CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION

REVISED TENTATIVE CEASE AND DESIST ORDER R2-2021-XXXX
STEVENS CREEK QUARRY, INC.,
CUPERTINO QUARRY

WHEREAS the California Regional Water Quality Control Board, San Francisco Bay Region (hereinafter "Regional Water Board"), finds the following:

Background

1. Stevens Creek Quarry, Inc., (hereinafter "Discharger") owns and operates the Cupertino Quarry (hereinafter "Facility"), located at 12100 Stevens Canyon Road, Cupertino, Santa Clara County. The Facility is a rock and sand quarry and processing facility that produces construction rock and sand, recycles used concrete and asphalt, produces topsoil from imported soil, and hosts the City of Cupertino's Garden Waste Recycling Center.

2. The Discharger had been authorized to discharge to surface waters pursuant to waste discharge requirements in the *Waste Discharge Requirements for Discharges of Storm Water Associated with Industrial Activities Excluding Construction Activities* (NPDES General Permit CAS000001).

3. On [MONTH DAY], 2021, the Regional Water Board adopted Order R2-2021-XXXX (hereinafter "Permit") issuing new waste discharge requirements (NPDES Permit CA0030236). The Permit contains prohibitions, limitations, and provisions regulating the same discharges as those that had been covered under NPDES General Permit CAS000001.

4. The Facility discharges industrial stormwater commingled with process wastewater to Rattlesnake Creek and Swiss Creek through Discharge Points 001, 002, 003, 004, and 006. The Facility also discharges stormwater not commingled with process wastewater to Rattlesnake Creek through Discharge Point 005. These discharges and discharge points are described in Permit Table 2 and Permit Attachment F (Fact Sheet) section II.B. The discharge points and their locations are shown in the site maps included as Permit Attachment B. The wastewater flow configuration is shown in Permit Attachment C.

Effluent Limitation Violations

5. The Permit contains the numeric effluent limitations listed for reference in Table 1 below (see Permit Tables 4 and 5 for a full list and explanation of Permit numeric effluent limits):

Table 1: Permit Effluent Limits

Parameter	Average Monthly Effluent Limit	Maximum Daily Effluent Limit	Instantaneous Minimum Effluent Limit	Instantaneous Maximum Effluent Limit
Discharge Points 001 and 006				
Oil and Grease	10 mg/L	20 mg/L	—	—
pH	—	—	6.5	8.5
Settleable Matter	—	1.0 mL/L-hr	—	—
Chromium (III)	370 µg/L	740 µg/L	—	—
Copper	17 µg/L	34 µg/L	—	—
Lead	8.8 ug/L	18 ug/L	—	—
Nickel	96 µg/L	190 µg/L	—	—
Selenium	4.1 µg/L	8.2 µg/L	—	—
Zinc	130 ug/L	270 µg/L	—	—
Discharge Points 002, 003, and 004				
Oil and Grease	10 mg/L	20 mg/L	—	—
pH	—	—	6.5	8.5
Settleable Matter	—	1.0 mL/L-hr	—	—
Chromium (VI)	5.6 µg/L	16 µg/L	—	—
Copper	14 µg/L	34 µg/L	—	—
Lead	8.1 µg/L	19 µg/L	—	—
Nickel	93 µg/L	200 µg/L	—	—
Selenium	4.0 ug/L	8.4 ug/L	—	—
Cyanide	4.3 µg/L	8.5 µg/L	—	—

Unit Abbreviations:

µg/L = micrograms per liter
mg/L = milligrams per liter
mL/L-hr = milliliters per liter-hour
s.u. = standard pH units

6. Based on data collected at Discharge Points 002, 003, 004, and 006, the Discharger threatens to violate the Permit effluent limitations in Table 1 as explained below. Consistent compliance is considered unlikely when the range of monitoring results for a given parameter exceeds a corresponding Permit limit. Other factors were also considered as explained in footnotes to Tables 2 and 3.

a. Discharge Points 001 and 006 to Rattlesnake Creek. At Discharge Points 001 and 006, consistent compliance with the effluent limits is unlikely for pH, settleable matter, chromium (III), copper, lead, nickel, selenium, and zinc. Discharge data are available for Discharge Point 006, but not Discharge Point 001. Because the activities in the drainage area for Discharge Point 001 are similar to those in the drainage area for Discharge Point 006, the quality of the discharges from these discharge points is expected to be similar. Table 2, below, compares the discharge data for Discharge Point 006 with the Permit effluent limits.

Table 2: Permit Effluent Limits vs. Discharge Data for Discharge Points 001 and 006

Parameter	Units	Average Monthly Effluent Limit	Maximum Daily Effluent Limit	Range Detected
pH	s.u.	[1]	[1]	7.4 – 8.9
Settleable Matter	mL/L-hr	—	1.0	[2]
Chromium (III)	µg/L	370	740	4.9 – 3,500
Copper	µg/L	17	34	3.0 – 895
Lead	µg/L	8.8	18	ND – 118
Nickel	µg/L	96	190	5.0 – 4,580
Selenium	µg/L	4.1	8.2	0.61 – 37
Zinc	µg/L	130	270	9.2 – 2,010

Unit Abbreviations:

µg/L = micrograms per liter
mL/L-hr = milliliters per liter-hour
s.u. = standard pH units

Footnotes:

[1] pH limits are an instantaneous minimum of 6.5 and an instantaneous maximum of 8.5.

[2] Although settleable matter was not monitored, the relatively high concentrations of total suspended solids (TSS) (up to 12,000 milligrams per liter [mg/L]) indicate that consistent compliance with the maximum daily effluent limit of 1.0 mL/L-hr is unlikely.

b. Discharge Points 002, 003, and 004 to Swiss Creek. At Discharge Points 002, 003, and 004, consistent compliance with the effluent limits is unlikely for pH, settleable matter, chromium (VI), copper, lead, nickel, selenium, and cyanide. Discharge data are available for Discharge Points 002, 003, and 004. Because the activities in the drainage areas for Discharge Points 002, 003, and 004 are similar, the quality of the discharges from these discharge points is expected to be similar. Table 3, below, compares the discharge data for Discharge Points 002, 003, and 004 with the Permit effluent limits.

Table 3: Permit Effluent Limits vs. Discharge Data for Discharge Points 002, 003, and 004

Parameter	Units	Average Monthly Effluent Limit	Maximum Daily Effluent Limit	Range Detected
pH	s.u.	[1]	[1]	7.0 – 10
Settleable Matter	mL/L-hr	—	1.0	[2]
Chromium (VI)	µg/L	5.6	16	1.4 – 94
Copper	µg/L	14	34	1.8 – 102
Lead	µg/L	8.1	19	1.4 – 29
Nickel	µg/L	93	200	13 – 215
Selenium	µg/L	4.0	8.4	0.77 – 6.9 [3]
Cyanide	µg/L	4.3	8.5	4.3 – 19 [4]

Unit Abbreviations:

µg/L = micrograms per liter
mL/L-hr = milliliters per liter-hour
s.u. = standard pH units

Footnotes:

[1] pH limits are an instantaneous minimum of 6.5 and an instantaneous maximum of 8.5.

[2] Although settleable matter was not monitored, the relatively high concentrations of TSS (up to 1,200 mg/L) indicate that consistent compliance with the maximum daily effluent limit of 1.0 mL/L-hr is unlikely.

[3] Relatively few selenium samples have been collected, and the maximum selenium concentration of 6.9 µg/L exceeds the average monthly effluent limit. Because the relatively few available discharge data probably do not represent the full variability of the expected discharge, consistent compliance with both limits is considered unlikely.

[4] Only two cyanide samples have been collected, and the maximum cyanide concentration of 19 µg/L exceeds the average monthly effluent limit. Because the few available discharge data probably do not represent the full variability of the expected discharge, consistent compliance with both limits is considered unlikely.

c. Discharge Point 005 to Rattlesnake Creek. Discharges from Discharge Point 005 will comprise only stormwater, not commingled process water and stormwater. Since the Permit does not contain numeric effluent limitations for Discharge Point 005, immediate compliance is believed to be feasible.

Receiving Water Limitation Violations

7. The Permit contains the receiving water limitations listed below (see Permit section V), among others:

a. The discharge shall not cause the following conditions to exist in receiving waters at any place:

i. Alteration of suspended sediment in such a manner as to cause nuisance or adversely affect beneficial uses, or detrimental increase in the concentrations of toxic pollutants in sediments or aquatic life;

ii. Suspended material in concentrations that cause nuisance or adversely affect beneficial uses; and

iii. Changes in turbidity that cause nuisance or adversely affect beneficial uses, or increases from normal background light penetration or turbidity greater than 10 percent in areas where natural turbidity is greater than 50 nephelometric turbidity units, or above 55 nephelometric turbidity units in areas where natural turbidity is less than or equal to 50 nephelometric turbidity units.

b. The discharge shall not cause the pH in receiving waters to be depressed below 6.5 or raised above 8.5 at any place within one foot of the water surface.

c. The discharge shall not cause a violation of any water quality standard for receiving waters adopted by the Regional Water Board or the State Water Resources Control Board as required by the Clean Water Act and regulations adopted thereunder.

8. The Discharger is unlikely to comply with the receiving water limits above because:

a. The Facility discharges the metals in Tables 2 and 3 in excess of the effluent limits in Table 1. Data suggest that a preponderance of chromium, copper, lead, nickel, and zinc are associated with solids (i.e., that a minor fraction are dissolved) in the discharge. The Facility's discharges therefore have potential to violate the receiving water limit in Item 7.a.i, above. The Discharger cannot immediately comply with the effluent limits in Table 1.

b. The Facility discharges total suspended solids (TSS) in excess of the industrial stormwater benchmark of 100 mg/L; the maximum TSS concentration detected was 11,900 mg/L. The discharge does not receive significant dilution; such concentrations are therefore likely to violate the receiving water limit in Item 7.a.ii, above. The Discharger cannot immediately reduce TSS in its discharge.

c. The Facility discharges turbidity at levels up to 2,720 nephelometric turbidity units (NTU); the maximum receiving water turbidity detected downstream of the discharge during Facility discharges was 92 NTUs compared to a background (i.e., upstream of the discharge) value of 2.9 NTU. The Facility's discharges therefore have potential to violate the receiving water limit in Item 7.a.iii, above. Turbidity is correlated with TSS and other measures of solids; the Discharger cannot immediately reduce solids in its discharge.

9. The Facility's effluent pH, shown in Tables 2 and 3, sometimes exceeds the pH limits shown in Table 1; the maximum pH detected was 10. The receiving water pH measured during Facility discharges exceeded the upper receiving water pH limit of 8.5 once, at a pH level of 8.6. It is not clear the measured receiving water exceedance was caused by the discharge; however, receiving water pH levels may have been higher at points between the discharge points and the receiving water monitoring locations. The discharge does not receive significant dilution, and the Discharger cannot immediately control pH.

10. As described in Findings 8 and 9, the discharge may cause violations of water quality standards and objectives. Furthermore, the discharge has reasonable potential to cause or contribute to a violation of water quality standards or objectives for the metals listed in Table 1.

Cease and Desist Order Authority

11. Water Code section 13301 authorizes the Regional Water Board to issue a cease and desist order when it finds that a waste discharge is taking place, or threatening to take place, in violation of Regional Water Board requirements or discharge prohibitions prescribed by the Regional Water Board. The Regional Water Board may, in a cease and desist order, direct that those persons not complying with the requirements or discharge prohibitions (a) comply forthwith, (b) comply in accordance with a time schedule set by the board, or (c) in the event of a threatened violation, take appropriate remedial or preventive action.

12. Findings 6 through 10 explain that discharges at Discharge Points 001, 002, 003, 004, and 006 are taking place, and are likely to continue to take place, in violation of the Permit effluent limitations listed in Table 1 and the receiving water limitations listed in Finding 7.

13. The time schedule in Table 5 is as short as possible, accounting for the uncertainty in determining effective treatment measures necessary to achieve compliance. It is based on reasonably expected times needed to test and select from among alternatives and to construct and start up treatment. The Regional Water Board may revisit these assumptions as more information becomes available.

14. The time schedule in Table 5 allows up to five years to bring the discharge into compliance; therefore, this Cease and Desist Order requires the Discharger to comply with interim

requirements. The interim requirements include the interim numeric effluent limits for TSS and pH listed in Table 4 and the narrative requirements expressed as a time schedule of prescribed actions and deadlines in Table 5.

15. The interim effluent limits for TSS, pH, and cyanide listed in Table 4 are intended to ensure that the Discharger maintains at least its existing performance while completing the tasks the time schedule requires. These interim effluent limits were determined as described below.

The interim effluent limits for TSS and pH were set equal to the maximum TSS and pH observed at Discharge Point 006, and at Discharge Points 002, 003, and 004, from December 2018 through March 2020. The maximum effluent concentration (MEC) was chosen because we have enough TSS and pH data to be confident that the MEC estimates the high end of their distributions.

Because there are only two data points for cyanide, one each from Discharge Points 003 and 004 collected in March 2019, these data do not represent the full variability of the expected discharge. To account for variability, the interim effluent limitation for cyanide was calculated using the method in *Technical Support Document for Water Quality-Based Toxics Control*, *EPA 505-2-90-001* (U.S. EPA, March 1991), section 3.3.2. We multiplied the MEC of 19 µg/L by a factor of 3.8 based on the 95 percent confidence level, number of data points (n = 2), and an assumed (default) coefficient of variation (CV) of 0.60.

The interim TSS effluent limits serve as proxies for settleable matter and the metals listed in Table 1 (i.e., chromium (III), chromium (VI), copper, led, nickel, selenium, and zinc). Settleable matter removal is expected to correlate roughly with TSS removal. Dissolved metals data collected in March 2019 indicate that only a small fraction of the metals other than selenium discharged from the Facility are in the dissolved form; selenium concentrations, while mostly dissolved, are strongly correlated with TSS concentrations, based on data collected from January 2019 through January 2020. Therefore, TSS removal is expected to be a good proxy for the metals adhered to solids and for selenium. Cyanide concentrations may be correlated with TSS concentrations, but more data are required to confirm that they are.

16. Pursuant to Water Code section 13385(j)(3), mandatory minimum penalties required by Water Code sections 13385(h) and (i) do not apply when a discharger complies with a cease and desist order issued pursuant to Water Code section 13301 if the following conditions are met:

a. The cease and desist order specifies actions the discharger must take to correct the violations that would otherwise be subject to mandatory minimum penalties;

b. The discharger is unable to consistently comply with effluent limitations because the effluent limitations are new, more stringent, or modified regulatory requirements; new or modified control measures are necessary to comply with the effluent limitations; and the new or modified control measures cannot be designed, installed, and put into operation within 30 calendar days;

c. The Regional Water Board establishes a time schedule of no more than five years for bringing the discharge into compliance; and

d. The discharger has prepared and is implementing in a timely and proper manner a pollution prevention plan pursuant to Water Code section 13263.3.

17. As long as the Discharger complies with this Cease and Desist Order, the conditions of Water Code section 13385(j)(3) are met as explained below:

a. Provision 3 and Table 5 specify actions the Discharger must take to correct the violations that would otherwise be subject to mandatory minimum penalties.

b. As explained in Finding 6, the Discharger is expected to violate the effluent limits listed in Table 1. These effluent limitations are new and more stringent than previous permit requirements. The new control measures listed in Table 5 are necessary to comply with these effluent limitations, but they cannot be designed, installed, and put into operation within 30 calendar days.

c. The deadlines in Table 5 limit the time schedule for bringing the discharge into compliance to no more than five years.

d. Table 5, Task b, requires the Discharger to prepare and implement a pollution prevention plan in accordance with Water Code section 13263.3.

18. As an enforcement action, this Cease and Desist Order is exempt from the provisions of the California Environmental Quality Act (Public Resources Code § 21000 et seq.) in accordance with Title 14 of the California Code of Regulations, section 15321.

19. The Regional Water Board notified the Discharger and interested persons of its intent to consider adoption of this Cease and Desist Order and provided an opportunity to submit written comments and appear at a public hearing. The Regional Water Board, in a public hearing, heard and considered all comments.

IT IS HEREBY ORDERED, in accordance with Water Code section 13301, that the Discharger shall cease and desist from discharging and threatening to discharge wastes in violation of the Permit by complying with the following provisions:

Interim Effluent Limitations and Requirements

1. Immediately upon the effective date of this Cease and Desist Order, the Discharger shall comply with the interim effluent limitations in Table 4, below, at the discharge points specified therein, with compliance measured at Monitoring Locations EFF-001, EFF-002, EFF-003, EFF-004, and EFF-006 as described in Permit Attachment E (Monitoring and Reporting Program):

Table 4: Interim Effluent Limitations

Parameter	Maximum Daily Effluent Limit
Discharge Point 001 and 006	
Total Suspended Solids	12,000 mg/L

Parameter	Maximum Daily Effluent Limit
pH	8.9
Discharge Points 002, 003, and 004	
Total Suspended Solids	1,200 mg/L
pH	10
Cyanide	72 µg/L

Unit Abbreviation:

µg/L = micrograms per liter
mg/L = milligrams per liter

2. The Discharger shall monitor TSS, pH, and cyanide as required in Permit Attachment E, section III. However, if any interim effluent limit in Table 4 is exceeded, the Discharger shall increase its sampling frequency for that constituent to daily within 24 hours of receiving the results indicating the violation of this Cease and Desist Order. The Discharger shall continue accelerated monitoring until two samples collected on consecutive days indicate compliance with the interim effluent limit, unless accelerated monitoring is reduced by the Executive Officer. The Executive Officer may reduce accelerated monitoring if further accelerated monitoring would not provide useful information.

3. The Discharger shall complete the actions listed in Table 5 in accordance with the time schedule provided therein to comply with all Permit requirements. The Discharger shall implement all actions set forth for each deliverable. The Discharger shall revise deliverables to incorporate comments the Executive Officer may make to ensure that the deliverables are adequate and acceptably comply with Table 5 requirements.

Table 5: Time Schedule and Prescribed Actions

Task	Deadline
a. Implement or maintain operational management actions described in *Level 2 Exceedance Response Action (ERA) Technical Report for TSS and Iron (Geosyntec Consultants, July 1, 2020)*, including, at minimum: **i.** Maximizing pumping from existing sediment ponds and traps to Quarry Pit/Pond; **ii.** Maximizing onsite use of storm and process water (e.g., for dust control to the extent feasible); and **iii.** Evaluating the feasibility of installing a mechanical enhanced evaporation system for the Quarry Pit/Pond.	August 15, 2021
b. Prepare, submit, and begin implementing a pollution prevention plan that includes the following elements consistent with Water Code section 13263.3: **i.** Analysis of the pollutants listed in Table 1, including their sources and the processes that result in their generation and discharge; **ii.** Analysis of the potential for pollution prevention to reduce the generation of these pollutants, including the application of innovative and alternative technologies and any adverse environmental impacts resulting from such methods; **iii.** Description of the tasks and time schedules needed to investigate and implement planned pollution prevention techniques; **iv.** Statement of pollution prevention goals and strategies, including priorities for short-term and long-term actions; **v.** Description of existing pollution prevention methods;	August 15, 2021

Task	Deadline
vi. Statement that existing and planned pollution prevention strategies do not constitute cross-media pollution transfers, and information that supports the statement; **vii.** Analysis of the relative costs and benefits of possible pollution prevention activities; and **viii.** Description of intended activities for the immediate future.	
c. Submit plan and implementation schedule for pilot study of advanced treatment systems described in *Level 2 Exceedance Response Action (ERA) Technical Report for TSS and Iron* (Geosyntec Consultants, July 1, 2020).	September 30, 2021
d. Take actions necessary to control and treat stormwater runoff, as proposed in *Level 2 Exceedance Response Action (ERA) Technical Report for TSS and Iron (Geosyntec Consultants, July 1, 2020)*, including installing Drainage Area 2 basin with capacity to treat runoff from Drainage Areas 1 and 6, and upgradient portion of Drainage Area 2, produced by an 85th percentile, 24-hour storm. These drainage areas are defined in Permit Attachment F, section II.	November 1, 2021
e. Implement pilot study plan required in task c.	January 1, 2022
f. Submit report on treatment pilot study results and preliminary design specifications based on those results, including a plan and schedule to select and implement a preferred option.	September 30, 2022
g. Implement plan required in Task f.	November 15, 2022
h. If by May 1, 2023, discharge data continue to show that discharges do not comply with Permit effluent and receiving water limits, submit a report identifying additional actions to ensure compliance. These actions shall include, but not be limited to, reviewing pretreatment options and treatment upgrades. The report shall identify an implementation schedule for investigating these options, selecting a preferred option, and implementing the preferred option. At a minimum, the report shall plan for the following activities: **i.** Bench scale testing or pilot scale testing or both, **ii.** Development of preliminary design specifications, **iii.** Development of final design specifications, **iv.** Procurement of funding, **v.** Acquisition of necessary permits and approvals, and **vi.** Construction.	September 30, 2023
i. Implement the plan required in Task h.	August 31, 2023
j. Submit an annual report on actions taken to implement Tasks a through i. The initial report shall include a plan and schedule to evaluate the feasibility of installing a mechanical enhanced evaporation system for the Quarry Pit/Pond, and to install one if feasible.	With Annual Self-monitoring Reports required by Permit Attachment E, section VI.B.2.b (starting with that due February 1, 2022)
k. Submit documentation confirming full implementation of all plans and compliance with all Permit effluent and receiving water limits.	June 1, 2026

Consequences of Non-Compliance

4. If the Discharger fails to comply with the provisions of this Cease and Desist Order, the Executive Officer is hereby authorized to take enforcement action or to request the Attorney General to take appropriate actions against the Discharger in accordance with Water Code

sections 13331, 13350, 13385, and 13386. Such actions may include injunctive and civil remedies, if appropriate, or the issuance of an Administrative Civil Liability Complaint for Regional Water Board consideration.

5. If the Discharger is delayed, interrupted, or prevented from meeting the provisions and time schedule of this Cease and Desist Order due to a force majeure, the Discharger shall notify the Executive Officer in writing within ten days of the date the Discharger first knows of the force majeure.[*] The Discharger shall demonstrate that timely compliance with the Cease and Desist Order or any affected deadlines will be actually and necessarily delayed, and that it has taken measures to avoid or mitigate the delay by exercising all reasonable precautions and efforts, whether before or after the occurrence of the force majeure.

6. As described below, violations of the Permit effluent limitations listed in Table 1 shall not be subject to the mandatory minimum penalties required by Water Code sections 13385(h) and (i) as long as the Discharger complies with this Cease and Desist Order.

a. If the Discharger fails to comply with the interim pH effluent limitation for Discharge Points 001 and 006 at either Discharge Point 001 or 006, it shall be subject to mandatory minimum penalties in accordance with Water Code sections 13385(h) and (i) for any and all violations of the Permit's instantaneous pH effluent limitations for the same discharge point for the day on which the non-compliance with the interim pH effluent limitation occurs.

b. If the Discharger fails to comply with the interim TSS effluent limitation for Discharge Points 001 and 006 at either Discharge Point 001 or 006, it shall be subject to mandatory minimum penalties in accordance with Water Code sections 13385(h) and (i) for any and all violations of the Permit's maximum daily effluent limitations listed in Table 1 for the same discharge point at which the non-compliance with the interim TSS effluent limitation occurs. The Discharger shall also be subject to mandatory minimum penalties for any and all violations of the Permit's average monthly effluent limitations listed in Table 1 for the same discharge point for the calendar month during which the non-compliance with the interim TSS effluent limitation occurs.

c. If the Discharger fails to comply with the interim pH effluent limitation for Discharge Points 002, 003, and 004 at Discharge Point 002, 003, or 004, it shall be subject to mandatory minimum penalties in accordance with Water Code sections 13385(h) and (i) for any and all violations of the Permit's instantaneous pH effluent limitations for the same discharge point for the day on which the non-compliance with the interim pH effluent limitation occurs.

[*] A "force majeure" is an event that could not have been anticipated by and is beyond the control of the Discharger, including an act of God; earthquake, flood, or other natural disaster; civil disturbance or strike; fire or explosion; declared war within the United States; embargo; or other event of similar import and character. "Force majeure" does not include delays caused by funding, contractor performance, equipment delivery and quality, weather, permitting, other construction-related issues, CEQA challenges, initiative litigation, adverse legislation, or legal matters (with the exception of an injunction issued by a court of law specifically preventing construction from occurring).

d. If the Discharger fails to comply with the interim TSS effluent limitation for Discharge Points 002, 003, and 004 at Discharge Point 002, 003, or 004, it shall be subject to mandatory minimum penalties in accordance with Water Code sections 13385(h) and (i) for any and all violations of the Permit's maximum daily effluent limitations listed in Table 1 (other than the cyanide effluent limitation) for the same discharge point at which the non-compliance with the interim TSS effluent limitation occurs. The Discharger shall also be subject to mandatory minimum penalties for any and all violations of the Permit's average monthly effluent limitations listed in Table 1 (other than the cyanide effluent limitation) for the same discharge point for the calendar month during which the non-compliance with the interim TSS effluent limitation occurs.

e. If the Discharger fails to comply with the interim cyanide effluent limitation for Discharge Points 002, 003, and 004 at Discharge Point 002, 003, or 004, it shall be subject to mandatory minimum penalties in accordance with Water Code sections 13385(h) and (i) for any and all violations of the Permit's maximum daily cyanide effluent limitation for the same discharge point for the day on which the noncompliance with the interim cyanide effluent limitation occurs. The Discharger shall also be subject to mandatory minimum penalties for any and all violations of the Permit's average monthly cyanide effluent limitation for the same discharge point for the calendar month during which the non-compliance with the interim cyanide effluent limitation occurs.

f. If the Discharger fails to comply with any of the narrative interim requirements of this Cease and Desist Order (e.g., those in Table 5) it shall be subject to mandatory minimum penalties in accordance with Water Code sections 13385(h) and (i) for any and all violations of the Permit's effluent limitations listed in Table 1 for the entire calendar month during which the non-compliance occurs. If and when the Discharger returns to compliance with all the interim requirements, violations of the Permit effluent limitations listed in Table 1 shall again not be subject to mandatory minimum penalties as of the first day of the month following the return to compliance.

Effective Date

7. This Cease and Desist Order shall become effective on July 1, 2021.

I do hereby certify the foregoing is a full, true, and correct copy of a Cease and Desist Order adopted by the California Regional Water Quality Control Board, San Francisco Bay Region, on [MONTH DAY, 20XX].

Michael Montgomery
Executive Officer