

# County of Santa Clara

Department of Planning and Development  
Planning Office

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STAFF REPORT  
Planning Commission  
November 21, 2013  
**Item #6**

**File No. 2250-10PAM**

**Annual Status Report– Lehigh Permanente Quarry  
Reclamation Plan Amendment (RPA)**

Staff Recommendation: Accept Annual Status Report

Applicant: Lehigh Southwest Cement Company  
Property Owner: Lehigh Southwest Cement Company  
Address: 24001 Stevens Creek Boulevard, Cupertino  
Project Location: Westerly terminus of Stevens Creek Boulevard,  
Cupertino  
General Plan Designation: Hillsides  
Current Zoning: HS-d1  
Property Size: 3,500 acres of which 1,238 acres comprise the  
Reclamation Plan Amendment (RPA) boundary  
Present Land Use: Surface Mining  
Supervisorial District: #5  
Prepared by: Pat Angell, Contract Planner *RE FILED PAT ANGELL*  
Reviewed by: Rob Eastwood, Principal Planner *[Signature]*  
Approved by: Kirk Girard, Planning Manager *[Signature]*

## PROJECT DESCRIPTION

Annual Status Report regarding Permanente Quarry and compliance with the existing Reclamation Plan and Mitigation Monitoring and Reporting Program.

On June 19, 2012, the County of Santa Clara Board of Supervisors approved a new Reclamation Plan for Permanente Quarry. Approval of the Reclamation Plan included certification of an Environmental Impact Report (EIR) prepared for the Plan and adoption of a Mitigation, Monitoring, and Reporting Program (MMRP), implementing the mitigation measures identified in the EIR. Condition of Approval #8 of the Reclamation Plan requires the preparation of an Annual Report regarding the status of the Reclamation Plan as follows:

*An Annual Report shall be prepared by the County each year that summarizes compliance with the RPA and conditions of approval, Mitigation Monitoring and Reporting Program, and annual SMARA inspections and review of financial assurance cost estimates.*

*Annual Report shall be presented to the Planning Commission at a public meeting by December of each year, starting in 2013.*

*Mine Operator shall provide a reasonable amount of funding to the Department of Planning and Development for all aspects of report preparation, including but not limited to reimbursement for staff time, consultant fees, attorney's fees, and direct costs associated with report production and distribution.*

*Mine Operator shall provide by October 1 of each year, the information requested by the Planning Manager that is needed for the preparation of the Annual Report.*

*The County will include information provided by the Regional Water Quality Control Board related to the Water Board's determination regarding the Mine Operator's compliance with water quality standards, including waste load allocation and other permitting requirements, and the effectiveness of best management practices (BMPs) on the site.*

## RECOMMENDED ACTIONS

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Accept the Annual Report

## REASONS FOR RECOMMENDATION

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The Annual Report (Attachment 1) provides a comprehensive update regarding Lehigh Permanente Quarry's compliance with the 2012 Reclamation Plan, Conditions of Approval, Mitigation Monitoring and Reporting Program, and the Annual Inspections and financial cost estimates for quarry reclamation. The Annual Report provides an update on activities that occurred in 2012-2013.

As described in the Annual Report, the following major activities and milestones occurred during this period.

- **Overall Mining and Reclamation Activities.** Mining and Reclamation activities continued at the Quarry, consistent with the schedule under Phase 1 of the Reclamation Plan, which encompasses the first 10 years of mining and reclamation activities. Consistent with this schedule, mining activities continued within the Main Pit area of the Quarry. Reclamation Activities consisted mainly of the placement of overburden materials within the west wall of the main pit with minimal reclamation activities in the East Materials Storage Area (EMSA).
- **Water Quality Testing.** Water Quality testing occurred during rain events in November and December 2012, to test for the concentration of selenium and other constituents in water discharged from the East Materials Reclamation Area into Permanente Creek. The first test showed selenium concentrations in excess of the applicable water quality standards, while the second test showed concentrations below the standard.
- **EIR Mitigation Measures.** The mine operator provided documentation of compliance with multiple conditions and mitigation measures as identified in the EIR, including submittal of documentation of a greenhouse gas emission reduction plan, and conditions of approval restricting noise and lighting associated with Reclamation Plan activities.
- **Limestone Boulders.** The mine operator submitted documentation regarding limestone boulders within Permanente Creek. Per the Reclamation Plan and conditions of approval, limestone boulders that previously dispersed into Permanente Creek as a result of mining operations are required to be identified and removed, unless demonstrated that the boulders are not a significant source of Selenium and their removal would result in impacts to the Permanente creek habitat. Documentation was submitted by Permanente and evaluated by a third party consultant under contract with the County demonstrating that the boulders are not a significant source of Selenium and that their removal would cause sedimentation and / or other impacts to Permanente Creek. As described under the Sierra Club Settlement below, these boulders will be removed in the future as part of a larger Permanente Creek restoration project.
- **Sierra Club Settlement Agreement.** In April, 2013, the mine operator entered into a settlement agreement with the Sierra Club resolving a lawsuit regarding violations of the Clean Water Act. The terms of the settlement agreement require the mine operator to initially install a pilot water treatment system and eventually a permanent system to treat and

remove selenium from surface water that discharges from the area of mining operations into Permanente Creek. The interim treatment system is required to be installed by October 1, 2014 and the permanent treatment system is to be installed by September 30, 2017. The mine operator has applied for a Reclamation Plan amendment to show installation and later removal of the interim treatment system, which is currently under review by County staff. In addition, the settlement agreement requires the mine operator to restore large sections of Permanente Creek, removing improvements and mine waste (overburden) associated with past mining activities. The mining operator is to submit for all permits to restore the creek by August 2014 and complete restoration within 2 years.

- **Limestone Stockpiling.** During an inspection by County staff conducted in late 2012, County staff identified a pile of high grade limestone that was visible from the Santa Clara Valley Floor. County staff initially requested removal of the pile, however after later discussion with the mine operator the County recognized that the stockpiling of high-grade limestone would not conflict with the Reclamation Plan. This stockpile was identified by several members of the public during the open public comment at the Planning Commission at several meetings during 2013. The mine operator agreed to move the pile in response to the visibility concerns and the removal was confirmed by County staff in September 2013. In order to avoid further confusion, the mine operator agreed to submit a map on an annual basis identifying stockpile locations at the Quarry.
- **Inspections and Financial Assurance.** In compliance with the Surface Mining and Reclamation Act, County staff and consultants to the County conducted inspections of the Quarry to ensure mining and reclamation activities were in conformance with the 2012 Reclamation Plan. Inspections during the reporting period included an Annual Inspection in September 2012 and a winter inspection in December 2012. Inspections also occurred in 2013 and the Inspection report is currently under preparation. In October 2012, the Financial Assurance (FACE) for Quarry Reclamation was certified by the County. The revised Financial Assurance for 2013 is currently under review by the County.
- **Regional Water Quality Control Board.** Correspondence and information has been included in the Annual Report and its appendices regarding the Quarry's compliance with the Board's standards and permitting requirements.

## **BACKGROUND AND HISTORY**

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The Lehigh Permanente Quarry is a limestone and aggregate mining operation, located in unincorporated Santa Clara County within the eastern foothills of the

Santa Cruz mountain range, west of the City of Cupertino. Quarrying activities at the site began in the early 1900s. In 1939, Permanente Corporation acquired approximately 1,500 acres and then continued to acquire surrounding lands over the next several years until the quarry site reached its current size of 3,510 acres. The Quarry is operated by the Lehigh Southwest Cement Company (herein referred to collectively, Lehigh).

In February 2, 2011, the County Board of Supervisors made the determination that mining operations at the Quarry are a legal nonconforming use (i.e., a vested right) in the Reclamation Plan area, and as such, continued surface mining within the vested parcels does not require a Use Permit. However, SMARA requires that all surface mines have an approved Reclamation Plan.

As required by the California Surface Mining and Reclamation Act (SMARA), a Reclamation Plan was approved by Santa Clara County for the Quarry in June 2012, amending the previous Reclamation Plan from 1985. The 2012 Reclamation Plan covers the quarry pit, West Materials Storage Area, Rock Plant to the southeast of the mining pit, the East Materials Storage Area (EMSA), the Permanente Creek Restoration Area (PCRA) disturbance, and Exploration Areas.

The current Reclamation Plan does not to the nearby cement plant operations. The cement plant was, and continues to be, operated under a Use Permit originally issued on May 8, 1939 by the County that authorizes the “erection, construction and operation of a cement mill and the storage of cement...” An August 23, 2007 letter from the Department of Conservation’s Office of Mine Reclamation confirmed that the cement plant is not part of the Permanente mining operation.

### **2012 RECLAMATION PLAN**

The 2012 Reclamation Plan covers approximately 1,238.6 acres, includes the Main Pit, WMSA, EMSA, Rock Plant, Rock Crusher and Support Area, Permanente Creek PCRA, and South Quarry Exploration Area, and includes stockpiles, processing areas, roads, support features, and other facilities.

The 2012 Reclamation Plan supersedes the 1985 Reclamation Plan, and includes 89 Conditions of Approval (COAs). Specifically, Reclamation Plan COA #8 requires that the County prepare an Annual Report that summarizes compliance with the Reclamation Plan and the associated conditions of approval.

The first such Annual Report, Annual Report has been prepared in compliance with COA #8 of the Reclamation Plan and should be accepted by the Planning Commission.

### **SUMMARY OF 2012 RECLAMATION PLAN**

The Reclamation Plan is for a 20-year period to satisfy the reclamation requirements of SMARA. Reclamation Plan activities will be implemented in three phases as summarized below:

- Phase I would occur over approximately nine years and involves reclamation activities in the EMSA and continued mining activities in the WMSA and Quarry Pit. Reclamation activities in the PCRA would begin.
- Phase II would occur over approximately five years and includes reclamation activities within the WMSA, Quarry Pit, and PCRA. During Phase II, the WMSA overburden stockpile will be moved via a conveyor system to use as backfill of the Quarry Pit. The EMSA will be reclaimed during Phase II or sooner.
- Phase III would occur over approximately five years and involves continued reclamation activities in the PCRA and removal of equipment, buildings, and unnecessary roads from the Reclamation Plan Area.

#### **2012-2013 REPORTING YEAR OPERATIONS AND RECLAMATION PLAN ACTIVITIES**

Between June 2012 and July 2013, the operations in Reclamation Plan Area included continued mining and processing operations within the Quarry Pit, EMSA, WMSA, Rock Area, and Crusher/Support Area. Reclamation operations occurred within the PCRA, many of which addressed COAs required in the Reclamation Plan, which are described in more detail later. A summary of activities that have occurred within each of the Reclamation Plan areas is included below.

Activities within the Main Pit included the following:

- Mining was continued within the quarry.
- Vegetation was removed from the rim of the east wall and knob to allow for excavation within the mining limits.
- All runoff generated from disturbed active and inactive reclamation areas was diverted to sediment control facilities primarily via the haul road berm surrounding the quarry (see COA 78.f).
- Limestone-based check dams were removed and replaced with non-limestone materials (see COA 79.g).
- A roadway within the quarry pit was realigned.

Activities within the WMSA included the following:

- A small area had mining activities.
- All runoff generated from disturbed active and inactive reclamation areas was diverted to sediment control facilities primarily via the haul road berm surrounding the WMSA (see COA 78.f).
- Limestone-based check dams were removed and replaced with non-limestone materials (see COA 79.g).

- Topsoil and other soil stockpiles were treated with BMPs. The topsoil stockpile in the WMSA had wire-meshed silt fencing installed below, and straw wattles and erosion control blankets on the faces, and hydroseeding was applied (see COAs 27 and 78.b).

Activities within the EMSA included the following:

- Mining activities continued within the EMSA.
- All runoff generated from disturbed active and inactive reclamation areas was diverted to sediment control facilities primarily via the haul road berm surrounding the EMSA (see COA 78.f).
- Drainages were lined with non-limestone material, and pipes were replaced or repaired.
- Non-limestone materials were used to segregate any fines from entering the known watercourses.
- Non-limestone materials brought in from off-site were tested for selenium to determine suitability prior to acquisition and placement.
- Limestone berms along ditches were replaced with greenstone rock and boulders of larger size for vehicle safety.
- Signage was installed so as to not disturb the non-limestone materials (see COA 78.e, 78.h, and 78.k).
- Erosion control measures, such as silt fencing and hydroseeding, were installed at a stockpile in the EMSA (see COA 27 and 78.b).

### **COMPLIANCE WITH CONDITIONS OF APPROVAL**

When the Reclamation Plan was adopted on June 26, 2012, it included 89 COAs, which include the mitigation measures set forth in the MMRP from the EIR prepared for the Reclamation Plan beginning at COA 42. The compliance status of each of the COAs is documented Chapter 3 of the Attached Annual Report. In addition, Lehigh submitted a compliance report to the County on August 30, 2012, which is included in Appendix D of the Annual Report

The Annual Report describes how compliance requirements have been met and when documentation of compliance has been received. Appendix D of the Report provides a table that describes compliance with each COA in detail.

### **SMARA COMPLIANCE STATUS**

With the approval of the Reclamation Plan by the Santa Clara County Board of Supervisors on June 26, 2012, past SMARA violations were resolved. SMARA Inspections occurred on September 6-7, 2012; December 20, 2012; and September 26-27, 2013. The SMARA inspections found that the quarry was in compliance with SMARA. There were no violations and the mine complied with the 2012 Reclamation Plan.

## FINANCIAL ASSURANCE REVIEW

The October 2012 Reclamation Plan Financial Assurance Cost Estimate (FACE) was reviewed and certified by the County. The Financial Assurance for reclamation currently held with the County of Santa Clara is in the amount of \$51,391,835.00. This was a 2.8 percent increase over the July 2012 Financial Assurance.

## ATTACHMENTS

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ATTACHMENT 1 – Annual Report & Appendices (on CD)

ATTACHMENT 2 – Public Correspondence received.

ATTACHMENT 3 – Source Documents regarding Compliance with Conditions of Approval can be accessed on the County of Santa Clara Department of Planning and Development Website at [www.sccplanning.org](http://www.sccplanning.org) under “Plans and Programs”, then “Surface Mining”, then “Permanente Quarry”



PUBLIC  
CORRESPONDENCE

LEHIGH SOUTHWEST CEMENT COMPANY

FILE 2250-10p (M1)-10EIR

PLANNING COMMISSION

NOVEMBER 21, 2013

Item No. 6

**Napier, Michele**

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**From:** JLucas1099@aol.com  
**Sent:** Wednesday, May 30, 2012 3:31 PM  
**To:** Rudholm, Gary  
**Subject:** Re: Lehigh Permanente Reclamation Plan - Santa Clara Planning Commission Pub...

Gary,

Dropped off groundwater charts with your receptionist just before noon today and hope you received them. Not sure if it will satisfy your commissioners as groundwater analysis has surprising range of unknowns.

Probably strongest point is made by Michael Nolan in his Permanente limestone quarrying USGS Report, which I flagged, that lack of vegetation contributes to volume of groundwater flow in quarry area.

Let me know if you have any questions on this submittal.

Libby

## Napier, Michele

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**From:** JLucas1099@aol.com  
**Sent:** Wednesday, November 13, 2013 10:16 AM  
**To:** Napier, Michele  
**Subject:** Re: SCC Planning Commission 11/21/2013 - File 2250 Lehigh Permanente Quarry

Michele,

As I am unable to attend SCC Planning Commission's November 21 meeting on Lehigh Permanente Quarry I would be grateful if you would remind Commissioners of their decision of June 7, 2012 to include monitoring wells in a groundwater management plan, under conditions of approval.

Limestone formations are known to often have extensive water bearing underground channels and reservoirs which, in the Monte Bello Ridge, Black Mountain location lie above deep Santa Clara's drinking water aquifer.

The prospect of contaminants from Lehigh Quarry pit operations making their way not only into Permanente Creek surface flows but into subterranean flows that percolate into Santa Clara's deep drinking water aquifers is highly probable and needs to be monitored and evaluated as close to the quarry source as possible.

The recent depth of excavation and the 20 some ponds that dot the operations site need an extensive and a sophisticated scientific management plan that, hopefully, you can persuade Santa Clara County's Board of Supervisors is long overdue.

I will forward letter submitted last year on this matter and hope that staff still has support reference data of maps and figures of percolation sediment contours and aquifers.

Thank you for your excellent level of understanding of water quality concerns presented by Lehigh Quarry and on your past actions in this reclamation plan review.

Libby Lucas  
174 Yerba Santa Ave.,  
Los Altos, CA 94022

## Napier, Michele

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**From:** JLucas1099@aol.com  
**Sent:** Tuesday, May 29, 2012 10:15 PM  
**To:** Rudholm, Gary  
**Cc:** JLucas1099@aol.com  
**Subject:** Lehigh Permanente Reclamation Plan - Santa Clara Planning Commission Pub. Hearing

Gary Rudholm, Senior Planner  
County of Santa Clara Planning Office  
County Government Center, East Wing  
70 West Hedding Street, San Jose, CA 95110

May 29, 2012

Dear Gary Rudholm,

At last week's, May 24, Public Hearing on Lehigh Permanente's Reclamation Plan a request was made by a member of the Santa Clara County Planning Commission for documentation on my testimony that I believed there exists extensive connectivity in groundwater underflow from quarry site to the unconfined aquifer zone where prime drinking water wells are located, and that monitoring wells for contaminants are needed in zone.

The geology of this area is complex and there is not one map or study to illustrate groundwater trajectory but rather one must review a composite of water source data. Aside from State Department of Water Resources charts of South Bay's unconfined areas and sub areas, in particular the extent of Santa Clara Valley's prime deep aquifer, there are significant indicators such as CalWater's well cluster at intersection of #85 and #280 and high water depths of 5 to 15 feet downhill from quarry evident in Santa Clara Valley Water District study.

The first school in Santa Clara County was located here and if reliable water source was not Heney Creek then there must have been year-round springs. De Anza's party rested here and viewed the Bay from Signal Hill. The colony of red-legged frogs have historically relied on extensive wetlands here, east of the cemetery and downhill from quarry. This anecdotal background only gives credibility to referenced geological surveys.

There are two reference points to be located to assess the width of the unconfined zone adjacent to eastern terminus of quarry operations which should be discernible on USGS and Department of Water Resources maps. But then there is the more complex concept of the multi layers of aquifers which constitute the deep Santa Clara Valley aquifer, and which are fed by the groundwater cascade that lies along these foothills. As you review this configuration I think you would agree that monitoring wells need to be at upper edge of the unconfined zone adjacent to eastern edge of quarry and eastern materials storage area to accurately assess contaminant loads in groundwater. To test solely at CalWater wellheads would only catch a fraction of flows.

The high percolation in Permanente Creek is separate from this groundwater flow and is illustrated by there being little or no flow below Foothill Expressway, and none by SCVWD's gage, downstream at Berry Ave., for most of year. Have included data to show Permanente is a flashy intermittent creek and believe selenium loaded pumping from quarry pits is absorbed in unconfined aquifer zone. The Regional Water Quality Control Board's monitoring would accurately show extent of contaminants here but measurements of creek water quality at Charleston Road will only reflect City of Mountain View urban runoff and irrigation of St. Francis H.S. playing fields, not benign residual flows from Lehigh Quarry that may be reaching San Francisco Bay.

In hopes that the attached maps and charts are sufficiently self-explanatory I will elaborate no further. Would like to express reservations on use of 63,000 tons of greenwaste, however, as understand it has more the properties of sawdust so is not likely to hold water from seeping down into quarry limesotne, and due to sterilization process to remove pathogens, it will not contain organic nutrients needed to establish plantings. Test plots need to be implemented before this major element of the reclamation plan is seriously considered.

Thank you for your consideration of this protracted submittal of documentation for Permanente groundwater. I will hand deliver data Wednesday morning to the County Planning Office.

Sincerely,

Libby Lucas,  
174 Yerba Santa Ave.,  
Los Altos, CA 94022

PS Original sources for this data were Ed Helley, USGS, and Tom Iwamura, SCVWD.

