

EAST ROCKHILL TOWNSHIP BOARD OF SUPERVISORS

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July 23, 2018

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PA Department of Environmental Protection
Mr. Patrick Patterson, Regional Director
Southeast Regional Office
Air Quality Program
2 East Main Street
Norristown, PA 19401

**RE: HANSON QUARRY
2205 (2055) NORTH ROCKHILL ROAD, SELLERSVILLE, PA 18960
APPLICATION FOR 1000 TON PER HOUR CRUSHING & SCREENING PLANT**

Dear Mr. Patterson,

This letter is submitted on behalf of East Rockhill Township in response to a notification by Richard E. Pierson Materials Corp. ("Pierson") of its submittal of air quality permit applications to the Pennsylvania Department of Environmental Protection for the operation of a hot mix asphalt plant pursuant to General Permit BAQ-GPA / GP-13 and temporary diesel engines pursuant to General Permit BAQ-GPA / GP-9 at the Hanson Quarry located at 2055 North Rockhill Road in Sellersville, Bucks County (the "Rockhill Road Site"). The Township objects to Pierson's operation of a hot mix asphalt plant and associated diesel engines at the Rockhill Road Site prior to securing the requisite zoning relief and/or approvals, and provides the comments set forth herein for the Department's consideration in conjunction with its review of Pierson's general permit applications. This letter follows the Township's prior comment letter dated June 15, 2018 submitted in response to Pierson's plan approval application for crushing and screening operations at the Rockhill Road Site. Many of the objections identified in that letter are also relevant to Pierson's proposed hot mix asphalt plant and diesel engine operations.

First, Pierson lacks the requisite zoning approvals and/or permits to proceed with its hot mix asphalt plant at the Rockhill Road Site, and therefore the operation of such a hot mix asphalt plant would be a violation of the East Rockhill Township Zoning Ordinance. Thus, although the Land Use Information section of the General Information Form encourages applicants to provide evidence of compliance with local zoning, Pierson is unable to do so. The Rockhill Road Site is located in East Rockhill Township within the E Extraction zoning district pursuant to the East Rockhill Township Zoning Ordinance and Zoning Map, which permits quarrying activity by special exception. Pierson has not yet received special exception approval from the Zoning Hearing Board for its quarrying use. Even more importantly, however, the proposed asphalt plant, an H1 Manufacturing use under the Township Zoning Ordinance, is not a permitted use in the E Extraction zoning district and therefore not permitted at the Rockhill Road Site without zoning relief from the Zoning Hearing Board.¹ Moreover, even if a permitted

¹ While Pierson asserts that it need not comply with the Township's Zoning Ordinance because an asphalt plant is an "accessory use" to its mining operations, the Pennsylvania Supreme Court has held the exact opposite. *In Re; Mignatti's Appeal*, 168 A.2d 567 (Pa. Sup. 1960).

use, Pierson has not complied with the Township's Subdivision and Land Development Ordinance which requires property owners to secure land development approval from the municipality before proceeding with land development improvements. These matters are presently before the Township's Zoning Hearing Board and are the subject of litigation in the United States District Court for the Eastern District of Pennsylvania, captioned *East Rockhill Township v. Richard E. Pierson Materials Corp., et al.*, Case No. 2:18-cv-02382-GAM (2018). The Department should therefore suspend its consideration of the permit application until such time as Pierson receives all necessary zoning approvals or there is a final determination that no such approvals are required.

Second, Pierson's general permit applications are deficient for the following reasons:

- Under Condition 2 of GP-13, coverage under GP-13 may not be approved for sources that are subject to operating permit requirements and Title V operating permit requirements under 25 Pa. Code Chapter 127, Subchapters F and G. Based upon Pierson's emission calculations set forth in the general permit applications for the proposed hot mix asphalt plant and diesel engines, total NOx emissions from these two operations at the facility would exceed 25 tons per year, the major source threshold for sources of NOx in Bucks County. Accordingly, Pierson is not eligible for coverage under GP-13.
- The GP-13 application lacks sufficient detail with respect to the proposed operation of the hot mix asphalt plant. The application does not offer sufficient information with respect to fugitive dust control, material storage areas, truck traffic, or the limitations contained within Condition 14 of the general permit. The Township is very concerned with noise, dust and other potential environmental impacts associated with the proposed facility, and any proposed operation must address these issues through defined and enforceable work practices and emission limitations. Moreover, the Department has identified concerns that naturally occurring asbestos may be present in the quarried materials. The potential for asbestos to be released into the air from Pierson's activities is of grave concern to the Township.
- Pierson's application for coverage under GP-9 suggests that the compliance demonstration method for its proposed diesel engines would not include stack testing. However, GP-9 appears to require stack testing for engines with a rated capacity greater than 500 brake horsepower. Because Pierson's proposed engine 1 exceeds this threshold, testing would be required.
- Per Condition 2 of GP-13, coverage under the GP-13 is limited to the construction and operation of hot mix asphalt plants which are located at facilities for which a valid mining permit or an air quality operating permit exists for the operations of the facility. The Noncoal Surface Mining Permit No. 7974SM1C6 / NPDES Permit No. PA0594121 attached to Pierson's general permit application has an expiration date of July 19, 2018. The Township is aware of the approval of only one module of the Application for a Modification of the Permit submitted to the Department on February 20, 2018. Accordingly, Pierson has not demonstrated its eligibility for coverage under General Permit GP-13.

Finally, Pierson's Compliance History Review Form identifies a Notice of Violation dated May 24, 2018 issued by the Department to Pierson for construction and/or installation of


equipment at the Rockhill Road Site without a valid plan approval. The Township requests that the Department suspend its review of the general permit application based on Pierson's lack of ability or intention to comply with applicable regulations and permit requirements, as may be appropriate under 25 Pa. Code §127.12a and §127.412.

For the reasons set forth herein, the Township requests that the Department suspend its review of Pierson's general permit applications until such time as Pierson's land use status is resolved and Pierson has adequately addressed all deficiencies and outstanding compliance concerns. In addition, the Township requests an opportunity to provide additional comments on Pierson's proposed operations once and/or if additional information is submitted by Pierson. The Township also requests the opportunity to review and comment on any other applications for permits or approvals that are under consideration by the Department in connection with the Rockhill Road Site.

Thank you for your attention to the foregoing. Please contact my office with any questions that you may have.

Sincerely,

EAST ROCKHILL TOWNSHIP


Marianne K. Morano
Township Manager

Cc: TMP file
R.E. Pierson Material Corp
Hanson Aggregates
Compliance Plus Services
Township Solicitor via email
Township Engineer via email
Manko, Gold, Katcher & Fox via email