



Linda S. Adams
*Acting Secretary for
Environmental Protection*

California Regional Water Quality Control Board

San Francisco Bay Region

1515 Clay Street, Suite 1400, Oakland, California 94612
(510) 622-2300 • FAX (510) 622-2460
<http://www.waterboards.ca.gov/sanfranciscobay>



Edmund G. Brown Jr.
Governor

June 10, 2011

Mayor Ron Packard
One North San Antonio Road
City of Los Altos
Los Altos, CA 94022-2720

SUBJECT: Response to Lehigh Southwest Quarry Comment Letter dated May 6, 2011

Dear Honorable Mayor Packard

On behalf of the San Francisco Bay Regional Water Quality Control Board ("Water Board"), Executive Officer Bruce Wolfe and I want to thank you and representatives of Los Altos Hills) for meeting with us on March 1, 2011. We were pleased to advise and update you at that meeting about the status of the Water Board's investigation of the Lehigh Southwest Cement Company's ("Lehigh") compliance with applicable permits and water quality standards, and about our recent issuance of a Notice of Violation to Lehigh. This responds to your May 6, 2011, letter directed to me and Mr. Wolfe.

First, we want to remind you that Executive Officer Wolfe attended the meeting to provide general comments about how the Water Board does its work, and advised at the outset that he had no specific knowledge about potential non-compliance and/or the status of the Water Board's investigation at Lehigh other than what is stated in recent Water Board prosecution Team written correspondence. In addition, he stated that he was not able to discuss any ongoing investigative or enforcement matters related to Lehigh. Also I note that following our meeting with Bruce, I spoke with you separately to provide a general update on the status of the Notice of Violation and investigative efforts. The Water Board intentionally preserves Mr. Wolfe's neutrality with respect to ongoing administrative enforcement actions, including determinations regarding whether a violation has been committed, so that he can advise the members of the Water Board in the event an adjudicatory hearing is held at which contested issues between staff and a discharger may be resolved. To be clear, the statements you attribute to us in your May 6 letter, which I will address in more detail below, were my statements and cannot be attributed to Mr. Wolfe.

Second, I want to respond to some of the statements in the numbered paragraphs of your letter.

With respect to the first numbered paragraph, I want to clarify what I believe was stated at the March 1 meeting, which is somewhat different than what you set forth in paragraph 1. I advised you that the Water Board staff is currently investigating whether discharges from Lehigh – either permitted or unpermitted – may have impacts to the beneficial uses of Permanente Creek, San Francisco Bay, and/or local groundwater. As part of that investigation, we are in the process of gathering and interpreting data that we believe is necessary for a proper determination of whether certain discharges may be better regulated and/or accounted for under a different NPDES permit than the Industrial General Storm Water Permit under which Lehigh is presently

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regulated. We will promptly notify Los Altos of any actions Water Board staff takes with regard to Lehigh and/or if Lehigh elects to enroll under a different general permit. However, Los Altos should understand that enrollment in a general permit does not involve an “application process” in the traditional sense. Rather, a prospective permittee submits to the State Water Resources Control Board a Notice of Intent (“NOI”) to enroll under a general permit and then, ordinarily, begins to comply with the terms and conditions of that permit. In the event Lehigh elects to submit a NOI to the State Board, we will receive a copy and will promptly notify Los Altos.

With respect to your second numbered paragraph, while we would consider any data, analysis or information Los Altos submits concerning potential economic impacts, you should realize that the Water Board’s regulatory authority extends to the protection and enhancement of water quality. We will, of course, be looking to require Lehigh to mitigate any identifiable impacts to water quality from its discharges. To this end, we are also aware of Lehigh’s proposed expansion plans, as mentioned in your third numbered paragraph, and will take those plans into account as we proceed.

Finally, with respect to your fourth numbered paragraph, much of the monitoring data Lehigh has provided to us is analyzed by a licensed third-party consultant, consistent with the Federal Clean Water Act. At this time, we have no reason to believe Lehigh is submitting inaccurate data. In addition, as I hope is clear in our June 10, 2011 correspondence to Lehigh, we intend to have Lehigh implement a comprehensive monitoring plan to fully characterize the nature and extent of their discharges. If we determine that this is not being done in an acceptable manner, we will take appropriate actions.

As always, we will keep Los Altos informed about the Water Board’s investigation and efforts at the Lehigh facility and welcome your input. If you have any questions, comments or concerns about these important matters, please do not hesitate to contact me directly (dwhyte@waterboards.ca.gov or 510-622-2441).

Sincerely,

Dyan Whyte
Assistant Executive Officer
Prosecution Team Lead