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January 30, 2019

VIA FIRST CLASS MAIL

The Honorable Patrick McDonnell
Secretary, Pennsylvania Department of Environmental Protection
Rachel Carson State Office Building
400 Market Street
16th Floor
Harrisburg, Pa 17101

Re: **Rockhill Quarry, East Rockhill Township, Bucks County, PA**

Dear Secretary McDonnell,

I am writing to you with respect with the above-referenced quarry and the mining permit issued by DEP in connection with it (mining permit no. 79745MIC6). I represent the quarry owner, Hanson Aggregates Pennsylvania, LLC, and the quarry operator, R.E. Pierson Materials Corporation, in connection with a pending federal court lawsuit, captioned as East Rockhill Township v. Richard E. Pierson Materials Corp., et al, 2:18-cv-02382-GAM, against East Rockhill Township and certain Township officials. This lawsuit alleges, among other things, actions taken by defendants violated my clients' due process rights under Section 1983 of the Federal Civil Rights Act.

I attended a public meeting on Saturday, January 19, 2019, that was organized by three elected officials and the neighbors surrounding the Rockhill Quarry. The main topic of the meeting was for the elected officials to update the residents and answer their questions as to (a) a meeting the three elected officials recently had with representatives of DEP, and (b) the action steps the elected officials intended to take moving forward in an attempt to persuade DEP to either revoke the mining permit or further restrict operations. In this regard, I am writing you to advise you as to some potentially troubling statements made by Pennsylvania State Senator Santarsiero at this meeting. Specifically, please note the following:

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1. Senator Santarsiero questioned the “credibility” of DEP records confirming that the quarry operator, going back 30 years, satisfied the requirement to remove 500 tons of material per year from the Rockhill Quarry. Senator Santarsiero then advised the residents as to an investigation he demanded that DEP complete as to compliance with this requirement with his goal being to convince DEP to (a) revoke the existing mining permit, and (b) make the quarry operator and the quarry owner file a new application for a mining permit under DEP’s current regulations. In this regard, please note the following:
 - (a) We would request that the Department provide us with notice of any further meetings with Senator Santarsiero and any other elected officials concerning this quarry so that my clients can attend these meetings to protect their rights.
 - (b) We would request that the Department copy our office on any emails or other correspondence between DEP and Senator Santarsiero or other elected officials as to our clients’ property so that my clients have an opportunity to respond to any allegations of non-compliance with DEP regulations.
 - (c) Please be aware as to correspondence and other documents issued by DEP, over the last 30 or so years, confirming compliance with the 500 ton per year removal requirement, including a letter, dated May 15, 2018, from Michael Menghini to Senator McIlhenny.
2. Senator Santarsiero advised the residents that he observed a “cozy” relationship between the DEP inspectors and the quarry operator and that “independent inspectors” may be needed in the future. Either Senator Santarsiero or another elected official referenced that the DEP regulators “may be getting too close” to those being “regulated” and that this relationship may require a further investigation by DEP. The clear implication of these statements was that some type of improprieties have taken place between DEP employees and representatives of the quarry owner and/or operator. These statements are not only outrageous and false, but were improperly being used to malign the integrity of the professionals working at DEP and to place some blame on DEP for permitting the operations at the Rockhill Quarry. In fact, right after making these comments, Senator Santarsiero asked the residents to acknowledge the support of the Chairman of the East Rockhill Township Board of Supervisors who evidently also attended the referenced DEP meeting and was in support of the positions being advocated at the public meeting. Senator Santarsiero did not advise the residents that:



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- (a) The property has been the only property ever zoned for use as a quarry in East Rockhill Township and has been used as a quarry for the past 100 plus years.
- (b) The Township issued zoning permit/licenses for the quarry use every year dating back to at least 1991.
- (c) The Township Zoning Officers, over the last 26 years, despite collecting and cashing the checks from the quarry operator and issuing annual zoning permits to them, never once inspected the quarry property or inquired with DEP as to the status of the mining permit.

Now, after more than thirty years of regulation and enforcement by the Township and DEP, in order to maintain the mining permit, Senator Santarsiero, a newly elected governmental official, questioning prior regulatory practices by DEP and attempting to pressure the Department into revoking, without proper due process, my clients' mining permit.

- 3. Senator Santarsiero advised the residents that he was demanding DEP to require the quarry owner/operator to install a liner in the recently constructed storm water detention basins to prevent water infiltration, which is not required by the regulations.
- 4. Senator Santarsiero advised the residents that he was demanding DEP to require the quarry owner/operator, in response in the quarry owner/operator self-reporting their discovery of a small trace amount of naturally occurring asbestos, to:
 - (a) Install and operate one or more misting machines on the property.
 - (b) Deliver and place "fresh rock" at the quarry over any area to be blasted.
 - (c) Install and operate multiple air monitoring machines on the quarry property and the surrounding neighboring properties.
- 5. Senator Santarsiero advised the residents, through his Chief of Staff, Rose, that the quarry operator only obtained a "preliminary" permit for their asphalt plant, but are required to obtain an operating permit to commence the production of asphalt at the quarry property and that such an operating permit would not be issued until (a) public meetings are held by DEP to receive comments from the surrounding neighbors and others as to the proposed asphalt plant, and (b) the zoning issues with the Township are all resolved. The clear implication of this statement was that the quarry owner/operator had no right to commence asphalt production unless and until additional public meetings were held and additional approvals were issued by DEP.



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That is not my understanding as to my clients' rights under the general permit issued by DEP for the asphalt plant.

What Senator Santarsiero did not talk about at this public meeting was the rights of the quarry owner/operator. Thus the purpose for this letter to you. My clients want your assurance that Senator Santarsiero, given his position as a Pennsylvania State Senator and his clear intentions, as conveyed at this public meeting, to get DEP to revoke the mining permit, is not allowed to intimidate any employees of DEP into taking action that does not respect the due process rights of my clients. My clients have fully complied with the requirements of DEP as to the operations at the Rockhill Quarry and the DEP inspectors and permit reviewers have all completed their work in a professional and proper manner to confirm such compliance. The implications by Senator Santarsiero of prior "improprieties" by DEP inspectors or a "cozy relationship" between the DEP inspectors and the quarry owner/operator are not true and being used by Senator Santarsiero as a "red herring" to distract DEP from the true facts. That is, the quarry owner and operator have followed the "letter of the law" and are continuing to operate a quarry that has operated at this location for over 100 years in strict compliance with DEP regulations. The fact that new residents have built homes around the quarry over the last 40 years, new residents have moved into existing homes without knowledge as to the existence of this quarry, or that the Township has failed to improve the roadways to accommodate truck traffic, cannot be blamed on the quarry owner and operator. Hold my clients to the strict letter of the law? Absolutely. Manipulate the factual history to revoke the mining permit to satisfy the residents who do not want the quarry in their backyard? Absolutely not.

Finally, as I am sure that you are aware in your position, there are always two sides to a story. Please be sure to fully investigate and get both sides before making any decisions that may adversely impact my clients' rights as to the Rockhill Quarry, as Senator Santarsiero appears to be advocating for the side of the residents who reside around the quarry and not the side of the business owners who own and operate the quarry. Thank you for your consideration.

Sincerely,

Robert W. Gundlach, Jr.

cc:

Michael J. Menghini, Pottsville District Mining Manager, DEP
Patrick Patterson, Regional Director, Southeast Region, DEP
Matt Burns, Esquire, Hanson Aggregates Pennsylvania, LLC



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Richard E. Pierson, President, R.E. Pierson Materials Corp.
Curt Mitchell, R.E. Pierson Materials Corp.
Honorable Brian Fitzpatrick, Member of Congress
Senator Steven J. Santarsiero, Pennsylvania State Senate
Honorable Craig T. Staats, Pennsylvania House of Representatives

