

STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION

ADVISORY STAFF SUMMARY REPORT: Xavier Fernandez
MEETING DATE: May 12, 2021

ITEMS: 6 and 7

**Stevens Creek Quarry, Inc., Cupertino Quarry, Cupertino, Santa Clara County –
Proposed Issuance of New NPDES Permit and Cease and Desist Order**

DISCUSSION:

This Revised Tentative Order (see Appendix A) would issue a new NPDES permit for Stevens Creek Quarry, Inc.'s Cupertino Quarry. Stevens Creek Quarry, Inc. cannot immediately comply with the new permit; therefore, the Revised Tentative Cease and Desist Order (CDO) (see Appendix B) would require Stevens Creek Quarry, Inc. to undertake specific actions to comply with the permit.

Staff have separated staff functions for both the Revised Tentative Order and Revised Tentative CDO. The Advisory Team consists of Xavier Fernandez and Marnie Ajello. The Prosecution Team consists of Michael Montgomery, Thomas Mumley, Lisa Horowitz McCann, Bill Johnson, Robert Schlipf, John Madigan, and Yuri Won. The Revised Tentative Order and Revised Tentative CDO must be acted on separately, but will be heard together.

The quarry is adjacent to Rattlesnake Creek, Swiss Creek, and Stevens Creek Reservoir. Stevens Creek Quarry, Inc. mines and processes rock and sand to produce construction aggregate products; recycles broken concrete and asphalt; produces topsoil; and operates a small trucking business that delivers quarry products to local clients. Process wastewater is kept onsite in sediment traps and settling ponds for reuse in quarry operations. When rain causes the ponds to overflow, process wastewater commingled with stormwater is discharged to Rattlesnake and Swiss creeks.

The quarry has been in operation since the 1940s. Its discharges have been regulated under the State Water Board's industrial stormwater general permit since 1992. Based on the results of facility inspections and effluent monitoring from 2016 through 2019, staff determined that the general permit was not effectively protecting the receiving waters. The Revised Tentative Order would authorize certain wastewater and stormwater discharges, prohibit discharges except when caused by increased flow due to ongoing or recent precipitation, and establish explicit effluent and receiving water limitations to protect Rattlesnake and Swiss creeks.

The Revised Tentative CDO would impose a time schedule of prescribed actions, including construction of a new settling pond and installation of additional treatment as necessary to comply with the new permit. It would also impose interim effluent limitations to ensure that Stevens Creek Quarry, Inc. maintains at least its existing performance while installing necessary improvements.

We anticipate significant public interest in these items. We received comments (see Appendix C) regarding the tentative orders circulated for public review. The Prosecution Team prepared a Response to Comments (see Appendix D) and revised the tentative orders in response to the comments. The Prosecution Team modified interim effluent limitations and monitoring provisions in response to technical comments from Stevens Creek Quarry, Inc. Public commenters focused on the need to protect the public from pollution, advocated for stronger enforcement and immediate compliance, and called for the facility to be shut down.

RECOMMENDATION:

I will have a recommendation at the conclusion of the hearing.

APPENDICES:

- A. Revised Tentative Order
- B. Revised Tentative Cease and Desist Order
- C. Comments
- D. Response to Comments

Appendix A
Revised Tentative Order

Appendix B
Revised Tentative Cease and Desist Order

Appendix C

Comments

In accordance with Section 11546.7 of the California Government Code, an electronic version of the comments received has not been posted online because the comments do not meet accessibility standards.

For an electronic copy of the comments, please contact John Madigan via email to John.Madigan@waterboards.ca.gov or at (510) 622-2405.

Appendix D
Response to Comments