

Responses to Public Comments from the Second Public Notice

Application for Renewal of Major Facility Review Permit
Lehigh Southwest Cement Company
24001 Stevens Creek Blvd.
Cupertino, CA 95014
District Facility No. A0017

This document presents the responses of the Bay Area Air Quality Management District (“Air District” or “District”) to comments received from members of the public on the District’s proposed renewal of the Title V Major Facility Review Permit (“permit”) for Lehigh Southwest Cement Company.

The Title V Major Facility Review Permit is required by Title V of the Clean Air Act. The Title V program requires large industrial facilities to apply for federal air quality operating permits. These permits list all of the federal, state, and local air quality requirements that apply to the facility. Applicable requirements include emission limits and standards, and compliance requirements (i.e., monitoring, recordkeeping, and reporting requirements). The Title V permit does not place new limits on the facility’s air pollution emissions. Following initial issuance, applications for renewals are required every 5 years. These renewals must go through public and EPA review. In a Title V permit renewal, the District performs the following tasks: 1) adds new, modified, and exempt equipment, 2) updates and reviews all federal, state, and local emission limits and standards applicable to the sources at the facility, 3) updates and reviews all monitoring, recordkeeping, and reporting requirements, and 4) reviews the compliance status for all applicable requirements. The existing Title V permit continues in force until the District takes final action on the renewal application.

The District published its second proposal to renew the permit for Lehigh Southwest Cement Company on January 21, 2011, and received written comments from 20 individuals and organizations. No comments were received from EPA. The District has reviewed and considered the comments it received during this process, and is providing responses as set forth herein. For each new comment received, this document provides the District’s rationale for either agreeing with the comment and modifying its proposal, or disagreeing and continuing with the proposal as originally published. If the comment was also made during the initial proposal, the response is contained in the Responses to Public Comments from the First Public Notice.

These Responses to Comments are organized by the subject matter of the comments received:

Table of Contents

<u>Topic:</u>	<u>Page:</u>
I. Permitting Issues.....	3
A. Deferral of Issuance of the Title V Renewal Permit	3
B. Permits	4
C. Procedural Issues	10
II. Particulate Matter	12
III. Toxics	18
A. Risk Assessment	18
B. Mercury.....	20
C. Asbestos.....	24
D. Chromium	25
E. Lead.....	26
F. Selenium.....	26
G. NESHAPS Subpart LLL	26
H. Toxics-General	29
IV. Greenhouse Gases	31
V. Air Monitoring.....	32
VI. Enforcement.....	33
VII. Monitoring and Reporting	35
VIII. Fuels	39
IX. NOx and SOx Control	40
X. Failure to Regulate.....	42
XI. Trucks	43
XII. Non-Air Quality Concerns.....	44
XIII. General Comments –Record of Previous Responses	46
XIV. General Comments - No Responses.....	47

I. Permitting Issues

A. Deferral of Issuance of the Title V Renewal Permit

1. The District should delay the issuance of the Title V permit until a full year of emissions data have been obtained from the Monta Vista Park sampling station is completed to obtain a thorough impact of the quarry's air emissions.

District Response: The results of a full year of air monitoring at the Monta Vista Park site are summarized in Appendix B of the Responses to Public comments from The First Public Notice and Public Hearing. The results are not unlike those seen at other urbanized Bay Area locations and do not appear to be significantly impacted by the Lehigh facility. Should additional data collected indicate that actions are warranted, the District will immediately work with Lehigh to minimize those impacts to the extent possible, and will modify any conditions as necessary. However, ambient air monitoring is not required as part of the Title V process and should not be linked to issuance of the permit.

2. The air emissions data from Lehigh may not be completely accurate. The third party review of the air emissions data has not yet been conducted by appropriate experts. The City of Los Altos requests that the District order such a review to take place and results obtained pursuant to such an independent, third party review of the air emissions data for the quarry be evaluated by the District before any Title V permit is renewed.

District Response: The District is responsible for review of air emissions data. The District staff is composed of many experts in their fields with many years of experience. Besides engineers and inspectors, the District is staffed with laboratory analysts and air dispersion modelers who are well equipped and capable of performing the review on their own.

B. Permits

1. The proposed Title V permit references critical upgrades such as going back to a single exhaust stack, using activated carbon injection, and inserting Kiln Mill Dust Collector (KMDC) materials in the product, but does not provide clear implementation schedules.

District Response: The activated carbon injection has already been installed and is in operation. The Kiln Mill Dust Collector (KMDC) recycle is also in operation.

Lehigh is working on the design for the stack. Lehigh has not yet submitted an application for the single stack, but expects to submit an application and to have it built by September 9, 2013.

2. EPA stated that the facility does not have a Title V permit.
District Response: The facility holds a valid Title V permit. The initial issuance was on November 5, 2003. The original permit continues in force until issuance of the renewal because Lehigh submitted a timely renewal application.
3. The Federal EPA has stated in their NOV that Lehigh has not used the Best Available Technology to keep the plant from violations.
District Response: Lehigh received a notice from the EPA in March 2010, alleging violations of PSD permit regulations. As part of this investigation, Lehigh was requested to provide additional information related to projects which were implemented at the facility between 1996 and 2000. When it has been finalized, the District will respond to the findings appropriately.
4. There should be an indication in the permit about the PSD rules and how they are to follow them. BAAQMD should also be aware of this and they should make sure Lehigh is in compliance. Failure to apply for the PSD permit for modification covering NOX and SO2 increase of emissions is illegal and should be grounds to close down the facility until they comply. Lehigh failed to install additional Best Available Technology even though they are owned by a major corporation that is very familiar with the latest and greatest technology.
District Response: The NOV issued to Lehigh by EPA remains an active enforcement case without final resolution. If EPA issues an order requiring Lehigh to prepare a PSD permit application in the future, it will be handled by EPA or the District, depending on legal considerations. In the meantime, issuing the Title V permit with existing applicable requirements will improve compliance. Until the Title V permit is renewed, the existing permit remains in effect.
5. In Section I, Standard Conditions, B.10, it states that the emissions inventory submitted with the application is an estimate. There needs to be a more direct indication of exact emissions emitted and EPA requirements should be put on a report next to the Lehigh emitted levels. The public wants to see a chart with maximum levels that have been imposed by the BAAQMD and a separate column that states

what the EPA limit levels are and what is actually occurring. The calculation of the levels should also be explained in detail so that the citizens can understand what is going on.

District Response: All representations of emissions are estimates, even those in which continuous emissions monitors are used. The reason for Condition I.B.10 is to make clear that the emission estimate that is submitted by the facility does not create a new limit. Emissions information is public information.

In regards to the request for an estimate of actual emissions, the emission calculations for each source are estimated annually by the District and are available upon request. Please contact Public Records at (415)749-4761 for this information for any given year.

In regards to EPA and District limits, the limits are shown in the "Limit" column in the tables in Section IV of the draft permit. Any limit that is marked as federally-enforceable (FE) can be enforced by EPA. The other limits are enforced by the District or the State.

6. Section I. Standard Conditions, I, Severability, did not mention what will invalidate the permit and should.

District Response: This standard condition is required by the federal Title V regulations. It means that if the facility or another entity invalidated part of the permit through some legal action, the rest of the permit would remain valid.

7. Section I.J, Miscellaneous Conditions, states:
"The maximum capacity for each source as shown in Table II-A is the maximum allowable capacity. Exceedance of the maximum allowable capacity for any source is a violation of Regulation 2, Rule 1, Section 301."

The "Exceedance" levels should be outlined and stated.

District Response: The capacities to which this condition refers are listed in Table II-A.

The District Compliance And Enforcement staff has reviewed the records for Lehigh for the period between July 1, 2004 through October 31, 2011 and has found that there were no exceedances of the maximum equipment capacities as shown in Table II-A.

8. In Table II-A - Permitted Sources, it states that the capacity of S-100 is 400 tons of fuel/hour. Is the fuel burned at S-100?

District Response: The Precalciner Fuel Handling System handles coke and coal. The table states that it can handle 400 tons/hr. This means that it can move 400 tons/hr. No fuel is burned at this source.

9. In Table II-A - Permitted Sources, why was the word "Coal" removed from the description of S-171 and S-172? What fuel is the plant using? This information should be stated on all applicable areas.

District Response: Sources S-171 and S-172 are used for both coal and coke; therefore, the old description of "Coal Mill" was changed to

“Fuel Mill” instead. The fuels “coal” and “coke” have been added to the description of the sources in response to this comment.

10. In Table II-A - Permitted Sources, why were three more Wet Aggregate Loadout Systems added at S-360? Is the total capacity of 1000 ton/hr for all four systems?

District Response: There are a total of four Wet Aggregate Loadout Systems. The correction was made to reflect the actual description of S-360. The total capacity of 1000 tons/hr is for all four systems combined.

11. Why were A-4502, A-4503 and A-4504 removed from Table II-B, Abatement Devices?

District Response: Abatement devices A-4502 through A-4504 were never built and were withdrawn from permit Application #15572.

12. Page 13, Table II-B – Abatement Devices. Ringelmann levels are increased from 0.5 to 1. This is not acceptable and it should be left at the prior level. BAAQMD has and can impose a stronger limit and the public would like it to remain as before.

District Response: The limit was changed for various sources in Section IV, not Section II-B because there is no regulatory basis for Ringelmann 0.5.

13. Cold solvent cleaners, S-208 and S-209, should be closely monitored no matter what the levels are.

District Response: S-208 and S-209 are not subject to requirements of regulation because they have negligible emissions. The solvent cleaners are exempt from District permit requirements per the provisions of Regulation 2, Rule 1, Section 118.4 since they use a low VOC content solvent mixture that has less than 50 grams VOC per liter (0.42 lb/gal).

14. How was 900 hours of operation at the S-415, Finish Mill Building Conveyor, decided? What reports or math told the BAAQMD or whatever agency that this is acceptable?

District Response: Lehigh requested 900 hours of operation per year in permit Application #8682. The application was evaluated on that basis and was found to meet applicable requirements. The requirements were added to the Title V permit on May 9, 2006, through permit Application #9687 for a minor revision.

The emissions of the source were calculated based on a flow rate of 8,000 cubic feet per minute through the baghouse, a grain loading specification of 0.006 grains/cubic foot, and 900 hours of operation. The calculated emissions were 0.185 tons PM10 per year.

15. S-444, Emergency Conveyer, should only be used in an emergency. If they are processing more rock, someone should make sure they are not using this equipment unlawfully.

District Response: The Emergency Clinker Conveyor is used for clinker only. Rock transfer is not involved. This is an existing source that has not been identified separately because it has always been considered as part of the Clinker Transfer System, S-165. Identifying this source separately will not result in an increase or change to the clinker production rate from 1.6 million tons per year as per Condition #11780.B1.

16. 3.9 acres of storage areas are mentioned, but not where and what.
District Response: For more information, please see the permit Application #19385, which is attached to the Statement of Basis or request a public record of Application #19385.
17. The storage pile #2 contains aggregate materials and is not part of the cement plant. This storage should not be permitted in this area. There is no reclamation plan for this area.
District Response: Storage pile #2 is not part of the reclamation plan. The aggregate material is an unsold, washed product of the rock plant, and the slag is for small slag-cement product orders.
18. A New Source Review investigation regarding recent actions, equipment and processes should be completed before a new Title V Permit is issued as well as an investigation into Prevention of Significant Deterioration potentials. Did the modifications made to use 100% petroleum coke undergo New Source Review? Did they undergo a PSD investigation? If so, were these adequate? The increased allowable petroleum coke use went from 8 tons per to 20 tons per hour. The commenter is not happy about that. It shows that Lehigh will be mining more rock and therefore there will be more pollution being released out into the environment.
District Response: Renewal of the Title V permit is supposed to occur every five years. Investigation of possible non-compliance issues can occur in parallel with Title V permit actions without either affecting the other. In theory, an enforcement investigation might progress to the point where the case for non-compliance would compel denial of a Title V renewal. The District believes that is not the situation here.

The District did evaluate a New Source Review application for using coke instead of coal for cement production in permit Application #15398. The District concluded that the emissions from using either material were similar in term of air emissions. The application was not simply for an increase from 8 to 20 tons per hour of coke. The coke increase was accompanied by an elimination of coal use, although the facility does have an option to return to coal if necessary. The District determined that the change was not subject to PSD because there would not be a major increase in emissions as defined by BAAQMD Regulation 2-2-221. Because the coke will be substituted for coal, this does not mean that Lehigh will be mining at a higher rate than before.

19. The THC 24 ppmvd emission limitation @ 19% O₂ (p. 147) is in error as the limit is actually 50 ppmvd corrected to 7% as per EPA's direct final rule of March 21, 2011 for S-141 and S-142 raw mills.

District Response: Table 2, of Subpart LLL, Section 63.1343(e), specifies the PM, mercury, THC, D/F, or opacity emission limits that an existing source must continue to meet between September 9, 2010 and September 9, 2013. The raw mills at Lehigh are not greenfield sources (constructed after March 24, 1998); therefore, they are not subject to the THC requirement as required by Table 1 of Section 63.1343(b) until September 9, 2013.

20. The D/F emission limitation must be shown with 7% O₂ correction factor.

District Response: A correction was made on Table IV & Table VII-K to add the 7% O₂ correction factor.

21. In Condition #11780, part D.3, for S-154, Kiln, the totals of the calculations should be stated, not just how the totals are calculated. I have done the calculations in the past myself and the maximum levels should be stated as totals. The SO₂ maximum level should also be calculated and the total listed as a total on the Title V Permit.

District Response: The kiln's flow rate varies with different amount of feed throughputs and many other operating parameters. Therefore, Condition #11780, part D.3 is designed to calculate the actual flows using four flow meters that represent flows from 32 stacks. The maximum flow rate of 263,000 dscfm was used in the past to calculate NO_x and SO₂ emissions; however, it was not as accurate as using the readings from the flow meters. Condition #11780, part D.3 will be deleted in the future since Lehigh is proposing to consolidate all 32 stacks into one single stack.

The kiln's maximum SO₂ emission limit of 481 lb/hr is already specified in permit Condition #2786, Part A.4.

The calculation method is not a limit, but rather a method to calculate emissions based on a source test.

22. The citizens cannot wait until 2013 to have any BACT implemented at Lehigh. Write up how the Title V Permit works and explain any success stories to date.

District Response: Please refer to our website for a detailed description of the Title V permit program at: <http://www.baaqmd.gov/Divisions/Engineering/Title-V-Permit-Programs.aspx>. The following changes will have been successfully made if Lehigh's Title V permit is renewed:

- a. New standards and monitors for the Kiln and Clinker Coolers were added per Federal NESHAPS Subpart LLL.
- b. Control Technologies such as lime injection, activated carbon injection and kiln mill dust recycled are being implemented at Lehigh.

- c. The "Fugitive Dust Control Plan" to monitor and maintain dust control for activities such as trucks and stockpiles within the facility was implemented.
- d. The Operating and Maintenance Plan to ensure proper operations and maintenance procedures for process and pollution control equipment was updated.
- e. Source tests and monitors are subject to the Continuous Assurance Monitoring Regulation per EPA 40 CFR Part 64.
- f. All regulatory requirements for existing sources were updated.

Please note that BACT only applies to new and modified sources in accordance with BAAQMD Regulation 2-2-301.

C. Procedural Issues

1. The basis for CEQA exemptions is being questioned for several projects: (1) the shutdown of the Mineral Aggregate Plant and the banking application pursuant to the shutdown; (2) the significant increase in usage of petroleum coke and increased rail cars; (3) projects such as lime slurry injection, which is “undertaken for the sole purpose of bringing an existing facility into compliance with newly adopted regulatory requirements of the District or of any other local, state or deferral agency.”

District Response: Some projects were determined to be ministerial and therefore exempt from CEQA because the permit applications are covered by the specific procedures, fixed standards and objective measurements set forth in the District’s Permit Handbook and BACT/TBACT Workbook. Other projects were determined to be categorically exempt from CEQA because the permit applications are either exempt by the express terms of CEQA (BAAQMD Regulation 2-1-312.1 through 312.9) or because the permit applications had no potential for causing a significant adverse environmental impact (BAAQMD Regulations 2-1-312.10 and 312.11). The Title V renewal process does not involve a review of CEQA requirements for permit evaluations previously completed.

2. Minor modifications to the Title V permit do not give the public the opportunity to review these amendments as in the overall context of the Proposed Title V permit renewal. The process of minor amendments to the Title V permit is not an open process, nor is it acceptable. For example, the application for a new or modified mill is pulled, so it is not included in the Title V permit for public review, yet it was also indicated by the District that it would be resubmitted at a later date.

District Response: The Title V minor revision procedures are explained in Regulation 2, Rule 6 and in the Manual of Procedures, Volume 2, Chapter 3. Please visit our website for more information. <http://www.baaqmd.gov/~media/Files/Planning%20and%20Research/Rules%20and%20Regs/reg%2002/rq0206.ashx> and <http://www.baaqmd.gov/Records/MOP.aspx>.

The commenter is correct in stating that minor revisions are not subject to public comment as are initial Title V permits, renewals, reopenings, and significant revisions. However, minor revisions are posted on the District’s website and notice of the posting can be received by signing up for the District’s listserv at:

http://visitor.constantcontact.com/manage/optin/ea?v=001JXuPjRD-WUjsZiQ2a_gIDg%3D%3D.

While minor revisions are not subject to public comment, a member of the public can communicate with the District or EPA to point out a material mistake in a permit at any time.

3. The applicant must amend its application to clarify in a certified submittal that the facility is a major hazardous air pollutant source and to accurately characterize annual emissions of hydrogen chloride and other HAPs.

District Response: The District added a statement in the statement of basis indicating that Lehigh is a major source of hazardous air pollutants since the emissions of hydrogen chloride and other HAPs are greater than 10 tons/yr. Emissions of hydrogen chloride and other HAPs will be updated with monitoring equipment and source tests when the new NESHAP standards become effective on September 9, 2013.

4. The applicant's emission summary form provided a plant wide summary total for organics. It is not acceptable since the applicant must provide criteria pollutant emission totals, which includes volatile organic compounds.

District Response: Lehigh is not a significant user of non-precursor organic compounds. The District assumes that the number provided for "organics" is equivalent to volatile organic compounds. The requirements for POCs are more stringent than those for Non-POCs.

5. The District should evaluate the anticipated effects of the additional air emissions which will result from expanded operations through the expansion area of the new mine pit at the quarry.

District Response: As a responsible agency, the District will review the proposed Environmental Impact Report, which will be prepared during the CEQA review process for Lehigh's Reclamation Plan amendment, to ensure that potential air impacts are identified and that feasible mitigation measures are applied if determined to be significant.

II. Particulate Matter

1. This comment is in regards to the permit condition #24274, for S-606 and S-607, Storage Piles. The Ringelmann viewing is only looking at dark or darker dust or gas viewing, not the light white or blue emissions. There are emissions even if they have no color and we are subjected to this pollution. The true story is that there should be more than Ringelmann viewing by the BAAQMD inspector who seems to always say there is nothing wrong, even if he has concluded there were emissions. There seems to also be no one who knows what the brown or blue smoke means. Someone should find out.

District Response: District inspection staff evaluates visible emissions for compliance with BAAQMD Regulation 6, Rule 1 opacity requirements using a nationwide approved protocol, EPA Method 9. District inspectors are trained and certified to evaluate visible emissions. In California, white and colored visible emissions (plumes) are typically read in percent opacity from 0 to 100%, while black/gray plumes are read using the Ringelmann Smoke Chart from 0 to 5. Each incremental value of 1 on the Ringelmann Chart corresponds to a value of 20% opacity. For example, an opacity reading of 40% corresponds to a Ringelmann 2. 100% opacity or Ringelmann 5 both refer to plumes that are totally opaque (cannot be seen through).

The appearance of a visible emissions plume depends on certain variables such as the angle of the observer with respect to the plume and the sun, the point of observation of the plume, and the color contrast between the plume and the background against which it is being viewed. Enforcement staff utilizes EPA Method 9 when evaluating visible emissions and are required to follow specific criteria to document any potential violation. Visible emissions plumes when viewed in late afternoon looking into the sun, can appear darker when in actuality, read using proper EPA method, frequently are in compliance with visible emission standards.

Note that the standard does not require no visible emissions. The standard for most sources requires that emissions cannot exceed Ringelmann 1 for more than 3 minutes in every hour.

The colored plume that the commenter refers to may be a secondary plume from the kiln exhaust. This plume is a phenomenon that forms after the kiln gas exhaust cools and comes in contact with atmospheric humidity and is detached from the kiln main stacks. The secondary plume is very rarely of sufficient opacity to exceed applicable emission standards. Nonetheless, the plant is currently investigating the contributing constituents in the plume and determining a solution. In addition, a recently installed hydrated lime injection system should mitigate the secondary plume.

2. We see a large plume being emitted from Lehigh on a regular basis, including in the morning. The response is that it is vapor. Vapor does not appear tan or brown. We know the difference between "vapor" and small particulates.

District Response: See response above. The District is working with Lehigh on the installation of advanced pollution control equipment to meet the revised Portland cement NESHAP requirements. Some of this equipment is expected to reduce the visibility of the secondary plume that may form above the kiln baghouses. To report excessive visible emissions from the facility, call the District's Air Pollution Complaint Line at (800) 334-ODOR.

The District also continues to seek improvements in dust control from the facility, which should help reduce fugitive dust from reaching the community. For example, the Fugitive Dust Control Plan required in the Title V permit renewal will help focus the efforts of the facility to reduce visible dust emissions and prevent future violations from dust generating activities at the facility including those from roadways, truck traffic and quarry operations.

3. The dust control methods shall meet the requirement in the NESHAPS amendment for new standards for clinker storage and handling areas. All clinker storage activities that occur within 1000 feet of the facility must be fully enclosed.

District Response: Lehigh has always stored clinker in the enclosed silos, which are abated by dust collectors; therefore, Lehigh already meets the enclosure requirement for clinker storage set forth by the amended NESHAP.

4. The permit should be amended to require the applicant to report both filterable PM and condensable PM, each separately.

District Response: The District has collected data from the filterable PM emissions for compliance demonstrations. The District has not been collecting data on condensable PM emissions, but might for future study and reference. Both the emission limits and CEMS requirements of the amended NESHAP address filterable PM, including PM_{2.5} and PM₁₀, but not condensable PM. EPA does not feel that it has sufficient reliable information on condensable PM emissions from cement kilns to set limits on condensable PM. It is also highly unlikely that a CEMS for condensable PM will be developed in the near future because of the chemistry involved in determining the condensable portion of PM emissions. EPA has recently promulgated a new test method for condensable PM (Method 202), and feels that this test method will allow for more reliable assessments of condensable PM emissions in the future.

5. The use of activated carbon injection systems can cause a facility to emit additional particulate matter. The District must require the facility to install additional technologies to keep its particulate matter emissions under control or require the facility to increase the collection efficiency of its existing particulate matter control devices.

District Response: The storage and handling of activated carbon will cause a very small increase in particulate matter emissions. However, Lehigh installed additional dust collectors to ensure emissions are under control for the carbon storage silo and bin. The injected activated carbon in the cement kiln will not significantly increase the particulate matter

emissions because the material is filtered out of the exhaust gases at high efficiency in the baghouse. The efficiency of the dust collector will not change as a result of adding the activated carbon because it is a function of the bag type and the air flow rate and neither of these parameters has changed.

6. Table II-B – Abatement Devices, mentions moisture monitoring at A-300. This has been a problem with no real solution by Lehigh. Dust is everywhere all over the valley and into homes.
District Response: Water Spray Systems are an effective method for controlling fugitive dust emissions. Please see EPA AP-42 Air Pollutant Compilation of Emission Factors, Chapter 13.2.4 at: <http://www.epa.gov/ttn/chief/ap42/ch13/final/c13s0204.pdf> for Aggregate Handling and Storage Piles. Lehigh has also implemented preventive techniques as described in the Fugitive Dust Control Plan for the control of fugitive dust emissions.
7. At S-17, Clinker Transfer Area, the opacity limit of 10% required by NESHAP is not stringent enough.
District Response: The source referred to on page 59 of the proposed Title V permit renewal is abated by a dust collector; therefore, the dust emissions are properly controlled and visible emissions rarely occur. The opacity requirement is to address break down conditions or broken dust collector bags. The District has correctly incorporated the applicable standard from the NESHAP into the Title V permit renewal.
8. The new pit makes it impossible to live here in the valley and there is a lack of understanding on the part of regulators and this must end.
District Response: The review of any new quarry pit is a separate process from the Title V permit renewal. Please contact County of Santa Clara during the California Environmental Quality Act review process for the proposed quarry reclamation project.
9. Why was the opacity limit required by 40 CFR 63.1348 taken out for S-19, Clinker Storage Area?
District Response: The citation was not taken out. It was moved in the table to correct the order of the citations.
10. For S-45, S-46 and S-47, Cement Silos, the particulate matter sampling should be conducted at PM_{2.5}, not just at PM₁₀, as the District has been testing.
District Response: Lehigh is required to source test for PM emissions, which include both PM₁₀ and PM_{2.5}. The potential to emit for particulate at these sources is very small and does not warrant PM_{2.5} testing alone. Also, it is likely that the test ports for these sources are too small for PM_{2.5} testing.
11. S-390, Conveyor, does not contain the emissions and is wide open. There is no containment house around it and so the public is subject to pollution from the dust to the air, water and soil. This must end. There is new technology that is on the market that could end these emissions all

together, but the Lehigh plant will not implement this technology, and the BAAQMD and the EPA will not make it a requirement. There are HEPA filters of all kinds that could work together with all of the locations at the cement plant and also all over the facility including the quarry, but of course these are expensive and so the company will not implement them. There needs to be a total containment of all of the dust and pollution from the plant and it does not matter at what level this is evaluated. It should include all levels and this should happen immediately.

District Response: Fugitive dust emissions are addressed by the District in several ways. Lehigh uses water spray for open conveyors and dust collectors for enclosed conveyors. High Efficiency Particulate Air (HEPA) filters operate at high pressure drops and may not be substantially better at reducing emissions than the filter media already being used in Lehigh's dust collectors. In addition, implementation of the Fugitive Dust Control Plan in the Title V permit should reduce dust emissions from the plant. It is not technologically feasible to totally contain dust and other air pollutants within the plant.

12. The limit in Condition #13982, part 4, for S-414, Cement Kiln Dust Bin, states that it shall not exceed 24,000 tons/yr. The emissions from this dust are spreading all over the Silicon Valley and is polluting the community at 24,000 tons per year. Why is this allowed to happen? This dust violation should be controlled. What is the EPA and the BAAQMD going to do about this violation of the Clean Air Act?

District Response: The Kiln Dust Bin is already controlled by a dust collector with a Best Available Control Technology (BACT) requirement of 0.0013 gr/dscf at the outlet exhaust. No violations have been issued to source S-414 Kiln Dust Bin since permit issuance.

The 24,000 ton/yr limit is not how much dust can be emitted, but rather how much material can flow through the bin in a year.

13. At S-602 and S-606, the water spray is not enough for the conveyor systems. How often is it used to stop the dust?

District Response: The owner/operator is responsible for keeping the dust under control at all fugitive dust emissions sources. S-602 is a Conveyor System. Water spray nozzles are mounted on top of the conveyor's transfer points. They are continuously spraying water when the crushers are in operation to reduce the dust emissions. S-606 is the Stock Piles Area 1, which are reserved stockpiles. Lehigh's operators are trained to spray water when needed by water trucks, which are going around the plant on a daily basis.

14. Condition #7252, part 3, requires water flow over 4 storage piles. The commenter does not think this is happening. The commenter has been told that there is nothing wrong with the aggregate out in the open even though it is blowing around. One example is one aggregate pile next to the guard shack that is not being watered or sprinkled and that is blowing all over the place polluting the community. Who will regulate that? What is the moisture content of these piles?

District Response: Please refer to Lehigh's Fugitive Dust Control Plan for the definition of "dry" materials on pages 9 & 10. Dry materials have less than 5% moisture content. The stockpiles are required to be watered as necessary to prevent visible emissions and public nuisance. No violations of visible emissions limit have been issued to sources S-300 Wet Aggregate Piles or S-606 and S-607 Storage Piles Area #1 and # 2 since permit issuance.

15. Condition #18475 for S-19, Clinker Storage, does not seem to have any sprinkling of the clinker. The commenter wonders how the dust is kept down. There need to be controls in place.

District Response: The Clinker Storage is made up of enclosed silos and the dust is controlled by dust collectors. Therefore, water sprinkling is not needed for dust control.

16. Performing a source test every 5 years and visual inspections at S-21, Roll Press Clinker Surge Bin, are not enough due to the high levels of pollution emitted.

District Response: The owner/operator also maintains an Operating and Maintenance plan, which includes monitoring the pressure drop across the baghouse on a monthly basis. The Plan is required by NESHAP, Subpart LLL.

17. The lack of containment of the pollution and dust emitted and accumulated day after day, hour after hour, is causing very serious health problems in the community and this needs to end. There should be a monitor at every point at all locations at the cement plant and any place else at the quarry if possible and if necessary to control the dust and the pollution.

District Response: After the Title V permit is renewed, it will contain a Fugitive Dust Control Plan, which should help reduce the amount of particulate matter emitted. The proposed permit also contains various types of monitoring for the baghouses to ensure compliance including:

- Visible emissions monitoring
- Pressure drop monitoring
- Bag leak detectors
- Source tests

The District has conducted ambient monitoring of both PM10 and PM2.5, and a wide variety of other air pollutants, in the community near Lehigh. A comprehensive health risk assessment has also been completed to address emissions of toxic air contaminants from Lehigh. These data and analyses do not support the commenters claim that emissions from Lehigh are causing serious health problems in the community.

18. The overburden¹ at the WMSA² and the EMSA³ is not contained and so the dust is flying all over. This is not acceptable.

¹ Soil, rock, or other naturally occurring material overlying a useful deposit.

² West Material Storage Area

³ East Material Storage Area

District Response: These areas are subject to the Ringelmann 1 limitation in BAAQMD Regulation 6-1-301, and the District has inspection staff at the Lehigh facility at least on a weekly basis to monitor this and other requirements. If a member of the public observes excessive visible emissions, the number (800) 334-ODOR (6367) can be called to register a complaint. The District responds to every air pollution complaint with a field response investigation.

19. The dust attaches to the NO_x, SO₂ and CO₂ gas emissions that are being disbursed over the whole valley polluting the air, water and soil.

District Response: Any dust in a plume would be carried by the gases in the plume. In the case of combustion sources, these gases would include NO_x, SO₂ and CO₂. Please note that the majority of the gas in the plume from a combustion source is nitrogen that is part of the air used for combustion.

III. Toxics

A. Risk Assessment

1. The Health Risk Assessment (HRA) is under-estimated and outdated. There should be a new, comprehensive, and thorough HRA produced prior to approving any permit.

District Response: Lehigh submitted a revised HRA for the Air Toxics Hot Spots Program (ATHS) on March 30, 2011. The BAAQMD and OEHHA⁴ completed separate reviews of this document. Based on these reviews the District concluded that the HRA report is complete and was prepared in accordance with the state-wide ATHS HRA guidelines. The District approved the revised HRA report on November 8, 2011. OEHHA and the District have reviewed the risks and have found them to be below the levels that require public notification. The risk assessment is available at: <http://www.baaqmd.gov/Divisions/Engineering/Air-Toxics/Special-Reports.aspx>.

2. The boundaries of 1,000 ft. for determining risk triggers are much too small.

District Response: The ATHS program does not use a 1,000 foot basis for determining health risks, nor was this used in the HRA completed for Lehigh.

3. The Toxics Hot Spots Program requires a threshold that is completely inadequate to support health. The HRA does not take into account either cumulative effects nor synergistic interactions of various HAPs, VOC, TACS, etc. both among themselves and within the body interactions with body processes and chemistry.

District Response: The District believes that the ATHS program is a health protective risk management program. OEHHA's HRA guidelines consider the effects of different compounds additively but not synergistically. The HRA is required to be completed in accordance with these guidelines.

Please refer to the letter dated March 29, 2011 that was sent to Supervisor Liz Kniss regarding Dr. Singhal on Synergistic Toxicity from the 1st response to public notice.

4. The District should adopt the Precautionary Principle in which it is the responsibility of the industry to prove that a substance will not be harmful and reverse the burden put on agencies and communities to prove a substance is harmful. When a substance that is not proven to be harmful may be released into the environment for 20 years or longer, until it is finally regulated because detrimental impacts are proven.

⁴ Office of Environmental Health Hazard Assessment (California)

District Response: Title V permits are compilations of existing applicable air quality standards and their associated compliance provisions. The adoption of new policies, principles, or regulations is not relevant to the action of issuing or renewing a Title V permit.

The “Precautionary Principle” has at its core the idea that action should be taken to prevent or minimize harm to human health and the environment even if scientific evidence is inconclusive. Unfortunately, the Precautionary Principle does not specify what criteria should trigger action (e.g., how is a potential health threat established, and how is it determined if existing scientific information is inadequate or inconclusive), nor does it specify what action should be taken after it is triggered. The Precautionary Principle is therefore difficult to craft into workable regulatory programs.

Nonetheless, District staff believes that elements of the Precautionary Principle are addressed in existing regulatory programs for toxic air contaminants. For example, the federal program requires that rules adopted for toxic air contaminants be based on the Maximum Achievable Control Technology (MACT) before any consideration is given to the health risks that exist from emissions from affected facilities. This is the case with the amended NESHAP adopted by EPA that has added additional emission standards and compliance provisions that are now being incorporated into Lehigh’s Title V permit, and that will significantly reduce emissions of mercury and other toxic air contaminants. The methods used to estimate health risks in the State Air Toxics Hot Spots Program (and the District’s New Source Review Program) are not without uncertainty, but are based on well-established scientific principles, and are intended to err on the side of health protection in light of uncertainties. The programs are designed so that updates in health risk assessment methodology can be addressed based on improvements in scientific knowledge.

B. Mercury

1. Lehigh is polluting our environment and threatening the health of Cupertino and other Bay Area residents. The quarry has high mercury emissions and the impact of these emissions is not known. It is the responsible thing to limit or end the plant's activities.
District Response: The health impacts from emissions of mercury from Lehigh have been addressed in an updated HRA. Mercury emission limits have been established to keep ambient levels below applicable Reference Exposure Levels (which were set by OEHHA with significant margins of safety). A continuous emissions monitor has also been installed to determine compliance with this limit and the NESHAP mercury standard. In addition, mercury levels in the air have been monitored for over a year at Monta Vista Park, and have been determined to be well below Reference Exposure Levels. Finally, mercury emissions from the kiln have been significantly reduced by the installation of the KMDC dust shuttle and activated carbon injection systems.
2. The draft permit fails to place a cap on mercury emissions to ensure the facility does not contribute to the further impairment of the surrounding waterways.
District Response: The recent minor revision to the Title V permit contains limits on annual and hourly emissions of mercury for compliance with the Air Toxics Hot Spots Program. Mercury contamination in San Francisco Bay and other water bodies is being addressed by the California Regional Water Quality Control Board. These are not applicable requirements to be included in a Title V permit.
3. The draft permit should not allow the increased use of coke, since it increases the burning capacities and allows more mercury emissions.
District Response: The permitted use of coke actually reduced the amount of fuel being used. Replacing coal with coke does not increase mercury emissions. Virtually all of the mercury is from limestone and other raw materials. The current estimate of mercury emissions from coke is about one pound per year.
4. The 88 pounds of mercury per year is not listed in the proposed Title V permit renewal. Lehigh has applied for the use of activated carbon injection under Application #22953, but it is not detailed in the proposed permit. What will Lehigh use? A single stack combined with a mercury CEMS, or a sorbent trap-based integrated monitoring system?
District Response: The 88 lb/yr mercury limit is based on the NESHAP standard (55 lb/tons of clinker produced) and Lehigh's maximum production rate of 1.6 million tons of clinker per year. The NESHAP standard will become effective in September of 2013 and the Title V permit will be revised to prior to this to add this annual mass emission limit. Lehigh has stated that they intend to install a

single stack and CEMS. Indeed, the mercury CEMS was installed in October, 2011. Lehigh plans to build the single stack by September 9, 2013.

5. The District should enforce the 55 pounds of mercury per million tons of clinker as per the EPA's NESHAP rule with no exemption or relaxation.

District Response: The NESHAPS standard will become effective in September of 2013 and the proposed Title V permit renewal has been revised to incorporate this emission limit. The District has proposed its own Cement Manufacturing rule with this same limit as a backstop in case the EPA rule should be relaxed.

6. The cumulative fact and cumulative effects of mercury since 1939 requires acknowledgement in the Title V permit and the District must demonstrate why emissions of anymore additional mercury is not acceptable.

District Response: The applicable mercury standards have been incorporated into the proposed Title V permit renewal. See response to comment B.1 above for an explanation of why mercury emissions from Lehigh are acceptable.

7. The addition of recycled (KMDC) dust in the cement is hazardous to the workers and do-it-yourselfers that mix the dry cement powder. The District should acknowledge this in the Title V permit, in the MSDS⁵, and on the bags of cement. Why is the District allowing this method of reducing the mercury?

District Response: EPA has authorized KMDC at several facilities as a method to reduce mercury emissions and meet pending standards of the NESHAP. The levels of mercury in the manufactured cement will be very low. It is the facility's responsibility to comply with all relevant product warning requirements.

8. For S-154, Precalciner Kiln, the mercury emissions are not recorded correctly. There needs to be a policing agency getting information after the EPA or another policing agency has tested the Lehigh cement plant themselves. The public cannot trust the BAAQMD or Lehigh to monitor the mercury themselves and it is necessary to bring in other parties that will record the correct levels. CEM information should be sent directly to EPA and BAAQMD via computer without tampering. The public has been subjected to high levels of mercury that accumulate in our bodies and are causing terrible on-going health problems that include cancer and this must end. The commenter would like to include other pollutants such as dioxin, lead, selenium and many others. This needs to end. The public is not so sure that the Lime Injection System is going to do any good at all and wants more proof.

⁵ Material Safety Data Sheet

District Response: The Mercury emission will be monitored by a CEMS, which will be certified by EPA and the District for functional operation and accuracy.

9. The mercury requirements in EPA's new rule must be applied to S-154. If Lehigh has a problem with it, the plant should be shut down.

District Response: Lehigh will not be able to operate if it cannot consistently meet EPA mercury emission standards after the September 9, 2013 effective date.

10. A commenter asked how the District really knows if Lehigh is not exceeding the levels. The monitoring is very questionable at best. There needs to be a better way of monitoring the clinker and the mercury.

District Response: The District will require Lehigh to perform the Relative Accuracy Test Audit (RATA) to check the accuracy of the continuous mercury emission monitoring system at least once a year. This test is designed to measure the mercury from the CEMS system against the actual source test or laboratory analysis data in accordance with EPA reference methods. The accuracy of the CEMS must be within 10% in order to be approved by the District.

11. The draft permit fails to describe the facility new emission reduction systems with sufficient details and did not include technologies to reduce mercury emissions.

District Response: The proposed technology used to reduce mercury emissions is described in the Statement of Basis for the proposed permit renewal. Lehigh applied for and received an Authority to Construct an activated carbon injection system to reduce mercury emissions under permit Application #22953 along with a Title V minor revision under Application #22954. The Title V minor revision was submitted to EPA for review on May 10, 2011 and was finalized on July 8, 2011. Lehigh had previously installed a KMDC dust shuttling system under permit Application #21217, which removes mercury adsorbed by the activated carbon from the process.

The mercury control systems have been installed. The final New Source Review permits to operate will be issued after review of the source test results.

12. The amount of Clinker measured is used to monitor the mercury that the plant emits, but this is not enough. There needs to be a special monitor at the site to monitor the mercury coming from the kiln and other locations as well.

District Response: The Clinker Storage is made up of enclosed silos and the dust is controlled by dust collectors. The predominant source of mercury emissions is the cement kiln, where Lehigh has recently installed a continuous mercury emission monitor in October 2011.

The clinker throughput will be monitored according to procedures specified in Section 63.1350(d) of NESHAP, Subpart LLL. This requirement becomes effective on September 9, 2013.

In regards to the clinker throughput, Section 63.1350(d) of the new NESHAPS standard requires the facility to install, calibrate, maintain, and operate a permanent weigh scale system to monitor the production of clinker on an hourly basis. This requirement becomes effective on September 9, 2013, and will eliminate the concern of throughput limit exceedances due to recordkeeping error.

C. Asbestos

1. We have been unsuccessfully asking for an analysis of relevant samples of rocks in the quarry by a State Certified Geologist for years in order to determine whether there is asbestos or asbestos like components in the rocks in the quarry. We ask that this be a requirement in the Title V permit.

District Response: Naturally-occurring asbestos can be found in ultramafic rock, which includes serpentine formations throughout California. In July 2002, CARB adopted an Air Toxic Control Measure (ATCM) for Naturally Occurring Asbestos (NOA), which applies to Construction, Grading, Quarrying, and Surface Mining Operations.

NOA is not a concern at the Permanente site. While the site lies within a mapped ultramafic geologic unit, third-party tests reviewed by State-certified geologists indicate that the underlying geology is not a type likely to produce NOA.

Moreover, between 1981 and 2007, the Permanente site was tested on numerous occasions for the presence of NOA in response to community requests and regulatory directives. None of these investigations revealed any evidence of NOA at the site.

In 2007, in response to an inquiry from the Cupertino community, CARB and District staff conducted an investigation into the applicability of the ATCM relating to NOA. No evidence of NOA could be found and CARB determined that at this time, Lehigh is not subject to the requirements of the ATCM.

In addition, Lehigh has provided information regarding asbestos content to Santa Clara County for the CEQA EIR process regarding the Quarry Reclamation Plan Amendments; please contact Santa Clara County.

D. Chromium

1. The storage piles area and materials are a part of an overall hugely polluting, toxic emitting operation. The charts do not list hexavalent chromium. It also does not appear that it was tested for chromium.

District Response: The coal and coke have been tested and were found to contain only traces of hexavalent chromium. The plant's total hexavalent chromium emission from stockpiles wind erosion and is approximately 0.0011 lb/yr based on the updated 2008 Comprehensive Emission Inventory Report. Lehigh has included the hexavalent chromium in its updated HRA reported to the District in March 2011.

2. What is steel slag being used for? The District told the public in 2010 that the operation does not use steel slag. Does it contain hexavalent chromium? What are its components?

District Response: The steel slag is added to the clinker to produce cement with special specifications. Lehigh uses steel slag from a natural iron ore; therefore, the steel slag does not have a high hexavalent chromium content. The components of slag are listed on pages 129 and 130 of the Statement of Basis. Lehigh did not use the same steel slag that caused the hexavalent chromium problems at Cemex Davenport, which was from the waste steel recovery, not from the natural iron ore.

E. Lead

1. The levels of lead emissions (15 lbs/day) for sources S-154, S-171, S-172, S-606, and S-607 are not acceptable. The citizens cannot tolerate these levels. The regulations do not include levels that are accumulating in human bodies.

District Response: According to the revised Air Toxics Hot Spots Program Health Risk Assessment report for 2008/2009 production, Lehigh emitted 0.514 lb/yr of lead. Lehigh has included the lead emissions in its updated HRA reported to the District in March 2011. The lead contribution to the Point of Maximum Impact (PMI), Maximum Exposed Individual Resident (MEIR) and Maximum Exposed Individual Worker is negligible, both for cancer and non-cancer health risks.

The 15 lb/day limit for lead is simply a citation of the limit in SIP Regulation 11-1-301, not the actual emissions.

2. Why were Parts 3 and 4 of Condition #603, which contained the PSD Analysis trigger level for lead, deleted?

District Response: The PSD trigger level for lead was deleted because it is redundant with Regulation 2, Rule 2, Section 306. The trigger level is an indication that PSD applies if a project results in an increase in lead of more than 3.2 lb/day. It is not the lead limit with which Lehigh must comply. Lead limits are contained in BAAQMD Regulation 11, Rule 1. The new NESHAP also address lead, but use PM emissions as a surrogate.

F. Selenium

1. Selenium is all over the whole facility. It has contaminated the air, water and soil.

District Response: Trace amounts of selenium are found in materials used to make cement, but there is no significant health impact from air emissions of selenium at Lehigh. This has been addressed in the updated HRA.

G. NESHAPS Subpart LLL

1. The draft permit must require the facility to install all new emission control technologies by September 9, 2013 and require the facility to meet interim deadlines to ensure compliance with the new emission standards by September 9, 2011.

District Response: All of the applicable emission standards of the amended NESHAP have been incorporated into the proposed Title V permit renewal along with the appropriate compliance dates. District Regulation 2-1-301 requires that a permit application for emissions control equipment be submitted to the District for review and approval prior to installation.

As was mentioned in the Statement of Basis for the proposed Title V permit renewal that was published in January 21, 2011, Lehigh applied for a permit to install an activated carbon injection system to reduce mercury on January 10, 2011, the same day that the second public notice for the Title V permit renewal was signed.

Pursuant to permit Application #22953, the District issued an Authority to Construct for the activated carbon injection equipment to Lehigh. Pursuant to Title V Application #22954, the District submitted a minor revision of the Title V permit for the equipment to EPA for review on May 10, 2011. The minor revision was finalized on July 8, 2011. In these actions, the District revised Condition #603 to add an interim mercury emission limit and requirement for a mercury monitoring system, which was installed in October 2011. The Statement of Basis for the Title V minor revision is posted on the District website at: <http://baaqmd.gov/Divisions/Engineering/Title-V-Permit-Programs/Title-V-Permits/Santa-Clara/A0017/Lehigh-Southwest-Cement-Company.aspx>.

The proposed Title V permit renewal also included the hydrated lime slurry injection system under permit Application #21573 to reduce the HLC emission at the kiln's exhaust.

2. The renewal application does not explicitly endorse full compliance with NESHAP. Lehigh is a member of an industry association that is challenging the regulations in court.
District Response: Lehigh's membership in an organization challenging the NESHAP does not affect Lehigh's obligation to comply with the requirements of that Regulation as incorporated in the Title V permit. The District has proposed a rule that would establish the same emission standards as the NESHAP as a backstop in case the NESHAP standards are weakened
3. The required NESHAP CEMS and the stack must be specific (2 channels or 2 trains of sensors) and incorporated into the Title V permit.
District Response: The NESHAP CEMS are required to be installed at any emission point before September 9, 2013, regardless of the number of operating trains.
4. Where are the EPA new rule additions? They should be stated at the beginning of the Title V Permit and there is no indication that there are any additions being added. There should be mention of the rules and how they are applied or will be applied.
District Response: The new NESHAP standards were added to the individual source tables in Section IV for equipment that will be subject to the NESHAP in the Title V permit renewal. The standards will be effective on September 9, 2013 as specified in the Tables. Just like any other standard, the description of the new NESHAP standard, limit,

monitoring frequency, reporting, recordkeeping and federal enforceability are contained in the specific tables for each source.

H. Toxics-General

1. The fuel will not be tested for the toxic air contaminant content; instead, the exhaust from the kiln will be tested yearly for toxic air contaminant content. This is unacceptable. Coke has radioactivity in it. Each shipment of petroleum coke should be tested for metals and radioactive materials, and the amount per ton of petroleum coke should be posted on BAAQMD website. No petroleum coke can be used if it contains detectable radioactive elements

District Response: There is no federal, state, or District requirement to test each shipment of fuel for content of metals and radioactive materials. Lehigh intends to demonstrate compliance with the NESHAP by the use of CEMS in addition to annual source testing. This is considered to be acceptable monitoring.

Measuring the emissions at the stack is appropriate because the measurement reflects what is emitted into the air. Toxic air contaminants in the fuel may remain in the product and therefore may not be emitted.

The District has no information that indicates that any significant quantities of radioactive compounds are found in petroleum coke. The commenter has not presented any evidence of radioactive elements or any research papers or articles on the subject.

2. Condition #603 for source S-154, Kiln, has a Cr6+ limit of 1.06 lb/12 months. Source testing for toxics metals is not enough. There must be a non-biased method without tampering. Who is measuring this? It seems that there is evidence that a lot more is being released. This should be evaluated.

District Response: The hexavalent chromium limit is 1.06 lb/yr. Source tests and material analyses are approved methods for estimating emission releases; Lehigh will use a combination of these methods to demonstrate compliance with emission limitations.

3. Dust that gathers in our homes and cars clearly contains cement. It sticks. What is it doing to our lungs?

District Response: The District has reviewed the 2011 updated HRA that was prepared for the Lehigh facility. This HRA was prepared in accordance with the Air Toxic Hot Spots Program risk assessment guidelines. This HRA indicates that the stationary sources at this facility (including source generating fugitive dust) are resulting in health risks that are not considered significant.

Fine particulate matter (PM2.5) can cause a number of adverse health impacts such as aggravating asthma and other respiratory illness. These health impacts are discussed in more detail on the District's web site:

<http://www.baaqmd.gov/Divisions/Planning-and-Research/Particulate-Matter.aspx>. The District has implemented a number of programs throughout the Bay Area to reduce exposures to unhealthy PM2.5 concentrations.

For the Cupertino residential area near Lehigh, the District initiated a monitoring study to determine if elevated pollution levels were occurring in this area compared to other Bay Area monitoring stations. This special monitoring project is discussed in more detail on the District's web site: <http://www.baaqmd.gov/Divisions/Technical-Services/Special-Projects/Cupertino.aspx>. So far, the monitoring data indicates that PM2.5, toxic gases, and metals are comparable to or lower than the San Jose monitoring station data. A summary of the first year of monitoring data collected at this site is included in Appendix B from the First Responses to comments from the Public Notice and Public Hearing.

4. The fine dust is causing serious health problems in the community that include cancer.

District Response: See response to comment above.

IV. Greenhouse Gases

1. There should be a serious commitment to minimize GHG emissions. The use of natural gas and replacing train hauling with truck hauling would reduce an important greenhouse gas: carbon dioxide.

District Response: Lehigh is subject to the CARB Cap-and-Trade regulation that is designed to reduce GHG emissions from industrial facilities and other sources. Lehigh is also subject to PSD regulations that require the Best Available Control Technology (BACT) to minimize emissions of GHGs from projects that would increase GHGs by a significant amount (established by EPA to be 75,000 tons/yr or more of CO₂e).

As stated in Section IX, Fuels, (section of the District response to the initial comments of 2009, the reason that coal and coke are used is that the kiln requires a high operating temperature.

Furthermore, the District questions the assertion that the use of trucks instead of trains would decrease greenhouse gas emissions. For example, a study by the Pew Center on Global Climate Change shows that trains emit about 15% of the greenhouse gases that trucks do on a BTU per ton mile basis. The study can be found at: <http://www.pewclimate.org/technology/factsheet/FreightTransportation>.

V. Air Monitoring

1. The City of Los Altos is willing to work with the District on obtaining funding to set up a second sampling station and identifying test configurations and selecting the specific site of its location.

District Response: The District appreciates the offer from the City of Los Altos, but believes that the current efforts will enable emissions modeling efforts to be verified and/or modified to allow for accurate modeling results to be produced for the entire area impacted.

2. There should be another air quality monitoring station setup. The current monitor location at Monta Vista Park is inadequate to assess the impact of the facility because it is located upwind of the facility and is located 150 feet below the facility entrance.

District Response: The current location was determined by modeling emissions from the Lehigh facility, and the site is believed to be adequate to monitor pollutant levels that are representative of the Cupertino neighborhood that is closest to the Lehigh facility. The methodologies and instrumentation in place has the required measurement capabilities to quantify concentrations to extremely low levels. Results from this location to date indicate that it provides data that meets measurement goals.

Analysis of the meteorological data collected at the site show that on a number of sampling days, predominate winds were from the direction of the facility. In addition, wind direction changes throughout the day and night so that emissions from the source would have impacted the monitoring location throughout the monitoring effort.

VI Enforcement

1. Section I, Standard Conditions, B.4 states: "This permit may be modified, revoked reopened and reissued or terminated for cause." This form of enforcement has never been implemented even though there have been many occasions when it should have been. There is no mention of failure to comply and what will the EPA do to force Lehigh into compliance. This needs to be added to the Title V Permit.
District Response: This condition is sufficient to convey the information that the District or EPA may take these actions. The general purpose of the Title V permit is to contain the obligations of the owner/operator, not the District or EPA.
2. The draft permit Fugitive Dust Control Plan cannot be enforced as an emission limitation and applicable requirement, and has not been subject to public comment.
District Response: The Fugitive Dust Control Plan will help prevent excessive fugitive dust emissions and prevent future violations. The Plan does not contain emission limitations, but specifies mitigation measures to control excessive emissions of fugitive dust from activities at the plant. Violations of excessive dust are enforced through District regulations. The plan was made available for public comment on January 21, 2011, as part of the proposed Title V Major Facility Review Permit Renewal package.
3. It is very hard to believe that any of the Dust Collectors are working properly or at all with the amount of dust coming from the Cement Plant and the Quarry. The road and the trucks should be included.
District Response: District staff conducts frequent inspections of the facility to ensure activities at the plant, including the operation of dust collectors, are conducted in compliance with applicable requirements. Any violation of these standards results in the issuance of a Notice of Violation. In addition, the newly required Fugitive Dust Control Plan will help focus the efforts of plant staff to reduce visible dust emissions and prevent future violations from dust generating activities at the facility including those from roadways, truck traffic and quarry operations.
4. The draft permit should include punitive measures if Lehigh fails to implement all necessary changes to meet the new standards by the statutory deadline.
District Response: The District has statutory authority to seek injunctive relief or monetary penalties if permit conditions are not met.
5. Lehigh must be regulated and monitored to prove and ensure that they do not exceed the permitted amount of 1.6 million tons of clinker per year. According to March 9, 2010 Notice of Violation issued to Lehigh by the EPA, a series of physical modifications made to the facility from 1996 through 1999 caused an increase in the production of cement and an increase in emissions of air pollutants to the atmosphere. This is evidence of poor regulation and monitoring by the BAAQMD over a long period.

District Response: In section 63.1350(d) of the new NESHAPS standard, the facility is required to install, calibrate, and maintain and operate a permanent weigh scale system to monitor the production of clinker on an hourly basis. This requirement becomes effective on September 9, 2013. This requirement will help eliminate the concern of throughput limit exceedance due to recordkeeping error.

The NOV issued to Lehigh by EPA does not allege that the clinker production exceeded the 1.6 million ton/yr limit.

6. Section 1. Standard Conditions, B. Conditions to Implement Regulation 2, Rule 6, Major Facility Review, of the Title V permit should have a clause inserted here that the permit holder must comply with standards pertaining to environmental pollution for the air, water and soil. Failure to comply penalties and even closure of the facility will be imposed. This should cover NOV's and other noncompliance issues. The Bay Area Air Management District will impose fines and will also work with the EPA to close the plant when necessary in order to protect the public from environmental contamination.

District Response: Failure to comply with permit conditions subjects a facility to penalties and injunctive remedies, which could include shutting down the facility in extreme circumstances. This authority is provided for in the California Health & Safety Code, and need not be restated in the permit. Note that the District does not have authority over soil and water standards, nor is it appropriate for such standards to be included in a Title V permit.

7. There has always been a problem with Quarry Blasting, Cement Plant Operation, and the trucks, and no one seems to be able to stop these problems. It is stated that they should not emit emissions in sufficient quantities as to cause a public nuisance. They have absolutely been causing a serious public nuisance and they have been in violation of the Clean Air Act and the Clean Water Act and in violation of soil pollution standards.

District Response: The District's review of Lehigh showed it was in intermittent compliance with no evidence of on-going non-compliance and no recurring pattern of violations that would warrant consideration of a Title V permit compliance schedule. To improve compliance and reduce dust emissions, the following elements have been proposed in the Title V permit renewal: A Fugitive Dust Control Plan and periodic source tests for sources abated by dust collectors not currently subject to source test requirements. These measures should help prevent excessive fugitive dust emissions and prevent future violations.

The District does not have jurisdiction over water and soil pollution.

8. The EPA Region 9 and the EPA Federal Division in Washington should be involved in regulating Lehigh for all of its emissions of air, water, and soil pollution. There should be strong penalties and even jail imposed on the law violators.

District Response: Comment noted. Commenters may communicate directly with EPA regarding their concerns.

VII. Monitoring and Reporting

1. The checking of the baghouses should be done at least every 3 months instead of annually to insure that the public is protected from any pollution. An alternative would be to use a monitoring device that can go directly to a policing agency that could immediately stop the pollution in order to insure that the public is safe.

District Response: Please refer to Condition #24781, Compliance Assurance Monitoring (CAM), for the frequencies of visual inspections, pressure manometer readings, and manometer or bag leak detector calibrations. Pages 19 through 22 of the Statement of Basis explain the CAM applicability to each source. These monitoring requirements are believed to be adequate.

2. The draft permit fails to describe the facility's new emission monitoring and reduction systems with sufficient details.

District Response: Table IV-N of the proposed permit specifies that (1) a particulate matter CEMS must be installed and operated in accordance with Performance Specification 11 of Appendix B and Procedure 2 of Appendix F of 40 CFR Subpart 60; (2) a total hydrocarbon CEMS must be installed and operated in accordance with Performance Specification 8 of Appendix B of 40 CFR Subpart 60; (3) a mercury CEMS must be installed and operated in accordance with Performance Specification 12A of Appendix B of 40 CFR Subpart 60; and (4) a hydrochloric acid CEMS must be installed and operated in accordance with Performance Specification 15 of Appendix B of 40 CFR Subpart 60. Please refer to Table IV – N.

The emission standards of the new NESHAP have been incorporated into the Title V permit renewal. Additional emissions controls for which Lehigh has submitted District permit applications have been described in the proposed Title V permit renewal and Statement of Basis. Additional details regarding these systems can be found in the permit applications which are available to the public upon request.

3. The total hydrocarbon (THC) should be monitored, since THC is a surrogate for benzene, which is the primary contributor to the health risks resulting from Toxic Air Contaminants (TAC) emissions at Lehigh.

District Response: The amended NESHAP will require Lehigh to continuously monitor THC. Lehigh will install the THC monitor by September 9, 2013 and will also measure benzene annually according to permit Condition #603, Part 8.

4. Pages 121 and 122 of the Statement of Basis require monthly analysis of the benzene content of fuel samples. The frequency should be changed to daily.

District Response: The amount of benzene in coal or coke is not a good indicator of the amount of benzene in the stack. The kiln runs at very high temperatures and most benzene in the fuel will be completely oxidized to CO₂ and water. Benzene emissions are primarily due to partial oxidation of kerogens present in the limestone processed in the kiln. A better indication of

benzene emissions is to measure the benzene concentration in the stack directly. The requirement has been changed from monthly fuel analysis to annual source testing at the stack. In addition, Lehigh will install a continuous THC monitor, where THC is a surrogate for benzene, by September 9, 2013.

5. CEMS measurements required by the EPA's new NESHAPS rule should be reported daily on the BAAQMD web site. They should be calibrated on a regular maintenance basis of 4 times per year by either a District expert or a state certified expert, not by Lehigh. The tests should be unannounced. The results should be made public on a timely basis of no more than one month after the calibration and inspection.

District Response: Calibration and accuracy testing of CEMS is spelled out in District regulations and in the District's Manual of Procedures, Volume V, and are required to be followed. See District's Regulation 1-522 for Continuous Emission Monitoring and Recordkeeping Procedures at: <http://www.baaqmd.gov/~media/Files/Planning%20and%20Research/Rules%20and%20Regs/reg%2001/rg0100.ashx>. See the Manual of Procedures, Volume V at: <http://www.baaqmd.gov/Records/MOP.aspx>.

6. All emission control devices must have at least an annual source test instead of once every five years.

District Response: Visual monitoring, pressure drop monitoring, and/or bag leak detectors are ways that one can ensure compliance. In addition, Lehigh tests the kiln's baghouse and other large dust collectors once a year. For smaller sources, source tests are required once every five years in their operating and maintenance plan/fugitive dust control plan. This is consistent with the Compliance Assurance Plan as required by EPA through the use of Conditions #24621 and #24781.

7. Visible inspection, pressure drop monitoring systems, and source testing every 5 years is not enough. Lehigh should not be allowed to police themselves. The frequency must be less than once per year and broken bag and leak detection should be added to dust collectors.

District Response: In addition to requirements to source test every 5 years, each of these dust collectors is equipped with either a pressure manometer or a bag leak detector. The pressure gauges are inspected and calibrated on a quarterly basis. The pressure readings are recorded on a monthly basis depending on the emission level. Please refer to Condition #24781, Compliance Assurance Monitoring (CAM), for the frequencies of visual inspections, pressure manometer readings, and manometer or bag leak detector calibrations. Pages 19 through 22 of the Statement of Basis explain the CAM applicability to each source.

The Title V regulations require that facilities monitor themselves and not rely solely on District inspections and testing.

8. In Table II-B, why was Condition #2786, Part B taken out of the requirements for A-111 through A-113 with no explanation provided? How is the monitoring conducted and how is it calculated in detail? It must be clear to the public on the Title V permit how it is done and a sample given.

District Response: Condition #2786, Part B was deleted from sources S-111 to S-115 and abatement devices A-111 to A-115 because it was added by mistake. Condition #2786, Part B applies to Sources S-141, S-142, S-154, S-161, S-171 and S-172. Page 15 of the statement of basis does explain that the citation was deleted and why. Table II-B explains that the abatement devices have pressure drop and visible emissions monitoring, and source tests every five years.

9. The pressure gauges are calibrated by Lehigh and this is where the problem is. The EPA or someone else should police this.

District Response: Failure to conduct accuracy tests and the reporting of biased results could result in violations. In addition, a District inspector makes unannounced visits to Lehigh at least once every week.

The Title V regulations require that facilities take the responsibility of monitoring themselves and not rely solely on District inspections and testing.

10. Regarding CAM Plan and Condition #16109, the report should be every week, not every 6 months, to keep the dust and other pollution down and to make sure that there are no problems with the Ringelmann viewing.

District Response: Please refer to Condition #24781, Compliance Assurance Monitoring (CAM), for the frequencies of visual inspections, pressure manometer readings, and manometer or bag leak detector calibrations. Pages 19 through 22 of the Statement of Basis explain the CAM applicability to each source.

The Title V regulations require reports of all required monitoring every six months. In addition, Standard Condition I.F requires reporting on any non-compliance within 10 calendar days of discovery of the incident.

11. The monitoring for the broken bag leak detection devices on sources S-210, Finish Mill, and S-230, Hydraulic Roller Press, states that the limit is 70% and 60% of the maximum allowable current limit, respectively.

District Response: The use of broken bag leak detectors is an advanced method to control fugitive dust emissions. It is used as an early warning of equipment failure. Setting the alarm level at 60-70% of the limit provides time for the owner/operator to investigate and take corrective action before an exceedance occurs.

12. The dust collectors should be monitored more closely because of high dust levels. PM_{2.5} should be monitored as well as PM₁₀.

District Response: Dust collectors are effective abatement devices for dust. The proposed Title V permit contains a great deal of monitoring for the dust collectors. To review the monitoring, please refer to the proposed permit and the Operation and Maintenance Plan on the District's website at: <http://www.baaqmd.gov/Divisions/Engineering/Title-V-Permit-Programs/Title-V-Permits/Santa-Clara/A0017/Lehigh-Southwest-Cement-Company.aspx>.

Lehigh is required to source test for PM emissions, which includes both PM₁₀ and PM_{2.5}.

13. Source S-17, Clinker Transfer, abated by A-436 dust collector, is source tested every 5 years, which is not enough for the 6-1-311 requirement. 6-1-401 and 601 emissions should be monitored.

District Response: The 6-1-311 requirement is a filterable particulate limit. After control, the source is a minor source of filterable particulate emissions. Source testing every five years is appropriate.

In addition, S-17 is required to monitor the pressure drop and inspect the manometer gauge on a quarterly basis according to the Compliance Assurance Monitoring permit Condition #24781.

VIII. Fuels

1. The proposed permit indicates that the amount of coal burned for fuel could rise to 29 tons/hr from the previously permitted 20 tons/hr of coal or a mixture of coal and petroleum coke, or petroleum coke. The Statement of Basis states “36 tons/hr of coal and 27 tons/hour of petroleum coke. The District allows the Title V permit renewal for this facility while EPA found them to be significantly out of compliance with NO_x and SO_x for over a decade.

District Response: Historically, solid fuels such as coal and a mixture of coal/coke were used in cement kilns. Since May 2007, Lehigh was allowed to use up to 20 ton/hr of coke. The District determined the coke use in fuel did not result in a significant change in emissions as compared to coal. If Lehigh decides to use coal again, the maximum allowable rate is 29 ton/hr, which is derived from the equivalent amount of coke in terms of heat input. This limit was imposed to clarify the maximum coal usage and as a result of a public comment from the initial Title V permit renewal’s public notice.

The current Title V permit has no limit on coal usage. The new throughput limits are an improvement to the Title V permit.

2. Coal usage should be stopped.
District Response: The commenter has not presented a reason why coal usage should be stopped.

IX. NOx and SOx Control

1. The Lafarge plant and the CEMEX Fairborn plant both were issued similar NOV's as Lehigh at the beginning of 2010 by the EPA. Lafarge agreed to install the first ever SCR system and seven selective non-catalytic reduction (SNCR) systems at long dry cement kilns. Lehigh should be required to install the SCR and this installation should be started in the next few months with a completion date of December 2012.

District Response: All of these NOV's (Lafarge, CEMEX, and Lehigh) were issued by EPA, not the District. The District does not have a direct influence on how the NOV issued by EPA to Lehigh's Cupertino plant will be resolved. The Lafarge NOV was settled in January 2010, with injunctive relief in the form of the installation of SCR at a kiln in Illinois by August 2013, and installation of SNCR at several kilns beginning in late 2011 through late 2012.

The CEMEX NOV was settled in February 2011, with injunctive relief in the form of installation of SNCR at the kiln in Ohio by August 2012. The Lehigh NOV was issued in March of 2010, has yet to be resolved, and may or may not result in injunctive relief. Independent of EPA's actions, the District is currently developing a Cement Kiln rule to limit emissions of NOx. The District held a workshop on this rule in Cupertino on December 12, 2011. The draft rule includes a NOx emissions standard that will become effective September 2013. In order to meet this standard, Lehigh will need to install either SCR or SNCR.

2. The kiln's NOx and SO2 emissions have a high maximum level set by the BAAQMD. The NOx and SO2 are being released by two pipes from the plant beside the kiln area and these emissions have no monitor connected to them. E-mails were sent to EPA Region 9 and EPA Federal in Washington to investigate the situation where the emissions are not accounted for; thus the NOx and SO2 levels coming from the kiln are always low. Lehigh is using the NOx and SO2 gases to dry out the petroleum coke and coal. This is not acceptable because they are funneling off the gases from the kiln and this is reducing the levels and therefore the levels monitored are incorrect. The two pipes that they are using to emit the petroleum coke and coal emissions are not monitored. Who knows what is coming out of the pipes? This needs to be investigated immediately.

District Response: It is true that a slip stream of the effluent of the kiln is being used to remove moisture from the fuel before introducing the fuel into the kiln. However, the flow and emissions from the two exhaust pipes are being measured as follows.

The NOx emission limits are specified in Condition #11780, Parts C.1 and C.3. Condition # 603, Part 7 required Lehigh to install and maintain four flow meters at the 32 kiln exhaust dust collectors and two flow meters at the two fuel mill exhaust dust collectors since May 2009. Lehigh is reporting the total emissions from the kiln using approved flow rate calculations from the kiln exhaust dust collectors and two fuel mill exhaust dust collectors plus actual NOx and SO2 concentrations on a monthly basis to the District.

Using the kiln effluent in this way has various advantages. Transferring some heat to the fuel before use means that less fuel has to be burned to make cement. Therefore, emissions of greenhouse gases are reduced.

Also, passing the gases through the carbon in the fuel can be expected to reduce NO_x and SO₂ in the effluent to some extent. Temperatures are not nearly high enough to result in combustion of the fuel or other chemical reactions which would generate air pollutants.

The gas temperature has to be lowered before entering the baghouse or the bags will be damaged. This heat recovery step should accomplish this goal.

X. Failure to Regulate

1. The District appears to be doing the job for the applicant or accepting a Title V application which is incomplete. BAAQMD appears to adjust the air pollution requirements and regulations to accommodate the amount of pollution from various TACs. We ask the District to begin using your regulatory authority to make an actual and significant reduction in the air pollution. We ask that the Title V permit conditions be greatly strengthened to reflect the seriousness of the effects on 1.7 million people in Santa Clara County and to greatly reduce the pollution allowed to be emitted from the cement plants and its operations.

District Response: The District's Rule Development Section is working on a control rule to lower the emissions from cement kilns. A draft rule is posted on the District's website at: <http://www.baaqmd.gov/Divisions/Planning-and-Research/Rule-Development/Rule-Workshops.aspx>. The District welcomes input from the public regarding this control rule. Please submit your ideas to Robert Cave, Senior Air Quality Specialist, in the Rule Development Section.

2. In Section I.A of the permit, there are regulations dated 7/19/06, 6/15/05, 12/2/04, 12/21/04, 1/26/04, 1/26/99, 6/15/05 and 6/23/05. Why are there not more updated conditions? It seems to me there should be more updated material or revisions to these regulations?

District Response: These dates represent the dates that the rules were adopted or last amended. These regulations are revised as necessary depending on the required needs.

XI. Trucks

1. The air quality (dust pollution) has been a major issue for us for 36 years. The ongoing aggravation (noise, dust, traffic) from the quarry trucks and associated CHP activity to control them never ends.
2. The trucks for the facility moving back and forth on the Steven Canyon Road carrying materials for cement cause huge pollution every day. There is the smoke from the truck exhaust and the dust from the truck loads. We need to have the facility move away from this residential area to solve this problem.
3. Trucks are polluting the area. The wear and tear on the roads and the noise are the problem. There seems to be no inspection of these trucks and the pollution that they bring. Why? Where are the EPA and the BAAQMD while all this is going on? No one will take charge of this in any way. Why not?

District Response to 1-3: The District is aware of the diesel particulate emissions from truck traffic in the Bay Area. On April 28, 2009, District staff conducted outreach to South Bay trucking companies, including those that service Lehigh, to educate them about District grants available for truck retrofits to reduce diesel emissions from on-road trucks. Several interested firms have contacted the District to take advantage of the program. All large diesel trucks are subject to CARB statewide regulations, and tailpipe emissions from trucks should be significantly reduced in upcoming years as a result. For further information about the Statewide Truck and Bus Regulation and future implementation dates, see: <http://www.arb.ca.gov/msprog/onrdiesel/documents.htm>. Information on available On-Road Vehicle programs at the District can be found on the District website at <http://www.baaqmd.gov/Divisions/Strategic-Incentives/On-Road-Vehicles.aspx>.

Dust pollution from trucks leaving the Lehigh facility has improved over the last decade, but the District believes further improvements can be obtained with the implementation of the Fugitive Dust Control Plan required in the Title V permit renewal. The plan reinforces the facility's commitments regarding dust mitigation measures for truck traffic. Currently, the facility requires all aggregate trucks exiting the Lehigh facility to go through a truck wash system that removes debris that may accumulated on the trucks as a result of activities within the plant.

Truck traffic, truck wear and tear on the roadways and the associated noise from truck traffic are not within the scope of Title V permit renewals. Note also that not all truck traffic along these routes is associated with the Lehigh facility. To report violations of the vehicle code, please call the California Highway Patrol or the Santa Clara County Sheriff's Office.

4. The operating hours for trucks should be limited to daytime hours.
District Response: The focus of the Title V permit program is on incorporating existing air pollution regulatory requirements that apply to stationary sources at a facility. The operation of trucks during nighttime hours is not within the scope of the Title V permit renewal.

XII. Non-Air Quality Concerns

1. The EMSA⁶ overburden⁷ or waste material is covering up the pollution from the buildings that used to manufacture weapons and were magnesium and aluminum plants. Nothing was ever done to clean up the pollution from these buildings. There is also no one testing to see what pollution is in this overburden and the pollution is washing into the ground water and is eventually ending up in our water shed. The EMSA has also another problem: What is under this overburden that has never been cleaned up? I have asked Santa Clara County about this on more than one occasion and no one can give me an answer.

District Response: This comment is not within the scope of the Title V permit renewal. Soil and water pollution are not within the District's jurisdiction.

2. The EMSA has contamination under the location due to the manufacturing plants that manufactured weapons and used magnesium and aluminum in their processes. The site was never cleaned up and so the pollution continues to be washed into the ground continuously. The EMSA is covering up the pollution and it is also too close to the public street next to the site and this must be corrected. The Santa Clara County is responsible for allowing these violations at the EMSA and this must be corrected immediately. I ask and request that the EPA correct this violation of the Clean Air Act, Clean Water Act and the waste material violations that have been violated at this site.

District Response: The focus of Title V permit program is to describe existing air pollution regulatory requirements that apply to stationary sources at a facility. Please contact EPA or other responsible agencies with concerns regarding clean-up of contamination.

3. We oppose the permit for two storage piles until a proper EIR can be done and all alternatives are explored. The permit should not allow Lehigh to store fuels or any potentially hazardous or dangerous or polluting materials outside. The materials of the piles can cause water to run into the Permanente Creek.

District Response: As explained in permit Application #19385, the coal and coke storage pile area is an existing source that does not require the preparation of an EIR under District permit requirements. The source is considered to be categorical exempt under Regulation 2-1-312.4 for existing sources that have lost a previously valid exemption.

Lehigh has been in contact with the San Francisco Bay Regional Water Quality Control Board for their industrial storm water inspection. The SF Bay Regional Water Quality Control Board sent out several Notices of Violation to Lehigh. However, none of the violations are caused by storing the fuels and raw materials as outside piles.

⁶ East Material Storage Area

⁷ Soil, rock, or other naturally occurring material overlying a useful deposit.

4. Section 1. Standard Condition, A. Administrative Requirements of the Title V permit states, "The permit holder shall comply with all applicable requirements". Lehigh has NOV's for Air and Water. They have been given an NOV for violation of the General Storm Water Permit. They are also subject to other NOV's for releasing unauthorized waste water without a special permit for hazardous waste release. There has been NOV's for failure to comply with two Reclamation Plans and it seems this has been going on for 10 years. Where were the agencies while all of these violations were and are taking place? Why did the citizens have to be the ones to notify the EPA, State Water Board and Santa Clara County so that something could be done?
District Response: In this context, "applicable requirements" means requirements that the District has authority to enforce. The requirements discussed in the comment appear to be outside of the District's jurisdiction. Regarding violation of requirements that are within the District's jurisdiction, the District uses its enforcement authority to return the facility to compliance and to assess appropriate penalties.
5. Petroleum coke is being stored and there is potential runoff containing these pollutants.
District Response: Water pollution is not within the District's jurisdiction, nor scope of a Title V permit.
6. Citizens should have the right to determine what plant gets approved in their city. People's lives are at risk, please shut down Lehigh immediately.
District Response: Land use permits are not within the District's jurisdiction.

XIII. General Comments –Record of Previous Responses

The following responses were made regarding questions received on schedules and dates which required an immediate response. Following is a record of the response and the date of the response.

1. Can you tell me if the BAAQMD is going to hold a public hearing on Lehigh's Title V permit? And if it is not, can the residents request that a hearing is conducted before the issue goes before the Board for a decision?

District Response on 2/9/11: The District previously held a public hearing on the initial draft Title V permit renewal for the Lehigh facility, and is not planning on holding a second hearing. Comments on the revised draft permit should be submitted in writing by March 25. If you have any questions on the draft permit or Statement of Basis that you would like answered prior to making any comments, please feel free to call (or e-mail) me. If you would like, we could always meet and discuss as well.

It is important to note that our regulations require that Title V permits be issued by the District's Air Pollution Control Officer (APCO), and not the elected officials that serve on the District's Board of Directors. Requests for public hearings should be made to Thu Bui, and she will forward them to the APCO for consideration.

2. I received the email from Kristina Chu with the public notice that BAAQMD is accepting written comments regarding the Lehigh Title V permit. I am a little confused because the District web with the Lehigh permit shows the public notice posted on January 10, 2011, (not the 21st), and the notice posted on the web site says it was posted on January 7, 2011, (not the 21st). Are these different notices, or the same one? Also, is there a document posted that describes the next steps that BAAQMD will take following the March 25, 2011, deadline to submit comments?

It is unclear whether EPA is doing a concurrent review of this Title V permit.

District Response on 1/24/11: The District has changed the posting date to January 21, 2011 to make sure the dates are consistent and add a sentence or two indicating that the permit will then be submitted to EPA for 45 days review in the Title V permit public notice section.

3. The Statement of Basis should be prominently shown labeled as a Statement of Basis, not Engineering Report. The red lined one version is helpful, but very difficult for the public to read and hard to find.

District Response on 1/24/11: The District has changed the label from "Engineering Report" to "Statement of Basis" as requested. The District retained the red lined version to show the changes that were made to the conditions as a result of New Source Review permit applications in Appendix C of the Statement of Basis.

4. The District's new cement kiln rule will be scheduled for a workshop in 2nd quarter and possibly a public hearing in the 3rd quarter. The deadline for public comment of the Title V permit renewal should be extended because

the public will not have the time to attend the workshop and review the Title V documents.

District Response on March 9, 2011: Thank you for your email and your interest in the Cement Kiln Rule development process and the Title V permit.

Title V permits are compilations of applicable air quality standards and their associated compliance provisions. In the case of the draft Lehigh permit currently in comment period, the permit includes the new EPA regulations.

However, the upcoming District rule is not yet applicable, and therefore has no bearing in the current permit review. After the rule is adopted, the District will re-open the Title V permit to incorporate the new requirements related to this rule. The appropriate time for public involvement on whether the upcoming rule requirements are adequate or appropriate is during the rule development process (i.e., the workshop, the subsequent period for public comments, and the public hearing for consideration of adoption of the rule).

As we have indicated, we expect to have the rule workshop in the second quarter of 2011. This will be well after the end of the public comment period for the Title V permit renewal, which ends on March 25. That should give persons interested in participating in both the permit and rule development process plenty of time to do so without one getting in the way of the other.

At this point, there are no plans to modify the deadline for comments on the Title V permit.

XIV. General Comments - No Responses

My husband and I moved to Cupertino in 1959 when Lehigh was Kaiser Permanente Cement Plant. We have always been in favor of allowing it to continue as it has since 1939 when there were very few residents living here. Over the years, as people intermittently complained about dust, gravel, trucks and trains associated with production of cement, we have often wondered why city fathers allowed housing to be built close to the plant. Even more have we wondered why people failed to check out the environment before buying homes there. It reminds one of those who buy near airports and then complain about the noise.

Current complaints about the plant started with ostensible concern about the effect mercury emissions might have on schoolchildren, but it turns out that only one school in all of Northern California is in the supposed "danger zone". It has been monitored constantly for air pollution and has been essentially cleared. Furthermore, mercury emissions from cement plants account for only about 3.2% of the worldwide amount. We are all no doubt in greater danger from broken fluorescent light bulbs that we are urged to use in our homes than from mercury in the air.

District Response: Comment noted.