

## Germinario, Lena@Waterboards

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**From:** [REDACTED]  
**Sent:** Thursday, June 8, 2017 2:05 PM  
**To:** Germinario, Lena@Waterboards  
**Cc:** Gregg, Jack@Waterboards  
**Subject:** Re: Tentative Orders Amending Order Nos. R2 2014-0010 (NPDES Permit CA0030210...

Lena Germinario,

June 8, 2017

In regards Tentative Orders Amending Order Nos. R2 2014-0010 (NPDES Permit CA0030210) and R2-2014-0011 (Cease and Desist Order), Lehigh Southwest Cement Company and Hanson Permanente Cement, Inc., Permanente Plant, Santa Clara County I would like to submit the following concerns in preliminary response.

~ Though the RWQCB focus in these Tentative Orders is to assess levels of chemical contaminants in water Lehigh Cement is outsourcing to Permanente Creek from quarry operations, I do not find temperature criteria which believe is integral to environmental impacts on stream and Bay biota. Please require all quarry outfalls to Permanente Creek monitored to ensure stream temperatures are viable for healthy survival of Red-Legged Frogs and resident trout.

~ Have recently noted green algae in stream flows in concrete reach of Permanente Creek just north of Portland Avenue, though cannot tell if it is a lethal variety, Should Santa Clara Valley Water District monitor creek conditions here or City of Los Altos be concerned on health of stream as it abuts Heritage Oaks Park?

~ Though you have transmitted Lehigh's Tentative Orders to Santa Clara Valley Water District staff it does not appear that they are contributing flow data from their Berry Avenue gage which should assess stream temperatures and flows in this reach? The daily record of volumes of stream flow is basic to evaluating what percentage of Permanente Creek's watershed runoff is percolating into Santa Clara Valley aquifers through creek's two and one half miles of unconfined zone. Historically it has been pulse flows from upper watershed that cleared percolation gravels to optimize rainwater reaching groundwater basins and RWQCB needs to ensure that this action is not being lost or diminished through present permitted quarry release regimen.

~ Then, to my most serious concern, which is degree to which RWQCB Tentative Orders may lead to loss of Permanente Creek's watershed resources, in perpetuity, due to provisions in California Water Law's Rights of Appropriation. The volumes and frequency of pumping of water from drainage ditches, ponds and pits to the treatment plant, with transmittal to holding tanks and truck, undocumented and unlimited, is unregulated in these orders, I find, to a critical degree. As the tentative permit's only regulatory limit seems the creek outfall of 167,000 gallons per hour, believe it is feasible for Lehigh to diminish beneficial uses inherent in watershed by accommodating unanticipated activities. Finally, as believe the deficiency in specific language gives too wide a latitude for permanent diversion or retention of prime watershed resources, request RWQCB California Water Law expert review aspects of Prescriptive and Appropriative Rights as they pertain to all elements addressed in Tentative Orders for Lehigh Southwest Cement Company and Hanson Permanente Cement, Inc.

Thank you for consideration of my initial concerns, and will try to address subsequent details on Monday.

Libby Lucas,  
[REDACTED]

PS There is a time limit for legally assuring an appropriator of their rights to water use so please avoid delay.