



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street

San Francisco, CA 94105-3901

MAY 23 2012

CERTIFIED MAIL NO. 7010 0780 0000 6468 2124
RETURN RECEIPT REQUESTED

Mr. David Vickers
President
Lehigh Southwest Cement Company
12667 Alcosta Blvd.
Bishop Ranch 15
San Ramon, California 94583

Dear Mr. Vickers:

According to information available to Region IX of the United States Environmental Protection Agency ("EPA"), the Lehigh Southwest Cement Company ("Lehigh") owns portland cement plants located in Tehachapi, Redding, and Cupertino, California (individually the Tehachapi, Redding and/or the Cupertino "Facility" or, collectively, the "Facilities"), and each of the Facilities contains one kiln along with associated equipment to manufacture portland cement. The Facilities are subject to requirements of the Clean Air Act (the "Act" or "CAA"), 42 U.S.C. § 7401-7671q, and regulations promulgated thereunder. EPA has previously issued information requests to Lehigh for these Facilities. Upon review of the earlier responses by Lehigh, and pursuant to Section 114 of the Act, EPA requires that Lehigh submit the following additional information and documents to determine the compliance of the Facilities with the CAA requirements.¹

In responding to this request, as some of this requested data may be duplicative from an earlier request, you may update and resubmit the earlier provided data sheet(s) as appropriate to include the new data.

For the Tehachapi Facility:

1. Provide a table in electronic² format that includes the following daily data for the kiln for the period between January 1, 1985, and the present. For any gaps in data, indicate whether the kiln was operating or not and why there is a gap in the data.
 - a. Total production of clinker (in short tons);

¹ The conjunction "or" is at all times used in the inclusive sense in this letter, i.e., a question that refers to one or more items shall include each and every one of those same items.

² The electronic data requested in this request must be provided in editable Excel or Lotus format, and not in image format. If Excel or Lotus formats are not available, then the format should allow for data to be used in calculations by a standard spreadsheet program such as Excel or Lotus.

- b. Total mass of raw material feed to the kiln (tons);
 - c. Type of raw material and percentage of each type of raw material;
 - d. Mass of the cement kiln dust produced (short tons);
 - e. Hours of operation of the kiln;
 - f. Mass of non-clinker added in the finishing mill (tons);
 - g. Calendar year summaries of this information; and
 - h. A description of the data and methodology used in calculating the responses to Requests # 1.a through 1.g.
2. Based on data from continuous emissions monitoring systems (CEMS), continuous emission rate monitoring systems (CERMS) and/or continuous opacity monitoring systems (COMS), or if data from these are not available, any other data sources such as emission factors derived from source tests and production data, provide a table in electronic format that includes the following data for the kiln for each day from January 1, 1985 to the present. For any gaps in data, indicate whether the kiln was operating or not and why there is a gap in the data.
- a. Daily average emissions in total pounds per day for each operating day (midnight to midnight) for the following pollutants: nitrogen oxides (NO_x), sulfur dioxide (SO₂), carbon monoxide (CO), volatile organic compounds (VOCs), particulate matter (PM), and particulate matter less than ten microns (PM₁₀);
 - b. Calendar year summaries of this information; and
 - c. A description of the source of the data and methodology used in calculating the response to Request #2.a.
3. Provide the daily fuel use, by fuel type, for the kiln from January 1, 1985 through the present, including:
- a. The types and quantities of each fuel combusted;
 - b. The sulfur content in weight percent for each fuel;
 - c. The nitrogen content in weight percent for each fuel;
 - d. The heating value (in Btu/lb) of each type of solid or Btu/gallon for each type of liquid fuel; and
 - e. Calendar year summaries of this information.
4. Answer the following regarding each CEMS for measuring NO_x and SO₂ emissions and each CERMS measuring flow rate at the Facility:
- a. When was the CEMS/CERMS first installed and operated?
 - b. Where is the CEMS/CERMS located?
 - c. For each CEMS, when was it first certified pursuant to 40 C.F.R. Part 60 Appendix B Performance Specification 2?
 - d. Are the Quality Assurance Procedures in 40 C.F.R. Part 60 Appendix F Procedure 2 being performed at each CEMS?

5. Provide a table in electronic format, with annual information or data for each year from January 1, 1985 through the present that includes the following:
 - a. The total quantity of all clinker that was sent offsite from the Facility for finish grinding, along with an indication of how much was sent to each offsite location;
 - b. Describe why the clinker was sent offsite for finishing grinding; and
 - c. Identify any years where offsite finishing grinding capacity was less than the quantity of clinker that the Facility had to send offsite, the amount that supply outstripped offsite grinding capacity, and a description of what the Facility did with the extra clinker for that year.

6. Provide a detailed list and summary of those projects identified in Section 4.1 Finish Grinding Capacity Increase and Section 4.6 Optimization of the Tehachapi Master Plan, starting on Bates 001715 and 001765 of Lehigh's October 14, 2010 response to EPA's July 13, 2010 information request, which were completed, including the date of completion. For those projects completed, in part or whole, provide all capital appropriation requests,³ financial justifications, and authorizations, including attachments and addenda for the projects. In addition provide any and all documents, reports and/or correspondences referencing or discussing the impact of the project, once complete, on production at the Facility.
 - a. To the extent not already provided, for the projects identified with Number References 42, 19, 39, 40, 47, 48, 14, 51, 35, 44, 36, 53, 37, 30, 50, 28, 32, 34, 46, 24, 27, 29, 33, 12, 18, 20 in the spreadsheet containing Physical and Operational Changes at the Tehachapi Facility submitted in response to request # 7 of EPA's July 13, 2010 information request, provide the following:
 - b. Copies of all capital appropriation requests, financial justifications, and authorizations, including attachments and addenda, generated by or prepared on behalf of the Facility or its predecessors; and
 - c. Any and all documents, reports and/or correspondences referencing or discussing the impact of the project, once complete, on production at the Facility.

7. Provide a copy of the application and authority to construct issued by the Eastern Kern Air Pollution Control District for the construction of the current kiln.

8. Requests #16 and #17 of EPA's July 13, 2010 information request required Lehigh to provide daily data about air emissions from and clinker produced by the kiln at the Tehachapi Facility from 1985 forward. Lehigh's October 14, 2010 response included these data only back to 1997. Provide a complete response to EPA's initial request or explain why you were not able to previously provide the requested data.

³ The term "capital appropriation request" shall mean any document used by plant and other Lehigh personnel seeking management approval for planned expenditures at the Facility. These documents are also known as authorizations for expenditure, capital requests or by other similar names.

For the Redding Facility:

9. Provide a table in electronic format that includes the following daily data for the kiln for the period between January 1, 1985 and the present. For any gaps in data, indicate whether the kiln was operating or not and why there is a gap in the data.
 - a. Total production of clinker (in short tons);
 - b. Total mass of raw material feed to the kiln (tons);
 - c. Type of raw material and percentage of each type of raw material;
 - d. Mass of the cement kiln dust produced (short tons);
 - e. Hours of operation of the kiln;
 - f. Mass of non-clinker added in the finishing mill (tons);
 - g. Calendar year summaries of this information; and
 - h. A description of the data and methodology used in calculating the responses to Requests #9.a through 10.f.

10. Based on data from the CEMS, CERMS, COMS, or if data from these are not available, any other data sources such as emission factors derived from source tests and production data, provide a table in electronic format that includes the following data for the kiln for each day from January 1, 1985 to the present. For any gaps in data, indicate whether the kiln was operating or not and why there is a gap in the data.
 - a. The daily average emissions in total pounds per day for each operating day (midnight to midnight) for the following pollutants: nitrogen oxides NO_x, sulfur dioxide SO₂, carbon monoxide CO, volatile organic compounds VOCs, particulate matter PM, and particulate matter less than ten microns PM₁₀.
 - b. The calendar year summaries of this information; and
 - c. A description of the source of the data and methodology used in calculating The response to Request #11.a.

11. Answer the following regarding the CEMS for measuring NO_x and SO₂ emissions and the CERMS for measuring flow rate installed and operational at the Facility:
 - a. When were these monitors first installed and operated?
 - b. Where are these monitors located?
 - c. When were the CEMS first certified pursuant to 40 C.F.R. Part 60 Appendix B Performance Specification 2?
 - d. Are the Quality Assurance Procedures in 40 C.F.R. Part 60 Appendix F Procedure 2 being performed at these CEMS?

12. Provide daily fuel use, by fuel type, for the kiln from January 1, 1985 through the present, including:
 - a. The types and quantities of each fuel combusted;
 - b. The sulfur content in weight percent for each fuel;

- c. The nitrogen content in weight percent for each fuel;
 - d. The heating value (in Btu/lb) of each type of solid or Btu/gallon for each type of liquid fuel; and
 - e. Calendar year summaries of this information.
13. Provide the following specific information on the oxygen enrichment and/or injection equipment approved for use at the kiln and the 1998-2001 planetary cooler tube replacement projects:
- a. Identification of all oxygen equipment and/or hardware installed and/or used at the Facility, including manufacturer, part number, location, and specifications;
 - b. Description and dates of installation and initial operation of each piece of oxygen enrichment equipment as identified in response to Request #13.a;
 - c. The date that Lehigh permanently stopped injecting oxygen in the kiln or elsewhere at the Facility, and the reason for cessation of such operation;
 - d. The date and nature of any actual removal of any and all equipment or hardware from the Facility used for oxygen enrichment and/or injection;
 - e. Reports and data produced concerning the results and/or testing of the oxygen enrichment and/or injection equipment;
 - f. For the planetary cooler tubes replacement project, identification of all equipment and/or hardware installed and/or used at the Facility, both prior to the project and after, including manufacturer, part number, location, and specifications (material used for equipment's construction, size, etc.);
 - g. Description and dates of installation and initial operation of each new planetary cooler tube during the 1998-2001 replacement project;
 - h. Copies of any contracts or warranties for both the original planetary cooler tubes and the replacement tubes after the 1998-2001 projects; and
 - i. Copies of any documents discussing the planetary cooler tube replacement project and/or the production capacity of the Redding Facility both prior to and after the project.

For the Cupertino Facility:

14. Provide a table in electronic format that includes the following daily data for the kiln for the period between January 1, 1985 and the present. For any gaps in data, indicate whether the kiln was operating or not and why there is a gap in the data.
- a. Total production of clinker (in short tons);
 - b. Total mass of raw material feed to the kiln (tons);
 - c. Type of raw material and percentage of each type of raw material;
 - d. Mass of the cement kiln dust produced (short tons);
 - e. Hours of operation of the kiln;
 - f. Mass of non-clinker added in the finishing mill (tons);
 - g. Calendar year summaries of this information; and
 - h. A description of the data and methodology used in calculating the responses to Requests #15.a through 15.f.

15. Based on data from the CEMS, CERMS, COMS, or if data from these are not available, any other data sources such as emission factors derived from source tests and production data, provide a table in electronic format that includes the following data for the kiln for each day from January 1, 1985 to the present. For any gaps in data, indicate whether the kiln was operating or not and why there is a gap in the data.
 - a. Daily average emissions in total pounds per day for each operating day (midnight to midnight) for the following pollutants: nitrogen oxides (“NO_x”), sulfur dioxide (“SO₂”), carbon monoxide (“CO”), volatile organic compounds (VOCs), particulate matter (“PM”), and particulate matter less than ten microns (“PM₁₀”);
 - b. Calendar year summaries of this information; and
 - c. A description of the source of the data and methodology used in calculating
The response to Request #16.a.
16. The daily fuel use, by fuel type, for the kiln from January 1, 1985 through the present, including:
 - a. The types and quantities of each fuel combusted;
 - b. The sulfur content in weight percent for each fuel;
 - c. The nitrogen content in weight percent for each fuel;
 - d. The heating value (in Btu/lb) of each type of solid or Btu/gallon for each type of liquid fuel; and
 - e. Calendar year summaries of this information.
17. Provide the following in regard to the finish mills present at the Cupertino Facility before the HW roll press was put into service in or around 1988:
 - a. A description of the configuration of the finish mill;
 - b. Identification of the manufacturer and model number of each individual mill utilized at the finish mill;
 - c. The rated capacity of the overall finish mill as well as each individual ball mill utilized at the finish mill; and
 - d. Any documents or correspondences discussing the matters identified in Requests #18.a through 18.c.

In responding to this information request, if Lehigh seeks to withhold any document(s) based on a claim of attorney-client communications privilege or the attorney work product doctrine in its response to this information request, Lehigh must provide with its response a privilege log for each document containing the following information: (i) the date, author(s), every individual to whom the document was originally sent, every individual who subsequently acquired the document, the purpose for which the document was sent to or obtained by those individuals, and the employment titles of the authors and recipients; (ii) the subject matter of the document; (iii) the privilege claimed for the document and all facts supporting the claim of privilege; (iv) the primary purpose(s), including any business purposes, for which the document was made; (v) the

You may, if you desire, assert a business confidentiality claim on behalf of Lehigh covering part or all of the information provided to EPA in response to this letter as per Enclosure A. Any such claim for confidentiality must conform to the requirements set forth in 40 C.F.R. Part 2, particularly § 2.203, and contain substantiating documentary evidence. Lehigh shall submit all such confidential information on separate disks from non-confidential information. You are advised that certain information may be made available to the public pursuant to 42 U.S.C. § 7414(c) and 40 C.F.R. § 2.301, notwithstanding a claim that such information is entitled to confidential treatment. If no claim of confidentiality is received with your reply, the information may be made available to the public without notice to Lehigh.

This request for information is not subject to review by the Office of Management and Budget ("OMB") under the Paperwork Reduction Act because it is not an "information collection request" within the meaning of 44 U.S.C. §§ 3502(4) & (11), 3507, 3512 and 3518. Furthermore, it is exempt from OMB review under the Paperwork Reduction Act because it is directed to fewer than ten persons. 44 U.S.C. §§ 3502(4), (11); 5 C.F.R. § 1320.5(a).

If you have any questions regarding this request, please contact Charles Aldred, Air Enforcement Office, at (415) 972-3986, or your attorney can contact Ivan Lieben, Office of Regional Counsel, at (415) 972-3914. Thank you for your cooperation in this matter.

Sincerely,



Deborah Jordan
Director, Air Division

Enclosure

cc: David L. Jones, Eastern Kern APCD
Jack Broadbent, BAAQMD
Russ Mull, Shasta County APCD
James Ryden, CARB
Allan Rowley, Lehigh Tehachapi
Scott Renfrew, Lehigh Cupertino
James E. Ellison, Lehigh Redding
Colleen Doyle, Bingham McCutcheon LLP

request(s) in this information request to which the document is responsive to; and (vi) all facts contained in the document that are responsive to a request in this information request.

Lehigh must submit its response to this request postmarked no later than sixty ("60") calendar days after its receipt of this request. The Lehigh response must be signed by a responsible corporate official of Lehigh. Please be advised that the information provided by Lehigh may be used by the United States in administrative, civil, or criminal proceedings. If Lehigh anticipates that it will not be able to respond fully to this request within the time period specified, Lehigh must submit a sworn declaration by a responsible corporate official within ten (10) calendar days after receipt of this letter specifying what information will be provided by the allotted deadline, describing what efforts have been/are being undertaken to obtain the remaining other responsive information, and providing a detailed schedule of when such other responsive information will be provided. Upon receipt and based upon such declaration, EPA may extend the time in which to respond to this information request. Also, please contact EPA if Lehigh determines that a full response to a particular request for information would require the submission of an extremely large number of documents to be provided in response. Based upon such notification, EPA may modify the scope of the documents required to be produced.

Lehigh must provide data in electronic format (Excel format). Electronic data should not be in image format. The format should allow for data to be used in calculations by an Excel spreadsheet. Lehigh must provide copies of all other responsive documents as PDF files with Optical Character Recognition (i.e., searchable), and submit the responsive documents on a disk (2 copies as CD or DVD media) along with a cover letter that includes Lehigh's written responses to the requests via certified mail with return receipt requested to the following address:

Ms. Deborah Jordan
Director, Air Division
U.S. Environmental Protection Agency
75 Hawthorne Street
San Francisco, CA 94105

Attn: Charles Aldred (AIR-5)

Lehigh shall indicate on each document produced in response to this information request, or in some other reasonable manner, the number of the request to which it corresponds. To the extent that a document is responsive to more than one request, this must be so indicated and only one copy of the document need be provided. All documents produced shall be Bates stamped, or have an electronic Bates number inserted on each page.

Please be advised that under Section 113(a) of the Act, failure to provide the information and documents required by this letter may result in an order requiring compliance, an order assessing an administrative penalty, or a civil action for appropriate relief. Section 113(b) of the Act provides for the assessment of a civil penalty of \$37,500 per day for each violation of the Act. In addition, Section 113(c) of the Act provides criminal penalties for knowingly making any false material statement in, or omitting material information from, any report required under the Act.

Enclosure A
Confidential Business Information

You may assert a business confidentiality claim covering all or part of the information you provide in response to this information request for any business information entitled to confidential treatment under Section 114(c) of the Clean Air Act (the Act), 42 U.S.C. § 7414, and 40 C.F.R. Part 2, subpart B. Under Section 114(c) of the Act, you are entitled to confidential treatment of information that would divulge methods or processes entitled to protection as trade secrets. Under 40 C.F.R. Part 2, subpart B, business confidentiality means “the concept of trade secrecy and other related legal concepts which give (or may give) a business the right to preserve the confidentiality of business information and to limit its use or disclosure by others in order that the business may obtain or retain business advantages it derives from its rights in the information.” See 40 C.F.R. § 2.201(e).

The criteria EPA will use in determining whether material you claim as business confidential is entitled to confidential treatment are set forth at 40 C.F.R. §§ 2.208 and 2.301. These regulations provide, among other things, that you must satisfactorily show that: (1) the information is within the scope of business confidentiality as defined at 40 C.F.R. § 2.201(e), (2) that you have taken reasonable measures to protect the confidentiality of the information and that you intend to continue to do so, (3) the information is not and has not been reasonably obtainable by legitimate means without your consent, and (4) the disclosure of the information is likely to cause substantial harm to your business’s competitive edge. See 40 C.F.R. § 2.208 (a)-(d). Emission data, as defined at 40 C.F.R. § 2.301(a)(2), is expressly not entitled to confidential treatment under 40 C.F.R. Part 2, subpart B. See 42 U.S.C. § 7414(c); 40 C.F.R. § 2.301(e).

Information covered by a claim of business confidentiality will be disclosed by EPA only to the extent, and by means of the procedures, set forth in Section 114(c) of the Act and 40 C.F.R. Part 2, subpart B. EPA will construe your failure to furnish a business confidentiality claim with your response to this information request as a waiver of that claim, and the information may be made available to the public without further notice to you.

To assert a business confidentiality claim, you must place on (or attach to) all information you desire to assert as business confidential either a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as “trade secret,” “proprietary,” or “company confidential” at the time you submit your response to this information request. Allegedly confidential portions of otherwise non-confidential documents should be clearly identified, and may be submitted separately to facilitate identification and handling by EPA. You should indicate if you desire confidential treatment only until a certain date or until the occurrence of a certain event.

In addition, EPA is providing you notice that if you assert a claim of business confidentiality for information you provide in response to this information request, EPA will determine whether such information is entitled to confidential treatment, pursuant to 40 C.F.R. Part 2, subpart B. Accordingly, after EPA’s receipt of your business confidentiality claim, you will receive a letter inviting your comments on the following questions:

1. What specific portions of the information are alleged to be entitled to confidential treatment? Specify by page, paragraph, and sentence when identifying the information subject to your claim.

2. For what period of time do you request that the information be maintained as confidential, e.g., until a certain date, until the occurrence of a specified event, or permanently? If the occurrence of a specific event will eliminate the need for confidentiality, specify that event. Additionally, explain why the information should be protected for the time period you've specified.

3. What measures have you taken to protect the information claimed as confidential from undesired disclosure? Have you disclosed the information to anyone other than a governmental body or someone who is bound by an agreement not to disclose the information further? If so, why should the information still be considered confidential?

4. Is the information contained in any publicly available material such as the Internet, publicly available databases, promotional publications, annual reports, or articles? Is there any means by which a member of the public could obtain access to the information? Is the information of a kind that you would customarily not release to the public?

5. Has any governmental body made a determination as to the confidentiality of the information? If so, please attach a copy of the determination.

6. For each category of information claimed as confidential, explain with specificity whether disclosure of the information is likely to result in substantial harm to your competitive position. Explain the specific nature of those harmful effects, why they should be viewed as substantial, and the causal relationship between disclosure and such harmful effects. How could your competitors make use of this information to your detriment?

7. Is there any other explanation you deem relevant to EPA's determination of your business confidentiality claim that is not covered in the preceding questions? If so, you may provide such additional explanation.

See 40 C.F.R. § 2.204(e)(4). When you receive such a letter, you must provide EPA with a written response within the number of days set forth in the letter. EPA will construe your failure to furnish timely comments as a waiver of your confidentiality claim, consistent with 40 C.F.R. § 2.204(e)(1).