

November 4, 2009

2009 NOV -5 PM 2:21

Investment  
Management

Mr. John Rigter  
Livermore-Pleasanton Fire Department  
3560 Nevada Street  
Pleasanton, California 94566

Property  
ManagementMarketing  
ServicesAsset  
Management

Mr. Jerry Wickham  
Alameda County Environmental Health Services  
1131 Harbor Bay Parkway, Suite 250  
Alameda, California 94502-6577

Acquisitions &  
DevelopmentDisposition  
Services

**Subject: Facility Closure Plan for Hanson Aggregates Radium Facility, 3000  
Busch Road, Pleasanton, California**

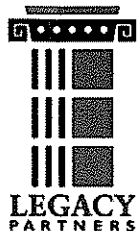
Design  
ServicesConstruction  
Management

Dear Mr. Rigter and Mr. Wickham:

The following is in reference to an email dated October 23, 2009 from Jerry Wickham to Lee Cover of Lehigh Hanson West Region (Hanson), which, in turn, references a September 25, 2009 letter from John Rigter of the Livermore-Pleasanton Fire Department (LPFD) to Lee Cover and an October 14, 2009 letter from Jerry Wickham of Alameda County Environmental Health (ACEH) to Lee Cover and Steven Dunn of Legacy Partners (Legacy). The September 25, 2009 letter from LPFD requests that Hanson revise their *Closure Plan for the Former Hanson Aggregates Radium Facility, 3000 Busch Road, Pleasanton, California* (Closure Plan) dated June 19, 2009 in accordance with comments specified in the LPFD letter. The October 14, 2009 ACEH letter reiterates and clarifies comments made in the LPFD letter.

The October 23<sup>rd</sup> email to Lee Cover indicates that it is LPFD's and ACEH's understanding that two separate Closure Plans may be preferable to a single plan, one from Hanson and one from Legacy. We do not know where the concept of two separate plans originated. It is Hanson's responsibility to perform closure of their former operations at the Site, and having separate closure plans would not only be redundant, it will also give rise to questions of responsibility for closure activities.

The initiation of Site closure proceedings began with LPFD's facility inspection of September 16, 2004 and subsequent letter of September 22, 2004 at which time John Rigter requested that Hanson's Larry Appleton provide a facility closure plan to address Site closure issues. The required plan and summary of closure activities performed to date were provided in a report by Baseline Environmental Consulting (Baseline) titled *Closure Plan Report, Radium Plant* for Hanson Aggregates Mid Pacific, Inc., and dated January



2005. Baseline completed and documented decommissioning/closure of facilities east and south of AOC 3, such as the aggregate processing plant, lube shed, and warehouse; the concrete batch plant; electrical transformers; and underground fuel storage tanks. Legacy reviewed that closure information and verified the closure assertions made in the Baseline report by performing sampling in those areas. The closure activities outlined in the Baseline report were only partially completed at that time because some of the Site facilities, such as the heavy maintenance shop were still in use by Hanson. Hanson's responsibility is to complete facility closure activities in those areas of AOC 1, AOC 2 and AOC 3 where LPFD's and ACEH's required closure criteria have not yet been met.

On July 18, 2008, Hanson conducted a Site walk with LPFD, ACEH, and LFR, Inc. (LFR), Hanson's environmental consultant, to review current Site conditions and evaluate the effort necessary to conduct final closure. At that time LPFD requested that a revised or updated closure plan be submitted by Hanson for approval for closure of certain features at the Site. LFR's June 19, 2009 Closure Plan responds to that request. The current review comments to that plan from LPFD and ACEH request modifications/additions specific to that plan. Hanson's responsibility is to complete closure of their facilities and activities as specified in their original Closure Plan, dated January 2005 and current plan, dated June 19, 2009 with modifications as requested by LPFD and ACEH. The first two paragraphs of the cover letter to that Closure Plan state:

"The attached Closure Plan was prepared by LFR Inc, (LFR) on behalf of Hanson Aggregates West Region for the former hot mix asphalt plant area, the idle truck maintenance area, and the heavy equipment maintenance and wash rack area at the former Hanson Aggregates Radum Facility located at 3000 Busch Road, Pleasanton, California.

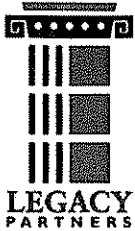
"Representatives of LFR or me [sic] will contact you by the end of June to assess the review schedule for this document. We would like to complete the scope of work presented in the Closure Plan prior to the 2009 wet season."

This clearly indicates that Hanson understood at that time that closure activities for their Site are their responsibility. Furthermore, on page 1 of the Closure Plan they specifically state that:

"The closure of the Site includes addressing both aboveground and subsurface features and environmental concerns."

and,

"For completeness, this closure plan includes brief descriptions of subsurface investigations that have been conducted and that are planned to be conducted and associated soil remediation, under the purview of Alameda County Environmental Health (ACEH). The purpose of the proposed investigations is to further address environmental concerns (primarily soil affected by petroleum hydrocarbons)



identified at the Site. The purpose of the proposed remediation activities is to remove soil affected by petroleum hydrocarbons.”

It is clear that Hanson’s historical intent and responsibility is to fulfill these requirements. Closure activities were commenced well before the purchase of the property by Legacy and Hanson represented to Legacy at the time of the purchase that there were no outstanding agency obligations. As operator of the site facilities during its operations and use and the submittee of the Closure Plans, Hanson bears the full responsibility for completing closure activities as required by LPFD and ACEH. Furthermore, the only operational knowledge that Legacy has of the Site is that provided by Hanson. Therefore, Hanson is in a far better position to address the questions posed by LPFD. The use for which the closure is required happened prior to Legacy ownership of the Site and that use was by Hanson. Legacy can’t be responsible for Hanson’s closure.

Legacy believes that Hanson, as the former Site owner and operator, is not only in a better position than Legacy to address and implement the requested closure activities, it is their responsibility to do so. Therefore, Legacy does not intend to submit a separate closure plan for Hanson’s former operations at this time.

Sincerely,

A handwritten signature in black ink, appearing to read "SD", is written over a light gray rectangular background.

Steven Dunn  
Managing Partner  
Legacy Partners

cc: Mr. Lee Cover  
Mr. Terry Marshall  
Mr. Bill Butler  
Mr. Brian Myers  
Mr. Marvin Howell  
Mr. Voytek Bajsarowicz  
Ms. Bridget Metz  
Mr. Gregg Hall