

County of Santa Clara

Department of Planning and Development
Planning Office

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July 22, 2019

Ms. Erika Guerra
Lehigh Southwest Cement Company
24001 Stevens Creek Blvd
Cupertino, CA 95014

FILE NUMBER: PLN19-0106
SUBJECT: Major Reclamation Plan Amendment
SITE LOCATION: 24001 Stevens Creek Blvd.
DATE RECEIVED: May 22, 2019

Dear Ms. Guerra:

The purpose of this letter is to inform you that the application for a Reclamation Plan Amendment ("Application") described below in Section I, submitted by Lehigh Southwest Cement Company ("Lehigh")¹ on May 22, 2019 has been deemed **incomplete**.

To complete the Application, Lehigh must submit the following information requested in Section II and summarized below, no later than 180 days from the date of this letter:

- Diagram showing extent of mining within areas covered by the 1972 Ridgeline Protection Easement ("1972 Easement");
- Additional clarification about the timeframe for completion of the Permanent Creek Restoration Area project and compliance with the consent decree;
- Specific mining plan for, and access to, the Rock Plant Reserve Area;
- Proposed tree removal and replacement; and,
- Additional information related to submitted Geotechnical reports.

Other issues and areas of concern identified by the Department related to this application are described in Section III below.

If the requested information is not submitted within 180 days, an application reactivation fee of 10% of the current application fee will be required to continue processing the application. If the requested information is not submitted within one (1) year from the date of this letter, the Application is deemed abandoned.

¹ The applicant is Lehigh Southwest Cement Company ("Lehigh") for property located at 24001 Stevens Creek Boulevard, Cupertino CA 95014. As stated on the Application, the property is owned by Hanson Permanente Cement, Inc.

Prior to submitting the requested information, you are required to schedule an appointment to discuss your responses to the comments below. Please contact Robert Salisbury (robert.salisbury@pln.sccgov.org / 408-299-5785) to schedule this appointment.

I. Project Description

On May 22, 2019, Lehigh submitted an Application to amend the existing Reclamation Plan for Lehigh Permanente Quarry (the “Quarry”), approved by the Board of Supervisors on June 26, 2012, hereon referred to as the 2012 Reclamation Plan. The Application proposes to amend the 2012 Reclamation Plan by completely replacing it, including the following significant modifications:

- A. Expand the reclamation plan boundary area by 73.4 acres, increasing the total reclamation plan area from 1,238.6 acres to 1,312 acres.
- B. Retain the overburden material currently stored in the West Materials Storage Area (“WMSA”) in place, originally proposed to be used for backfilling of the main quarry pit under the approved 2012 Reclamation Plan. This Application proposes to instead import up to 1 million cubic yards per year of clean fill to backfill the main quarry pit, estimated to total 33 million cubic yards, and leave the WMSA overburden material in place.
- C. Modify the maximum final elevation and recontour the WMSA, increasing the final elevation from approximately 1,900 feet mean sea level (msl) to 2,060 feet msl.
- D. Modify the County’s 1972 Ridgeline Protection Easement and decrease the lower ridge crest along a portion of the North Quarry highwall by approximately 100 feet, in order to mine additional limestone in this area and layback the slope for stabilization.
- E. Expand mining activities into a new 30-acre area, referred to as the “Rock Plant Reserve”, located to the south east of the main quarry pit, including reclamation.
- F. Use an existing Pacific Gas & Electric, Co. utility access road, or establish a new haul road between Leigh and Stevens Creek Quarry (“Utility Haul Road”) in order to facilitate the sale of aggregate material to Stevens Creek Quarry. (Note: This aspect of the project is currently proposed under the separate Utility Road Reclamation Plan Amendment Application, File No. PLN19-0067.)
- G. Reclaim an approximately 3,600-foot segment of the existing Plant Quarry Road and adjacent areas. (Note: This aspect of the project is currently proposed under the separate Utility Road Reclamation Plan Amendment Application, File No. PLN19-0067.)

II. Summary of Required Supplemental Information

The following is a summary of the information that Lehigh must provide to the County to complete its Application.

A. Diagram showing extent of proposed mining within the 1972 Ridgeline Protection Easement

The County of Santa Clara is the holder of a Ridgeline Protection Easement (“1972 Easement”), granted to the County on August 18, 1972 by Kaiser Cement & Gypsum Corporation, which forbids quarrying and mining activities in areas shown on attached exhibits, and requires Kaiser Cement & Gypsum Corporation and its successors to maintain portions of the ridgeline at specific elevations. The Application proposes to lower the height of the ridgeline protected by the 1972 Easement, and appears to propose quarrying activities within areas where such activities are forbidden. In order to better evaluate these potential conflicts, please submit a diagram or diagrams which clearly shows the limits of the 1972 Easement, including the areas within the 1972 Easement where mining activities are forbidden, and the extent of proposed mining activities within or in close proximity to those areas.

B. Revision to Permanente Creek Restoration Area (“PCRA”) project timeline

Under the approved 2012 Reclamation Plan, the Permanente Creek Restoration Project is scheduled to be completed in 2030. The proposed Reclamation Plan Amendment proposes to potentially extend this timeframe to approximately 2040, creating an unexplained delay of 10 years. Please clarify how the restoration time frames in the Application comply with the Consent Decree between the Sierra Club and Lehigh Southwest Cement Company and Hanson Permanente Cement, Inc.

C. Rock Plant Reserve Area Mining and Access Design

The submitted Reclamation Plan Amendment does not include sufficient detail for the proposed mining and reclamation of the Rock Plant Reserve area, nor is there sufficient information describing how this area will be accessed from the existing quarry. Please provide an overview of this area on one sheet at a scale sufficient to show details, and include a separate sheet showing how this area will be accessed, along with detail showing how this area and the access road will be reclaimed.

D. Proposed Tree Removal and Replacement

As required by 14 California Code of Regulation § 3503 (c), all reasonable measures be taken to protect the habitat of fish and wildlife. Pursuant to this requirement, please include in tabular format the number, species, and DBH (diameter at breast height) of trees to be removed as part of this Application.

E. Geology

Please submit updated geologic investigation reports prepared and signed by a Certified Engineering Geologist that adequately address the following issues.

1. The County's Geologic Hazards Ordinance requires that geologic reports be signed by a California Certified Engineering Geologist (CEG). The G-1 through G-4 reports (Binder 1, Appendix G) are signed by a Geological Engineer (Paul Kos, P.E.) and a Geotechnical Engineer (Nelson Kawamura, G.E.) who both appear qualified to conduct slope stability analyses included in the investigations. The G-5 report is also signed by a Certified Engineering Geologist (Jennifer Van Pelt, CEG#2662. However, the signature of a California Certified Engineering Geologist needs to be included on the G-1 through G-4 reports and the supplemental materials described below.
2. Subsurface geologic interpretations (fault planes, bedding planes, etc.) need to be added to all of the cross-sections (e.g. Figure No. 3.3 in Binder 1, Appendix G) and the "models" used in the slope stability analyses (including the additional cross-sections and analyses referred to in the following comments #3 and #4).
3. An additional cross-section and related slope stability analysis are needed for the south-facing slope in the Yeager Yard Area, including the area containing Well WMSA-DMW-11 located at the south end of the WMSA. Additional surface mapping and subsurface exploration are needed to thoroughly evaluate the extent of ground movement that appears to have occurred in response to the removal of a substantial amount of material from the lower portion of that slope.
4. An additional cross-section and related slope stability analysis are needed for the east-facing cut and fill slopes located north of the "County Jurisdiction" line in Figure No. 1 "Utility Road Grading Plan" in Appendix G-5.
5. Supplemental geologic/geotechnical evaluation (geologic cross-sections and slope stability calculations) of the long-term stability of the proposed "layback" of northwest highwall of the main pit (Section D-D'). The existing slide plane of the 1988 landslide must be shown and its shear strength considered in the analysis.
6. Supplemental geologic/geotechnical evaluation (geologic cross-sections and slope stability calculations) of the long-term stability of the upper portion of the proposed cut slope on the west side of the Rock Plant Reserve (Sections A-A', B-B', and C-C'). The stability models must include the eastern edge of the existing (mapped) shear zone which also underlies the failing cut slope in the adjacent Stevens Creek Quarry. Unless better test data are available, utilize the same strength values determined there.

Please submit the items to address the issues raised in this Section II.E (Geology) in your Application and direct questions regarding the above geology items to Jim Baker (408-299-5774 / Jim.Baker@pln.sccgov.org).

III. Additional Issues/Areas of Concern

In addition to the incomplete items discussed above in Section II, the following additional issues and policy conformance areas apply to the Application:

- A. **Existing Violations** – County Ordinance Code Section C1-71 provides that “[n]o permit required by this title [Title C] shall be issued to any applicant...upon which there exists a conflict with any County ordinance or state law...[p]ermits may be issued...if the applicant has executed a compliance agreement and is in the process of completing or has completed the repairs, construction, or reconstruction described in the compliance agreement.” On June 13, 2019, a violation was issued to Lehigh by the County of Santa Clara for violation of the Surface Mining and Reclamation Act and County Zoning Ordinance Section 4.10.370 III (C)(1) related to discharge of sediment into Permanente Creek.² In addition, on July 9, 2019 the San Francisco Bay Regional Water Quality Control Board issued a violation related to the discharge of sediment into Permanente Creek. Accordingly, unless these violations are abated, the Department will recommend denial of this application, and will not conduct environmental review of this application consistent with Public Resources Code Section 210180(b)(5) and CEQA Guidelines Section 15270.
- B. **Overlap with Utility Road Reclamation Plan Amendment** – The Application, being a proposed complete replacement of the approved 2012 Reclamation Plan, includes areas outside of the existing reclamation plan boundary. These areas are proposed to be included in the Reclamation Plan boundary by the Utility Road Reclamation Plan Amendment Application (File No. PLN19-0067), which is currently under review. The County’s processing of this Application does not approve or imply an intent to approve the Utility Road Reclamation Plan Amendment. Should the Utility Road Reclamation Application be amended, or denied, changes to the Application will be required.
- C. **Environmental Impact Report** - Due to the scope of the Application, the County will prepare an Environmental Impact Report (“EIR”) to evaluate and disclose to the public and decision makers the environmental effects of the Application. During preparation of the required EIR, additional information and peer review of the submitted technical analyses and reports may be required. The County will provide Lehigh with specific requests for information once environmental review has commenced.
- D. **Import of Fill – Environmental Impacts** - The Application proposes to retain the WMSA in place, and instead use approximately 33 million cubic yards of imported clean fill material for backfilling of the quarry pit. This import of fill would require

² Zoning Ordinance Section 5.20.140 states that the decision-making body may deny an application for any permit or approval if there is recorded notice of violation for any zoning, grading, building code, housing code, or other land use violation on the property that is the subject of the application.

approximately 200,000 truck trips annually, which equates to approximately 666 truck trips per weekday for 30 years. This increase of truck traffic and the resulting impacts to greenhouse gas emissions, public safety and congestion, likely constitute significant impacts under CEQA.

- E. Import of Fill – Feasibility** - It is unclear if the proposed importation of fill 33 million cubic yards of fill is feasible, as it is dependent upon multiple external economic factors outside the control of Lehigh Quarry. Given this uncertainty, and the requirement that the Quarry must be reclaimed per SMARA, the proposed Reclamation plan may be inconsistent with SMARA as it would create an ongoing liability if the Quarry could not be reclaimed. The County will conduct a peer review of the submitted economic study and may require modifications to the Reclamation Plan or conditions that ensure that the Quarry can be feasibly reclaimed, irrespective of external economic factors]
- F. Retention of WMSA – Visual Impacts** - The approved 2012 Reclamation Plan recognized the visual impact of the West Material Storage Area (“WMSA”) and stated that WMSA material would be removed from the area and used to back-fill the main quarry pit. By contrast, the Application proposes to increase the height of the WMSA by 160 feet and retain it in place in perpetuity. This increase in height and permanent retention WMSA material in place may constitute a significant visual impact.
- G. Stevens Creek Quarry Haul Road** - The Application seeks continuation of transport of aggregate rock to Stevens Creek Quarry, either through the existing haul road or by establishment of a new haul road. However, the County of Santa Clara issued an NOV to Stevens Creek Quarry on February 15, 2019 requiring Stevens Creek Quarry to cease the importation of material from Lehigh due to the lack of required land use authorization to import, process and sell aggregate rock. As a result, Lehigh cannot use the proposed haul road for the purpose of exporting aggregate to Stevens Creek Quarry without Stevens Creek Quarry obtaining the necessary land use entitlements to import the aggregate from the haul road.
- H. Stevens Creek Quarry Reclamation Plan**- This expansion includes portions of APN 351-11-001, bordering Stevens Creek Quarry (“SCQ”), which SCQ also plans to incorporate into their Reclamation Plan boundary as identified in their Use Permit/Reclamation Plan Amendment pre-application (File No. PLN19-0110). The County may require Lehigh and/or SCQ to clarify how these overlapping reclamation plan areas are resolved.

If you have any questions, please contact Robert Salisbury at 408-229-5785 or robert.salisbury@pln.sccgov.org.

Sincerely,



Robert Salisbury
Senior Planner

For Rob
SALISBURY

Atts: Notice of Violation for Yeager Yard Issues

cc: Jacqueline R. Onciano, Director of Planning and Development, County of Santa Clara
Rob Eastwood, Planning Manager, AICP, County of Santa Clara
Manira Sandhir, Principal Planner, AICP, County of Santa Clara
Jim Baker, County Geologist, County of Santa Clara
Elizabeth G. Pianca, Lead Deputy County Counsel, County of Santa Clara
Michael Rossi, Lead Deputy County Counsel, County of Santa Clara
Kristina Loquist, Office of Supervisor Simitian, County of Santa Clara
Kristin Garrison, Environmental Scientist, CA Department of Fish and Wildlife
Lindsay Whalin, Environmental Scientist, S.F. Bay RWQCB
Lisa Horowitz McCann, Assisant Executive Office, S.F. Bay RWQCB
Ana Ruiz, General Manager, Midpeninsula Regional Open Space District
Roger Lee, Acting Public Works Director, City of Cupertino
Deborah L. Feng, City Manager, City of Cupertino
Paul Fry, Engineering and Geology Unit Manager, Division of Mine Reclamation

