

Lehigh Permanente Quarry and Cement Plant Frequently Asked Questions

1. What County land use approvals/legal entitlements does Lehigh have?

The Permanente Quarry is a limestone and aggregate mining operation in the Santa Clara County foothills, located along a sinuous, roughly east-west trending ridge within the Santa Cruz Mountains, west of the City of Cupertino's jurisdictional limits. According to state records, mining began in the early-1900s. Mining of the single pit area is done pursuant to a legal nonconforming use.

Hanson Building Materials America acquired the site in 1987, and the name was changed to Hanson Permanente Cement in 1999. The mine is presently active with continued mining expected for another 20 to 25 years. The mine has a single, very large pit where limestone and aggregate are quarried. West of the mine pit is an overburden stockpile area known as "Area A." A much smaller area where overburden was placed and re-vegetated is east of the mine pit, known as "Area C." In 1975 the State of California adopted the Surface Mine and Reclamation Act, which mandates that all active surface mines have reclamation plans approved by the local jurisdiction. The County of Santa Clara approved the reclamation plan for the Permanente Quarry on March 7, 1985. This plan is valid for a period of 25 years, and will expire in March 2010.

The Lehigh Cement operation is separately authorized under a Use Permit. A use permit for the cement plant was first issued on May 8, 1939. The use permit was modified in June 1950 and May 1955 to add rotary kilns to the operations. The County approved a use permit modification associated with modernization of the cement plant on December 5, 1977.

2. What approvals is Lehigh now seeking?

As noted above, the reclamation plan for the Permanente Quarry will expire in March 2010. There are areas of mining related disturbance on the property, which are not included in the boundary of the approved reclamation plan. Following an inspection of the mine by the State Office of Mine Reclamation, these areas of disturbance were deemed violations of SMARA. As a result, the County of Santa Clara issued a Notice of Violation / Order to Comply, directing the mine operator to abate this violation by filing for a reclamation plan amendment, which is to encompass all the areas of disturbance and provide for reclamation of the land.

Lehigh's predecessor submitted an application for this reclamation plan amendment in January 2007. In addition to the areas of disturbance described above, the mine operator proposed expanding the quarry to include a second mine pit. The application submittal did not include sufficient information related to geology, however, and the operator (now Lehigh Hanson Cement) is required to provide a detailed geology report to the County before the evaluation of the application can continue. Work on this report is taking place.

In June 2008, the County issued a Notice of Violation related to the placement of overburden material in an area known as the East Materials Storage Area ("EMSA"). This NOV instructed

the operator to cease depositing material in the EMSA. In response to this NOV, the operator applied for a separate reclamation plan amendment in April 2009, and the County has allowed limited use of the EMSA while this amendment is in process.

3. What is a Reclamation Plan Amendment?

An amendment to a Reclamation Plan is a change to an existing, approved plan. Reclamation plan amendments can range from a modification of the list of plants to be used to re-vegetate a reclaimed slope, to a redesign of slope angles, to an expansion of the land subject to excavation and reclamation. An amendment can take the form of a change in the mine footprint, a change in the composition of plant materials to be used during reclamation for re-vegetation purposes, or other physical changes to the final configuration of the land from the previously approved design.

4. What is included in the expansion plan?

The proposed amendment to the Permanente Quarry reclamation plan, on file with the County of Santa Clara, would reconfigure the mining and materials storage areas through grading activities that would include cutting benches in the bedrock, backfilling excavations with mining overburden material, and re-vegetation of the final slopes created by this process. An area on the west side of the pit from which minerals are extracted is a stockpile area that receives overburden from the pit. This stockpile is required under the existing reclamation plan to be re-vegetated and to provide for proper drainage and erosion control. The proposed amendment would include disturbed areas that are currently outside the reclamation plan boundary, but which are used regularly as part of mining activities.

An area on the east side of the pit would be designed by the proposed amendment to receive overburden materials as well. The resulting slopes would be re-vegetated and engineered to provide for proper drainage and erosion control. The proposed expansion would also include a new, second pit on the property.

5. Who is the approval authority?

The County of Santa Clara is the lead agency responsible for approving reclamation plans and amendments for surface mines within the unincorporated areas of the County. This authority stems from the County zoning regulations adopted by the Board of Supervisors, and from the State Surface Mining and Reclamation Act. Under County zoning regulations, following completion of environmental review as required by the California Environmental Quality Act (CEQA), the County Planning Commission approves new reclamation plans and amendments to existing plans. A decision by the Planning Commission may be appealed to the Board of Supervisors.

6. What process will be involved in obtaining requested approval?

The mine operator has submitted a proposal for renewal and expansion of the Permanente Quarry reclamation plan. After an initial review of the project plans the County began the environmental impact review process consistent with requirements under CEQA. Completing the CEQA process is the most time consuming stage and requires preparing a complete environmental analysis. Essential to this review is

geologic analysis for slope stability. This particular analysis may affect the design of the interior benches within the existing and the proposed new quarry pit.

Once the CEQA review is complete the County will circulate a Draft Environmental Impact Report (DEIR) for review by responsible agencies and the general public. Comments regarding the DEIR will be submitted to the County Planning Office. To facilitate this process, the County will hold a public hearing before the County Planning Commission, during which comments may be made verbally as well as in writing.

Following receipt of comments regarding the DEIR, responses to comments will be prepared by the County-retained consultant who prepared the DEIR. During the public hearing for the reclamation plan and quarry expansion, the responses to comments are presented to the Planning Commission with the staff reports for the project. Typically, these responses together with the original DEIR form the Final EIR (FEIR).

After the decision makers (e.g., the County Planning Commission) certify a final environmental impact report an action may be made regarding the proposed reclamation plan amendment.

7. Why is the Quarry allowed to include expansion in the Reclamation Plan Amendment?

The mine operator has the option of proposing to modify the reclamation plan and/or to combine the reclamation modification with a mine expansion proposal. It is the option of the mine operator to decide on the extent of an amendment to include in the proposal. The County then evaluates the proposal through the CEQA and public hearing process. The decision to approve or deny a reclamation plan amendment rests with the County.

8. What health effects studies (epidemiological, etc.) have been conducted in Santa Clara County? (especially, effects on nearby residents)

The Bay Area Air Quality Management District (BAAQMD) completed a Health Risk Assessment (HRA) under the Air Toxics Hot Spots program for the Quarry. The BAAQMD published the HRA in November 2008, and it may be found at the link found below:

[http://www.sccgov.org/SCC/docs%2FPlanning%2C%20Office%20of%20\(DEP\)%2Fattachments%2FEnvironmental%20Documents%2F2250%20Hanson%20Quarry%20Attachment%20docs%20and%20images%2FLehigh%20HRA%20Nov08.pdf](http://www.sccgov.org/SCC/docs%2FPlanning%2C%20Office%20of%20(DEP)%2Fattachments%2FEnvironmental%20Documents%2F2250%20Hanson%20Quarry%20Attachment%20docs%20and%20images%2FLehigh%20HRA%20Nov08.pdf)

The District also published a fact sheet related to the Leigh Hanson Cement plant, and it may be found at this web link:

http://www.baaqmd.gov/enf/factsheets/lehigh_cement_fact_sheet_010209.pdf

9. What is Santa Clara County doing about air pollution and closing down Lehigh?

The Bay Area Air Quality Management District and the California Air Resources Board have authority and responsibility to address air pollution violations, where they occur. The County has the responsibility and authority to evaluate air quality impacts through the CEQA process described above when a project proposal, such as the reclamation plan amendment for the Permanente Quarry, is submitted. When the County receives complaints regarding air pollution, the County refers them to the BAAQMD for investigation and enforcement.

10. What financial benefit do Cupertino and Santa Clara County get from the quarry operations?

The economic benefits of the quarry operations include employment, property tax revenue, and minerals used in construction produced locally, rather than imported from other parts of the State or from outside of California.

11. How can the public have an impact on the operation and/or the existence of the kiln and quarry?

The public may contact the County Planning Office if there are complaints regarding the cement plant and its operations. The Planning Office staff will investigate the complaint, determine whether a violation of County zoning regulations or other ordinances have taken place, and begin enforcement of the regulations where violations occur. The nature of enforcement varies, as with every violation found by County inspectors, depending on the type of violation.

12. Is there a noise monitoring program?

The County currently does not have a continuous noise monitoring program in place. Lehigh is required to comply with the Santa Clara County noise ordinance and enforcement of those standards is by the County Department of Environmental Health (contact Peder Eriksson at 408-918-3448). The County Planning Office is contracting with an outside consultant to conduct noise monitoring during June or July of 2009, to provide information regarding current noise levels, and to help determine whether noise levels are within County requirements. [This last sentence may need to be updated in light of plant shutdown.]

13. What are the top environmental and public health issues associated with the operation of Permanente Quarry plus kilns?

The top environmental issues associated with the proposed reclamation plan amendment include geology and slope stability, visibility of the new pit, visibility of the placement of over-burden materials, biology, hydrology and drainage, and air quality.

Additional issues, associated with the existing cement plant, include truck traffic and truck noise, noise from the plant operations, and emission of air pollutants.

14. What is the status of the violation Lehigh was given by the State Water Board?

According to staff from RWQCB, Lehigh has not completed the abatement requirements stipulated by the Board in its Cleanup and Abatement Order (CAO) 99-018. Although Lehigh's predecessor Hanson complied with Remedial and Long Term measures specified in CAO 99-018, a long term creek restoration plan must still be completed. The RWQCB has indicated that a revised plan is expected by Lehigh some time in the summer of 2009.

15. Is asbestos present in the geologic formations where Lehigh Permanente Quarry is mining?

The geologic information available to the County shows that the type of bedrock on the quarry's property are either limestone based or greenstone based, neither of which contains asbestos. There are areas within the County with soils derived from Serpentinite known as Serpentine soils, which are known to contain naturally occurring asbestos. The Lehigh property, however, does not contain serpentine soils and does not contain asbestos.

16. Why is the Quarry not being held responsible for non-compliance?

The Permanente Quarry was found to be out of compliance with the State Surface Mine and Reclamation Act, due to areas of disturbance occurring outside the boundary of the approved reclamation plan. These areas include land covered by access roads and other disturbances from mining. The County issued a combined Notice of Violation and Order to Comply (NOV/OTC) to Hanson (now Lehigh), and the mine operator is responsible for complying with the NOV/OTC. The proposed reclamation plan amendment is expected to address the violations noted in the NOV/OTC.

17. Is the Quarry in compliance with its SMARA requirements?

As described above, the County has issued to NOV's to the Quarry. These include the October 2006 combined Notice of Violation / Order to Comply to Hanson (now Lehigh) Permanente Quarry, and the June 2008 NOV related to the EMSA. The proposed reclamation plan amendments are expected to address these violations. Until the amendments are approved, however, the mine operator continues to be in violation of SMARA. During the annual SMARA inspections the County will monitor steps initiated and completed by the mine operator to abate the violations.

18. What will an Environmental Impact Report accomplish and what will it include?

There will be a CEQA analysis for both reclamation plan amendments. An Environmental Impact report provides the means for analyzing and evaluating potential impacts to the environment associated with the proposed reclamation plan amendment. The issues to be evaluated include, but are not limited to, air quality, hydrology, biology, and geology. A geology analysis is being prepared, which will become a technical appendix to the DEIR. The outcome of this analysis may affect the

final slope angles and benches to be cut by the mining activities within the quarry. Because the geology information could affect the engineering design of those slopes and the benches, which in turn affects the over-all project description, the geologic report must be completed before the environmental impact report process can recommence.

The geology analysis is expected to provide recommendations from a certified engineering geologist regarding the finished slope of the mine pit and the hillside adjacent to the pit where over burden materials will be placed and re-vegetated.