

**SUPPLEMENTAL INFORMATION
ITEM NO. 5**

From: [Guerra, Erika \(San Ramon\) USA](#)
To: [Planning Commission](#)
Subject: [EXTERNAL] December 19, 2019 Planning Commission Meeting - Agenda Item No. 5
Date: Wednesday, December 18, 2019 10:31:22 PM
Attachments: [12-18-19 Letter to Planning Commission \(as submitted\).pdf](#)

Planning Commission Members,

Attached please find a letter for submittal to the Planning Commission meeting on December 19, 2019 for Agenda Item No. 5.

Thank you,

Erika Guerra

December 18, 2019

VIA EMAIL:
planning.commission@pln.sccgov.org

Marc Rauser, Chairperson
Santa Clara County Planning Commission
70 West Hedding Street
San Jose, CA 95110

Re: Permanente Quarry
December 19, 2019 Public Hearing Re Annual Report
Agenda Item No. 5

Dear Chairperson Rauser and Members of the Commission:

On behalf of Lehigh Southwest Cement Company, I would like to thank the Planning Commission and staff for their attention to the annual report for the Permanente Quarry. We are writing to correct, for the record, the following information contained in the annual inspection report and within the Planning Commission staff report:

1. The staff report states, on page 5, that nine (9) exceedances of the 5 ug/L selenium water quality standard occurred during the reporting period. This is inaccurate. The data provided to the County by Lehigh as part of its annual report (see Attachment A, September 25, 2019 Golder Technical Memorandum) documents only one (1) exceedance on April 24, 2019. This exceedance resulted from communication failures between the treatment plant's control systems, which triggered an emergency shutdown in the system. Lehigh has corrected the issue through improvements to the system's electrical system and system software. Lehigh properly reported the exceedance and underlying circumstances to the San Francisco Bay Regional Water Quality Control Board ("SFRWQCB"). County staff appears to have incorrectly interpreted intra-facility water quality data in the annual report as exceedance of the SFRWQCB's discharge permit. Lehigh would be pleased to follow up with staff to clarify this issue.

2. The staff report states, on page 7, that Lehigh requested a code enforcement hearing on October 22, 2019, and that such a hearing took place. Neither is correct. Lehigh did not request a hearing on October 22, 2019. Lehigh requested a meeting with County staff on that date to discuss a time schedule for corrective actions that would resolve the June 13, 2019 notice of violation pursuant to the process set forth in the County code for alleged reclamation plan

violations. Staff unexpectedly sought to hold a “hearing,” believing that Lehigh had arrived to further formally contest the notice of violation, and Lehigh explained to staff that the requested meeting was not for that purpose that Lehigh had not requested a hearing, and a hearing did not ultimately take place. Lehigh then took the opportunity to explain that it completed all required corrective actions, and, on October 29, 2019, provided staff with a draft “stipulated order to comply” acknowledging this.

3. The staff report states, on page 7, that the County is waiting for a direct response from Lehigh concerning the County’s draft Stipulated Order to Comply. This overlooks two important points. First, Lehigh has, on several occasions in the past month, requested to meet with the County to discuss a final resolution of the June 13, 2019 notice of violation, and County staff has thus far refused to commit to this meeting. Second, the County’s draft Stipulated Order to Comply does not function as a “stipulated order to comply” under the Surface Mining and Reclamation Act, or the County’s own surface mining ordinance, because it does not track the corrective actions in the June 13, 2019 notice of violation and raises wholly new requirements not contained in that notice. We still wish to meet with staff to resolve these procedural issues.

4. The staff report states, on page 7, that it is “coordinating with” the SFRWQCB regarding the abatement of the sediment discharges identified in the County’s June 13, 2019 notice of violation. While Lehigh appreciates there is some level of coordination between the County and the SFRWQCB with respect to this facility, Lehigh also notes that on November 22, 2019, SFRWQCB staff requested to be removed from the County’s Stipulated Order to Comply, noting that the SFRWQCB’s process and analysis is separate and distinct from the County’s.

Lehigh appreciates the opportunity to submit this comment and looks forward to providing the Planning Commission and Planning staff with any additional information that may be requested.

Sincerely,



Erika Guerra
Environmental and Land Management Director
Lehigh Southwest Cement Company