



CITY COUNCIL

ACTION CALENDAR

February 9, 2016

(Continued from January 19, 2016)

TO: Honorable Mayor and Members of the City Council

FROM: Councilmembers Linda Maio and Lori Droste

SUBJECT: Final Status Report on West Berkeley Industry

INTRODUCTION:

On January 20, 2015, the Berkeley City Council passed the following actions:

1. Councilmembers Linda Maio and Lori Droste to work with residents, businesses, and City Staff to review complaints and make good faith efforts to mitigate impacts in the areas where the City has authority such as noise and odors and to bring their findings back to City Council.
2. Direct the City Manager to enforce the terms of the Use Permit and the 1999 Settlement Agreement with the Oceanview Neighborhood Association.
3. If the City Manager and delegated staff or department finds the West Berkeley Lehigh Asphalt Company plant is not compliant with the Use Permit or the 1999 Settlement Agreement with the Oceanview Neighborhood Association, the City and its jurisdictional bodies or the appropriate authority implements corrective action and enforces the 1999 Settlement Agreement Use Permit immediately.

BACKGROUND

- On January 20, 2015, the City Council tasked Councilmembers Maio and Droste to review complaints made regarding air quality in West Berkeley. Subsequently, Councilmembers Maio and Droste discussed concerns with residents.
- On March 3, 2015, Councilmembers Maio and Droste, with City staff, conducted a tour of Pacific Steel Casting (PSC), and on March 27, 2015, Councilmembers Maio and Droste, with City staff, conducted a tour of Hanson.
- On May 7, 2015, Councilmembers Maio and Droste held a meeting with concerned neighbors.
- On May 26, 2015, City Council was provided a status update on residents' concerns, site visits and potential questions for a meeting with BAAQMD.
- On July 1, 2015, Councilmembers Maio and Droste, along with City staff, met with BAAQMD staff, including the Director of Compliance and Enforcement and Air Quality Manager.

- On July 14, 2015, City Council was provided a second status report on a meeting with BAAQMD as well as continuing discussion with industry and concerned residents.
- On October 30, 2015, City staff conducted an inspection of Hanson Aggregates Berkeley Asphalt & Ready Mix (Hanson) to check compliance with 1999 Settlement Agreement.
- On November 5, 2015, Councilmembers Maio and Droste, along with City staff, met with representatives of Hanson to get an update on the status of operations and review the City staff inspections.
- Councilmembers Maio and Droste received a memorandum, dated November 30, 2015, reporting the findings and determination of City staff regarding Hanson. [ATT. 1]

THIRD AND FINAL REPORT AND OUTCOMES

City staff has revisited the 1999 Settlement Agreement and found Hanson is in compliance:

“Based on staff inspections conducted on March 27, 2015 and on October 30, 2015, the Code Enforcement Unit finds that Hanson has complied with the 1999 Settlement Agreement and has sufficient measures in place to adequately mitigate potential noise and odor.”

Follow-ups from Status Report #2

- Hanson requiring customer trucks to tarp their loads (odor emissions).
 - *Councilmembers Maio and Droste revisited the suggestion that trucks be tarped as they exit Hanson. Hanson encourages customers to do so, with approximately 25% compliance and will continue to do so. Hanson also shared concerns of additional emissions escaping as trucks sit idle while they are being tarped.*
- Hanson installing new shrouds to mitigate emissions caused when the hot asphalt hits cold truck beds (odor emissions).
 - *Upon inspection, Hanson noted that implementing bigger shrouds is a safety hazard concern as they could block driver view. The Air District staff noted that they were looking into requiring a shroud over the entire loading area. However, with the transition to increasingly higher use of warm mix, with much lower volatile organic compounds, this may not be necessary. Odor complaints have decreased dramatically (zero confirmed complaints were reported from October 15, 2015 to December 13, 2015). We are hopeful that this trend continues.*
- Hanson and PSC meet with concerned citizens to begin a constructive dialogue and share information regarding evolving technologies and their operations as they relate to public health.

- *Councilmembers Maio and Droste requested both businesses meet with concerned citizens. Some meetings have occurred. We continue to encourage community discussion.*
- Hanson and PSC post and provide information alerts to the City of Berkeley regarding production schedules, particularly when plants are most active. This information should be on their website and communicated, via link, to concerned residents.
 - *Businesses have provided detailed information regarding their operations and Council offices have shared that information to concerned citizens. Councilmembers have requested a link be established. Follow up will occur.*
- Regarding BAAQMD's response to 1) the Tetra Tech (2008) finding regarding the PSC Health Risk Assessment (HRA) and 2) how the Community Environmental Advisory Commission's (2007) air quality recommendations were acted upon.
 - *The City and TetraTech met with the EPA Office of Environmental Health Hazard Assessment (OEHHA) and the Air District when the HRA was in process (2008). The parties agreed that manganese, at least, should be the subject of additional health reviews. These must be undertaken by the District. The District reported in their meeting with Councilmembers Maio and Droste that all PSC air monitoring filters are regularly tested, some in real time, to ensure compliance with air quality standards.*

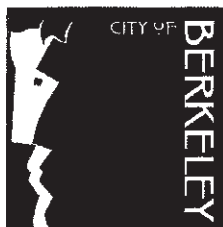
ATTACHMENTS

1. November 30, 2015 City Manager memo on Hanson Aggregates

CONTACT

Councilmember Linda Maio, District 1, 510-981-7110

Councilmember Lori Droste, District 8, 510-981-7180



Office of the City Manager

November 30, 2015

To: Councilmember Maio and Councilmember Droste

From: *DWR* Dee Williams-Ridley, Interim City Manager

Subject: Hanson Aggregates/Berkeley Asphalt

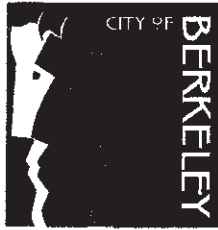
City Code Enforcement staff has reviewed current conditions and operating practices at the Lehigh Hanson asphalt facility at 699 Virginia Street based on the current Use Permit and conditions of the 1999 Settlement Agreement between Communities for a Better Environment and City of Berkeley. This Settlement Agreement directed the City to modify the Use Permit for the Berkeley Asphalt Company (now owned by Lehigh Hanson), imposing specified new conditions on their operations.

Staff attended an initial site visit on March 27th where Councilmembers Maio and Droste met with plant management to review current operation practices and steps they have taken to comply with the Settlement Agreement. Code Enforcement staff subsequently conducted a formal inspection on October 30, 2015 and again reviewed operations based on the Settlement Agreement. Staff's conclusion was that current operations are compliant with the terms of the Agreement and existing Use Permit conditions. Staff findings are described in the attached memo.

A key finding from conversations with plant management is that the plant has introduced a 'warm mix' production process for a large percentage of their output. This process emits significantly less odor than traditional production methods. It is anticipated that the warm mix process will be increasingly accepted by Lehigh Hanson's customers which will hopefully result in greater use of this process in the future.

Please let me know if you have any further questions.

Attachment: Code Inspection Memo



Office of the City Manager
Neighborhood Services-Enforcement Division

MEMORANDUM

November 25, 2015

To: Michael Caplan, Economic Development Manager, Office of Economic Development

From: Pamela Johnson, Code Enforcement Officer

Subject: 699 Virginia Street – 1999 Settlement Agreement with Oceanview Neighborhood Association

Background

Code Enforcement has been tasked with reviewing the 1999 Settlement Agreement between the City of Berkeley, Berkeley Asphalt Company (currently operating as West Berkeley Lehigh Hanson Asphalt Company), and the Communities For a Better Environment, Oceanview Neighborhood Association.

1999 Settlement Agreement

Other than the 1999 Settlement Agreement, staff could not locate record of a revised agreement; therefore, it appears that the 1999 Settlement Agreement is still in effect. The 1999 Settlement Agreement, upon writ, was to Modify Use Permit No. 3033 to incorporate conditions and requirements which are summarized below:

- Truck Traffic Measures;
- Traffic Compliance Checklist;
- Mechanism for receiving complaints about truck traffic;
- Air Quality Measures to minimize dust generated at the facility, including vacuum sweeping, washing truck tires, placing tarp on vehicles leaving the facility;
- Establishing Housekeeping and Maintenance Checklist;
- Establishing a Procedural Handbook detailing procedures for performing housekeeping and maintenance measures;

- Noise reduction measures;
- Noise Checklist;
- Mechanism for receiving complaints about noise, a copy of which is to be sent to the Zoning Compliance Officer monthly;
- Odor Reduction Measures;
- Establishing an Odor Checklist.

Post Settlement Agreement and Inspections

Code Enforcement Officer Pamela Johnson and Assistant Planner Nicholas McIlroy conducted a site inspection on October 30, 2015 and observed the following conditions:

- Upon arrival at the site at 8:50 a.m. odors were not discernable across the street from the site. Directly in front of the driveway on Virginia there was mild vehicle fumes and inside the property, directly in front of the office, a smell of burnt coffee.
- At 9:05 a.m. at the beginning of the inspection, there were no discernable odors present.
- At 9:25 a.m. at the end of the inspection, there were no discernable odors present.

Code Enforcement Staff met with Plant Manager Seth Watkins and reviewed the items outlined in the 1999 Settlement Agreement, page 7, Item #20 Odors (a) through (g); Item #14 Tarps, and the Odor Checklist.

1999 Settlement Agreement Item	Description	How do they comply
Item #20 (a)	Enclose truck loading operations	Plastic enclosure
Item #20 (b)	Vent vapors to baghouse	Vents in place
Item #20 (c)	One time odor audit	Voluntarily done 3 times per year
Item #20 (d)	Close leaks in conveyor to silos	This has been done
Item #20 (e)	Add condensers to 2 storage tanks	This has been done
Item #20 (f)	Follow good engineering practices	These measures are a part of their operations
Item #14	Encourage tarps on trucks	Used approximately 25%
Odor Checklist	10 items on checklist	Included in daily operations

Seth Watkins stated that West Berkeley Lehigh Hanson (Hanson) has recently switched to a warm mix in February of 2015 which allows Hanson to produce the asphalt at a lower temperature which means less emissions and less odor. Other measures taken to mitigate noise and odor are as follows:

- Wet aggregate requires drying before it is mixed. Hanson keeps all dust contained by running it through the scavenger fan. Without the fan, dust would be prevalent the area.
- Drivers are encouraged to tarp, however, trucks typically tarp less than 25%. Tarping is used to keep the mix warm until drivers get to their job sites and most job sites are close enough to the plant and tarps are not needed. In addition, tarping is not air tight and does may not prevent odors.
- Hanson monitors operations from a control room which is staffed at all times. If emissions change, for example a discoloration of plume from white to grey signaling a torn bag, staff would be notified immediately and the bag would be replaced.
- Hanson voluntarily hires a sound consultant three times a year and they are willing to provide reports if requested.
- The sound curtains along the perimeter of the plant were replace in 2013.
- A muffler on the exhaust was rebuilt in September 2015.

Based on staff inspections conducted on March 27, 2015 and on October 30, 2015, the Code Enforcement Unit finds that Hanson has complied with the 1999 Settlement agreement and has sufficient measures in place to adequately mitigate potential noise and odor.

