

ATTACHMENT H

San Francisco Bay Regional Water Quality Control Board

April 15, 2015

Rob Eastwood
Principal Planner, County of Santa Clara
County Government Center, East Wing, 7th Floor
70 West Hedding Street
San Jose, CA 95110

Subject: Feasibility of Treating Runoff from the East Material Storage Area at Lehigh

Dear Mr. Eastwood:

Counsel and staff from the San Francisco Bay Area Region Regional Water Quality Control Board attended the Board of Supervisors meeting on November 20, 2014 regarding Lehigh Southwest Cement Company (Lehigh). The issue of the feasibility of addressing selenium impacts was continued until January 22, 2015, and again continued until April 23, 2015, to allow Lehigh to prepare additional technical documents. Herein we provide comments for the Santa Clara County Planning Commission's consideration at its April 23, 2015, hearing.

As noted by County staff in its November 20, 2014, Staff Report (see pg. 21), Condition of Approval No. 82 to the Reclamation Plan requires Lehigh to consider a treatment system or other alternatives to address selenium impacts. Lehigh and County staff evaluated three alternatives in regard to the potential to reduce selenium stormwater discharges from the East Materials Storage Area (EMSA). The alternatives were:

- (1) Piping or trucking water from the EMSA to the Frontier Treatment system;
- (2) Piping or trucking water from the EMSA to the Quarry Pit; and
- (3) Enlarging EMSA Pond 30.

Alternatives 1 and 2: Based on our experience at the site just after a rain storm, we concur that trucking water from Pond 30 to the Quarry Pit or the Frontier Treatment system to prevent discharges to Permanente Creek could create a severe safety hazard since the trucks would have to operate on steep, slippery dirt roads during and after rain events.

Alternative 3: Enlarging Pond 30 would provide a short-term reduction of selenium discharges to Permanente Creek prior to the deadlines set forth in the Reclamation Plan, but without additional management practices it would not reduce the mass of selenium discharging to surface waters over the long-term. Very little of the selenium would volatilize, so most would remain in Pond 30 either in particulate or dissolved form, with water concentrations likely to increase due to evaporation. If Santa Clara County does require an expansion of Pond 30 to reduce the frequency of selenium discharges, it should also require additional management practices (e.g., water treatment, sediment removal) to ensure that selenium does not accumulate in the Pond 30 sediments or water. If the enlarged Pond 30 is designed to allow water to infiltrate into the subsurface (e.g., natural pond bottom without an impermeable barrier),

additional studies of potential impacts to groundwater and a monitoring system to document groundwater protection would be required.

As opposed to containing or moving contaminated water around the facility, we support a pollution prevention approach. We recommend evaluating the results of ongoing source control measures (i.e., capping the EMSA with non-limestone materials) at the end of the next rainy season before designing and implementing a final treatment system to include pumping Pond 30 water up to the Quarry Pit or Frontier Treatment system.

We will be evaluating the results of Lehigh's efforts at controlling sources of selenium to surface waters by capping the EMSA with non-limestone materials. The cap, if properly installed and maintained, could significantly reduce the discharge of selenium from the EMSA to waters of the State. The results of the source control efforts should be apparent from water quality samples taken during the next rainy season, if the capping project is completed during this dry season.

The Water Board issued an individual NPDES permit and accompanying Cease and Desist Order (CDO) to Lehigh on March 12, 2014. The CDO requires the interim selenium treatment system currently in place, and a final selenium treatment system to be operational by October 1, 2017. The final selenium treatment system must meet permit limits at Discharge Point No. 001 (Pond 4A), consistent with the settlement agreement with the Sierra Club. Installation of additional management practices such as the non-limestone cap at the EMSA could also enable Lehigh to meet its interim and final stormwater limits at Discharge Point Nos. 002 through 006 (Ponds 13B, 9, 17, 20, and 30).

We recommend that the County find that source control measures such as isolating selenium bearing rock and mining waste are the preferred alternative to protecting water quality. We conclude by noting that our input is meant to inform your decision and nothing stated herein limits the Water Board's ability to take enforcement for Lehigh's failure to meet existing water quality standards.

Please do not hesitate to contact me or my staff if you have any further questions.

Sincerely,

Dyan Whyte
Assistant Executive Officer

cc: Lehigh Interested Parties List