

## Marissa Davis

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**From:** Roger Flynn <Roger@wmaplaw.org>  
**Sent:** Friday, July 15, 2022 11:06 AM  
**To:** Marissa Davis; Hollie Rogin; Victoria Simonsen  
**Cc:** Ted Elson; Jocelyn Farrell; Paula Williams; Tanya Daty; Gregg Oetting; Glen Delman  
**Subject:** CEMEX options and questions

Dear Mayor Rogin, members of the Lyons Board of Trustees, Administrator Simonsen, and Deputy Clerk Davis,

Thank you for the opportunity to comment on the issues surrounding CEMEX's proposal to continue mining at Dowe Flats in exchange for some future commitments on open space, among other issues.

I am the Director and Managing Attorney with the Western Mining Action Project, a non-profit public interest law firm, based here in Lyons since 2005, which specializes in mining issues in the West. I am also an Adjunct Professor at the University of Colorado School of Law, teaching Mining and Mineral Development Law since 2002. I served on the Lyons PCDC for 8 years (2011-2019).

A major concern I have is the lack of information coming from CEMEX, and to some extent Boulder County, regarding the current permitted operations at the site (both north and south of Rt. 66), and CEMEX's proposed operations in the future.

For example, CEMEX is claiming that if its mining at Dowe Flats ends this year (as it originally committed to Boulder County), it will continue its cement plant operations indefinitely. But this would require a drastic change in the source of the materials/minerals for plant operations. Right now, the materials come from Dowe Flats, via the overhead conveyor. If mining at Dowe Flats ends, CEMEX must obtain a constant source of minerals from other mines across the Front Range. This will obviously result in major truck traffic, pollution, safety and other concerns that currently do not exist.

It is imperative for the Town, and Boulder County, to have this information before any decisions can be made. The Town, and County, should ask of CEMEX, who, where, what, how much, and how they will get their materials to continue running the cement plant if Dowe Flats mining stops at the end of this year.

I would be very concerned if CEMEX says it does not have this information, as it should have thought this through, especially with the impending deadline for closure of Dowe Flats. I can't imagine that CEMEX does not have those contingency plans in place, especially with the impending deadline.

How can the County make an informed decision on CEMEX's proposed "deal" if it does not know how many trucks, routes, sources, etc., for all this new material, and the resulting impacts from these major changes?

Also, and due to the lack of information so far provided to the public by CEMEX, other questions remain about whether CEMEX's current state mining permit allows them to operate the plant as what is known as a "batch plant," "custom mill," or "dedicated plant" – which means that the source material for the plant comes from other locations, as compared to an on-site source, such as the old quarry on the south side or the connected (via the conveyor) source in Dowe Flats, which has been the case for decades.

This is also a question regarding the County permit for plant operations. Does the current County permit allow CEMEX to take source material from an unknown number of mines in the region, or does the County permit limit the source of plant materials to just Dowe Flats? If that is the case, then CEMEX would have to go through the County permitting process, with hopefully robust public comment opportunities, and no guarantees that CEMEX would be allowed to undertake such a major change in operations.

Again, without this critical information, it is very hard for the public to properly ascertain the pros and cons of the "deal," especially regarding whether CEMEX can operate the plant indefinitely using totally new material sources, when the company may not be permitted to do so.

I would hope that the Town would request this information from the County, and CEMEX, so that we can all be better informed.

Please note: if the Town already has this information, it would greatly assist public review if these documents could be posted online for review as the process continues.

There are other critical issues and questions that CEMEX has not been forthcoming on, such as what industrial operations could occur at the plant site in 15+ years (that will not be transferred/sold to the County), etc. I would hope that the Town and County receives details from CEMEX on these issues, instead of what appear to be vague generalities.

Overall, without this information regarding what is currently allowed, and what may not be allowed without major modifications to the various permits, I would urge the Town to recommend that the County does not agree to the deal as proposed by CEMEX.

Thank you for the opportunity to provide these comments, and again, I appreciate the Town's leadership in reaching out to the public for our input.

Please do not hesitate to contact me if you have any questions.

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