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February 24, 2011

Cris Carrigan, Esq.  
Senior Staff Counsel, Office of Enforcement  
State Water Resources Control Board  
1001 I Street, 16th Floor [95814]  
P.O. Box 100  
Sacramento, CA 95812-0100

Re: Lehigh Southwest Cement Company - Notice of Violations and  
Requirement to Obtain Coverage for Discharges to Waters of the U.S.  
under Different Permit,

Dear Mr. Carrigan:

On behalf of Lehigh Southwest Cement Company (“Lehigh”), we acknowledge receipt of the above-referenced Notice of Violation dated February 18, 2011. Further, we confirm our agreement that representatives of Lehigh and the Regional Water Board will meet on March 15, 2011 to discuss this matter.

At the outset, Lehigh acknowledges the authority of the Regional Water Board under the General Industrial Storm Water Permit to reevaluate Lehigh’s discharges and to determine that Lehigh’s discharges must be covered under a permit mechanism other than the General Industrial Storm Water Permit. Lehigh representatives are evaluating the permit alternative the NOV describes and look forward to discussing it with Regional Board staff at the March 15 meeting. The Lehigh Permanente site is large and complex. Lehigh is committed to working closely with the Regional Board staff to address these complexities and develop a permit mechanism that will protect water quality and that supports Lehigh’s operations and this site.

In particular, Lehigh welcomes the opportunity to meet with Regional Board staff to discuss these matters. We find it very unfortunate that the Regional Board did not accept our requests to meet and discuss these matters over the past year, putting the parties in a more adversarial situation with the issuance of this NOV. We reiterate Lehigh’s strong desire to work with the Regional Board to find alternative solutions looking forward. However, Lehigh must, in the strongest terms, dispute the

allegations of the NOV and object to its characterizations of Lehigh's compliance. Contrary to these allegations, Lehigh has not been discharging without authorization under the General Permit. Rather, Lehigh's position is that its storm water and nonstorm water discharges are authorized currently under the General Permit. These discharges are described in the Storm Water Pollution Prevention Plan and are properly reported and monitored under the facility's Storm Water and Non-Storm Water Discharge Monitoring Plan. The Regional Board has been actively involved in storm water and nonstorm water management at the Permanente facility for years, including management of those specific nonstorm water discharges that the NOV now asserts are inconsistent with the General Permit. Again, we recognize the Regional Board's authority to determine now that a different permit mechanism is most appropriate for all or part of this facility. However, the record of interaction between Lehigh and its predecessors with the Regional Board staff reflects that the Regional Board has supported the use of the regulatory and management mechanisms in the General Industrial Storm Water Permit to manage storm water and nonstorm water discharges as the correct mechanism for the Lehigh facility—for many years up until now.

Further, we must object to the Regional Board's allegations of recalcitrance regarding Lehigh's response to the March 2010 Notice of Violation. As explained in Lehigh's April 19, 2010 response, Lehigh corrected many items identified during the inspection even before receiving the March NOV. However, it also was necessary to submit a clarification of facts and circumstances that were not accurately stated in the March NOV. Recognizing that Regional Board staff and Lehigh had different understandings regarding some of these items, Lehigh asked for a meeting to discuss our response, so that we could come to a common understanding of Lehigh's operations and work out those differences. Since then, Lehigh has repeatedly requested meetings with Regional Board staff to discuss and resolve these issues. Those requests have been ignored. We are disappointed that the Regional Board refused Lehigh's meeting requests and then waited until now to provide its May 2010 inspection report characterizing Lehigh's actions as inadequate.

Finally, the NOV incorrectly characterizes Lehigh's December 13 response to the Regional Board's 13267 Order as evidence of Lehigh's misinterpretation of the authority under the General Permit regarding its nonstorm water discharges, which are detailed in Lehigh's SWPPP and Lehigh's Storm Water and Nonstorm Water Monitoring Plan. Until Lehigh received the NOV, there had never been any indication whatsoever that Lehigh's implementation of the General Permit was anything but consistent with the interpretation of the Regional Board. For many years, Lehigh and its predecessors have corresponded with the Regional Board about

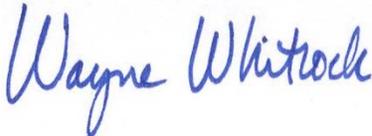
the nonstorm water discharges in particular and have discussed them repeatedly with Regional Board staff during inspections.

Thus, when Lehigh submitted its March 2010 Report of Potential Exceedance regarding the finding of selenium, that Report followed each applicable requirement of the General Permit. As contemplated in the General Permit, the Report made extensive proposals for additional studies to identify potential sources of what appears to be naturally occurring selenium as well as for the development of additional Best Management Practices. However, these actions could not be implemented because the General Permit required Regional Board approval. Again, Lehigh repeatedly requested meetings with Regional Board staff to discuss its proposals. Until now, the Regional Board never acknowledged this Report, let alone approve Lehigh's proposed studies and BMP plan. As a result, we do not yet have the results of the proposed studies that could help address the issues of concern.

There are many other allegations in the NOV that Lehigh disputes and that may require further response as we proceed. However, we see the March 15 meeting as an opportunity to focus with the Regional Water Board on developing a workable solution looking forward.

We look forward to meeting on March 15.

Sincerely,



Wayne M. Whitlock

cc: Ms. Dyan Whyte, Regional Water Board  
Ms. Shin-Roei Lee, Regional Water Board  
Ms. Christine Boschen, Regional Water Board  
Mr. Cecil Felix, Regional Water Board

Mr. Henrik Wesseling, Lehigh Southwest Cement Company  
Mr. Axel Conrads, Lehigh Southwest Cement Company  
Mr. Scott Renfrew, Lehigh Southwest Cement  
John Gillan, Esq., Lehigh Hanson, Inc.