

County of Santa Clara

Department of Planning and Development
Planning Office

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September 18, 2020

****Sent via email only****

Erika Guerra
Environmental and Land Management Director
Lehigh Hanson, Inc. .
24001 Stevens Creek Blvd
Cupertino, CA 95014
Email: erika.guerra@lehighhanson.com

Re: Records Reviewed by the Department of Planning and Development for the August 5, 2020 Memorandum to the Board of Supervisors

Dear Ms. Guerra:

As a follow up to the August 19, 2020 meeting between the County of Santa Clara, Department of Planning and Development (“County” and “Department”) and representatives of Lehigh Southwest Cement Company and Hanson Permanente Cement, Inc. (collectively, “Lehigh”) regarding Lehigh’s 2019 Permanente Reclamation Plan Amendment and the proposed expansion surface mining activities consistency with Lehigh’s vested rights, Lehigh requested that the Department provide Lehigh with the documents that the Department reviewed to prepare the August 5, 2020 Memorandum to the Board of Supervisors called *Proposal to evaluate the consistency of proposed surface mining activities at Lehigh Permanente Quarry with vested rights* (“Memo”). A copy of the Memo is attached for reference. A listing of the documents the County reviewed to prepare the Memo are listed below and are all accessible on the County’s website by clicking the hyperlinks in the document titles, except the mineral commodity production information provided to the County by Lehigh that is on file with the County.

I. County Documents

[May 2019 Amended Reclamation Plan](#)

The County’s review of this record included the annual production amount identified in Table 1, “Reclamation Plan Requirements Summary,” and geographic area of disturbance identified on Figure 4.

[January 27, 2011 Staff Analysis \(Attachment to February 8, 2011 Board Report\)¹](#)

The County's review of this record included the following information:

- ▶ “In 1988, Kaiser Cement proposed to install a portable sand and gravel plant to crush excess rock and produce aggregate for sale. Correspondence between the Quarry and the County discusses whether this activity was within the scope of the Quarry's legal nonconforming use, and the County Planning Department ultimately determined that it was. Staff has been unable to locate any documentation specifically detailing the basis of this conclusion” (Page 17).
- ▶ “...the documentation indicates that County staff concluded on several prior occasions that there was a legal nonconforming use for quarrying on the Quarry property. These conclusions appear to be based simply on the fact that quarrying began before 1937. With respect to the geographical extent of the legal nonconforming use, the 1971 County Counsel opinion stated that the nonconforming quarrying operations could expand throughout the entire “original parcel” of land, but could not expand to a “second parcel.” But what the terms “original parcel” and “second parcel” were intended to refer to is unclear. County staff also determined that the rock crushing and aggregate sales were within the scope of the Quarry's legal nonconforming use for quarrying” (Page 19).
- ▶ “... there is also a cement manufacturing operation located on the Quarry property that is governed by a use permit that was first issued in May 1939 (County File No. 173.023)” (Page 1).
- ▶ “State records indicate that limestone quarrying along Permanent[e] Creek in the subject area began as early as 1906. Kaiser Corp. acquired the site in [the] 1930's and began quarrying and cement processing in 1939. The quarrying activity has been continuous since that time” (Page 16).

[February 8, 2011 Board of Supervisors Hearing Staff Report – Vested Rights](#)

The County's review of this document included the following information:

- ▶ “The Permanente [Lehigh] Quarry is a limestone and aggregate mining operation in the Santa Clara Foothills... The mine has a single, very large pit where limestone and aggregate are quarried” (Page 5).
- ▶ “The County Geologist analyzed aerial photos from relevant time periods to identify all quarrying-related disturbance, including excavation, exploration, roads, and cuts/fills” (Page 3).

¹ The County's review included the records presented to the Board of Supervisors as part of the 2011 vested rights determination and the County's citation to records herein is not exhaustive of all the records reviewed. The County reserves the right to cite to additional documents presented to the Board as part of the 2011 vested rights determination.

- ▶ “The geographic extent of areas of disturbance as of 1948 are shown on [Exhibit 54](#), this includes Parcels 2 through 9, 11, and 16” (Page 3).
- ▶ “... a cement manufacturing operation located on the Quarry property that is governed by a use permit issues in May 1939” (Page 5).

[2011 Reclamation Plan Amendment](#)

The County’s review of this document included the following information:

- ▶ “The Quarry primarily produces limestone for cement production and low calcium carbonate limestone for construction aggregate uses. In this document, “limestone” refers to cement-grade limestone, and “aggregate” means other limestone grades and greenstone suitable for use in construction aggregate products. “Overburden” refers to overburden and rock materials that are not suitable for use as limestone or aggregate” (Page 25).
- ▶ “The total anticipated production of aggregate and limestone is estimated at 35-45 million tons. The maximum anticipated depth of the North Quarry excavation is 440 feet mean sea level” (Page 26).
- ▶ “The Crusher and Support Area is an existing area which contains primary and secondary crushing stations, Quarry offices and maintenance areas. The Crusher and Support Area is located to east of the North Quarry and to the west of the EMSA. This part of the Quarry currently totals approximately 60 acres and serves as a general support area for ongoing operations. Approximately 7 acres of the Crusher and Support Area will be incorporated into the North Quarry under this Amendment, reducing the final acreage to approximately 53.4 acres” (Page 27).

[2011 Reclamation Plan Amendment Draft Environmental Impact Report](#)

The County’s review of the document included the following information:

- ▶ “The Quarry has a vested right to conduct surface mining activities in the Quarry pit, WMSA, EMSA, crusher/ Quarry office area, surge pile, and Rock Plant. No County permit is required to mine these areas” (Page 2-5).

“Surface mining includes the process of obtaining minerals such as rock or aggregate materials by removing topsoils and overburden (i.e., rock materials that are not suitable for use as limestone or aggregate) and excavating mineral commodities using excavators, drilling and blasting; hauling of materials using trucks and conveyors; and then processing of the materials using a primary crusher and the Rock Plant” (Page 2-5).

[1939 Report on Tonnage and Composition of Limestone Available in Proposed Quarries A and B](#)

The County’s review of the document included the description of mineral compositions at the Lehigh Quarry.

[1947 California Journal of Mines and Geology](#)

The County’s review of the document included the description of pre-1948 mining practices at the Lehigh Quarry (Page 313).

[1954 California Journal of Mines and Geology](#)

The County's review of the document included the description of mining production at the Lehigh Quarry from 1939-1952, including sale of "[l]ow-grade rock . . . as crushed stone" (stating that "limestone contained black chert, shale, and clay, and that the waste from these impurities caused extra expense in quarrying the rock. Production for this usage continued intermittently until 1934" (Page 365).

[1943 The Permanente News](#)

The County's review of the document included the description of mining operations at the Lehigh Quarry.

[1988 Letter to the County department of Planning and Development F.A. Nelson \(February 2\)](#)

The County's review of the document included the proposal to install new equipment for crushing of waste quarry products.

[1988 Letter to County department of Planning and Development from F.A. Nelson \(March 1\)](#)

The County's review of the document included the listing of commercial rock sales from 1985-1987, including the sale of "un-processed" rock.

[1988 Letter to County department of Planning and Development from F.A. Nelson \(March 29\)](#)

The County's review of the document included the letter from zoning administrator confirming that installation of portable sand and gravel plan does not require land use approval due to status a legal nonconforming use, stating that "this same material is sometimes sold, and this new operation will just make it more marketable."

[Appendix G, Vested rights Affirmations, Kaiser Reclamation Plan Application](#)

The County's review of the document included the description of historical land use (PDF Page 71) and operations and stating that "other rock types, and limestone not currently utilized in cement manufacture are either crushed and conveyed to the commercial rock plant or hauled directly to the materials storage area for potential use in the future" (PDF Page 74).

II. County Ordinance Code

The County reviewed the following section of the Ordinance Code:

[Section 4.10.370 Part II \(A\)\(9\)\(d\)\(ii\)](#): "Maximum depth of excavation shall not be below existing streambed or groundwater table except in such cases where the reclamation plan indicates that a lake or lakes will be part of the final use of the land or where such plan indicates that adequate fill to be used to refill such excavation to conform to the approved reclamation plan"

Section 4.10.370 Part II (B)(1): "Any proposed expansion of any existing surface mining operation that constitutes a substantial change in such operation by exceeding the terms and conditions of a previously granted use permit for the operation, or by exceeding the extent of a

vested right to such use, shall be subject to the provisions of Chapter 5.65 and a use permit and reclamation plan shall be required for such activity.”

III. MINERAL COMMODITY PRODUCTION

The County reviewed Mineral Commodity Production from 1991-2019 that was provided to the County by Lehigh.

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

Sincerely,

DocuSigned by:

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Rob Eastwood AICP
Planning Manager

Attachment

1) August 5, 2020 Memorandum to the Board of Supervisors

cc: Jacqueline Onciano, Planning Director, 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