

The Medina County Environmental Action Association, Inc.

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CHRONOLOGY of The Medina County Environmental Action Association, Inc.

Quihi area residents first learned of a huge quarry to be developed in central Medina County, Texas, (three miles north of Quihi), in November of 1999. Its boundaries would touch CR 353, CR 351, CR 252, and CR 3501. The proposed quarry would be linked by a proposed rail spur to the existing Union Pacific Railroad 3 miles south of Quihi, at a point where the Union Pacific line crossed beneath US Hwy 90 from south to north (Dunlay Acres Subdivision). The exact route the railroad spur would take was unknown. This proposed project would be operated by Vulcan Materials, Inc., a Fortune 500 Company whose headquarters are in Birmingham, Alabama.

So that the citizens of Medina County could learn the facts and impacts these projects would have on our county roads and environment, we requested that this matter be placed on the agenda of the County Commissioners court for discussion. This request was denied by the then County Judge, David Montgomery. However, in December 1999, Vulcan's local attorney, Chris Schuchart of Castroville, called, stating that Vulcan's representatives would like to meet with a few of us to discuss this project and answer questions about the projects.

Year 2000: Residents informed of Vulcan Materials Plans: A meeting was arranged in January 2000 between Vulcan and four of the concerned neighbors. At this meeting the enormity of the project was learned:

- ...quarry size would be 1760 acres, (1 mile wide and 3 miles long)
- ...200 million tons of limestone would be mined over a 50- year period,
- ..quarry depth approximately 200 feet, all of quarry site located over the Edwards Aquifer Recharge Zone (neighboring Edwards water wells are as shallow as 138 ft deep)
- ...four one-mile long trains would traverse the floodplain daily for approximately seven miles between the quarry and the Union Pacific line at Hwy 90. At peak production there would be more trains. The precise route of the railroad spur was not disclosed.

Other facts learned were that Vulcan expected to hire approx. 100 to 125 employees, at an average salary of \$25,000 per year.

Residents Organize: Concerned about the proposed project because of the many detrimental effects it would have on the area environment, neighbors in the Quihi area met at the Fitzgerald home in January 2000. Sixty-seven people came, including one of the owners of the proposed quarry site land. All of the people attending the meeting (with the exception of the quarry site landowner) were against the proposed quarry and railroad. At this meeting, it was decided to form a grass-roots organization to study the proposed project. Attendees voted on a name and the *Medina County Environmental Action Association* (MCEAA) was chosen. Officers were elected and committees formed. One attendee passed the hat and a treasury was started. Next, MCEAA sought public participation by newspaper articles and letters to the editors of local papers. MCEAA held open meetings in the area and Vulcan officials attended and participated in discussions and answered questions. Additional households joined MCEAA. To determine public sentiment about the proposed project, members of MCEAA circulated petitions opposing the quarry and railroad, obtaining over 700 signatures in opposition to the project in a very short time. MCEAA had bumper stickers made and circulated. Our plight was reported on radio and TV. As a gift from a San Antonio friend of our cause, a website was started. www.dontmesswithquihi.com

MCEAA Learns More about the Project: We made further inquiries to learn more about the impacts this proposed project would have. We found that the Edwards Aquifer is only about 300 ft or less below the surface in that area. We learned that many neighbors who live near the proposed quarry site had Edwards wells as shallow as 138 ft deep. *This is their only source of water for their homes and farms.* A public water supply is not available in that area. A 200-250 ft deep quarry with its' associated blasting would impact their wells and septic systems. Large crushers would be on site at the southern end of the quarry, causing noise and dust. The area would be lighted continuously. Information was that Vulcan would lease, not purchase, the land from the owners (three area families, none living near the quarry site). At the end of the quarrying period there is no plan for land reclamation or restoration.

Vulcan Reacts: Realizing opposition to the quarry was mounting, Vulcan Materials organized a campaign hoping to obtain public support by offering inspection tours of their working quarries in San Antonio. Members of the MCEAA accepted this offer. Problems with standing water were noted. Employees were covered with dust and wearing dust masks. The highways at the entrances to the quarry sites were covered with limestone dust. After the tour, we were even more convinced that the proposed quarry and railroad would not be a good thing for Medina County. Additionally, Vulcan made presentations to various civic and social groups in the area making promises of "no noise, no dust, no waiting on trains, no damage to wells, no damage to the aquifer, etc". Vulcan continued to try to gain support by touting it would create jobs and tax revenue by opening the quarry. (Medina County does not have an unemployment problem. Its unemployment rate is lower than the state average.) Also, Vulcan failed to note that the taxes it paid to the county and school would not begin to pay for the upkeep of county roads, the costs of schooling required by the families of the new employees who would move into the county, and the increased costs to the county for police protection, fire and emergency services.

Other Detrimental Effects of the Project Revealed: MCEAA is asking that detailed studies be conducted by agencies concerned because of this proposed projects' overall effect on the environment including the possible contamination of the Edwards Aquifer, possible damage to Medina Lake dam, degradation of air quality, damage to neighboring wells., and other issues. Flooding in the Quihi basin is and has been a major concern. Vulcan's proposed and alternative rail routes traverse the Quihi, Elm, and Cherry Creeks' floodplains. This area is part of the Central Texas Hill Country known as 'Flash Flood Alley, where flash flooding occurs unpredictably, and has been the subject of a documentary by PBS. As currently planned, the proposed 7 mile railway from the quarry to the Union Pacific line at Hwy 90 would pose dangers of flooding homes, historic sites, and antiquities in the Quihi and Cherry Creek floodplains. Hunting is a big industry in this area. The loss of hunting revenue would have a damaging impact on area ranchers. Additionally, the proposed huge quarry industry would change the major land use in the Quihi area from agricultural/historical/residential to industrial/commercial. Transporting the crushed limestone would create traffic problems by gravel trucks on inadequate, unimproved, narrow county roads.

Sunset Committee Holds Hearings on TNRCC: MCEAA leadership became increasingly aware that TNRCC in its' present form does little to protect the environment. A permit is not required to open a quarry. Only *the rock crusher* requires a permit - an air quality permit. A rock crusher that has already been permitted can be moved to another location. The cumulative effect of many quarries in a location, or a quarry that is huge in size, is of no consideration. A quarry can be dug down into the aquifer without a permit or any prior environmental study required. Noise, dust and vibration resulting from *blasting* have no bearing whatsoever in issuing a permit. Public meetings that are held are only places for the people to go and vent their anger and frustration - nothing results from these meetings. All permits applied for are issued, none are denied. Since TCEQ's existence, the air quality in Texas has declined steadily over the past 20 years. In June, 2000, MCEAA members went to Austin to testify at the TNRCC Sunset Committee hearings. There were approximately 65 other groups and individuals testifying, with similar concerns. After 3 days of hearings, the Sunset Commission allowed the TNRCC to remain in place. The only noticeable change is their name. Now they are the TCEQ - The Texas Commission on Environmental Quality.

Endangered Species Sighted: In June, 2000, sightings of Golden-cheeked warblers near the quarry were reported to the U. S. Fish and Wildlife Service (USF&W). Six months later, that agency wrote to Vulcan (Tom Ransdell), furnishing information about endangered species.

Vulcan Starts Buying Land: July 31, 2000, Vulcan, using the name of Med-Tex Lands, Inc., bought Lots 10, 11, and 12 of Dunlay Acres Subdivision, after the Deed Restrictions for the subdivision were changed to allow a railroad on Lot 12. Lot 12 is located at the point at which the Union Pacific Line crosses under US Hwy 90. November, 2000, Vulcan, again using the name of MedTex Lands, Inc., bought land from the estate of a deceased landowner. This land is located in Quihi, midway between the proposed quarry site and the Dunlay Acres Subdivision -Lot 12.

MCEAA held their first annual membership meeting at the Medina County Fair Hall on May 25, 2000. The organization had over 100 households in its' membership.

Year 2001: Quihi Landowners Form Restrictive Covenants: Landowners in the area, desiring not to have a rail line on their property or their neighbors' property, joined together to protect their lands. In February, March, April and May, 106 landowners placed 9622 acres of their land (59 parcels) in the Quihi area under a restrictive covenant, and this became part of their deeds of record. This covenant simply stated that no railroad of any type, or any type of conveyor system would be placed on this land. This action effectively blocked a large area from placement of a railroad or conveyor system. This action also united the people in this area to not be swayed by Vulcan's threats to purchase or lease a rail line right-of-way from their *neighbors*, if they wouldn't sell or lease their own to Vulcan.

Vulcan Plans to Condemn Land: On July 21, 2001, a member of MCEAA called Tom Ransdell, President of Vulcan's Southwest Division, to ask about Vulcan's plans at that point. He replied that they were proceeding with their plans, and claimed that they have "*cleared all obstacles with TNRCC and environmental requirements*". (A follow-up call to TNRCC by MCEAA confirmed that they had not even applied for any permits as of that time!) Mr. Ransdell also stated that they "have completed study on endangered species act and have clearance to proceed". This also was not correct. He further stated that "they are trying to acquire as much land as possible without court procedures and *plan to exercise condemnation* to complete the right-of-way for the rail."

MCEAA held its' 2nd annual membership meeting on April 26, 2001 at the Flightline Cafe in Hondo.

Year 2002: Vulcan Told to Conduct Endangered Species Studies In March 20, 2002, USF&W advised Vulcan that they could do their 3 year study for the presence of endangered species in several phases, *over an extended period of time as the quarry progressed*. The studies on the golden-cheeked warbler and the black-capped vireo are done only during the spring mating season because of their high visibility at that time. USF&W allowed Vulcan to hire an environmental company *of their choice*, to do a very limited endangered species survey which involved only a fraction (20%) of the proposed 1760 acre quarry site. USF&W acknowledged that this was not standard policy, but would be allowed because the cost of the study of the entire region would be high! (Vulcan is a Fortune 500 Company) The USF&W also made an erroneous statement, *that the study would be more accurate in 5 phases*. This concept disregards the fact that endangered species would obviously vacate any area adjacent to a working quarry where blasting and excavation noises along with road and railroad traffic would occur. (In October 2003, Vulcan turned in three years of bird studies, beginning with year 2001.)

Southwest Gulf Railroad and the U. S. Surface Transportation Board Rather than having Union Pacific Railroad to build the spur for them, Vulcan created its own railroad. Vulcan formed a Texas corporation for a railroad company called Southwest Gulf Railroad (SGR), a wholly-owned subsidiary of Vulcan Materials, Inc., and SGR 'held itself out' to be a common carrier, to have the power to condemn land.

On November 22, 2002, Vulcan's SGR notified the U.S. Department of Transportation's Surface Transportation Board (STB) by letter of its intent to apply for a permit to build a rail line. SGR also asked STB to waive the 6-month filing notice thereby *preventing the public from receiving notification of SGR's application*. SGR claimed that this 6-month period is unnecessary because this project had "limited scope", that the area was "sparsely populated", and that "based on preliminary review, the line is not expected to have any significant impacts on wildlife or other biological resources, water quality and historic/cultural resources". Taking Vulcan/SGR's word for it, STB was unaware of the huge local opposition to the project that had been going on for four years, and the STB granted the waiver 4 days later - November 26, 2002. Also, on November 26, Vulcan/SGR asked the STB to approve the hiring of the URS Corporation, Austin, TX, as the third party consultant for an environmental review, and STB approved this choice on December 2, 2002.

Vulcan/SGR Interaction with Other Agencies: At various times during the year of 2002, as well as during the prior year, MCEAA would periodically contact various agencies that would be involved in the permitting process for this proposed project - Edwards Aquifer Authority, TNRCC (TCEQ), FEMA, U S Corps of Engineers, - and received the same information from all of them: There had been no applications filed or in some cases even asked about by Vulcan/SGR. However, Vulcan/SGR continued to maintain to the public that "It's a done deal", thereby leading the public to believe that there was nothing that could be accomplished by opposing the project.

MCEAA held its' 3rd annual membership meeting at the new Fellowship Hall of the historic Quihi Bethlehem Lutheran Church.

Year 2003: SGR Proceeds With Filings to STB for a permit for rail line: On February 12, 2003, Vulcan's SGR and STB signed a Memorandum of Understanding regarding the environmental studies for a permit for the rail line. In March 2003, MCEAA learned through the Freedom of Information Act for the first time the locations of the proposed route and three alternative routes of the Southwest Gulf Railroad Company (SGR). Because of the many adverse impacts and dangers involved in these routes, MCEAA filed a petition to the STB to revoke the SGR petition, stating the reasons that MCEAA believed this railroad would be disastrous for our area. However MCEAA's petition was subsequently denied. This decision for denial was made by a single commissioner at the STB, and this single commissioner was also the board of one granting Vulcan/SGR's petition for exemption.

On June 12, 2003, after much public opposition had been expressed to the STB, the STB held a public meeting in Hondo. Over 200 people came to ask questions and voice their disapproval of the project to the STB. However, the public was not allowed a chance to speak, nor did STB speak, to the public at large. There were several hundred attending, the large majority being opposed to the project. The STB told those attending to write their concerns to the STB. The MCEAA, and the public, did this and their collective response was huge. The STB now posts the incoming and outgoing correspondence on its' website www.stb.dot.gov. [Go to *environmental correspondence*, then *Incoming or Outgoing by Docket Number*. Find Docket Number FD 34284, and click on blue arrow.] Letters were submitted from governmental officials as well as individuals, advising that much study needs to be done before SGR, with its' accompanying 1760 acre proposed quarry, should be permitted.

MCEAA Incorporates: MCEAA incorporated in 2003, and is now MCEAA, Inc., and has also obtained IRS 501(c)(3) approval.

Quihi/New Fountain Historical Society Formed August 19, 2003: Some members, realizing that their historical landscape faced destruction, decided to form a society to photograph, document, and record the over-80 historical homes, cemeteries and other sites. These sites date back to the original European settlers brought here to settle the land in 1845, after Texas had won its independence from Mexico. These picturesque, almost forgotten sites, dotting the landscape along the Quihi Creek, had never been photographed or documented as a community.. These sites consist of Alsatian cottages made of native

limestone, family cemeteries, school buildings, etc., and have been largely ignored or taken for granted, and no plans had ever been made to keep the area for posterity. Many remain intact from when they were first used. Over 60 sites have thus far been photographed and documented, and sent to the Texas Historical Commission for their records. This project continues as more sites are documented by Q/NFHS. Several farms are designated as a Texas Heritage Family Farm. Work proceeds on the designation as a historical district, which would be divided by the proposed rail spur crossing the Quihi creek in its floodplain. Impacts would include flooding exacerbation, dust, vibration and noise.

Archeological Sites in Quihi: In addition, archeological sites containing artifacts over ten thousand years old were discovered in the mid-1980's. Some of these are known to be in path of the proposed rail line route. It is hoped that these sites will be fully explored and documented.

The MCEAA held its' fourth annual membership meeting at the Fellowship Hall of the Quihi Bethlehem Lutheran Church on May 3, 2003. There were 133 households in membership.

Year 2004: STB Orders SGR to do an Environmental Impact Study (EIS): Due to the huge public outcry evidenced by letters from the people who would be affected by this project, STB ordered an EIS to be done. The public continued to write and demand that the EIS include the proposed quarry as well as the proposed rail line. Because these two projects are actually one project, they are 'connected actions'. One would not exist without the other. Vulcan had told us from the very beginning that they had enough crushed limestone in existing quarries for 40 years for the local market, and that for this quarry they would have a rail line to transport approximately 85% of the crushed limestone to Houston and beyond. Thus, the existence of this projected quarry and rail line are dependent on each other.

MCEAA, Inc. held its fifth Annual Meeting on April 24, 2004, in the Fellowship Hall of the Quihi Bethlehem Lutheran Church. There are over 150 families in our membership.

Draft Environmental Impact Study Issued: On November 5, 2004, The Surface Transportation Board issued their DEIS on the Vulcan/SGR proposed project. Two public meetings were held at the Medina County Fair Hall on Thursday, December 2. Many people attended and voiced their concerns and objections to the project. Those few voicing approval were quarry-land landowners, their friends and relatives. Due to the gross errors and misinformation in the poorly prepared DEIS, MCEAA requested a Supplemental DEIS to clarify and correct the 3 volume, 1000 page DEIS. We believe that STB should not give a permit not knowing the true impact on the environment, nor can the public give meaningful comment without the correct information. (note: the STB ordered a Supplementary DEIS in March 2006. An SDEIS is usually ordered only as a result of a lawsuit – another feather in the cap of MCEAA!)

In November of 2004, MCEAA joined the Greater Edwards Aquifer Alliance (GEAA), a coalition of other citizen groups in Texas who are concerned about safeguarding our Edwards Aquifer. Because there is strength in numbers, this coalition gives us a greater voice, and access to much information and assistance..

In 2004, there were six flooding events in the Quihi, Elm, and Cherry Creeks' floodplains.

Year 2005:

MCEAA held its sixth annual membership meeting on April 30, 2005, with over 160 families in our membership.

Vulcan obtained an air quality permit from TCEQ for a temporary rock crusher for the quarry site. MCEAA contested this air permit because TCEQ regulations state that a temporary rock crusher cannot be used at a permanent location. This permit expired on June 10, 2005. Vulcan did not re-apply, but instead applied for a permanent air quality permit in July, 2005. MCEAA members requested a public meeting to ask questions and voice their concerns.

Year 2006, and MCEAA, Inc.'s Continuing Activities

MCEAA requested and obtained a public meeting with the Medina County Commissioners, which was held February 16, 2006. MCEAA members packed the courtroom to overflowing. This meeting resulted in the public and the commissioners learning first-hand that if the county does not ask the STB to put certain conditions, like overpasses and flood control measures, in the mitigation for the rail permit, then Vulcan will not have to do it. And Vulcan has repeatedly demonstrated that it will not do anything it does not have to do.

In February 2006, *Preservation Texas*, a non-profit organization that partners with the Texas Historic Commission and dedicated to preserving the historic sites of Texas, officially named Quihi as an endangered historic site. This listing was because of the threat of the proposed Vulcan quarry and rail line.

Concerning Vulcan's TCEQ Air Permit Application, the public meeting MCEAA members requested in 2005 was held at the Medina County Fair Hall on April 6, 2006. Many MCEAA members and other persons gave comment on why this permit should not be issued. MCEAA has requested a contested case hearing as well. TCEQ has not yet ruled on the air quality permit application. Startup of the rock crusher is also subject to approval of a water pollution abatement plan and a storm water permit, both of which have been submitted to TCEQ by Vulcan, and contain information that indicates there would be significant harmful impacts to the area. In addition, according to EPA regulations, which govern oil spills, Vulcan may also need to prepare a Spill Prevention, Control and Countermeasure plan, if certain conditions exist regarding having oil in the quarry site. MCEAA's experts are examining all the records Vulcan has submitted to TCEQ. There are glaring errors and omissions.

MCEAA's 7th annual meeting was held on April 29, 2006 at the Quihi Lutheran Church Fellowship Hall.

Our environmental biologist., Dr. Lynn Kitchen of Adams Environmental, Inc., continues to advise us on the various environmental studies being conducted. If or when Vulcan/SGR obtains a permit for the rail from the STB, Vulcan/SGR (a private company created by Vulcan that is just a 'paper railroad') will proceed with the condemnation of land for the rail line. MCEAA hired legal counsel to assist us in the person of David Barton, of the Gardner Law Firm of San Antonio, TX, for this issue and other issues requiring legal advice. Legal assistance and guidance on the many complex issues of the proposed project is also provided to MCEAA from Brian Pietruszewski, who is also an environmental scientist.

MCEAA, Inc, continues to work closely with The Texas Historical Commission to protect the Quihi area historic sites and antiquities. We are also cooperating with the Quihi-New Fountain Historical Society, which is dedicated to the historic preservation of the entire area, and the only local historical society that is documenting, mapping, and registering the 61 plus historic sites of Quihi and New Fountain.

We frequently contact our local, state, and federal governmental representatives, who are working closely with us on the problems posed by the Vulcan project to insure that all environmental impacts are addressed and studied. We network with other groups who have organized to preserve the quality of our environment.

Since its inception MCEAA has been contacting regularly the various local, state, and federal agencies that would be involved with the project, some of which require permits for the proposed quarry and railroad. These agencies include the U.S. Fish and Wildlife Service (USF&W), TCEQ, Texas Department of Transportation, US Corps of Engineers, FEMA, Edwards Aquifer Authority, U.S. Surface Transportation Board and the Texas Historical Commission.

As of this writing, we await the findings of STB's DEIS. Vulcan has not obtained any permits for the rail or rock crusher for the quarry.

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