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The Medina County Environmental Action Association, Inc.

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July 8, 2004

The Honorable Troy Fraser
P.O. Box 12068
Capitol Station
Austin, TX 78711

received
8/6/04

Dear Senator Fraser:

I want to thank you for allowing me to speak at the meeting of the Advisory Committee on Rock Crushers and Quarries on June 30, 2004. I realize that your committee has been charged with a difficult task: to strike a balance between the growth of the quarry/aggregate industry and preserving our state's environment, beauty, and other natural resources not only for ourselves, but for future generations. Just how much more growth in the quarry business can we expect before Texas reaches the saturation point? We are all proud of our beautiful Texas. Prime areas once beautiful are now being trashed by gaping holes, and appear as though it were a war zone. Citizens have to dodge trucks, with gravel flying into their windshields (yes the law says they are to be covered), trying to control their vehicles along roads slippery with limestone dust in wet weather, risking their very lives in areas near the quarries.

I must point out and correct a glaring error in the testimony given that day, however. During Mr. Tom Ransdell's sworn testimony, he was asked by you if quarrying companies ever gave any consideration to the opposition of the inhabitants of an area before moving in with a quarry. He replied "Yes". I can tell you with certainty that this is definitely not the case. Our own situation at Quihi in Medina County is a perfect example. In 1999, Tom Ransdell of Vulcan Materials announced plans to open a 1760-acre quarry which would have a 7 mile railroad spur to the existing Union Pacific line. Local residents, realizing the enormity of this particular project, formed a group to learn more. We learned that Vulcan was an out-of-state company (Alabama) that would mine a product at least 85% of which was destined for a market out of the area (Houston and beyond). Our opposition to this project grew as we learned that this would be a *fifty-year project of 1760 acres*, digging down 200-250 feet in an area where the Edwards Aquifer was only 240-300 feet below the surface of the earth. Over 1000 gondola train cars per week, loaded with crushed limestone, crossing several county and state roads, would go down through the 100 year Quihi floodplain, which contains artifacts, historical homes, buildings, and other historical sites of the early Texans of 1840's, as well as indian artifacts of the prehistory period of some ten thousand years. 1000 empty cars per week would then make the return trip. All this would be compacted in the area of Vulcan's proposed railroad. The rail line would cross a critical area about halfway down that is very low and the first to flood during the frequent floods that we have. (This year alone flooding occurred on April 23, May 1, June 29.) This particular crossing area also contains a concentration of historical sites.

In 2000, Vulcan representatives began visiting area landowners, pitting one neighbor against the other in an attempt to get the right-of-way for the rail line, and reportedly even intimidating one elderly man that they would take his land if he didn't sell. To stop this and regain the peaceful neighborhood we once had, in the year 2001, 109 area landowners drew up restrictive covenants attached to the deeds of their 59 properties, some 9622 acres, prohibiting a rail line, or any resemblance thereof, on their land. We continued other means of showing our opposition. Our group, The Medina County Environmental Action Association, Inc. grew over time to the present to over 150 households. We circulated petitions drawing hundreds of signatures at three separate times. (The

latest being from 4-24-04 to 6-04-04 which drew 776 signatures of persons in the vicinity who are against the quarry and railroad project, which we presented to the U.S. Surface Transportation Board.) We voiced our opposition in newspapers, on radio, and TV. We wrote frequent letters to the editors of all the area papers, and held public meetings. Never was there such a public display of opposition. The proponents of the quarry, by contrast, are very small as evidenced by their show of support *for* the quarry. This minority consists largely of persons who would directly benefit from the opening of the quarry: the quarry-site landowners and their heirs, and with others, probably about thirty to forty people, some of whom are in high places.

Vulcan continued to state that they had obtained all their permits, when in reality they had not even applied for any of them. Making numerous inquiries, we learned that permits from any agency are extremely easy to get, and they are very rarely, if ever, denied. Getting a permit is just a matter of paperwork.

None of our above actions were given any consideration by Vulcan. In fact, to show their defiance and rejection of our efforts to stop the development of the quarry and railroad, in December 2002, Vulcan created a railroad company - the Southwest Gulf Railroad - and applied to the Surface Transportation Board for a permit to build the 7 mile long rail line, and stating that SGR would be a common carrier. (FD 34284) Again we protested. We wrote letters to the STB voicing our concerns. 173 letters from landowners in this immediate area directly involved in the area of this proposed project gave a resounding no, that this project is all wrong for Medina County. Only 31 letters from individuals to the STB were in favor of the project - all but four were known relatives and friends of the quarry owners, or other persons who had benefited from land sales to Vulcan. Furthermore, all except two of these 31 do not even live in this area. By far, the vast majority of the local people do not want this project. As a result of the opposition expressed and the public's request for a detailed study, STB has ordered an Environmental Impact Study, which is taking place now.

Did this change Vulcan's mind? No. All these forceful evidences of opposition have had not one shred of effect in Vulcan's changing their minds about opening a quarry in an area where they are clearly not wanted. Vulcan's reaction was quite the opposite. Their stated response to all of this is that when they have obtained a permit from STB, they will *condemn* the land in the covenants that they need for the rail line. They will take it using *eminent domain* statutes, citing that their rail line will be a *common carrier* and carry other goods for the Quihi public, i.e. confiscate the land for themselves, a private company. This is a gross abuse of eminent domain power. There are no other industries in this community. This is an area of small farms and ranches, and a residential/historic area. The 7 mile railroad through the Quihi floodplain will never be a common carrier and should not have condemnation power. (And yet, on the other hand, SGR claims all this activity would not ruin the aesthetics of this historic community)

On June 21, 2004, the people of Quihi presented a petition to County Judge Jim Barden to call an election on September 11, 2004, so that the citizens can vote on incorporating the town. Word is out that Vulcan stated that "there is an 80% chance of that election being challenged in the court." No one is surprised. This is another example of how a big company can exert pressure on anyone that gets in the way of its' plans. We will see if Vulcan follows through with their threat.

Since Vulcan holds itself up to have the highest standards of the industry, then we can conclude that none of the aggregate/quarry companies care about the wishes of the people whose area they invade.

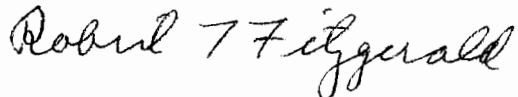
Vulcan's, or any other aggregate materials company's, tactics of donating money to local causes is not enough to offset the damage it does to the lives and properties of the inhabitants of an area. They are by no means to be considered the 'good neighbor' they proclaim to be, considering their strategy of using tools of intimidation, fear,

and deception, and outright theft to achieve their goals, as well as the devastation they wreak on the environment.

In closing, I would like to have some information. Exactly how much revenue has been generated by this industry for Texas, and how much revenue from other industries/investments were given up because of being replaced by this activity? No one ever tells us. All we know is that "the aggregate materials industry is a big business in Texas". Big for whom? How much of that profit goes out of the state? If there is a real net profit for Texas from the aggregate industry over other private enterprise, is that difference worth trashing Texas and ruining the health, lives, and property of its citizens, now and for the future? We realize that the aggregate materials industry has a big and active PAC. We trust that the elected officials that represent us know that they are elected to do what is best for the citizens of Texas.

Thank you again for the opportunity to be heard. I would appreciate very much being contacted when the next meeting is scheduled. We hope your committee can make some real progress in passing legislation that truly protects our air, water, and public on the highways. It is time to curb this ever-encroaching menace that rides roughshod over the area into the lives and property of the people of Texas. We cannot continue to sacrifice Texas on the altar of Greed.

Sincerely,



Dr. Robert T. Fitzgerald, President
MCEAA, Inc.

cc: United States Senator Kay Bailey Hutchison
United States Senator John Cornyn
United States Representative Henry Bonilla
Senator Frank Madla
Virginia Rutson, Chief, SEA, Surface Transportation Board
David Barton, The Gardner Law Firm

MCEAA, Inc., for your Home, Health, and Heritage