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Marina Rush, Planner III
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County of Santa Clara
70 West Hedding St
San Jose, CA 95110

RE: Permanente Quarry Reclamation Plan,
Condition of Approval 39 (Limestone Boulders)

Dear Ms. Rush:

This provides an update to the Planning Department on Lehigh Southwest Cement Company's investigation and efforts to remove limestone boulders in portions of Permanente Creek. Lehigh undertook these efforts in compliance with Condition No. 39 of the June 26, 2012 Conditions of Approval (COA). As explained below, Lehigh has satisfied the requirements of COA 39.

COA 39 is intended to address water quality concerns to the extent that limestone boulders within Permanente Creek have a potential to leach selenium to surface waters. The condition is applied in conjunction with Attachment J to the Reclamation Plan, which establishes certain best management practices for this activity. In general, COA 39 requires Lehigh to mark and remove boulders unless such removal:

> (a) has the potential to significantly destabilize the creek channel or increase the mobilization of sediment in surface waters, and (b) an evaluation indicates the boulder is not a significant source of selenium.

To satisfy this condition, Lehigh retained a qualified geologist to survey Permanente Creek within the Reclamation Plan Boundary and identify limestone boulders of possible human origin (as previously documented, native limestone formations exist within the creek and form portions of the creek bed itself). The survey resulted in the identification of 35 boulders, or boulder clusters, believed to be potentially subject to COA 39.

Next, Lehigh undertook to identify boulders that could be removed without destabilizing the creek or increase sedimentation in the creek. In this regard, it has always been a concern that the lack of creek access, combined with the steep and vegetated hillsides, may prevent boulder removal except by heavy equipment that could damage the creek. Ultimately, Lehigh identified at least one boulder that could potentially be removed by hand.

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Lehigh also performed a study of the amount of selenium likely generated by limestone boulders in the creek, to determine whether there was any potential for water quality impacts. The October 2012 study found that the boulder's probable impact, after factoring their surface area and annual precipitation, was nearly immeasurable and in any event far less than the applicable California water quality objective for chronic conditions of 5.0 micrograms/liter of selenium. We understand that the County's independent consultants have reviewed this study and agreed with its findings.

Lehigh asked its consultants to investigate the potential removal of the one boulder by hand. Based on this investigation, Lehigh and its consultants conclude that a request for authorization from the California Department of Fish and Wildlife under Fish & Game Code section 1602 is necessary to evaluate the potential impacts to the creek for its removal since removal by hand is not possible due to the conditions mentioned above.

Based on the foregoing, Lehigh has satisfied the requirements of COA 39. Lehigh has exhausted its efforts to remove boulders by other than mechanical means. Further removal will require equipment that has a potential to destabilize the creek channel and mobilize sediments. Our studies confirm that the boulders are not a significant selenium source. In short, the potential creek damage from further removal efforts far outweighs any adverse effect of leaving boulders in place. We also note that many of the marked boulders are likely to be removed as part of the future creek restoration, although it is not possible to specify those boulders with any certainty until the creek restoration plans are finalized.

We thank the Department for its continuing attention to this matter.

Gregory Knapp
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