

County of Santa Clara

Department of Planning and Development
Planning Office

County Government Center, East Wing, 7th Floor
70 West Hedding Street
San Jose, California 95110-1705
(408) 299-5770 FAX (408) 288-9198
www.sccplanning.org



October 15, 2010

David W. Knapp
City Manager
City of Cupertino
10300 Torre Avenue
Cupertino, CA 95014

Subject: Recent reports related to the Permanente Quarry

Dear Mr. Knapp:

In April 2010 you requested that the Santa Clara County Department of Planning and Development provide information pertaining to the Lehigh cement plant and the adjacent Permanente Quarry. Enclosed is a packet of information that may find useful. The enclosure includes copies of reports from staff to the Housing, Land Use, Environment, and Transportation Committee (HLUET), the annual SMARA inspection report that is completed and submitted to the State Office of Mine Reclamation each year, as well as three memorandums from staff to the members of the Board of Supervisors. Staff prepared the memorandums to provide information in response to comments made before the Board of Supervisors during the Public Comment portion of the Board's agenda during recent meetings.

I am sending this packet in order to provide you with the information you requested. I will provide copies of future reports when they are prepared and distributed. The report to HLUET takes place twice each year (February and August), and the SMARA report is prepared annually.

If you have any questions regarding this matter you may call me at (408) 299-5747.

Sincerely,

Gary Rudholm
Senior Planner

ENCL

SURFACE MINING INSPECTION REPORT

Instructions for completing this form are on the reverse side. Attach notice(s) of violation(s) and order(s) to comply for all observed non-compliance.

I. Mine Name as reported by Operator on Mining Operation Annual Report Permanente Quarry	Inspection Date: August 20, 2010	CA MINE ID#: 91 - 43 - 0004
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II. SMARA Lead Agency Name (City or County <u>only</u>) County of Santa Clara		
Inspector Gary Rudholm et al (refer to signature page and appendix)	Telephone (408) 299-5747	
Title Senior Planner	Organization Department of Planning & Development	
Mailing Address 70 W Hedding Street, East Wing, 7th Floor		
City San Jose	State CA	ZIP Code 95110
E-mail Address (Optional) Gary.Rudholm@pln.sccgov.org		

III. Mine Operator Lehigh Southwest Cement Company		
Contact Person Marvin Howell	Telephone (858) 577-2770	
Mailing Address P. O. Box 639069		
City San Diego	State CA	ZIP Code 92163-9069
E-mail Address (Optional)		

IV. Does the operation have:	P	NR	No	Yes
A permit to mine?				vested
An approved Reclamation Plan?				RP File # 2250-13-66-84P
Has the operator filed a Mining Operation Annual Report (form MRRC-2)? Check one: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown				
Is this operation on Federal Land? Check one: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				
If "Yes", provide one or both of the Federal Mine Land Identification Numbers below:				
California Mining Claim Number (CAMC#): N/A				
U.S. Forest Service Identification Number (USFS ID#): N/A				

DISTRIBUTION: Original to Operator. Copies to: State (by Lead Agency), Lead Agency, State (by Operator), and BLM or USFS (if required).

INSTRUCTIONS FOR COMPLETING SURFACE MINING INSPECTION REPORT

Form MRRC-1 Page 1

This report documents observations concerning compliance with California's Surface Mining and Reclamation Act (SMARA) and related reporting requirements (Public Resources Code Sections 2207 and 2710 *et seq.*) and, for operations located partly or solely on Bureau of Land Management (BLM) lands, Title 43, parts 3500, 3600, and 3800 of the Code of Federal Regulations and other agency requirements that are designed to prevent or minimize adverse environmental effects of mining.

Lead agencies must file a copy of each inspection report, along with any notices of violation and orders for compliance issued, within 30 days of completion of the inspection. Mine Operators must attach a copy of this report to their next Mining Operation Annual Report (Form MRRC-2).

BLOCK I: Enter the name of the Mining Operation, the date of the inspection, and the California Mine ID # (if ID# is unknown, enter "unknown").

BLOCK II: For "Lead Agency", enter the name of the certified SMARA Lead Agency that is conducting this inspection. Acceptable entries include the name of the city, county, Bay Conservation and Development Commission (BCD), and State Mining and Geology Board (SMGB). For "Organization", enter the name of the agency, firm or other organization that employs the inspector. If the inspector is an independent contractor, enter "independent contractor." The e-mail address is optional.

BLOCK III: Enter the name of the Mine Operator. Also, enter the name, mailing address, and phone number of the person (the operator or a person acting on the operator's behalf) who will serve as a contact for any follow-up correspondence or discussions regarding the inspection or violations noted. The e-mail address is optional.

BLOCK IV: Check the appropriate boxes.

P	=	Pending (on appeal or awaiting approval by Lead Agency)
NR	=	Not Required for this operation at the time this inspection was completed.
No	=	No
Yes	=	Yes, supply information.

SURFACE MINING INSPECTION REPORT

V. Does the Operator currently have a Lead Agency approved Financial Assurance? Check one: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If "Yes", complete section below. If "No", refer to instructions on the reverse of this page and complete Section VI.		Inspection Date: August 20, 2010	CA MINE ID#: 91 - 43 - 0004
Type of Financial Assurance Mechanism(s)	Financial Assurance Mechanism Number(s)	Current Amount on File	Date of Expiration
<input type="checkbox"/> Surety Bond	See below.	\$9,748,772.00	None
<input type="checkbox"/> Certificate of Deposit		\$	
<input type="checkbox"/> Letter of Credit		\$	
<input type="checkbox"/> Trust Fund		\$	
<input type="checkbox"/> Pledge of Revenue		\$	
<input type="checkbox"/> Budget Set Aside		\$	
<input type="checkbox"/>		\$	
The Financial Assurance Amount must be adjusted annually. Attach a copy of the revised Financial Assurance Amount calculation with this report.		Date of Financial Assurance Amount Calculation: August 17, 2010.	
Does the current mechanism(s) on file cover the new annual calculation? <input type="checkbox"/> Yes <input type="checkbox"/> No		If "No", date operator was notified that a new mechanism is required: Pending, see below.	

VI. Financial Assurance comments.

Financial assurance posted consists of the following three bonds:
 Travelers Casualty and Surety Company of America Surety Bond #64S104790142BCM (\$7,570,047.00), Travelers Casualty and Surety Company of America Surety Bond #280331 (\$540,001.00), and Federal Insurance Company Bond #8213-68-81 (\$1,638,724.00).

The operator submitted a revised financial assurance cost estimate (FACE) on August 17, 2010. When the County certifies the revised FACE it will forward the calculations to OMR for review and approval. The County expects to forward the calculations to OMR by October 29, 2010.

INSTRUCTIONS FOR COMPLETING SURFACE MINING INSPECTION REPORT

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BLOCK V: Check "Yes" or "No" regarding the existence of an approved Financial Assurance Mechanism currently in place.

If "No" is checked, continue to Block VI and provide required information.

If "Yes" is checked, provide specific information required.

Type of Financial Assurance Mechanism(s): _____ place a check mark in the appropriate box identifying the type of mechanism(s) that is on file. Fill in the blank box to supply information for a mechanism not listed. State the Financial Assurance Mechanism(s) document number(s). State the dollar amount of the Financial Assurance Mechanism(s) currently on file. State the date of expiration on the Financial Assurance Mechanism(s) currently on file.

Attach a copy of the current year's Financial Assurance Amount calculation with the Inspection Report. State the date of calculation.

Indicate "Yes" or "No" regarding whether or not the current mechanism(s) on file cover the new annual calculation.

The Financial Assurance Amount must be adjusted annually to account for new lands disturbed by surface mining operations, inflation, and reclamation of lands accomplished in accordance with the approved Reclamation Plan. In order to determine what adjustments, if any, are appropriate to the Financial Assurance Amount, each mine operator must annually submit a revision of the written calculation of the Financial Assurance Amount to the Lead Agency. Attach a copy of the revised Financial Assurance Amount calculation with this report.

BLOCK VI: Use this block to add comments regarding the Operator's Financial Assurance status, or if "No" was checked in Block V. Explain in detail why this operation does not have a Lead Agency approved Financial Assurance, such as: "Pending" with Lead Agency, explanation, date submitted and status, "Appealed" – explanation, date submitted and status,

"Financial Assurance Mechanism is in process" – explanation, date submitted and status, "Change of Ownership" – explanation, date of notice and status, or "Other".

SURFACE MINING INSPECTION REPORT

VII. Is the operation in compliance with provisions of the approved Reclamation Plan with respect to:	OK	VN	NI	NA	CA MINE ID # 91 - 43 - 0004
Wildlife Habitat	✓				Inspection Date: August 20, 2010
Revegetation	✓				
Agricultural Land				✓	Weather Code(s): CR
Stream Protection	✓				Duration of Inspection: 3.5 hours
Tailings and Mine Waste Management	✓				
Closure of Surface Openings	✓				Approximate Disturbed Acreage: 523.4 acres
Building, Structure, and Equipment Removal	✓				
Topsoil Salvage, Maintenance, and Redistribution	✓				Status of Operation Code(s): A
Backfilling, Regrading, Slope Stability, and Recontouring		✓			
Drainage, Diversion Structures, Waterways, and Erosion	✓				Status of Reclamation Code(s): R
Other (list or explain below)		✓			

VIII. Comments/Description of Violation(s) and Corrective Measure(s) Required

- Refer to the attached report dated September 28, 2010, from Kit H. Custis, CEG 1219, CHG 254 of Pacific Municipal Consultants (PMC) for additional, detailed information.
- The County is processing a proposed amendment to the approved reclamation plan. The amendment will address areas of disturbance that are currently not within the reclamation plan boundary. This amendment was filed in response to a Notice of Violation/Order to Comply (NOV/OTC) issued by the County on October 10, 2006. The NOV/OTC includes a schedule for completing the various stages of the application process. CEQA review has commenced; the County estimates the review and approval process will be completed in 2012. Until the reclamation plan amendment process is complete, however, a violation of SMARA must be noted in the inspection report.
- On June 20, 2008, the County issued a second Notice of Violation (NOV) for stockpiling of overburden material outside the reclamation plan boundary, in a location identified by the operator as the East Materials Storage Area. This NOV is being abated through a separate amendment to the Permanent reclamation plan. An action regarding the EMSA reclamation plan amendment is estimated to take place in 2011.

IX. Number of Violations: 2	Inspector's Signature: Refer to signature page, attached.	Date Signed: September 29, 2010
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INSTRUCTIONS FOR COMPLETING SURFACE MINING INSPECTION REPORT

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BLOCK VII: Check the appropriate boxes:

OK = Inspected, found in compliance with reclamation standards (California Code of Regulations, Title 14, Division 2, Chapter 8, Subchapter 1, Article 9, Section 3700 *et seq.*) listed).

NI = Not inspected (explain in Block VIII)
NA = Not Applicable for this Operation (use this notation when an issue is not addressed in the reclamation plan, or when the reclamation plan contains no requirements related to the issue

VN = Inspected, Violations Noted

Weather Codes: CR = Clear; CL = Cloudy; RN = Rain; SN = Snow; WD = Windy

Approximate Disturbed Acreage: Indicate all acreage disturbed by the surface mining operation, as defined by PRC Section 2729: "Mined Lands" includes the surface, subsurface, and ground water of an area in which surface mining operations will be, are being, or have been conducted, including private ways and roads appurtenant to any such area, land excavations, workings, mining waste, and areas in which structures, facilities, equipment, machines, tools or other materials or property which result from, or are used in, surface mining operations are located.

For "Duration of Inspection", indicate the number of hours spent at the site (round to the nearest half hour) performing the inspection (do not include travel time in this figure).

Status of Operations Codes:

I = Idle
A = Active during inspection
AD = Active during past year

AB = Abandoned (site deserted by operator)
MC = Mining completed

Status of Reclamation Codes:

R = Reclamation in progress
RN = Reclamation not begun

RC = Reclamation complete
P = Post reclamation monitoring

BLOCK VIII: Inspectors may use this area for comments, to describe violations, correction orders, etc., and to explain any limitations to the inspection conducted. You may attach copies of any notices of violations and orders to comply in lieu of a description on this form; however, copies of such notices and orders must be attached to **each copy** of this Inspection Report.

BLOCK IX: Enter the number (quantity) of violations noted during the inspection. Sign and date the Inspection Report.

DISTRIBUTION INSTRUCTIONS:

The original and one copy of this completed Inspection Report (all pages) shall be given to the Mine Operator.

The Lead Agency must retain one copy of this Inspection Report and submit one copy of this Inspection Report to:

Department of Conservation
Office of Mine Reclamation
801 K St, MS 09-06
Sacramento, CA 95814-3529

If any part of the operation inspected is on BLM or USFS land, one copy of this Inspection Report should be forwarded to the appropriate BLM or USFS office. The Mine Operator must attach one copy of this Inspection Report to the next required Mining Operation Annual Report (Form MRRC-2) submitted to the State.

PLEASE NOTE: A Memorandum of Understanding between the U.S. Department of Interior, Bureau of Land Management (BLM); U.S. Department of Agriculture, Forest Service (USFS); the State of California, Department of Conservation; and the State Mining and Geology Board, effectively implements California's Surface Mining and Reclamation Act on lands in California under the jurisdiction of BLM and the USFS.

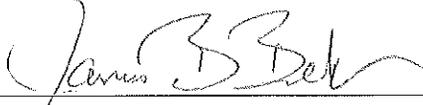
SURFACE MINING INSPECTION REPORT

Form MRRC-1 Signature Page

Permanente Quarry, State ID #91-43-0004

September 29, 2010

Report Reviewed and Approved for Release:

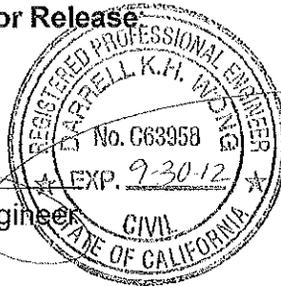


James Baker, CEG 1021, Engineering Geologist
Expires October 31, 2011

Report Reviewed and Approved for Release



Darrell Wong, P.E., Senior Civil Engineer
Registered Civil Engineer #63958
Expires September 30, 2012



Report Meets Acceptable Standards:



Gary Rudholm, MCRP
Senior Planner, Santa Clara County

