



**DEPARTMENT OF THE ARMY**  
LOS ANGELES DISTRICT, CORPS OF ENGINEERS  
ARIZONA NEVADA AREA OFFICE  
3636 N. CENTRAL AVENUE, SUITE 900  
PHOENIX, ARIZONA 85012



*Boomer into -*

*Copy to:*

- 1. John B.*
- 2. Suzanne S.*

*UM*  
*12/22/08*

REPLY TO  
ATTENTION OF:

December 18, 2008

Office of the Chief  
Regulatory Division

Mr. Ed Harrison  
c/o Mr. Craig M. Douglas  
Smith Robertson  
221 W. Sixth Street, Suite 1100  
Austin, Texas 78701

Corps File Number: SPL-2004-01399-MB

Dear Mr. Douglas:

This letter concerns the proposal of California Portland Cement and its subsidiary, Arizona Portland Cement, to mine limestone from the Empire Mountain quarries. The project would involve, at a minimum, the discharge of fill material into waters of the U.S. for the construction of a haul road and for pit mining activities at the East and West Quarries located 0.8 mile north of the intersection of Old Sonoita Highway and State Route 83 (Sections 19 and 30, T17S, R17E) near Vail, Pima County, Arizona.

Pursuant to 33 C.F.R. §§ 330.1(d) and 330.4(e), the Corps' District Engineer (DE) is authorized to invoke discretionary authority for a proposed activity whenever the DE determines "...sufficient concerns for the environment or any other factor of the public interest so requires." Based on the above, the DE or his delegee may instruct the applicant to apply for an individual permit.

Concerning the proposed Empire Mountain quarries, the Corps believes sufficient concerns for the environment exist based on the presence of a National Register-eligible cultural site, the proximity of the site to known roosting sites of the endangered lesser long-nosed bat (*Leptonycteris curasoae yerbabuena*) and the presence of foraging habitat on the site which will be impacted by mine activities, the proposed impacts to Davidson Canyon Wash which has recently been determined by the Arizona Department of Environmental Quality to be an Arizona "Outstanding Water" immediately downstream of the proposed project area, and other impacts typically associated with mining activities. In addition, the Corps has received numerous letters, e-mails, and telephone calls from the public regarding this proposed mine. Finally, the Corps is concerned with cumulative impacts to the Davidson Canyon watershed from this proposed activity and other proposed projects in the area. We believe a public interest review would better allow us to evaluate the project to determine whether this proposed project is contrary to the public interest.

Therefore, please be advised that I am invoking discretionary authority and am requiring an individual permit under Section 404 of the Clean Water Act for discharges of dredged and/or fill material associated with the proposed Empire Mountain quarries project.

Please contact Ms. Marjorie Blaine of my staff in our Tucson Office at (520) 584-1684 at your earliest convenience to schedule a pre-application meeting so she may assist you and provide instructions as to the preparation of an individual permit application for the proposed Empire Mountain quarries project. You may also contact her directly if you have any questions regarding this letter.

Sincerely,

**ORIGINAL SIGNED BY**

Sallie D. McGuire  
Acting Chief  
Arizona Branch, Regulatory Division

Copies furnished:

Arizona Department of Environmental Quality

Arizona State Land Department

Mr. Chuck Huckelberry, Administrator, Pima County

Mr. Brian Bellew, Bureau of Land Management, Tucson Field Office