

June 16, 2021

Via Email and First Class Mail

Mr. Richard E. Tallman, P.E.

Environmental Engineer

Bureau of District Mining Operations

Pennsylvania Department of Environmental Protections

**Re: Rock Hill Quarry
Hanson Aggregates PA, LLC Request for Extension to "Elevated Review
Technical Deficiencies, Application No. 7974SM1C10, Rock Hill Quarry
Operation, East Rockhill Township, Bucks County", dated April 12, 2021**

Dear Mr. Tallman:

This firm represents Rockhill Environmental Preservation Alliance (REPA) in regard to the Rock Hill Quarry. REPA is in receipt of Hanson Aggregates PA, LLC's (Hanson) June 14, 2021 request for an extension of time to respond to the Department of Environmental Protection's (DEP) April 12, 2021 review letter and to resume "full" quarry operations. It is clear that this last-minute request is nothing more than a further delay tactic and, more concerning, a disingenuous pretense for seeking a resumption of "full" operations at a quarry laden with Naturally Occurring Asbestos (NOA), when Hanson has time and again failed to adequately respond to DEP's (and others) reasonable requests for information. As this latest and broadened request from Hanson clearly demonstrates, DEP cannot continue to let this matter linger and must deny Hanson's request for extension, and deny Hanson's request to conduct any operations at the quarry.

In their June 14, 2021 request for an extension, Hanson states that "it was Hanson's intent, at least for the short term, to limit our mining operations at this quarry to 500 tons per year to maintain an active mining license", and that DEP "requested information that went, in our opinion, far beyond the proposed limited short-term activity that Hanson intended for this property". It further states that "[i]t is Hanson's understanding that the information requested by DEP will apply to our operation regardless of whether Hanson is mining once or twice a year or more frequently, such as on a weekly or daily basis. Given that, it is Hanson's plan to now provide information, in response to your April 12, 2021 letter, to address 'full' quarry operations".

In its April 12, 2021 deficiency letter, DEP did not expand the project nor its requirements. Rather, it simply added clarity and specificity of expectations after Hanson produced an unresponsive and minimal response to the previous November 18, 2020 deficiency letter.

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The identification of the 500-ton task as the "project" is a thinly veiled attempted revision by Hanson in its January 15, 2021 response letter.

Hanson appears to be feigning ignorance and places the delay squarely on DEP by claiming that the "full quarry operation" was never the intended project, and that the sole intention of the numerous communications and requests for information over several years was limited to the 500-ton annual removal needed to maintain the permit. The record proves otherwise. Consider:

January 15, 2021- Response letter

November 18, 2020- deficiency letter

In the deficiency letter dated November 18, 2020, DEP clearly indicated that the requested plans and other deliverables were within the scope of full mining operations, and not limited to the 500-ton annual tasks. For example, DEP requested Module 9 information regarding newly created highwalls and delineations of areas that would be affected through current and intended operations. The term "current" apparently refers to the 500-ton removal task, whereas "intended" refers to the full mining operations. For Module 10, DEP requested information regarding the safe handling of Naturally Occurring Asbestos wherever it may be encountered in the diabase host rock, in the produced aggregate, or in the overburden. For Module 10.15, 18 and 20, DEP requested information regarding reclamation activities, which occur after mining operations cease. For Module 17: Air Pollution and Noise Control Plan, DEP requested an asbestos monitoring and mitigation plan covering all present and potential operations.

In its January 15, 2021 response letter, under Module 10, Operational Information (included as Attachment 3a), Hanson indicated awareness of the full project:

At such time authorized by the Department, mining of the Rock Hill Quarry will commence in a single phase. Bulldozers or track loaders, excavators, and haul trucks will be used to remove and stockpile topsoil and overburden from the mining area. Overburden will be hauled to and stored in the designated overburden material stockpile. The underlying rock will then be drilled and blasted to facilitate its removal. The shot rock will be excavated by front-end loader, track loader, or excavator. The excavated material will then be loaded into a haul truck and transported to either a portable processing plant or a stationary processing plant that will be located within the Surface Mine Permit boundary. The processed material will be staged for sale in stockpiles. Support area in the northwest corner of the permitted area will likely be used to stockpile material.

DEP referred to this passage within its April 12, 2021 deficiency letter:

Please explain how the mining activities described in the above passages factor into Non- Scheduled Site Maintenance activities or in the proposed minimum 500 tons per year of stockpile crushed aggregate. It appears the described mining activities are for full site mining development, are included with Non-Scheduled Site Maintenance, and conflict with the proposed activities described for the immediate future at the Rock Hill Quarry.

September 16, 2020 DOH Letter

DEP also required Hanson to address all concerns expressed by the Pennsylvania Department of Health (DOH) in its September 16, 2020 letter to DEP. Language within the letter clearly shows that DOH was referring to the overall mining project and not short-term 500-ton removals once every year. Example language includes: "...exposure occurs during various activities over more than one season"; "To produce sample data most applicable to human health, stationary breathing zone and on-person sampling methods should be employed over several weeks, including summer and winter seasons covering various weather conditions", and "Until sufficient data are available to determine the level of onsite and offsite asbestos or hazardous EMF exposure occurs during various activities over more than one season, the risk of asbestos-related illness in the stakeholder population will not be fully understood" (emphasis added). Hanson chose to disregard this request to address the DOH letter.

It appears clear that both DEP and DOH, as well as Hanson, understood that the permit encompasses full mining operations. An applicant cannot, by reference in a response letter, unilaterally alter the scope of the permit by breaking it into two subcomponents. This requires a formal request to DEP in writing, and a formal written approval by DEP in writing, neither of which occurred.

Comments on the Requested Delay

Hanson cited three tasks that, in its opinion, require completion before the deficiency letter responses can be initiated. None of the three tasks are required to comply with the deficiency letter, as summarized below:

Site-Perimeter Background Air Sample Collection;

Anticipated Time to Complete: 6-8 weeks.

The DEP April 12 deficiency letter cited requirements for several plans including: security proposal, procedures for asbestos identification, NOA handling procedures, comprehensive dust monitoring plan, dust control and suppression plans, air monitoring plan, plan for cleaning the public road, decontamination plan, corrective measures plan, background plan to assess community ambient exposures, procedures for initial air monitoring, NOA monitoring and risk mitigation plan, comprehensive community-based sampling plan, activity-based personal sampling plan, workplace controls and practices

plan, and an all-encompassing site-specific NOA and EMP guidance document. The preparation of all of these documents do not require background sampling results; in fact, DEP asked for a plan to conduct the background sampling (this is usually part of the air monitoring plan), and not actual sampling. The requested 6-8 weeks delay based on time to conduct background sampling constitutes a false argument, and should not be accepted by DEP.

Toxicological Assessment of NOA.

Anticipated Time to Complete: 4 weeks after completion of Air Sample Collection.

Performance of this assessment will first require that Hanson collect relevant NOA data at the Hanson facility.

A “toxicological assessment” is not required to complete any of the deliverables cited above. The scope of the assessment, if submitted in accordance with one of the deficiency letters, should be focused to meet the goals and objectives of DEP and DOH, and not designed in a manner that will produce an outcome desired by the applicant. The purpose and procedures should be included within one of the required plans, and then reviewed and approved by DEP before initiation. Ambient air data, which measures ambient conditions that are not related to site disturbance activities, have little or no relevance to potential exposure during site disturbance activities. The requested additional 4 weeks delay based on time to conduct a “toxicological assessment” constitutes a false argument, and should not be accepted by DEP.

Analysis of Overburden Materials.

Anticipated Time to Complete: 4-6 weeks.

Any procedures and purpose of an “analysis of overburden materials” as it relates to NOA should be included in one of the plans for DEP review and approval before commencement of work (DEP did not request an actual analysis). The requested additional 4-6 weeks delay based on time to conduct a “overburden materials analysis” constitutes a false argument, and should not be accepted by DEP.

Comments on the Project Team

Hanson presented a project team comprised of experts from five companies. Three of the companies, Kelly Bailey Consulting, RJLG, and Earthres Group, have been teaming on the Rockhill project since the initial geological assessment. Gradient Corporation is known within the asbestos industry and likely known to Kelly Baily Consulting and RJLG. Hanson has operations in California where NOA is highly regulated, and therefore, has in-house experience or has worked with NOA experts.

Hanson states: “In working with these experts, we intend to respond to the items set forth in the April 12, 2021 letter”. This statement suggests that the identification of two members of the team required nearly two months, and that as of June 4th, no work in responding to DEP’s deficiency letter has been initiated, and no work will commence until Hanson receives an extension. DEP should reject this assertion: there is no reason why the Hanson

project team could not have rounded out the team by selecting two consultants very quickly and initiate response to the deficiency letter nearly two months ago.

Comments on Work Products

Hanson committed to four work products; however, it commits to deliverables that are far below those specified in DEP's deficiency letter. Of the 16 plans that were specified in the deficiency letter, listed above, Hanson committed only to an Asbestos Mitigation and Monitoring Plan. The second work product, Mineral Identification and Management Guide, is a guidance document prepared for the internal use of the mining industry, which focuses on the sampling of rock and soil at mining sites. Items 2 and 3, addressing the modules and comments in the DEP deficiency letter, include the term "where necessary". It seems that even with an extension, Hanson does not intend to fully comply with the directives set forth in the DEP deficiency letter. Approval of this extension request would provide to Hanson an argument that a reduced compliance with the DEP letter was approved by DEP. DEP should reject this partial commitment to requests and deliverables as specified in the deficiency letter.

Conclusion

Since April 3, 2019 when the first Qualitative Geological Survey Sampling Plan was submitted by Earthres, and the first Asbestos Air Monitoring Plan was submitted by Pierson Materials Corporation on April, 2019, DEP has demonstrated remarkable patience and technical acumen while reviewing submittals and probing apparent deficiencies within the technical submittals. This continued through the transition where Hanson, Kelly Bailey and RJLG assumed control of the project.

Throughout the permitting process, numerous queries and deficiency letters by DEP incrementally revealed that the Hanson/RJLG team had been less than transparent and disingenuous. Early claims that the diabase unit did not have the potential for NOA to be present and no asbestos was detected was proven false. When RJLG reported asbestos, even by their own definition and applying "proprietary" methods, it was claimed that the asbestos was present only in thin actinolite veins and in concentrations that are not significant when the entire diabase unit is included in the calculations. A petrographic analysis showed that the diabase had been, in fact, subjected to a metamorphic event, and asbestiform actinolite is in fact ubiquitous and pervasive across the diabase unit.

Continued probes by DEP through deficiency notices and queries were met by responses that minimally met the letter of the requests and fell far short of the intent and expectations. Finally, after several years of evasive responses, DEP issued, on April 12, 2021, a deficiency letter that finalized expectations and a deadline to respond. The letter stated: "Please keep in mind that if you ignore this request or fail to respond to all of the deficiencies listed above by July 6, 2021, your application may be denied. Also, please note that due to the application deficiencies noted above, the Permit Decision Guarantee timeframes are no longer applicable". The letter also stated: "Should you have any questions regarding the identified deficiencies, please contact me to discuss

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your concerns or to schedule a meeting". Hanson claims a misunderstanding of the scope of the project, and if true, could have identified this immediately and contacted DEP in writing. It chose, however, to delay a response for two months until June 14, only three weeks before the July 6 deadline. This delay, which may be strategic in essence, is not acceptable to the Rockhill community, and should not be acceptable to DEP. The expectation to meet the July 6 deadline as written is unequivocal, and the expectation was clearly transmitted. DEP should no longer allow Hanson to continue this charade, and reiterate its expectations that all deficiencies as outlined in the April 12, 2021 must be addressed by the July 6th deadline. The deficiency letter provides a clause for responses that are deemed non-responsive: "If you believe the stated deficiencies are not significant, you have the option of declining and asking the Department to decide based on the information you have already made available". DEP should firmly stand by the expectations as stated in the deficiency letter, and make a final decision to prohibit all activity at the quarry based on the responses and/or previous information, as written.

Very truly yours,



Mark L. Freed, Esquire
For CURTIN & HEEFNER LLP

cc (via email):

The Honorable Thomas Wolf, Governor of Pennsylvania
The Honorable Patrick McDonnell, Secretary, PA-DEP
The Honorable Brian Fitzpatrick, U.S. Representative PA-01
The Honorable Steven Santarsiero, 10th Senatorial District
The Honorable Craig Staats, PA's 145th Legislative District
The Honorable Diane Ellis-Marseglia, Chair, Bucks County Board of Commissioners
The Honorable Robert Harvie, Jr., Vice Chair, Bucks County Board of Commissioners
The Honorable Gene DiGirolamo, Bucks County Board of Commissioners
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