

County of Santa Clara

Department of Planning and Development

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April 29, 2019

Ms. Erika Guerra
Environmental and Land Management Director
Hanson Permanente Cement, Inc.
Lehigh Southwest Cement Company
24001 Stevens Creek Blvd
Cupertino, CA 95014

FILE NUMBER: PLN19-0067
SUBJECT: Reclamation Plan Amendment
SITE LOCATION: 24001 Stevens Creek Blvd.
DATE RECEIVED: March 25, 2019

Dear Ms. Guerra:

The purpose of this letter is to inform you that the application for a Reclamation Plan Amendment ("Application") submitted by Lehigh Hanson, Inc. on March 25, 2019 is incomplete.

To complete the Application, Lehigh must submit the information listed below. In addition, this letter describes several areas of policy inconsistency between the proposed Reclamation Plan and applicable County requirements that are applicable in considering the Reclamation Plan.

I. Project Description

Lehigh Southwest Cement Company ("Lehigh") submitted a Reclamation Plan Amendment ("RPA") application on March 25, 2019. As described in the accompanying cover letter, the Reclamation Plan Amendment is submitted in response to the County's August 17, 2018 Notice of Violation (NOV). A previous Reclamation Plan Amendment responding to the August 17, 2018 NOV was submitted on November 26, 2018 and was subsequently withdrawn, as indicated in an email from Erika Guerra to Jacqueline Onciano on February 20, 2019. The March 25, 2019 RPA contains the following proposal and components:

1. Amend the Reclamation Plan for Permanente (Lehigh) Quarry, adopted by the Board of Supervisors on June 26, 2012, to add approximately 63 acres of land to the existing 1,238.6-acre reclamation plan boundary. The proposed boundary adjustment includes three new areas as follows:
 - a. Utility Road Area: This 1.3-acre area includes a pre-existing utility road and adjacent areas that was widened by Lehigh Permanente Quarry during 2018, used to

unlawfully haul aggregate between Lehigh and Stevens Creek Quarries, and was the subject of the August 17, 2018 NOV. An approximately one-quarter mile long, 11-foot wide Pacific Gas & Electric, Co. utility access road (“Utility Haul Road”) that was widened to approximately 40 feet in spring 2018 without County permission to allow Lehigh to haul unprocessed mined products (“greenstone”) from the Quarry to Stevens Creek Quarry. On August 17, 2018, the County of Santa Clara (“County”) issued Lehigh a Notice of Violation for, among other things, illegal grading of this haul road outside the 2012 Reclamation Plan boundaries. The County’s Notice enjoined any use of the haul road to transport minerals. The submitted RPA indicates that this road will be retained in its current form following reclamation to provide long-term access by public utilities and or Lehigh as needed. As described in the RPA application materials submitted March 25, 2019, this pre-existing roadway was previously limited to general-purpose access and utility company (Pacific Gas and Electric Company [PG&E] access to power lines in the area.

- b. Plant Quarry Road: This 5.4-acre area includes an approximately 3,600-foot segment of the existing Plant Quarry Road and adjacent areas. The existing road is one of the primary access roads connecting the eastern and western portions of the property. The correspondence submitted with the RPA indicates this road is being proposed for inclusion within the Reclamation Plan following feedback from the County observing use of this road for mining operations (hauling of aggregate). The submitted RPA indicates that the Plant Quarry Road would be retained following mining operations and reclamation to provide long-term access by public utilities and/or Lehigh as needed.
- c. Maintenance Roads: This 4.2-acre area includes existing maintenance roads located west of the utility road area. According to the RPA, these existing roads are used for general maintenance and site access and would be retained following mining operations to provide long-term access by public utilities and or Lehigh as needed.

The Utility Road (aka Utility Hall Road) and the proposed Plan Quarry Road (aka Rock Plant Haul Road) both involve mining-related ground disturbances in unincorporated areas of the County outside the 2012 Reclamation Plan boundaries for the Quarry. In addition to these areas, both haul roads involve mining-related ground disturbances on the following properties: (1) a portion of Lehigh’s property located within the incorporated limits and jurisdiction of the City of Cupertino (APN 351-10-017) and (2) a portion of Stevens Creek Quarry’s property (APN 351-10-019). The Utility Road connects Lehigh Quarry with Stevens Creek Quarry, located at 12100 Stevens Canyon Blvd., Cupertino, CA 95014.

II. Incomplete Comments / Required Submittal Information

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

Planning

1. Apply for a Major Reclamation Plan Amendment, including payment of additional fees associated with a Major Reclamation Plan Amendment application.

The submitted application and associated fee were for a Minor Reclamation Plan Amendment. Upon review of the submitted RPA, the Department of Planning and Development has determined that the RPA does not meet the criteria outlined under County Zoning Ordinance § 4.10.370 (I) (3) (a) for a Minor Reclamation Plan Amendment because the proposed RPA does not involve minor changes, such as those that improve drainage, entail modification to reclamation plan boundaries to incorporate areas disturbed prior to January 1, 1976, or approval of interim management plan for idle mines. The proposed RPA will be processed as a Major Reclamation Plan amendment, and the difference in fees of \$1,761.75 must be paid at the time of application resubmittal.

2. The application includes a petition for Use of Prior California Environmental Quality Act (CEQA) document, but the required fee was not submitted with the application. The fee of \$531.00 must be paid at the time of application resubmittal.
3. The total fee required with the resubmittal is \$2,292.75 (\$1,761.75 + \$531.00).
4. Submit a biological resources report prepared by a qualified biologist that clearly identifies the number of trees and the amount of oak woodland that was removed as part of the haul road construction for the "Utility Road Area" within the RPA. The biological resources report shall also clearly identify the amount of habitat for endangered, threatened, or rare wildlife or plants that was removed as part of the haul road construction.

Geology

5. Submit a grading plan that clearly identifies how steep fill slopes will be reconfigured so that they will be no steeper than 2:1 (horizontal: vertical) in order to provide long-term stability (Factor of Safety > 1.0) under earthquake loading conditions. Please provide this with the resubmittal.

III. Policy Consistency Feedback

The following comments provide feedback regarding consistency of the proposed RPA with applicable County and Surface Mining and Reclamation Act policies and standards:

1. The submitted RPA states the existing utility road will be retained in its current form following reclamation to provide long-term access by public utilities and Lehigh, as needed. The utility road now consists of a 30-foot wide road that was expanded to allow the delivery of aggregate between Lehigh Quarry and Stevens Creek Quarry. Prior to its modification in 2018, which resulted in the August 17, 2018 NOV, this utility road was approximately 12 feet in width and used as a utility road by Pacific Gas and Electric. The proposed retention of this road in its existing condition is incompatible with the approved post-reclamation land use of open space, as described within the 2012 Reclamation Plan.

Revise the Proposed RPA to indicate the utility road will be reclaimed to its prior width or provide documentation from PG&E stating that the road is required within its current form at its current improved width for use as a utility road for access and condition, including submittal of the PG&E access easement.

If the utility road is proposed to be maintained in its current form, submit a viewshed analysis that shows the visibility of the existing roads from public roadways.

2. The submitted RPA states the existing Plant Quarry Road will be retained in its current form following reclamation. Retention of this road is incompatible with the approved post-reclamation land use of open space, as described within the 2012 Reclamation Plan. Revise the reclamation plan amendment showing reclamation of these roads consistent with the open space land use.
3. The proposed RPA boundary adjustment includes a 4.2-acre Maintenance Road area located west of Stevens Creek Quarry. This area is not addressed in the August 17, 2018 NOV or within County feedback regarding use of the Plant Quarry Road for mining operations. As such, it is not clear why Lehigh is proposing to amend the Reclamation Plan to include this area. Separately, Lehigh has recently submitted a pre-application for a major modification to its existing Reclamation Plan that indicates new surface mining will occur in close proximity to this area. As this proposed modification does not address current areas subject to surface mining and may be associated with a future proposal for surface mining that has not yet been approved, the County cannot support approval of this proposal. Please modify the RPA to remove this area from the application.

IV. Other Agency Comments

California Department of Fish and Wildlife

California red-legged frogs (CRLF) are known to occur, and habitat is present, within Permanente Creek and may also be present within riparian areas adjacent to the utility road. CRLF are known to disperse up to 2 miles from riparian habitat. To avoid impacts to special status species, maintenance activities should occur during the dry season to avoid time periods in which CRLF, or other special status amphibians, may be distributing during periods of rain. Additionally, preconstruction surveys should be conducted 48 hours prior to maintenance work. Any special status species present should be left to leave the area on their own or California Fish and Wildlife (CDFW) and/or US Fish and Wildlife Service (USFWS) should be contacted if relocation may be needed. Response to this issue should be included in the resubmittal.

As indicated in the August 17, 2018 NOV, widening of the utility road to serve as a haul road between Lehigh Permanente and Stevens Creek Quarry included grading of the road both within the unincorporated area (APN 351-10-033) and the City of Cupertino (APN 351-10-017). Authorization of the grading and restoration of the road within the City's jurisdiction is subject to the City's approval.

Prior to resubmittal, please contact me to schedule an appointment to discuss your responses to the comments above. A resubmittal appointment is required; partial resubmittals will not be accepted. If the requested information is not submitted within 180 days, an additional 10% fee will be applied upon resubmittal. All requested information must be submitted no later than one (1) year from the date of this letter.

If you have any additional questions regarding this application, please contact me at robert.salisbury@pln.sccgov.org / (408) 299-5785.

Sincerely,



Robert Salisbury
Senior Planner

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
Kristina Loquist, Office of Supervisor Simitian, County of Santa Clara
Paul Fry, Engineering and Geology Unit Manager, Division of Mine Reclamation
Roger Lee, Acting Public Works Director, City of Cupertino

