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## San Francisco Bay Regional Water Quality Control Board

August 30, 2013  
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Place ID: 273205

City of Cupertino  
Attn: Mr. Rick Kitson  
Environmental Affairs Director  
10300 Torre Avenue  
Cupertino, CA 95014  
*Sent via email: [rickk@cupertino.org](mailto:rickk@cupertino.org)*

Subject: Letter for the Cupertino City Council Meeting on September 5, 2013

Dear Mr. Kitson,

Thank you for the invitation to attend a Cupertino City Council special meeting on the Lehigh Quarry and Cement Plant (Lehigh). Unfortunately we cannot attend. Please feel free to share this summary of our current regulatory efforts to protect water quality and the beneficial uses of Permanente Creek, San Francisco Bay, and local groundwater.

### Existing Lehigh Permits

Lehigh is regulated by three permits that have requirements to protect surface water in Permanente Creek. The Regional Water Board permits Lehigh's mining operations (Order No. R2-2008-0011) and its use of a wastewater treatment facility (Order No. R2-1994-0038), and is subject to the requirements of a statewide general permit for industrial stormwater discharges (Water Quality Order No. 97-03-DWQ NPDES General Permit No. CAS000001).

### New Pending Permit

An individual NPDES permit for Lehigh will be released for public comment later this year. This permit will consolidate requirements in existing permits and specify effluent limits for Lehigh's discharges to Permanente Creek, including its discharge of quarry water. The permit will recognize upgrades that Lehigh has planned for its facility pursuant to the Consent Decree with the Sierra Club (filed in the U.S. District Court in San Jose, Case No.: 5:11-cv-06392-HRL).

### Other Regulatory Efforts

Enforcement – Over the last two years, Lehigh has paid administrative civil liability penalties of \$10,000 (Order R2-2012-0039) and \$21,000 (R2-2011-0097) for alleged discharges to Permanente Creek.

Permanente Creek Restoration – The Regional Water Board issued a cleanup and abatement order to address sedimentation and restore the natural stream flow of Permanente Creek

(Order No. R2-1999-0018). Restoration will be continuing as part of the Consent Decree with Sierra Club. The Regional Board will need to issue permits for this work and will be reviewing all proposals as part of the permitting process.

Legacy Pollution and Selenium – Lehigh is required to submit technical reports to the Regional Water Board (Order No. R2-2013-1005 amended to R2-2013-1005-A1) that will, among other things, help to advance the cleanup efforts that may be required to address legacy pollution from historic operations and mining waste and to evaluate the fate and transport of selenium in Permanente Creek.

### **For More Information**

We encourage anyone who wants more information or would like to follow how we are regulating Lehigh to use the following resources:

- [http://www.waterboards.ca.gov/sanfranciscobay/water\\_issues/hot\\_topics/lehigh.shtml](http://www.waterboards.ca.gov/sanfranciscobay/water_issues/hot_topics/lehigh.shtml)  
Access to current and pertinent documents associated with Lehigh.
- [http://www.waterboards.ca.gov/resources/data\\_databases/](http://www.waterboards.ca.gov/resources/data_databases/)  
Databases used to store information about Lehigh: CIWQS (surface water), SMARTS (stormwater), and GeoTracker (groundwater).
- [http://www.waterboards.ca.gov/resources/email\\_subscriptions/reg2\\_subscribe.shtml](http://www.waterboards.ca.gov/resources/email_subscriptions/reg2_subscribe.shtml)  
Subscribe to group email lists used for specific programs or topics.
- [http://www.waterboards.ca.gov/sanfranciscobay/public\\_notices/](http://www.waterboards.ca.gov/sanfranciscobay/public_notices/)  
Follow announcements about pending decisions and opportunities for public participation

For any questions, or if someone would like to be added to our distribution list for Lehigh matters, please contact Brian Thompson at [brthompson@waterboards.ca.gov](mailto:brthompson@waterboards.ca.gov) or 510 622-2422.

Sincerely,

Dyan C. Whyte  
Assistant Executive Officer

Copy to: Lehigh interested Parties List