



Lyons Cement Plant

“Grandfathered” Status & Enforcing our Regulations

January 26th, 2023

Agenda

- About Good Neighbors of Lyons
- About CEMEX Lyons
- Where We've Been
- Where We Are
- Where We're Headed
- What Can You Do to Help?
- Q&A





About Good Neighbors of Lyons

We are a group of neighbors who live, work and play in Lyons' Eastern Corridor, near CEMEX Lyons.

We want what's best for the Town of Lyons, Boulder County, and the larger community.

Who is CEMEX?



Mexican multinational materials company.

Manufactures and distributes cement, ready-mix concrete and aggregates in 50 countries

Global 2000 (#1,178)

\$13 Billion in Annual Revenues

\$27 Billion in Assets

What does CEMEX Lyons do?



Produces **cement**, the main basic ingredient of ready-mix concrete

Cement is produced largely from combining **limestone**, **shale** and **silica** from mines & quarries.

To combine the ingredients, **the plant burns coal**, and heats a kiln to **>2300 deg F**

Where is CEMEX Lyons?



Dowe Flats Mine
(1594 acres)

Pipe & Conveyor
From Mine to Plant

CEMEX Lyons Plant
(930 acres)



What does the Colorado cement market look like?



- Offices - 4
- Plants - 3
- Terminals - 7

LafargeHolcim GCC of America

- **3 cement plants**
- **7 cement delivery terminals**
- **2.6 million tons** of cement produced
- **2.1 million tons** of cement consumed
- Net exporter of **500,000 tons** of cement
- **327 employees** (2015)
- **Wyoming** (near Laramie) cement production is substantial (>300,000 tons excess capacity)

When did CEMEX Lyons begin operations?

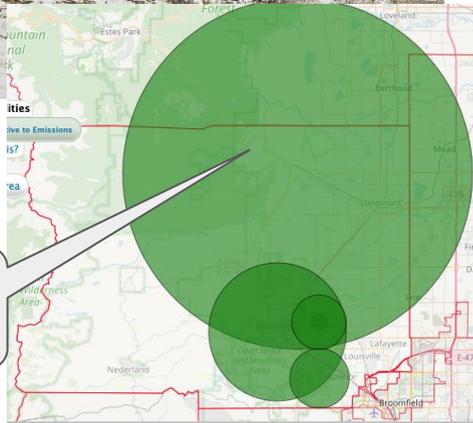


CEMEX Lyons Plant constructed in **1969** by Martin Marietta. Adjacent quarries were mined for **decades** until exhausted.

Dowe Flats Mine began mining operations **September 30, 1997** with a **25 year permit** granted by Boulder County, ended **September 30, 2022**.

“Grandfathered” **Non-Conforming Use** in Boulder County Land Use Code (1994)

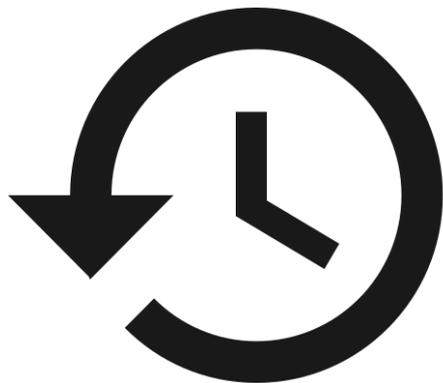
What is the CEMEX Lyons carbon footprint?



CEMEX Lyons Plant

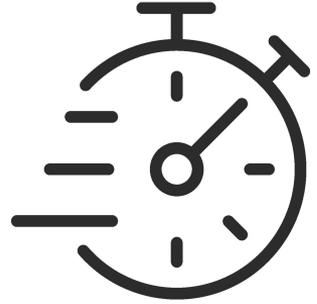
EPA: #1 Greenhouse Gas Emitter in Boulder County

- Equivalent to **~30,000** Boulder County residents
- **~7.3%** of Boulder County Greenhouse Gas Emissions (GHG)
- Emits **357,101 tons of CO₂ annually**; the #2 polluter in Boulder County emits only 55,000 tons of CO₂ annually
- Over next 30 years, will emit **10 million tons of CO₂**



Where We've Been

Timeline of Events



- **May 2022:** BoCo Parks & Open Space & CEMEX Proposal
 - ~\$16MM Open Space Land for 15 Years Dowe Flats Mining
 - “15 years or Indefinite” for Plant Closure
- **Jun-August 2022:** Proposal Analysis
 - Town of Lyons & Community Recommended Rejection & Counter-Proposal
 - Environmental Impacts
 - Legal & Financial Ability
 - Strategic (e.g. “A Bad Trade”)
 - 1200+ Boulder County Residents Opposed Deal
- **Sep 2022:**
 - Boulder Planning Commission voted to reject deal 7-0
 - CEMEX began **heavily** stockpiling from Dowe Flats
 - Boulder County Commissioners voted to reject deal 2-1
 - Dowe Flats Mining Stopped
- **Oct 2022:**
 - CEMEX began supplementing stockpiles by trucking in materials from remote locations
 - CEMEX files for alterations of operation in Wyoming (not public)



Where We Are

Creating New Stockpiles (Sep 2022)



Picking Up Materials at ARCOSA (South of Boulder)



Trucking through City of Boulder (28th St → US-36)



Trucks Dumping Shale at Site



Fugitive Dust Event - October, 2022



**View from
Hwy 66
driving
Westbound**

Fugitive Dust Event - November 23rd, 2022



Some Public Comments on New Truck Traffic



Lyons Happenings



Kevin Braly

January 5 at 3:14 PM · 🌐



Boulder County and some people of Lyons have sure out smarted themselves this time. Instead of letting CEMEX run material through the tube for 15 more years, And then tear down the plant and Leave Town for good. You denied their More than fair request. Now, we get upwards of 50 semis a day hauling into the plant, causing Dust, as you can see, and Dangerous traffic conditions, As you can see 3 trucks turning in and out of the plant in this picture. And CEMEX is allowed to operate like this Indefinatly, Forever.. Real Smart Thinking, You really put the screws to them..



Kevin Braly [Author](#)

I counted 14 of the Red JFW trucks on 66 between CEMEX and I-25, that doesn't count the ones that take hwy 36 through Boulder. You figure CEMEX needs 1500-2500 Tons per day to operate, thats roughly 50-85 trucks PER DAY added to Hwy 66 & 36..

John D Glenn

I've seen a lot of dusty trucks recently... a white cloud from cemex to Longmont.

Patty Ayala

I love it! We told them this would happen, but they wouldn't listen.

David Gouge

... all of this was predictable from the outset... not to mention the price increases in cement due to the added costs associated with this trucking operation.... something for the locals and others worried about the high cost of housing to ponder.

Jonathan Wilson

My guess is whoever made the decisions won't see any trucks

Tony Pfarr

Plus all the Air Pollution the Rigs are putting out, beyond stupid, made everything worse for everyone, can't wait for summer traffic!!!



“so I just passed probably 10 trucks going from our house to 287/66 intersection. it seems like they've ramped up or maybe it's an occasional pileup...they seem to be coming from everywhere - up Hover, down 287, up 287, across 66, up 36. Crazy”

Anonymous Man near CEMEX (*)
Dec 7th, 2022

(*) declined to be identified for fear of retaliation



“we’re inundated with loud traffic...seems to have exponentially increased...with this onslaught, I hope the Commissioners take action soon. how do these guys get away with this?”

Anonymous Woman near CEMEX (*)
December 15th, 2022

(*) declined to be identified for fear of retaliation



“I walked out of my house this morning to go to the barn and was hit with a wave of noise like I’ve never experienced. It was truck, after truck, after truck going to CEMEX. I have lived here for 25 years and never had so much stress. Not sure how much more I can put up with this @!\$#”

Anonymous Woman near CEMEX (*)
January 15th, 2023

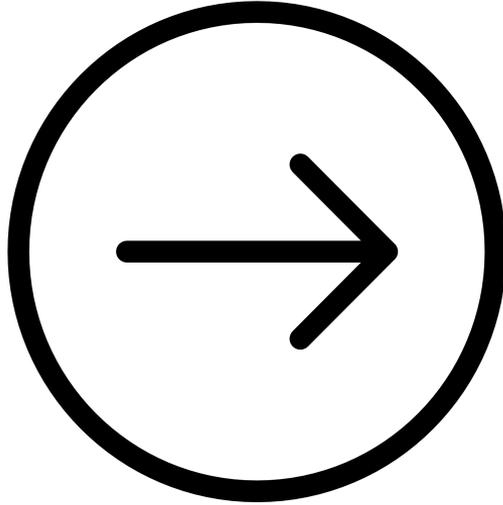
(*) declined to be identified for fear of retaliation



“At 2AM I heard this big huge crashing sound which woke me and dogs up. I looked around and couldn’t find anything, then talked to my neighbor the next day and she woke up to the same thing. CEMEX has been operating at night a bunch way more loudly, we’re not sure what is going on, but in all my years hear OMG I have never heard the noises like this so much”

Single Woman near CEMEX (*)
January 25th, 2023

(*) declined to be identified for fear of retaliation



Where We're Headed

These changes now
provide Boulder County
the **legal ability and**
obligation to terminate
CEMEX's "Grandfathered"
Use Status in accordance
with the Land Use Code



“Grandfathered” Use Termination (Section 4-1003.C.1.d)

“The right to continue a nonconforming use **terminates immediately** when [there] is **any** other enlargement or **alteration** of the nonconforming use which has the effect or threatened effect of creating a **hazard** or **nuisance** on or **off** the property, of **adversely affecting the character of the neighborhood**, or of intensifying the use of the land or its **need for services**.”



*Note: This is a very broad clause that can be triggered by **any changes** to the nonconforming use that threaten public health and safety, create a nuisance, or intensify use of the land or services.*

What are examples of nuisances?

- **Excessive noise:** A use that generates excessive noise, such as a loud construction site, can be considered a nuisance if it disrupts the peaceful enjoyment of nearby properties.
- **Odors:** A use that generates offensive odors, such as a livestock operation or a waste treatment facility, can be considered a nuisance if it causes discomfort or inconvenience to nearby residents.
- **Visual impacts:** A use that has a negative visual impact on the surrounding area, such as a billboard or a poorly maintained property, can be considered a nuisance if it affects the aesthetics of the community.
- **Health hazards:** A use that poses a health hazard, such as an abandoned building with lead paint or a hazardous waste storage facility, can be considered a nuisance if it poses a risk to the health and safety of the community.
- **Traffic congestion:** A use that generates excessive traffic can be considered a nuisance if it causes congestion and delays on the roads.



New Stockpiling of Materials

- New, mountainous stockpiles of shale
- Visible from multiple public roads and neighbors



Alteration in the land area occupied by the nonconforming use?	YES; New Stockpiles are Occupying an Increased Area of the Land
Effect or threatened effect of creation a hazard or nuisance on or off the property?	YES; Visual Aesthetics of Large Stockpiles visible from Neighbors, Foothills Hwy, Hygiene Road
Adversely affecting the character of the neighborhood?	YES; Neighbors are complaining about the “new mining” and “large piles”
Intensifying the use of the land or its need for services	YES; New Stockpiles are Occupying an Increased Area of the Land and Is a More Intense Use

Trucking in 100% of Materials

- At least **2X increase** in large truck traffic on HWY 66 & HWY 36.
- **New truck routes** through City of Boulder (**10+ trucks per hour**)



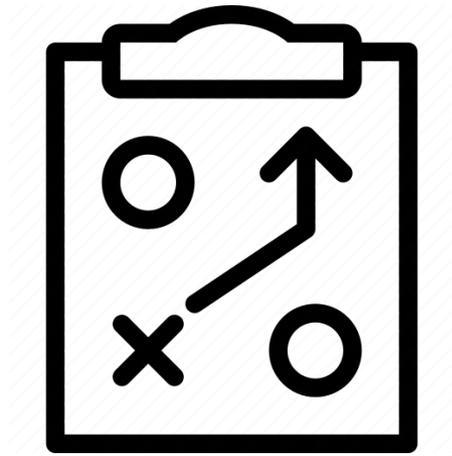
Effect or threatened effect of creation a hazard or nuisance on or off the property?	YES; Traffic, Noise, Pollution, Safety Hazard for Cyclists and other Drivers
Adversely affecting the character of the neighborhood?	YES; Neighbors are complaining about the “exponential” increase in traffic, Jake Braking, and Diesel Fumes
Intensifying the use of the land or its need for services	YES; Increase in Trucks = Increase in Services; CDOT Requires a new Permit for >20% Increase in Traffic. Each 35-ton truck does the damage to roads of <u>160,000</u> 1.5 ton vehicles - see: 4th power rule

Change of Source Materials; CKD Exposure Threat

- Cement Kiln Dust (CKD) is a **toxic substance** that is disposed of onsite and often is released into the community nearby due to poor operating practices.
- CKD chemical composition is **highly variable** dependent on the **source** of materials
- The input materials **changed** when Dowe Flats closed; therefore the composition of the **CKD changed**; therefore it is a potential **threat to public health and safety**.



Effect or threatened effect of creation a hazard or nuisance on or off the property?	YES; threat and hazard due to composition of CKD changing; continued CKD fugitive dust events
Intensifying the use of the land or its need for services	YES; More CKD Disposal directly onsite



So ... What's the Plan?

Boulder County



1. **Filed formal code violation** complaint: [ZON-23-0003](#)
2. Letter and Petition **Feb 1st** to Commissioners **demanding enforcement** of the Land Use Code
3. After investigation, Boulder County Director of Land Use sends notice that non-conforming use “**has or may have**” terminated
4. Property Owner (CEMEX) has 30 days to ...
 - a. Provide Evidence to Contrary
 - b. Appeal to Boulder County Commissioners
 - c. Apply for a Special Use Permit
5. **Denial** of Appeal and Special Use Permit would result in **cessation of CEMEX Lyons operations**
6. Cessation of operations triggers DRMS Reclamation Plan, which includes **demolition of plant**

Colorado Department of Transportation (CDOT)

1. **Filed complaint** about traffic increase
2. CDOT now **requiring** CEMEX to obtain new access Permit due to >20% increase
3. Traffic Engineering Survey documenting changes will be **Made Public**
4. Expected timeframe ~45 days
5. **Objective:** documentation of alterations



Colorado Division of Mining (DRMS)

1. **Filed complaint**
 - a. Inadequacy of 20 year old reclamation bond
 - b. 2001 change to reclamation plan without public process
 - c. Trucking in remote material and implications to permit
2. CEMEX has until March 13th to provide **updated reclamation estimates** and post updated bond amounts
3. DRMS reviewing and investigating permit implications
4. **Objective:** public hearing



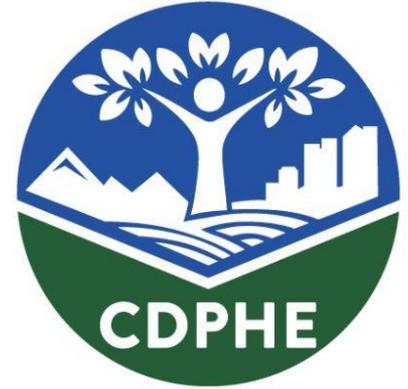
Colorado Public Health & Environment (CDPHE)

1. **Filed complaint**

- a. Title V Operating Permit Expired **March 2022**
- b. Required 5-Year Public Comment Process **Hasn't Occurred**
- c. Renewal Application Doesn't Account for Shale Stockpiling or Full Scope of Operations

2. CDPHE “**intends to review**” given recent increase in resources and headcount

3. **Objective:** public renewal hearing





What Can You Do?

What Can You Do to Help?

1. **Sign the Petition** at GoodNeighborsLyons.com before Feb 1
 - a. Provide your **personal story** in the Petition
 - b. Sign up for Email Updates
 - c. Sign up to Volunteer
 - d. Spread the Word!!!



2. **Please donate** to [Save our St Vrain Valley](#) for Legal Funds
3. **Attend Future Hearings!** (Dates TBD)



To Recap....

- CEMEX Lyons has been presumed to operate under a Nonconforming Use clause from the Boulder County Land Use Code since 1994.
- The use has been altered and/or enlarged since Dowe Flats closed in Sep '22, including a **massive increase in trucking frequency, new trucking routes, new and enlarged stockpiling uses, a change in raw materials being used onsite, and a change to the nature of the cement kiln dust (CKD) that routinely becomes part of fugitive dust events in the community.**
- These **changes in use** have caused a **more intensive use of the land and its services, a threat to public health and safety**, have adversely affected the **character of the neighborhood**, and created a **hazard or nuisance on/off the property.**
- These events, along with numerous events since 1994, create serious concerns that the **Nonconforming Use has Terminated** in accordance with Section 4-1003 of the Code.
- **Sufficient evidence** exists for the Land Use Director to **send CEMEX a notice** determining that the Nonconforming Use **has or may have terminated.**
- Upon receipt of this notice, **CEMEX will have 30 days** to provide evidence to the contrary, appeal the decision to the Boulder County Commissioners, or file for a Special Use Review.
- The Land Use Code *requires* Boulder County to **terminate the continuation of nonconformity as “speedily as justice will permit”**, and we request that the Commissioners direct the Land Use Director to prepare and **send this notice to CEMEX immediately.**