

Reed Zars
Attorney at Law
910 Kearney Street, Laramie, WY 82070
307-745-7979

September 19, 2013

VIA Email
Nicole E. Granquist
Downy Brand
621 Capitol Mall, 18th Floor
Sacramento, CA 95814

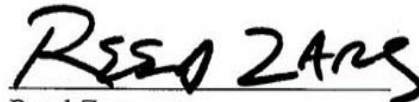
Re: *Sierra Club Initial Response and Comments regarding September 10, 2013
Permanente Creek Restoration Plan, Concept Level Submittal.*

Dear Nicole:

Thank you for sending us the conceptual plan referenced above. In an effort to provide you and Waterways Consulting, Inc. with feedback as soon as possible, in light of both Lehigh's October 7 agency submittal deadline and our upcoming call on September 30, Al and I have worked up the attached initial response and comments.

Please call or write if you have any questions.

Sincerely,


Reed Zars

cc: Al Cornwell
George Hays
Mike Ferreira

Sierra Club's Initial Response to Conceptual Plan September 19, 2013

Sierra Club's initial response to Waterways Consulting, Inc.'s "Permanente Creek Restoration Plan—Concept Level Submittal, Design Basis Technical Memorandum" ("Conceptual Plan"), submitted on behalf of Lehigh Southwest Cement Company and Hanson Permanente Cement, dated September 10, 2013, is set forth below.

Section 1.2 - Concept Level Designs.

- We agree that the creek restoration design must follow the "objectives of the Decree and the specific requirements set forth within the Decree for each reach." We do not agree with any implication in this section that undefined "constraints" modify or lessen the obligations in the Decree.

Section 2.1.1 – Peak Flow Hydrology.

- In the first column in Table 1, please identify the stream location or segment applicable to SCVWD's estimated peak flow rate. The remaining four columns in Table 1 should identify the reaches of Permanente Creek, as defined in the Decree, that apply to each "Drainage Area."

- In a watershed map to accompany Table 1, please show the applicable drainage areas, stream reaches, and peak flows by recurrence intervals.

Section 2.1.2 – Fish Passage Hydrology.

- In Table 2, please identify the reaches of Permanente Creek, as defined in the Decree, that apply to each "Drainage Area."

- In a watershed map to accompany Table 2, please show the applicable drainage areas, stream reaches, and high and low design fish passage flows by life stage.

- Please describe the actual and/or modeled average daily flows by month and stream reach in one or more tables and maps.

- Please evaluate the effect on stream flows of Lehigh quarry pit dewatering and NPDES discharges. The conceptual plan should evaluate stream conditions assuming: (1) the cessation of pit dewatering in 2021 consistent with the approved 2012 Reclamation Plan Amendment and, (2) the continuation of pit dewatering and associated NPDES discharges without termination.

Section 2.2.1 – Hydraulic Modeling, Fish Passage Considerations.

- Please identify the location and extent of each stream reach where it appears that neither the Hydraulic Design method, nor Stream Simulation method (at least based on other Permanente Creek reaches), can be met.

- Please identify the other “nearby, less disturbed” streams from which Stream Simulation fish passage analogs will be borrowed due to the disturbed nature of Permanente Creek.

- Please describe what criteria will be used to select applicable analogs.

- We do not agree that all bedrock drops exceeding 6 feet in height are “natural.”

- We do not agree with the implication that all highly unstable reaches with excessive bed load are natural.

Section 2.2.1.2 - Fish passage within the existing concrete channel.

- Please reconcile the calculations in Appendix D, that imply a pool width of 10.9 feet, with the statement here that pool dimensions will be “8 feet long by 8.5 feet wide by 4 feet deep.”

- Please provide the full rationale for creating shorter pools.

- Please explain how, and to what extent, the creation of an extra pool compensates for the smaller pool dimensions.

- Please provide the time of year and duration when flows through the existing concrete channel are estimated to be within the maximum and minimum adult and juvenile design flows.

Section 2.3 - Description of Individual Project Components.

- Please explain the extent to which the restoration activity proposed for each reach meets, or does not meet, the requirements in the Decree and the applicable fish passage criteria.

- Please provide back-up calculations and other details that support all conclusions.

- Please describe the expected movement of fish through reaches 1-20 that the reach-by-reach designs can accommodate, including the age of the fish and applicable times of year, assuming: (1) fish passage between the Lehigh property and the Bay is re-established via the Permanente Creek – Stevens Creek diversion channel, and (2) no fish passage from and to the Bay exists.

- Please describe in what reaches and at what locations fish may over-summer.

Appendix B. What are the bases for assuming a channel with a 12' base?

Appendix C. Appendix C provides hydraulic calculation for culverts 2, 4, 6 and 8. Please provide all data and calculations for culverts 1 and 5.