

County of Santa Clara

Department of Environmental Health

1555 Berger Drive, Suite 300
San Jose, California 95112-2716
(408) 918-3400
www.EHInfo.org



May 16, 2017

Lehigh Southwest Cement Company
Attn.: Sam Barket
24001 Stevens Creek Blvd.
Cupertino, CA 95014

RE: Third Notice of Violation of Santa Clara County Noise Ordinance Section B11-152

Dear Mr Barket:

Since the Department of Environmental Health (DEH) issued the Second Notice of Violation on February 16, 2017, we have received two additional formal complaints alleging that Lehigh Southwest Cement Company (located at 24001 Stevens Creek Boulevard, Cupertino, hereafter Subject Property) is creating ongoing, steady noise at excessively-loud levels.

Santa Clara County Ordinance Code (Ordinance Code) section B11-152 generally limits excessive noise creating a public nuisance. On the Subject Property, which is in a residential land use area, you may not create noise exceeding 55 dB(A) (decibel A-weighting) between the hours of 7:00 a.m. and 10:00 p.m. From 10:00 p.m. to 7:00 a.m., you may not create noise exceeding 45 dB (A). Section B11-152(b) reduces the allowed noise limit to 40 dB(A), if it contains a **steady, audible tone such as a whine, screech or hum.**

On March 31, 2017, DEH staff took sound-level measurements for one hour, starting at 10:06 p.m., on a property located on Medina Court in Cupertino. The attached sound level data sheet and graph indicates that the L_{eq} value was 46.2 dB(A) for a period of one hour. During that one-hour period, there was no background noise (e.g. cricket or other animal noises) except for some planes and cars. After accounting for extraneous noise sources, the noise level contributed by Lehigh Southwest Cement Company was between 42-52 dB(A) due to the fluctuating noise levels originating from the plant and based upon our continuous observations during the monitoring period. The noise limit for this monitoring session was 40 dB(A) because the noise contained a steady, audible hum for the entire monitoring period.

On April 28, 2017, DEH staff took sound level measurements for a period of one hour, starting at 10:08 p.m., on a property located on Firwood Drive in Cupertino. The attached sound level data sheet and graph indicates that the L_{eq} value was 45.8 dB(A) for a period of one hour. During that one hour period, there was no background noise (e.g. cricket or other animal noises) except for that created by one plane

flyover and six cars. After accounting for extraneous noise sources, the noise level contributed by Lehigh Southwest Cement Company was between 42-47 dB(A) due to the fluctuating noise levels originating from the plant and based upon our continuous observations during the monitoring period. The noise limit for this monitoring period was 40 dB(A) because the noise contained a steady, audible hum for the entire monitoring period.

This is the Third Notice of Violation, documenting the fourth and fifth instances of excessive noise. DEH documented the first violation on April 14, 2016, the second violation on April 24, 2016, and the third violation on January 29, 2017.

DEH directs Lehigh Southwest Cement Company to immediately reduce the noise generated on the Subject Property. DEH will reevaluate the sound levels on Medina Court and/or Firwood Drive within 30 days to confirm that you have taken appropriate mitigation measures to reduce the sound created on the Subject Property. If DEH's subsequent testing reveals that you have failed to reduce the excessive noise, we will have no choice but to levy administrative fines and seek staff costs against you and consider other legal compliance options.

In addition, we request that you prepare a report detailing the measures that you have taken to reduce the noise by June 16, 2017.

Please contact me at (408) 918-3449 to discuss this matter.

Sincerely,



Rochelle Gaddi, Acting Director
Consumer Protection Division

Attachment-Session Report from March 31, 2017

Attachment-Session Report from April 28, 2017

Cc: Rob Eastwood, SCC Planning Department
Michael L. Rossi, Lead Deputy County Counsel