



EAST ROCKHILL TOWNSHIP BOARD OF SUPERVISORS

1622 N. RIDGE ROAD, PERKASIE, PA 18944
PHONE (215)257-9156 FAX (215)-257-1299
www.EastRockhillTownship.org

June 3, 2019

Michael Kutney, P.G. (via email)
Chief, Permits & Technical Section
Department of Environmental Protection
Pottsville District Mining Office
5 West Laurel Boulevard
Pottsville, PA 17901

Re: East Rockhill Township's Comments on Draft Asbestos Air Monitoring Plan and Draft Fugitive Dust and Asbestos Mitigation Plan for Rock Hill Quarry

Dear Mr. Kutney:

On behalf of East Rockhill Township ("Township"), this office and other Township consultants have reviewed the draft Asbestos Air Monitoring Plan, dated April 2019 ("Air Monitoring Plan") and the draft Fugitive Dust and Asbestos Mitigation Plan, dated May 2019 ("Dust Mitigation Plan"), prepared by Compliance Plus Services, Inc. ("CPS") on behalf of Richard E. Pierson Materials Corporation ("Pierson") for the Rock Hill Quarry (the "Quarry") located in East Rockhill Township, Bucks County (the "Site").

The Air Monitoring Plan and Dust Mitigation Plan were prepared pursuant to Plan Approval No. 09-0241 issued to Pierson for construction of a 1,000-ton per hour non-metallic mineral processing plant ("Crusher"). Under Condition C.032 of the Plan Approval, Pierson is required to develop and submit to the Pennsylvania Department of Environmental Protection ("DEP" or "Department") for approval prior to operation of the Crusher an air monitoring program to detect airborne asbestos fibers around the perimeter of the Quarry. Under Condition C.033 of the Plan Approval, Pierson is required to develop and submit to the Department for approval an Asbestos Dust Mitigation Plan and implement that plan throughout the duration of the construction and grading activity under the Plan Approval.

The Township has filed a Notice of Appeal before the Environmental Hearing Board challenging the Plan Approval. *See East Rockhill Twp. v. DEP*, EHB Docket No. 2019-002-M. That appeal is still pending. In its Notice of Appeal, the Township explained a number of deficiencies in the Plan Approval, including that the Plan Approval fails to impose sufficient monitoring, recordkeeping, and reporting obligations necessary to address the known presence of naturally occurring asbestos, a Hazardous Air Pollutant, and to ensure compliance with fugitive and visible emissions requirements. The comments contained herein are in addition to the objections raised by the Township in its Notice of Appeal.

Please accept the following comments on the Air Monitoring Plan and Dust Mitigation Plan for consideration by the Department.

Comments on Air Monitoring Plan

1. **Section 4.0 – Field Sample Collection Methodology:** The proposed sampling method is designed for occupational health applications and will not adequately evaluate asbestos emissions leaving the property boundary of the Quarry and entering the surrounding community. The proposed sampling locations are located along the property boundary, at 5 to 6 feet above ground to approximate the "breathing zone" of workers. The height of the proposed Crusher and the height of dust plumes from blasting events and other quarry operations may cause the maximum particulate matter ("PM") concentration to occur significantly higher than 5 to 6 feet. These concentrations may settle further away

from the Quarry and therefore may not be captured by the proposed monitoring locations. Accordingly, the Township requests that the Department consider an expanded scope of monitoring that would incorporate appropriate asbestos monitoring locations beyond the property boundary based on prevailing wind direction and anticipated plume characteristics.

In addition to asbestos sampling, the Department should consider enhanced monitoring requirements for PM. The Department's air quality regulations contain performance standard requirements which a person may not violate at any time. See 25 Pa. Code §§ 123.1 and 123.2. In particular, Section 123.2 provides:

A person may not permit fugitive particulate matter to be emitted into the outdoor atmosphere from a source specified in § 123.1(a)(1)-(9) (relating to prohibition of certain fugitive emissions) if the emissions are visible at the point the emissions pass outside the person's property.

25 Pa. Code § 123.2.

It is well established that a quarry is a source subject to Section 123.2, and the owner of a quarry has an active duty to prevent PM from visibly escaping into the atmosphere from the owner's property onto another's property, including the responsibility to provide an adequate system to suppress fugitive dust emissions so that visible dust emissions do not pass outside the quarry owner's property. See, e.g., *Eureka Stone Quarry Inc. v. Commonwealth*, 544 A.2d 1125 (Pa. Cmwlth. 1988). Other sources specified in 25 Pa. Code § 123.1(a) include stockpiling of materials and blasting in open pit mines.

Given the extremely high potential for PM emissions from the Quarry, and the fact that these emissions may contain asbestos at any point depending on the source material being processed, continuous PM monitoring at the fenceline is necessary to demonstrate compliance with the above requirements and to ensure that the asbestos monitoring being performed is capturing the most significant emission events. According to email correspondence between the Department and air monitoring experts at the Agency for Toxic Substances and Disease Registry ("ATSDR"), continuous fenceline PM monitoring was suggested as the best method for demonstrating to the public that emissions from the Quarry do not pose a public health concern. It is unclear why the Department has chosen to ignore this recommendation.

2. **Section 5.0 – Sampling Frequency:** The Township explained in its Notice of Appeal that Condition C.032 of the Plan Approval inappropriately allows for the reduction of, and even the cessation of, monitoring under certain circumstances. Sampling frequency should not be reduced. The Air Monitoring Plan proposes a sampling frequency that can be reduced following consecutive monitoring results that are below the action level. Due to the heterogeneity of the source material and the unknown location and extent of asbestos veins within the rock, reducing the sampling frequency is inappropriate. Consecutive results below the action level may simply mean that a vein of asbestos was not encountered during the monitoring period, but those results do not accurately predict that a vein will not be encountered during future operations, particularly when only a very small portion of the permitted mining area has been surveyed for asbestos. According to production volumes contained in the Plan Approval application, the operator clearly intends to mine and process a much larger amount of material than is contained in the two benches that have been inadequately surveyed for asbestos content. By requiring only two weeks of daily monitoring, the Air Monitoring Plan would allow for the possibility that the required sampling frequency could be reduced, based on limited sampling data, even where asbestos may later be encountered. Daily monitoring, in conjunction with continuous PM/opacity measurements should continue for the entire duration of the operation.

3. **Section 7.2 – Reporting:** In Section 7.2 of the Air Monitoring Plan, Pierson has agreed to report certain information to the Department. The Township should be copied on those submissions. In

Section 7.2.1 (and Section 8.0), the Township should be notified whenever there is an exceedance of the action level. In Section 7.2.2, Pierson and CPS should be required to submit all air monitoring lab results to the Township. In Section 7.2.3, Pierson and CPS should be required to submit copies of their monthly reports to the Township. Copying the Township on these submissions will not impose any burden on Pierson or CPS, and is critical for the Township to ensure that its residents are being protected and are well informed with respect to operations at the Quarry.

4. **Section 8.0(2) – Investigation:** The Air Monitoring Plan fails to require Pierson to investigate the source of asbestos when monitoring results indicate that an action level has been exceeded. In fact, the Air Monitoring Plan does not even discuss the issue of the underlying source of the asbestos or a requirement to cease extraction and/or crushing of rock which contains asbestiform fibers. A “condition d.” should be added to Section 8.0(2) that requires Pierson to investigate the source of the elevated asbestos reading after an exceedance of the action level and cease extraction and/or crushing of rock as appropriate until such investigation is complete and the source of asbestos has been identified and mitigated.

5. **Section 8.0(3) – Corrective Measures:** The Air Monitoring Plan states that the corrective measures “will range from cessation of specific or all operation down to repairs or modifications to dust suppression systems and controls.” The Air Monitoring Plan also states that corrective measures “may vary based on the location of the sample, and findings of the investigation.” In response to the Department’s request to describe what would trigger the specific corrective measure of shutting down the Quarry and what will be done prior to restarting operations to ensure the safety and wellbeing of those off-site, Pierson/CPS vaguely responded that it would consider “shutting down all or portions of the operations as deemed appropriate based on the findings of the investigation to be undertaken following a detected exceedance.” If the action level is exceeded, Pierson should be required to take sufficient corrective measures within 1 hour of the exceedance of the action level, which should include cessation of extraction and/or crushing of rock until the source of asbestos is identified and mitigated. Moreover, Pierson should be required to report those corrective measures and their effectiveness to the Department and the Township within 5 days of an exceedance of the action level.

Comments on Dust Mitigation Plan

1. **Noncompliance with Plan Approval:** Condition C.033 of the Plan Approval requires Pierson to submit to the Department for approval an Asbestos Dust Mitigation Plan and implement that plan throughout the duration of the construction and grading activity under the Plan Approval. In the context of the proposed operation, this directive refers to the entire duration of quarrying activities at the Quarry: “The permittee must ensure that an Asbestos Dust Mitigation Plan has been: ... implemented at the beginning and maintained throughout the duration of the construction or grading activities.” Since the ongoing operations at the Quarry will necessarily include construction and grading, the Asbestos Dust Mitigation Plan must account for all phases of Quarry operations. The Dust Mitigation Plan submitted by CPS, however, does not even mention construction and grading activity, let alone specify asbestos dust mitigation measures to implement during construction and grading activity. Likewise, the Dust Mitigation Plan should outline mitigation measures specific to other phases and activities of the Quarry operations. In sum, Pierson must be required to develop and submit to the Department, as required by Condition C.033 of the Plan Approval, an Asbestos Dust Mitigation Plan and implement that plan throughout the duration of Quarry activity under the Plan Approval.

2. **Incorporation into Module 17:** The Dust Mitigation Plan should be incorporated into Module 17 (Air Pollution and Noise Control Plan) of the Surface Mining Permit for the Quarry. The Plan Approval is intended to address emissions from the crushing and screening operations, which is addressed somewhat in Section 4.2 of the Dust Mitigation Plan, but the Plan Approval is not primarily intended to address roadway emissions (Section 4.1), stone handling and stone storage areas (Section 4.3), and drilling

and blasting of stone (Section 4.4). Each of the sources of dust emissions discussed in Sections 4.1 through 4.4 of the Dust Mitigation Plan should be addressed in Module 17 of the Surface Mining Permit. Module 17 should be modified to incorporate the Dust Mitigation Plan in its entirety, subject to the Township's comments herein.

3. **Monitoring Required:** The Dust Mitigation Plan, and by extension Module 17, should require a monitoring plan, similar to that included in the Air Monitoring Plan, but that instead covers all mining activities addressed in the Dust Mitigation Plan, not just the Crusher operations. As the Dust Mitigation Plan recognizes, many Quarry operations, not just the Crusher operations, will produce dust, and therefore monitoring should be conducted for those operations as well, and a monitoring plan should be developed to address those sources of emissions. The sampling events and locations proposed in the Air Monitoring Plan relate only to the operation of the Crusher and may not capture any of the other significant dust-generating processes at the Quarry. The most significant dust-generating operation at the Quarry that would contribute to airborne asbestos concentrations is likely to be blasting, and the Air Monitoring Plan would not capture the effects of blasting or other dust-generating quarrying operations such as drilling, cutting, truck traffic, wind erosion, etc. Videos of blasting events at the Quarry have shown that a significant amount of PM is rendered airborne during blasting events, and correspondence from EPA and ATSDR to the Department support the public's concerns about the amount of asbestos contained in the PM generated from blasting. Indeed, in the Response to Comment document that CPS included in its submission of the Air Monitoring Plan and Dust Mitigation Plan to the Department, CPS acknowledged that, "[u]nder normal blasting, there is no effective dust control method." The utility of an Air Monitoring Plan in addressing a legitimate public health concern, which is shared by the community as well as experts in the federal government, is highly questionable when the Air Monitoring Plan does not seek to evaluate the most obvious and significant emission events at the Quarry.

4. **Section 4.1 – Roadway Emissions:** All internal roadways should be paved and should be cleaned every 8 hours, not limited to dry days. For any non-paved internal roads, Pierson should be required to apply "millings," i.e., bits of crushed recycled asphalt, on top of the road to serve as crushed non-toxic stone to control dust and asbestos migration. Pierson should also be required to install and utilize for every truck a truck wheel wash. In addition, Pierson should be required to maintain records of compliance with the 15 mile-per-hour speed limit.

5. **Section 4.2 – Crushing and Screening Operation:** The Air Monitoring Plan, as modified to incorporate the above comments, should be incorporated into Section 4.2 of the Dust Mitigation Plan and Module 17 and should apply to Quarry operations going forward.

6. **Section 4.4 – Drilling and Blasting of Stone:** The portable fugitive dust spray misters appear to be an inadequate mitigation measure, and their use is optional under the Dust Mitigation Plan. According to the Dust Mitigation Plan, the portable misters described in Attachment 6 are only capable of reaching a height of 50 feet in the absence of any wind. The Dust Mitigation Plan states that these misters will only be used on days with an average wind speed below 5 mph and only where practicable. The use of these mitigation measures should not be optional and should be required during all blasting operations, especially on days with higher wind speed since these days represent the greatest potential for airborne dust to leave the facility. Attachment 6 shows that the misters are supplied with water from a standard garden hose connection and at standard tap pressure. The amount of water and throw distance is insufficient to control the dust emissions from blasting, and there are more capable options available, such as pole-mounted misters and turbine-style water cannons, that would deliver a greater quantity of mist to a greater height.

The Township's position remains that the Plan Approval, and now the Air Monitoring Plan and Dust Mitigation Plan, are inadequate to ensure the protection of human health and the environmental in the

community surrounding the Quarry. We ask the Department to require Pierson and CPS to address each of the comments contained herein. Thank you for your consideration.

Respectfully submitted,



Steve Baluh, P.E.
Township Engineer
C. Robert Wynn Associates, Inc.
215-536-7336

cc: Marianne Morano, Township Manager (via email)
Patrick M. Armstrong Esq. (via email)
Louis Vittorio (via email)
Thomas Duncan (via email)
Suzanne Schiller (via email)
William Hitchcock (via email)
Gary Latsha, PADEP (via email)
Amiee Bollinger PADEP (via email)
James Rebarchak, PADEP (via email)
Richard Tallman PADEP (via email)
Virginia Cain, PADEP (via email)
Robert Fogel, PADEP (via email)
Daniel Sammarco, PADEP (via email)
John Stefanko, PADEP (via email)
Sachin Shankar, PADEP (via email)
Craig Lambeth, PADEP (via email)
Erika Furlong, PADEP (via email)
Andrew Gutshall, Lehigh Hanson (via email)
Matthew Burns, Lehigh Hanson (via email)
Curt Mitchell, Pierson Materials (via email)
Mark Kendrick, Lehigh Hanson (via email)
Mike Logan, CPS (via email)
Kelly Bailey, (via email)
David Raphael (via email)
Rob Gundlach (via email)