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September 29, 2026

Via Electronic Mail

Richard E. Tallman, P.E.
Environmental Engineer
Pottsville District Mining Office
Pennsylvania Department of Environmental Protection
5 West Laurel Boulevard
Pottsville, PA 17901
rtallman@pa.gov

RE: Rock Hill Quarry

Dear Mr. Tallman:

On behalf of East Rockhill Township (the "Township"), please accept the following comments on the Pennsylvania Department of Environmental Protection's (the "Department") proposed renewal and modification of National Pollutant Discharge Elimination System ("NPDES") Permit No. PA0594121 to Heidelberg Materials Northeast LLC ("Heidelberg") in connection with the Rock Hill Quarry (the "Quarry") located in East Rockhill Township.¹ Notice of the Department's proposed action was originally published in the Pennsylvania Bulletin on March 14, 2026 (the "March Notice"). The Township submitted comments on that proposed action in a letter dated May 5, 2026. Notice of a revised proposed renewal and modification of NPDES Permit No. PA0594121 was published in the Pennsylvania Bulletin on August 15, 2026 (the "August Notice"). On September 14, 2026, the Department extended the public comment period in connection with the August Notice by fifteen (15) days until September 29, 2026.

In the March Notice, the Department included effluent limits for Outfalls 001 and 004 for Total Phosphorous, Total Nitrate-Nitrite as N, Total Aluminum, Total Iron, Total Dissolved Solids ("TDS"), and Total Sulfates. In the August Notice, however, after receiving a request from Heidelberg via letter dated June 1, 2026, the Department eliminated those effluent limits and instead proposed only monitoring and reporting. Heidelberg justified its request by arguing (1) that its stormwater discharge is "grandfathered" under the Department's antidegradation regulations and (2) that sample data collected from July 20, 2023 to July 30, 2024 demonstrate that the discharge is "unlikely to adversely impact existing water quality."

In response to the August Notice, the Township restates and incorporates herein each of the comments stated in the Township's letter dated May 5, 2026. The Township also provides the following additional comments.

¹ The foregoing comments do not necessarily reflect every comment that the Township may have on the proposed NPDES permit renewal and amendment, and the Township reserves the right to raise additional issues in the future.

1. Department's Scope of Review of NPDES Permit Renewal

Heidelberg conflates the Department's antidegradation regulations with the Department's separate legal obligation to review NPDES permits every five years through the permit renewal process. Regardless of whether an antidegradation evaluation is required in connection with a pending permit action, the Department has an independent legal obligation when evaluating an NPDES permit renewal to ensure that a permit issued years earlier is still appropriate based on up-to-date information at the time of the proposed renewal.

The Environmental Hearing Board has rejected Heidelberg's argument and instead has held that the issue in reviewing an NPDES permit renewal is not whether the historical initiation of the NPDES permit was appropriate, but rather whether the continuation of the permitted activity is appropriate based on up-to-date information. See, e.g., *Tinicum Twp. v. DEP*, 2002 EHB 822 (stating that an application for an NPDES permit renewal "require[s] the Department to ensure that a continuation of the permitted activity is appropriate based upon up-to-date information."); *Wheatland Tube Co. v. DEP*, 2004 EHB 131 ("[T]he five-year renewal requirement required the Department to ensure that a permit issued years earlier was still appropriate based upon what was known at the time of the proposed renewal.") Consistent with the Board's prior holdings, the Department's guidance titled Developing National Pollutant Discharge Elimination System (NPDES) Permits for Mining Activities (Doc. 563-2112-115), dated December 5, 2015, acknowledges that, in a renewal, the Department can impose "more stringent limits than are already in the permit."

Heidelberg's position that the Department's antidegradation regulations restrict the Department from evaluating and imposing new effluent limits in the context of an NPDES permit renewal therefore runs counter to Board precedent. The Department has an independent legal obligation to ensure that the proposed NPDES permit renewal is still appropriate based on up-to-date information.

2. Sample Results Relied Upon Are Not Representative or Current

The sample results cited by Heidelberg in its letter dated June 1, 2026 and in its application materials are from July 20, 2023 to July 30, 2024 and do not support Heidelberg's position that the discharge is "unlikely to adversely impact existing water quality" with respect to Total Phosphorous, Total Nitrate-Nitrite as N, Total Aluminum, Total Iron, TDS, and Total Sulfates.

All mining and related activity at the Quarry has been ceased since December 5, 2018, pursuant to a Department order. The samples cited by Heidelberg were collected at a time when the Quarry was dormant and had been for over four years. Heidelberg has stated that it intends in the short term to seek to engage in limited site activities (such as truck access, removal of aggregate, site inspections, monitoring, and maintenance) and in the future intends to request to engage in additional activities (such as stripping overburden, drilling, blasting, hauling, crushing, stockpiling, and loading out crushed aggregate). The sample results are therefore not representative of the conditions at the Quarry that would occur if the Department lifts the cessation order.

Additionally, the NPDES permit is a module within Heidelberg's Surface Mining Permit, and the Department's Noncoal Mining regulations require that information contained in a permit application "shall be current." 25 Pa. Code § 77.104(c). The samples cited by Heidelberg were collected more than two to three years ago and are not current.

Thank you for your consideration of the Township's comments.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Thomas M. Duncan".

Thomas M. Duncan

cc: The Honorable Jarrett Coleman, PA Senate, 16th Senatorial District
The Honorable Craig Staats, PA House of Representatives, 145th Legislative District
The Honorable Brian Fitzpatrick, U.S. House of Representatives, PA, 1st District
The Honorable Steven Santarsiero, PA Senate, 10th Senatorial District
The Honorable Robert Harvie, Jr., Chair, Bucks County Board of Commissioners
The Honorable Diane Ellis-Marseglia, Vice Chair, Bucks County Board of Commissioners
The Honorable Gene DiGirolamo, Secretary, Bucks County Board of Commissioners
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Tiffany Folk, P.G., Permits Chief, PADEP Pottsville District Mining Office
Robert Schena, Esq., counsel for Heidelberg Materials Northeast LLC
Marianne Hart Morano, Township Manager, East Rockhill Township
David Nyman, Chairperson, East Rockhill Township Board of Supervisors
Gary Volovnik, Vice-Chairperson, East Rockhill Township Board of Supervisors
Jim Nietupski, Member, East Rockhill Township Board of Supervisors
Steve Baluh, Township Engineer, East Rockhill Township
William Oetinger, Township Solicitor, East Rockhill Township