

24 MS. SANDOVAL: Mr. Brand, would you --

25 MR. BRAND: Thank you.

1                   That's all I have.

2                   (Applause)

3                   MS. SANDOVAL: Mike Weinstein, followed by  
4 Vankat Ananthan, followed by Robert Hogin.

5                   MR. WEINSTEIN: My name is Mike Weinstein.

6                   I've been a resident of Los Altos for the last  
7 23 years.

8                   I'd like to voice my opposition to the renewal  
9 of this permit as it stands and as the factory stands.

10                  This factory is a gross, gross, gross  
11 polluter. This factory is not configured in a way that  
12 would allow any scientific measurement of the actual  
13 releases of toxins in to our community.

14                  This factory has not been a good citizen, I  
15 use the term loosely, although, according to law, a  
16 corporation is a citizen.

17                  For example, I've observed periods, especially  
18 late at night, when the factory has cranked up some  
19 extremely noisy equipment, jilting us out of our sleep.

20                  FROM THE AUDIENCE: Terrible.

21                  MR. WEINSTEIN: So it would be after midnight,  
22 say 2:00 in the morning.

23                  There's no one to call.

24                  I can call the plant. No one will answer.  
25 There's no interest.

1           In addition to the extremely high levels of  
2           pollution emanating from this plant I would include 3.2  
3           pounds of lead, according to the permit, introduced in  
4           to the air daily from a particular piece of equipment.

5           Again, that is not measurable. So we're going  
6           on an estimate based on what we think is in the fuel  
7           that they're burning.

8           They're allowed to burn, it's been mentioned  
9           previously, petroleum coke in the amount of eight tons  
10          per day according to the permit.

11          Petroleum coke is extremely filthy, dirty.  
12          It's the lowest form of petroleum, and they're burning  
13          it because it's cheap.

14          You would not be allowed to burn this in your  
15          car or anywhere else. You can't even get a permit for a  
16          wood-burning fireplace in a new home.

17          As we all know, lead is a neurotoxin, and it's  
18          especially damaging to children.

19          As far as being in the cement plant's front  
20          yard, they don't actually own my house, so they're in my  
21          yard just as much as I'm in theirs.

22          The difference is simple, however. They're  
23          allowed to pollute my property and I do not have the  
24          same privilege, for profit.

25          In fact, if it's a matter of first come first

1 serve, they don't look like they're owned by American  
2 Indians to me.

3 Thank you all for showing up.

4 (Applause)

5 MS. SANDOVAL: Vankat Ananthan, followed by  
6 Robert D. Hogin, and Mr. Gupta.

7 MR. ANANTHAN: Hi. My name is Vankat  
8 Ananthan.

9 I have a couple of young kids, a boy who is  
10 six years old and a daughter who is three years old.

11 And my boy, he suffers from dust allergy, fine  
12 particulate dust emitted from the plant.

13 I mean, if he runs really hard, which is what  
14 every kid likes to do, he starts coughing, and the  
15 doctor said, you know, "Don't make him run too hard,"  
16 which is real sad, because that's what he likes to do.

17 And sometimes in the night he starts coughing.  
18 He starts coughing so hard that I have to take him to  
19 the emergency room. And you know how emergency rooms  
20 are here. Once I waited in the emergency room for three  
21 hours before even a nurse came and picked him up.

22 So it's -- it's just really sad for our kids  
23 here.

24 You know, I know that studies have been done  
25 and things have been looked at, but I think for our

1 young children here, I think any amount of doubt should  
2 be really carefully, you know, looked at, because it is  
3 just too much of a risk for young kids to grow up in an  
4 environment that is -- that has pollutants, and later,  
5 you know, many years later finding out that probably  
6 this is the cause.

7 So I think -- I think the damage, I think,  
8 outweighs the risk -- the risk outweighs the need to  
9 operate the plant.

10 I think we should probably find a different  
11 way to -- to get what we want rather than putting  
12 children at risk.

13 Thank you.

14 (Applause)

15 MS. SANDOVAL: Mr. Hogin, followed by Eric  
16 Cohen, followed by Mr. Gupta.

17 MR. HOGIN: Thank you.

18 My name is Bob Hogin. I live here in  
19 Cupertino. I have since the sixth grade.

20 Married, have two kids. We actually live on  
21 Linda Vista, just on the other side of the golf course  
22 from the quarry.

23 I've seen a lot of changes since I've been  
24 here with the quarry.

25 I went to elementary school, wound up actually



1 -- went to Lindbergh High School and De Anza Junior  
2 College, and it seems that sometime after that -- well,  
3 prior to that time I didn't notice the quarry to the  
4 extent that I have over the past 12 to 15 years.

5 You certainly see -- now you see the entire  
6 kiln as you drive up.

7 FROM THE AUDIENCE: You've got to talk in to  
8 the mike.

9 MR. HOGIN: Sorry.

10 I've noticed the kind of plumes or the smoke  
11 that I've noticed over the past 10 years -- don't know  
12 how many of you folks live in Cupertino or drive up  
13 McClellan Road certainly after three o'clock.

14 I generally come home between 6:00 and 6:30  
15 but the plumes up there are really disturbing.

16 And when I go home, we make sure the windows  
17 in our bedroom are closed, just worried because of the  
18 kind of -- the kind of air quality I think is -- is  
19 present during the evening.

20 Somebody mentioned the sort of -- the fact  
21 that we -- the quarry has been there for some period of  
22 time.

23 It certainly started there when we had a much  
24 lower population and certainly not the kind of  
25 developments that -- I think the county has benefitted

1 from over a number of years.

2 The Forum was discussed, the schools, the  
3 homes, all that sort of thing.

4 I know there's a financial issue here that the  
5 County is going to have to deal with. There's property  
6 taxes that come out from the quarry and so on.

7 Might also mention that the -- Stevens Creek  
8 Quarry is a bit of a problem. We haven't discussed  
9 that.

10 But I think the utilization of those assets is  
11 a poor -- a poor form of stewardship given the kind of  
12 health risks I think we're facing.

13 But the benefits that the County has gotten  
14 from, I think through the property taxes that have come  
15 through from sales of units at the Forum, at the other  
16 properties that have come in here, if you match that up  
17 with the kind of property taxes that -- the benefits  
18 that the County is getting from the quarry, I think it  
19 far -- out-strips the kind of money the County is  
20 getting from the quarry.

21 And I would hope the folks from the County, if  
22 you're not living in Cupertino, we as citizens living  
23 here are totally counting on the County being a good  
24 steward of good political decisions, a little bit unlike  
25 what we're seeing in parts of the Washington area, that

1 the County and the political folks, which you are part  
2 of them, will really look at this and make a kind of  
3 courageous decision that would really be best for the  
4 health of the community here.

5 Thank you.

6 (Applause)

7 MS. SANDOVAL: Eric Cohen, followed by Commun  
8 Gupta, followed by Elias Zabor, followed by Shani  
9 Kleinhaus, followed by Donna Cotner, followed by Robert  
10 Burmea. Am I correct? Followed by James Roganbolt.

11 The first speaker, again, is Erin Cohen from  
12 Cupertino, followed by Commun Gupta, followed by Elias  
13 Zabor.

14 Okay. Shani Kleinhaus?

15 MS. KLEINHAUS: Good evening to you all.  
16 Shani Kleinhaus.

17 MS. SANDOVAL: Please speak in to the  
18 microphone.

19 MS. KLEINHAUS: Good evening.

20 FROM THE AUDIENCE: Still can't hear you.

21 MS. KLEINHAUS: I'm an advocate for the Santa  
22 Clara Valley Audubon Society.

23 On behalf of our close to 4,000 members I'm  
24 here to plead with you to not renew the Title V permit  
25 to the cement plant.

1           We're concerned both with environmental  
2 effects on our wildlife and natural eco systems and the  
3 public health and health of our members.

4           And so they are synergistic and cumulative  
5 effects that we worry about of mercury emissions, CPM  
6 2.5 emissions, and even transition metal emissions from  
7 the petroleum coke.

8           This is not coming research. Studies are  
9 showing that petroleum coke and similar fuels have a  
10 transitional metal like nickel, and those tend to  
11 interact with tissues in our heart, and they've shown a  
12 direct connection to nickel to increase the  
13 hospitalization and death consistently in the  
14 environment.

15           I think you should take that in to  
16 consideration, especially since there's an acute  
17 response, and they're not all cumulative, so an accident  
18 or a plume that comes out after hours or anything like  
19 that can immediately affect our neighbors and our eco  
20 systems, and it's not something that is measured only  
21 over a long time. It can be pretty immediate. And  
22 these studies have shown that.

23           I also think that you really cannot look only  
24 at the emissions from the cement plant itself. You need  
25 to take the transportation of all those diesel trucks

1 that also emit PM 2.5 and the pollutants, and you really  
2 cannot only be one or the other.

3 If you look at CEQA processes these days,  
4 people have to show what the effect of the  
5 transportation is and even the fuel that people have to  
6 take to get to work on the total -- on the total air  
7 pollution loads, and I think this is something that you  
8 should take in to consideration.

9 And I see that my time is getting close, so I  
10 would just like to urge you to take a very, very  
11 comprehensive look at all the effects all those things  
12 together and not just look at one smoke stack, or one  
13 kiln, or something and try to say "Oh, they have the  
14 right -- the standard's okay." That's not enough.

15 And one other thing. I'm sure all of us would  
16 be happy to host you over at our home for a few hours  
17 after work so you can see what is really going on there  
18 and not what just they claim goes on there.

19 Thank you.

20 (Applause)

21 MS. SANDOVAL: Thank you, Ms. Kleinhaus.  
22 Mrs. Donna Cotner -- Donna Cotner, followed by  
23 Mr. Robenolt, Mr. Robert Burmed.

24 MS. COTNER: Hi. My name is Donna Cotner.

25 I have an office right on the corner of

1 Stevens Creek and Foothill Boulevard, and I've been in  
2 Cupertino in the past. I don't at the present time. I  
3 got a -- but I'm there every day.

4 So I got a big folder or a big binder here,  
5 and this is the major facility review permit.

6 So I was looking through it. I didn't read  
7 the whole thing, but on page 84 -- now this is just a  
8 small example of the defective nature of this permit.

9 Lehigh has applied for emissions reduction  
10 credits in the form of banking certificates.

11 Now, this has nothing to do with money, but  
12 this -- this is the credit for the fact that they shut  
13 down their mineral aggregate plant, and these credits  
14 are for PM 10 emissions, and this mineral aggregate  
15 plant did emit 1.8983 tons per year of PM 10.

16 Now, you -- I think a lot of you know what PM  
17 10 does, how terrible it is.

18 It's the thickness of a human hair. These are  
19 little particles, and quoting from -- from the Air  
20 Resources Board website, they are among the most harmful  
21 of all air pollutants, and they threaten our health and  
22 our environment.

23 So while we applaud the closure of that  
24 aggregate plant back in January 2006 it apparently has  
25 saved us from being showered by 7.22 tons of PM 10 since

1 then, we are still dismayed that in this permit we read  
2 on page 84 that Lehigh is applying for a banking  
3 certificate so that it can increase its emissions of PM  
4 10 right back up to that old level.

5 Now, that's just what they emit from the  
6 aggregate plant. They, obviously, have PM 10 emissions  
7 from their stacks, from the dust that they -- that comes  
8 from their trucks, whatever.

9 So all those others sources they're continuing  
10 to pollute.

11 Now, this is an egregious imposition on us, to  
12 give them the ability. They have reduced their  
13 emissions by closing the aggregate plant. Now they've  
14 got the chance they just turn in their banking  
15 certificate, and, whoopee, they can increase it right  
16 back up to that point again.

17 So that's just one small example of one part  
18 of this permit which is -- which is defective, and I  
19 urge you to delay it at least until we can examine all  
20 these other points that the other people have brought  
21 up, which I find are very salient points.

22 Thank you.

23 (Applause)

24 MS. SANDOVAL: Mr. Robert Burnett, followed by  
25 James Robenolt, followed by Ken Smythe.

1 DR. BURNETT: Hi. I'm Robert Burnett.

2 I used to be a pediatrician. I practiced 25  
3 years a couple streets down here, and then at the  
4 emergency room at El Camino, and I was a resident at the  
5 County Medical Association and State of California  
6 Medical Association.

7 I think in pediatrics we're also concerned  
8 about preventative care, and that's really what we're  
9 talking about here.

10 You don't breathe this stuff and get sick  
11 today. You get sick 10 years from now.

12 Or you can wait until, like they did in  
13 Russia, to see the Urals, the industrial plants kept  
14 spewing it out, the snow got a little green, they had  
15 the biggest delivery of malformed babies in the world,  
16 and it just went on and on.

17 These things progress over time.

18 You harm chromosomes, as you've heard  
19 Dr. Russell, the expert on it.

20 And I think what concerns me is in this day  
21 and age, when this is the Bay Area, this is the center  
22 for development of technology in the world, we're  
23 allowing a plant to spew out that stuff which some  
24 people say isn't bad, but I'm sure nobody says it's good  
25 for you, without adequate monitoring and without



1 adequately using every electronic and engineering thing  
2 available to cut down the pollution of that plant from  
3 the coke, to take out the mercury, to electrostatic  
4 filters, to various other filters, to continuing  
5 monitoring, and I think approving the function of that  
6 plant until it has all the latest equipment to cut down  
7 this, cut down what inevitably will harm the children in  
8 this county and the old people, I think it's a -- an  
9 immoral thing for the Bay Area Pollution Board to  
10 approve continuing what's going on now without using  
11 every effort that we have available in this  
12 technological world that we're the center of.

13 Thank you.

14 (Applause)

15 MR. ZABOR: My name was called before. I'm  
16 Elias Zabor.

17 MS. SANDOVAL: Yes, I can see it.

18 MR. ZABOR: Elias Zabor. My name was called  
19 before.

20 MS. SANDOVAL: Yes. Thank you.

21 MR. ZABOR: Yes.

22 I have been living on the same property -- I  
23 have been living at the same property in Cupertino for  
24 34 years -- smelly, awful air in my evening walks for at  
25 least two decades.

1           At the end of July there was a vile smell that  
2 inundated our house. I walked out to the street to look  
3 beyond our property fearing a fire in the woods behind  
4 the property.

5           I called the emergency, and they connected me  
6 with the fire department.

7           At the same time two other neighbors came in  
8 to the street alarmed by the affixiating smell.

9           One neighbor said that he recognized the smell  
10 because he worked in a similar facility that produced  
11 that immediately recognizable smell. It's vaporized  
12 mercury which is the effluent typical of a high  
13 temperature kiln.

14           Vaporized mercury cannot be captured in the  
15 dust bags at the plant. Representatives from the fire  
16 department at 1:30 a.m. said that it smelled like a  
17 burning frying pan with a coating that's burning in the  
18 pan, but the equipment which they had, a heat camera,  
19 could not detect anything.

20           Now, if the Federal Government were to occupy  
21 this facility instead of a cement plant in order to  
22 train soldiers in the firing of mortars and for bullet  
23 target training, that would be as good an activity as  
24 producing cement, because it's for the defense of our  
25 Country, yet if those very mortars were to escape the

1 boundaries and hit the population and kill people, that  
2 would not be allowed immediately to take place.

3 But here is the effluent of a cement plant for  
4 years producing property -- producing profit -- excuse  
5 me.

6 And the profit is very nice, and I'm all for  
7 it, but not at the cost of my life or the life of other  
8 people and polluting our neighborhood and other  
9 neighborhoods because importation of vile stuff from  
10 other people who pollute is more desirable.

11 In other words, our polluters are more  
12 desirable than foreign polluters.

13 This is absurd.

14 We would not allow mortars to injure our  
15 population, but the effluent from cement plants are  
16 doing so quietly without so much blood. That doesn't  
17 seem to make sense to me either.

18 Thank you.

19 (Applause)

20 MS. SANDOVAL: Mr. James Robenolt, followed by  
21 Ken Smythe.

22 MR. ROBENOLT: Hi. I'm James Robenolt.

23 I've been a citizen of Cupertino for about 15  
24 years.

25 I'm really happy to see such a big turnout

1 here, and I thank the Board for allowing me this  
2 opportunity to speak here.

3 My main concerns with the plant are -- one  
4 definitely would be particulate emissions.

5 Anybody can look -- I live near Stevens Creek  
6 and Foothill Boulevard, and constantly, every day, I  
7 look at that plant and I see big plumes of particulate  
8 matter in the air.

9 And I can tell you, if you wash your car, I  
10 think everybody here knows that the next day it's just  
11 as dirty as it was before the previous three weeks.

12 And even with your windows closed inside your  
13 house it's like living in the Dust Bowl. I mean, the  
14 dirt and the dust comes in. It doesn't matter how tight  
15 you close your windows.

16 So this is a big concern to me.

17 Another big concern is that the plant doesn't  
18 have a central stack, and that there are multiple points  
19 of emissions, and that they're not all monitored, and I  
20 don't see how you can have an accurate measurement of  
21 pollutants coming out of this plant unless you monitor  
22 every single emission point.

23 So I think it's critical that the plant be  
24 required to install monitors on all points of mission so  
25 that we can have accurate data.

1 I would also encourage that the data be  
2 requested from an independent source, not from the plant  
3 itself, which has, obviously, in its best interests not  
4 to supply the accurate data.

5 I mean, they may be doing so, but it's hard to  
6 tell, being that it's the plant itself.

7 And thank you for your time, and, once again,  
8 I'm really happy to see such a big turnout.

9 (Applause)

10 MS. SANDOVAL: Mr. Ken Smythe.

11 MR. SMYTHE: Good evening. My name is Ken  
12 Smythe, and, Kristina, when you're ready, let me know.

13 I've got a brief presentation. Kristina, I'll  
14 cue you up on that.

15 It right there. Yeah.

16 And also, Kristina, give me one minute's  
17 notice, if you could -- if you can.

18 Thank you.

19 What I want to talk about briefly tonight is a  
20 study that I came across that was conducted by the  
21 University of Texas Health Science Center San Antonio,  
22 studying the link between the autism risks to the  
23 proximity of sources.

24 And my personal position is after reviewing  
25 this information and other studies that I've read

1 through, that I feel that the permit should not be  
2 granted and that at some point in time this facility  
3 should be moved to another location.

4 (Applause)

5 MR. SMYTHE: The data for the study was from  
6 the U.S. EPA agency in D.C. It was their information.

7 And the autism rate data was from the school  
8 district for the State of Texas, and what they looked at  
9 was the total of 95 facilities in the state of Texas.

10 So this was an across the state study that  
11 they did over multiple phases over multiple years, and  
12 they looked at the autism rate for 1,040 school  
13 districts, so this is a pretty substantial amount of  
14 information that they captured.

15 For every thousand pounds of mercury released  
16 by industrial sources in Texas in to the environment in  
17 1998 there was a corresponding 2.2 percent increase in  
18 autism rates in the Texas schools.

19 I'll jump to the bottom. They felt there was  
20 enough evidence that children and other developing  
21 organisms are more susceptible to neurobiological  
22 effects of mercury.

23 This is the pollution sources that they  
24 studied. The green dots were proposed new coal-burning  
25 plants in the state.

1 As a result of this study they went to the  
2 Texas State Legislature, and they made a decision to  
3 reduce the number of future power plants from 15 down to  
4 three.

5 And this is a graphic of one of the counties  
6 in Texas. This is the San Antonio region, and what they  
7 measured here graphically, and this is from EPA data, is  
8 by standard deviation the amount of mercury that's being  
9 emitted from the cement plants are the triangles.

10 So you can see in some areas close to the  
11 cement factories the effect, and in their opinion once  
12 it gets above one that gets in to a higher risk  
13 category.

14 I mentioned this already. They reduced the  
15 number of coal-burning plants. That was significant  
16 information.

17 Mercury ends up in the core blood, enters the  
18 placenta in to a developing fetus, and, therefore, in  
19 their opinion there's consequences for women -- pregnant  
20 women living in these areas.

21 Go ahead.

22 In the late 1990s the EPA estimates that  
23 there's 158 million tons annually emitted.

24 This is the autism rate in Cupertino. This is  
25 actually data for the entire county by school district.

1           Cupertino ranged number two, 15.4 children out  
2 of every 1,000 are known diagnosed, and that's  
3 approaching double the entire county.

4           This is the autism trend in Cupertino compared  
5 to some of the other school districts. All of them in  
6 the County of Santa Clara are available.

7           It's been a 30 percent increase over the last  
8 three years, and it's about 300 percent higher than the  
9 Alum Rock and Campbell School District in comparison.

10           Somebody else mentioned "U.S.A. Today's" study  
11 earlier that Stevens Creek Elementary ranks 28th.

12           Go ahead.

13           MS. SANDOVAL: Mr. Smythe, if you could  
14 conclude your comments.

15           MR. SMYTHE: Very good. And so the autism  
16 rate is 1 in 150 children born, and the diagnosis is  
17 higher for boys, 1 in 94.

18           And we'll close on the University of Calgary  
19 conducted a study on how mercury creates great neuron  
20 damage, so if you're interested in seeing that, we'll  
21 have it posted.

22           Thank you.

23           MS. SANDOVAL: Thank you, Mr. Smythe.

24           (Applause)

25           MS. SANDOVAL: Thank you, everyone, for being



1 here.

2 This concludes the public hearing portion.

3 I'm going to hand the microphone to our  
4 hearing officer for closing comments.

5 MR. BATEMAN: I would also like to thank  
6 everybody for coming out.

7 And we do have a few more minutes before we  
8 need to leave tonight, so our staff will be available  
9 here if anybody wants to ask us any questions that we  
10 really couldn't respond to during the public hearing.

11 Again, thanks for coming out.

12 We will consider all of the comments tonight  
13 in our action in terms of considering the renewal for  
14 the Title V permit for Lehigh.

15 Again, thanks very much.

16 (Proceedings concluded)

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I, CAROL NYGARD DROBNY, a Certified Shorthand Reporter of the State of California, duly authorized to administer oaths, do hereby certify:

That I am a disinterested person herein; that the foregoing proceeding was reported in shorthand by me, CAROL NYGARD DROBNY, a Certified Shorthand Reporter of the State of California, and thereafter transcribed into typewriting.

DATED \_\_\_\_\_  
\_\_\_\_\_  
CAROL NYGARD DROBNY, CSR #4018

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