CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
NORTH COAST REGION

CLEANUP AND ABATEMENT ORDER NO. R1-2022-0045

for

Eagle Rock Inc.

Assessor Parcel Numbers:
024-010-031-000, 024-010-041-000, and 024-010-046-000

TRINITY COUNTY

This Order is issued to Eagle Rock Incorporated (property owner and operator), (hereafter referred to as the Discharger) based on provisions of Water Code section 13304, which authorizes the North Coast Regional Water Quality Control Board (Regional Water Board) to issue a Cleanup and Abatement Order, and Water Code section 13267 Investigative Order, which authorizes the Regional Water Board to require the preparation and submittal of technical and monitoring reports.

FINDINGS

The Executive Officer finds, with respect to the Discharger's acts, or failure to act, the following:

1. **Site Conditions:** The Eagle Rock Inc. - La Grange Pit operates on assessor parcel numbers 024-010-031-000 and 024-010-041-000 at 40029 La Grange Road, off of State Route 299, in Junction City in Trinity County. Both parcels are enrolled in the Industrial General Permit (IGP). Eagle Rock Inc. also owns an adjacent parcel (APN 024-010-046-000) downhill of the IGP site. An adjacent parcel (APN 024-010-17-00) to the south of the IGP site is owned by the Bureau of Land Management. Oregon Gulch and Poison Gulch run through the property, and both are tributaries to the Trinity River, a water of the United States and state (references hereafter to waters of the United States are also waters of the state). The Discharger has caused or allowed the discharge and threatened discharge of waste to receiving waters by failing to implement standard erosion control measures as required by the state-wide National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with

Industrial Activities NPDES Order CAS00001 and State Water Resources Control Board Order 2014-0057-DWQ (Industrial General Permit) (WDID 1 53I000476), Water Quality Control Plan for the North Coast Region (Basin Plan), and potentially the Clean Water Act, Section 401 (Federal Water Pollution Control Act, 33 U.S.C. 1251 et seq. and 1341). These activities resulted in earthen material, including sediment, to discharge and/or threaten to discharge to waters of the United States. These discharges and/or threatened discharges likely violated the water quality objective for sediment in the Basin Plan. The Discharger's activities resulting in impacts, or potential impacts to waters of the state, were conducted in violation of applicable state regulations, including water quality requirements.

2. **Purpose of the Order:** This Order requires the Discharger to clean up and abate the effects of discharging, or threatening to discharge, soil and other earthen materials from stockpiles on APN 024-010-031-000 adjacent to Oregon Gulch, and to eliminate the threat of future discharges. Investigation and cleanup actions required under this Order shall be conducted to comply with the Industrial General Permit, Clean Water Act Section 401, the Basin Plan, State Water Resources Control Board Resolution 92-49, *Policies and Procedures for Investigation and Cleanup and Abatement of Discharges under Water Code Section 13304* (Resolution 92-49), and other applicable State and Regional Water Board plans, policies, and regulations.

3. **Responsible Parties:** The Discharger owns the property and operates the mining company. The Discharger has discharged waste or created a threat of discharge of waste into waters of the United States, creating or threatening to create a condition of pollution. The Discharger had the ability to control the activities on the property that resulted in the discharge and threat of discharge of waste.

    a. Per records from LandVision, Eagle Rock Inc. owns Assessor Parcel Numbers (APN) 024-010-031-000 and 024-010-041-000. Eagle Rock Inc. also owns an adjacent parcel (024-010-046-000) downhill of the other two (hereafter Property). Combined, the parcels encompass approximately 240 acres.

    b. Per the Notice of Intent to comply with the Industrial General Permit, Eagle Rock Inc. operates the Property, also referred to as Eagle Rock Inc. - La Grange Pit, located on State Route 299 in Junction City, California. The Notice of Intent uploaded to the Stormwater Multiple Application and Report Tracking System (SMARTS) states 240 acres of industrial area are exposed to storm water.

    c. The Regional Board reserves the right to amend this Order to add additional responsible parties if those parties are identified.

4. **Property Location and Description:** The Discharger filed a Notice of Intent (NOI) to comply with the Industrial General Permit certified on May 28, 2015. The NOI identified 240 acres of industrial area exposed to storm water. The Property is in Trinity County approximately 1.8 miles east of Junction City with a mailing address in Weaverville. The Property is in the floodplain(s) of Oregon Gulch and Poison Gulch. Both watercourses flow roughly east to west. Oregon Gulch is located along the southern Property boundary while Poison Gulch is in the center of the Property. Poison Gulch is a tributary to Oregon Gulch, Oregon Gulch is a tributary to the Trinity River. The industrial activities associated with the mining operation include excavation, crushing, screening, washing, and stockpiling. Also, there are concrete and asphalt hot mix plants both located at the western portion of the Facility. The central portion of the Facility is partially used as a boneyard to store rusty scrap metals and industrial equipment. The Property is used as a quarry where sand and rock are produced, aggregates are crushed and mixed, and asphalt and concrete are mixed and stored. The Property slopes gently from east to west. The Discharger's stockpiling activities associated with this Order are on the downstream right (northern) bank of Oregon Gulch.

5. **Watershed Setting:** The activities on the Property are conducted in and adjacent to Oregon Gulch, a tributary to the Trinity River. Oregon Gulch is in the Helena Hydrologic subarea (1106.150601).[1] Potential downstream Beneficial Uses of Water affected include those associated with listed anadromous salmonids, including Cold Freshwater Habitat (COLD); Rare, Threatened or Endangered Species (RARE); Migration of Aquatic Organisms (MIGR), and Spawning, Reproduction, and/or Early Development (SPWN).

   Other existing and potential Beneficial Uses include: Municipal and Domestic Supply (MUN); Agricultural Supply (AGR); Industrial Service Supply (IND); Industrial Process Supply (PRO); Groundwater Recharge (GWR); Freshwater Replenishment (FRSH); Navigation (NAV); Hydropower Generation (POW); Water Contact Recreation (REC-1) & Other Non-Contact Recreation (REC-2); Commercial and Sport Fishing (COMM); and Aquaculture (AQUA). Beneficial uses of any specifically identified water body generally apply to all its tributaries.

   a. Trinity River is a Clean Water Act section 303(d)-listed impaired water body due to sediment. The U.S. Environmental Protection Agency approved the Trinity River Total Maximum Daily Load for Sediment[2] on December 20, 2001.

   b. The United States Department of the Interior, Bureau of Reclamation's Trinity River Restoration Program Oregon Gulch channel rehabilitation

[1] Water Quality Control Plan for the North Coast Region (Basin Plan)
[2] The Trinity River Total Maximum Daily Load is available on the Regional Board website.

project is downstream of the Property on the Trinity River in Junction City. The purpose of the Oregon Gulch channel is to transport mine tailings off-site before in-river restoration to recreate complex salmon and steelhead habitat, enhance natural river processes for the benefit of wildlife, and provide conditions suitable for reestablishing native riparian vegetation. The project is planned to be implemented between 2021 and 2026 and is on lands owned by the Yurok tribe and federally managed.[3]

6. **Factual Basis of Order:** Most recent facts include that on September 28, 2021, Regional Water Board staff inspected the Property for compliance with the Industrial General Permit. Less than a year later, on August 25, 2022, Regional Water Board staff and California Department of Fish and Wildlife staff inspected the Property. Staff observed several large piles of earthen material on the banks above and adjacent to Oregon Gulch that were not present during the September 28, 2021 inspection. The piles did not contain erosion control best management practices to prevent possible sediment delivery into Oregon Gulch. The uncovered fine materials currently stored adjacent to Oregon Gulch can be readily mobilized and discharged during the next rainfall event. The conditions observed at the Property created and/or threatened to create a condition of pollution and are detailed in the Regional Water Board inspection report in Attachment A, included and incorporated herein.

7. **Failure to Comply with Necessary Permits:** The Discharger failed to install adequate erosion control in violation of the terms and conditions of the Industrial General Permit. The Discharger failed to obtain Waste Discharge Requirements (WDRs) for activities that directly or indirectly impact waters of the United States. These activities potentially also required a Clean Water Act Section 401 Water Quality Certification.

8. **Failure to Comply with the Basin Plan:** The failure to prevent erosion and discharges of sediment into the Oregon Gulch likely does not, or threatens to not, comply with the Basin Plan's water quality standard for sediment. Basin Plan section 3.3.11 states that the sediment load and suspended sediment discharge rate to surface waters shall not be altered in such a manner as to cause nuisance or adversely affect beneficial uses. Similarly, the Basin Plan contains the Policy in support of Restoration in the North Coast Region in section 4.2.5. Any additional sediment from the Property would negatively impact the Trinity River Restoration Program Oregon Gulch channel rehabilitation project in direct conflict with the Basin Plan's purposes.

9. **Legal Authority to Require Cleanup and Abatement:** Water Code section 13304, subdivision (a) states, in relevant part:

[3] Nationwide Permit 27 Preconstruction Notification, Trinity River Channel Restoration Program, Oregon Gulch Rehabilitation Project, UACE File 2021-00159.

A person who has discharged or discharges waste into waters of this state in violation of any waste discharge requirements or other order or prohibition issued by a regional board or the state board, or who has caused or permitted, causes or permits, or threatens to cause or permit any waste to be discharged or deposited where it is, or probably will be, discharged into the waters of the state and causes, or threatens to create, a condition of pollution or nuisance, shall upon order of the regional board clean up the waste or abate the effects of the waste, or, in the case of threatened pollution or nuisance, take other necessary remedial action, including, but not limited to, overseeing cleanup and abatement efforts.

10. **Cleanup and Abatement Action Necessary:** Cleanup and abatement is necessary to ensure that the threat of unauthorized discharges to receiving waters from the Property are prevented. Discharges and threatened discharges of sediment into receiving waters have or threatens to create a condition of pollution and/or nuisance and negatively impact the downstream restoration project. The current site conditions with the unprotected stockpiles of earthen materials near and potentially already discharging into Oregon Gulch and threatened waste discharging to the Trinity River warrants a Cleanup and Abatement Order consistent with Water Code section 13304 and the policies of the Regional Water Board.

11. **Technical Reports Required:** Water Code section 13267, subdivision (a) provides that the Regional Water Board may investigate the quality of any water of the state within its region in connection with any action relating to the Basin Plan. Water Code section 13267, subdivision (b) provides that the Regional Water Board, when investigating, may require a discharger to furnish, under penalty of perjury, technical or monitoring program reports. The burden, including costs, of preparing these reports must bear a reasonable relationship to the need for the reports and the benefits to be obtained from the reports. This Order requires two types of technical reports. Staff estimate the cost of the reports to be approximately $880 to $1,760.

    a. **The Interim Cleanup and Stabilization Plan (ICSP)** is a technical report that is necessary to: (1) assess the stockpiles that are discharging or threatening to discharge into Oregon Gulch, (2) determine the appropriate stabilization and abatement work to prevent or minimize sediment discharge; and (3) create a plan along with an implementation schedule that will guide the scope of work to stabilize the site and clean up and abate the discharges and threat of discharge on the Property. The anticipated benefits from the ICSP include protection from actual and threatened waste discharges that impact beneficial uses and water quality objectives. In addition, by requiring the Discharger to submit an ICSP, the Regional Water Board or its delegated officer will have the opportunity to review and approve the scope of the proposed stabilization and abatement actions to confirm the proposed work will adequately remediate site conditions and prevent sediment discharges from further

impacting the beneficial uses of sensitive water bodies. As previously mentioned, the Trinity River is a Clean Water Act section 303(d)-listed impaired water body due to sediment thereby heightening the need for this technical report to reduce further impairment to waters of the state. The ICSP requirements (i.e., field inspection and report preparation) are comparable to that of preparing an Erosion Control Plan as required in the State Water Resources Control Board, October 2017, Direct Cost Analysis for the Proposed Cannabis Cultivation Policy (2017 Direct Cost Analysis), which is estimated to cost between $550 and $1,210. The burden, including costs, of preparing and submitting the ISCP therefore bears a reasonable relationship to the need for this planning and assessment report to restore the Property to conditions that will prevent further erosion and sedimentation of sensitive water bodies.

b. **A Completion Report** is necessary to demonstrate that the Discharger has successfully implemented and completed the ICSP activities in a timely manner in accordance with the implementation schedule set forth in the ICSP and this Order. The benefit derived from a Completion Report is documented evidence that remedial activities and best management practices were implemented to ensure that stabilization and abatement activities adequately prevent further erosion and discharge of sediment to Oregon Gulch. The scope of a Completion Report (i.e., field inspection and report preparation) is comparable to that of preparing a Site Closure Report as described in the 2017 Direct Cost Analysis, which is estimated to cost between $330 and $550. The burden, including costs, of preparing and submitting a Completion Report bears a reasonable relationship to the need for the report as assurance to demonstrate remedial actions and restoration are accomplished as proposed in the ICSP and the completed-ICSP Property conditions ensure the protection of water quality.

12. **California Environmental Quality Act:** Issuance of this Order is being taken for the protection of the environment and to enforce the laws and regulations administered by the Regional Water Board and, as such, is exempt from provisions of the California Environmental Quality Act (CEQA) (Public Resources Code section 21000 et seq.) in accordance with California Code of Regulations, title 14, sections 15061, subdivision (b)(3), 15301, 15306, 15307, 15308, and 15321. This Order generally requires the Discharger to submit plans for approval prior to implementing cleanup, abatement, and restoration activities at the Property. Mere submittal of plans is exempt from CEQA as submittal will not cause a direct or indirect physical change in the environment and/or is an activity that cannot possibly have a significant effect on the environment. If the Regional Water Board determines that implementation of any plan required by this Order will have a significant effect on the environment that is not otherwise exempt from CEQA, the Regional Water Board will conduct the necessary and appropriate environmental review prior to implementation of the applicable plan.

REQUIRED ACTIONS

IT IS HEREBY ORDERED that, pursuant to Water Code sections 13267 and 13304, that the Discharger shall clean up the wastes and abate the impacts to water quality in accordance with the scope and schedule set forth below and provide the following information.

1. **Within 10 days from issuance of this Order,** the Discharger shall submit an **Interim Cleanup and Stabilization Plan** (ICSP) prepared by an appropriately licensed professional for the completion of short-term cleanup and stabilization measures necessary to clean up wastes and to prevent further erosion and discharge of sediment to Oregon Gulch. The ICSP shall include, but not be limited to, the following:

    a. A description of any stockpiles that have discharged since May 15, 2022, or have the potential to discharge, into Oregon Gulch. The description should include the location, perimeter, and approximate amount (volume) of stockpiles. This must include the stockpile material found on the west side of the existing boneyard as designated in the attached inspection report as well as any other stockpiled material identified having a potential to discharge into Oregon Gulch.

    b. Using the above information, a description of proposed cleanup and stabilization measures to be implemented at the discharge, or potential discharge site, that are necessary to prevent and minimize sediment transport and discharge.

2. **Within 15 days from the day the Regional Water Board Executive Officer, or their designee, approves the ICSP,** the Discharger shall have completed the work specified in the approved ICSP, cleaning up and stabilizing for the remainder of the 2022-2023 winter wet-weather period. The Discharger must notify Regional Water Board staff in writing (e-mail is appropriate) at least 24 hours in advance of commencing activities outlined in the approved ICSP.

3. **Within 15 days from completion of the work in the ICSP,** the Discharger shall provide a report of completion of the ICSP to the Regional Water Board Executive Officer, or their designee, for approval. This report shall include a summary and photographs of the completed cleanup and stabilization measures. Include photographs of all areas where corrective action has taken place, clearly keyed to site map(s).

4. **Until May 1, 2023,** maintain and replace any cleanup and stabilization measures as needed to continue compliance with the ICSP and Industrial General Permit through the rainy season.

GENERAL REQUIREMENTS AND NOTICES

1. **Duty to Use Qualified Professionals:** The Discharger shall provide documentation that work plans and reports required under this Order are prepared under the direction of appropriately qualified professionals. As required by the California Business and Professions Code sections 6735, 7835, and 7835.1, engineering and geologic evaluations and judgments shall be performed by or under the direction of registered professionals competent and proficient in the fields pertinent to the required activities. The Discharger shall include a statement of qualification and registration numbers of the responsible lead professionals in all plans and reports required under this Order. The lead professional shall sign and affix their registration stamp to the report, plan, or document. The required activities must be implemented by the appropriately qualified/licensed professional as otherwise required by law.

2. **Signatory Requirements:** All technical reports submitted by the Discharger shall include a cover letter signed by the Discharger, or a duly authorized representative, certifying under penalty of law that the signer has examined and is familiar with the report and that to his/her knowledge, the report is true, complete, and accurate. The Discharger shall also state in the cover letter whether he/she will implement the recommendations/proposals provided in the report and the schedule for implementation. Any person signing a document submitted under this Order shall make the following certification:

   I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my knowledge and on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

3. **Delayed Compliance:** If for any reason, the Discharger is unable to perform any activity or submit any document in compliance with the schedule set forth herein, or in compliance with any work schedule submitted pursuant to this Order and approved by the Executive Officer or his/her designee the Discharger may request, in writing, an extension of the time specified. The extension request shall include justification for the delay. Any extension request shall be submitted as soon as a delay is recognized and prior to the compliance date. An extension may only be granted by modification of this Order or by a letter from the Executive Officer.

4. **Potential Liability:** If the Discharger fails to comply with the requirements of this Order, this matter may be referred to the Attorney General for judicial enforcement or a complaint for administrative civil liability may be issued by the Regional Water Board. Failure to comply with this Order may result in the assessment of an administrative civil liability of up to $10,000 per violation per day and $10 per gallon when the violation results in the discharge of waste, pursuant to California Water Code sections 13268, 13350, and/or 13385. The Regional Water Board reserves its right to take any

enforcement actions authorized by law, including, but not limited to, violation of the terms and condition of this Order.

5. **No Limitation of Water Board Authority:** This Order in no way limits the authority of the Regional Water Board to institute additional enforcement actions or to require additional investigation and cleanup of the Property consistent with the Water Code. This Order may be revised as additional information becomes available.

6. **Modifications:** Any modification to this Order shall be in writing and approved by the Regional Water Board or its delegated officer including any potential extension requests.

7. **Notice of Onsite Work:** The Discharger, or a duly authorized agent, shall notify Regional Water Board staff at least 48 hours prior to any onsite work, testing, or sampling that pertains to environmental remediation and investigation and is not routine monitoring, maintenance, or inspection. The Discharger may contact the Regional Water Board using the general phone line at (707) 576-2220 or contact Farzad Kasmaei at (707) 576-2609 or Farzad.Kasmaei@waterboards.ca.gov.

8. **Requesting Review by the State Water Board:** Any person aggrieved by any final action of the Regional Water Board may petition the State Water Board to review the action in accordance with Water Code section 13320 and California Code of Regulations, title 23, section 2050 et al. The State Water Board must receive the petition no later than 5:00 p.m., 30 days following the date of this Order, except that if the thirtieth day following the date of this Order falls on a Saturday, Sunday, or state holiday, the petition must be received on the next business day. Copies of the law and regulations applicable to filing petitions may be found on the Internet at: http://www.waterboards.ca.gov/public_notices/petitions/water_quality or will be provided upon request.

This Order is effective upon the date of signature.

Digitally signed by
Matthias St John
Date: 2022.09.29
05:44:46 -07'00'

Matthias St. John
Executive Officer

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Attachment A: Regional Water Board Staff Inspection Report/Memorandum

North Coast Regional Water Quality Control Board

INSPECTION MEMO

Name and Location of Facility Inspected
Eagle Rock, Inc. - La Grange Pit
40029 La Grange Road
Junction City, Trinity County

Industrial General Permit
WDID #: 1 53I000476

Inspection Date
August 25, 2022

Inspection Time
Start Time: 9:00 am End Time: 2:30 pm

Inspector Name & Affiliation
Farzad Kasmaei, North Coast Regional Water Quality Control Board (NCRWQCB)
Amanda Piscitelli, NCRWQCB
Kate Blanchard, California Department of Fish and Wildlife (CDFW)
Matt Mitchell, CDFW
Claire Meehan, Department of Conservation – Division of Mine Reclamation (DOC)
Eghosa Eguagie, DOC

Names & Titles of Site Representative
Larry Yingling, President and Legally Responsible Party (LRP), Eagle Rock Inc. (ERI)
Dustin Tillinghast, Facility's Manager, ERI
Kristine Cloward, Facility's Consultant (QISP), VESTRA

Consent for inspection Provided?
Yes, by Dustin Tillinghast

Notified of Inspection?
Yes, Regional Water Board and CDFW staff provided advanced notice to Dustin Tillinghast

Weather Conditions at the Time of the Inspection: Sunny

Facility Receiving Water Name(s): Oregon Gulch & Poison Gulch, Tributaries to Trinity River

Inspection Memo Prepared By: Farzad Kasmaei and reviewed by Amanda Piscitelli

Background/Objective:

The Eagle Rock Inc. (Discharger) La Grange Pit, according to Stormwater Multiple Application and Report Tracking System (SMARTS), is a 240-acre mining facility (Facility) located at 40029 La Grange Road near Junction City. The Facility is currently under the Surface Mining and Reclamation Act (SMARA) that is regulated by Trinity County as an active mining site. The entire facility has been operated by Eagle Rock, Inc. (ERI) for decades. In 1980 the site was enrolled under WDR 80-169, in 2015 the site was enrolled under the Industrial General Permit. The site is currently under the National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Industrial Activities NPDES Order CAS00001 and State Water Resources Control Board Order 2014-0057-DWQ (Industrial General Permit) WDID No. 1 53I000476.

The industrial activities associated with this mining operation include excavation, crushing, screening, washing, and stockpiling. Also, there are concrete and asphalt hot mix plants both located at the western portion of the Facility. Per Regional Water Board staff direction, the Discharger has recently updated the) database to add the Standard Industrial Classification (SIC) codes for concrete and asphalt operations. The central portion of the Facility is partially used as a boneyard to store rusty scrap metals and industrial equipment.

The Facility's runoff drains to two seasonal creeks: Poison Gulch and Oregon Gulch, along the northern and southern Facility boundaries, respectively. See the attached Facility Site Map.

Per the 303(d) list[1], Trinity River HU, Lower Trinity HA, is an impaired water body for Sediment/Siltation and Aluminum.

The Facility was previously inspected by Regional Water Board staff on September 28, 2021, to evaluate compliance with the Industrial General Permit (IGP) requirements. The staff observed several violations of the IGP requirements during that inspection. Also, due to an insufficient SWPPP, the Discharger was directed to revise the SWPPP and site map. Additionally, check-dam berms were observed within Oregon Gulch adjacent to the Facility. ERI staff present at the time stated that no permits had been obtained for the activities within the receiving water. A large portion of the berms on Oregon Gulch is located within the adjacent parcel, owned by BLM. Per ERI staff during subsequent communications, the berms were installed and maintained by ERI in trade for road maintenance for ingress to BLM parcel approximately eight years prior.

[1] California 2018 Integrated Report

The advanced BMPs that were observed during the September 28, 2021 and August 25, 2022 inspections include a series of wash ponds that infiltrate the runoff received from the wash plant area, two concrete washout ponds on the west side of the Facility as well as multiple settling ponds throughout the facility's yard that are used as infiltration BMPs. The IGP Attachment I allows a discharger to choose an alternative on-site compliance option for capture and use of storm water if the discharger meets specific requirements. However, the Discharger has not selected the "On-Site Compliance Option," and has not monitored and characterized the Facility's industrial stormwater prior to infiltration to groundwater, nor completed associated required technical reports, to ensure the protection of groundwater.

The Discharger has installed earthen berms in some areas around the Facility for sediment and erosion control in an attempt to minimize the discharge/monitoring locations.

Truck maintenance is conducted on-site within a roofed area and there is an oil shed adjacent to the truck maintenance shop.

Inspection Observations:

On August 25, 2022, Regional Water Board staff, in the company of staff from CDFW and DOC, inspected the Facility to evaluate whether the Facility is in compliance with the IGP and Clean Water Act Section 401 Water Quality Certification and/or Waste Discharge Requirements (dredge/fill projects) Program.

The inspection covered both parcels enrolled in the IGP as well as adjacent parcels. Eagle Rock, Inc. operates their IGP site on APNs 024-010-031-000 and 024-010-041-000. Eagle Rock, Inc. also owns an adjacent parcel (APN 024-010-046-000) downhill of the IGP site. The adjacent parcel (APN 024-010-17-00) to the south of the IGP site is owned by the Bureau of Land Management (BLM).

The Regional Water Board staff met CDFW, DOC and Facility staff (inspection group) outside of the office and the Facility staff provided us an introduction to the site.

The inspection group then drove along Highway 299 to view the easternmost portion of the Facility where materials are stored, and mining operation is performed. This portion of the Facility was viewed from a distance. Photos 1a and 1b show that the Facility is located downslope of Highway 299 and the property slopes downhill overall from east to west. Due to an existing large pit in the easternmost portion, no significant runoff anticipated to be generated within this area.

The inspection group then drove down to inspect the eastern portion of the Facility where a few check dams were installed along the earthen berm. The discharge point (DP-6) is located at the low point of this area before the runoff drains to Oregon Gulch (See photos 2a, 2b).

We observed a sediment detention basin constructed adjacent to and within the channel of Oregon Gulch, near DP-6, at upstream (eastern) end of property. Facility staff stated the basin was initially constructed for sediment but is no longer actively managed. The sediment basin appeared approximately 15 by 20 feet (see photo 2c).

The inspection group then drove toward the central portion of the facility where large stockpiles of fine sediment were stored (see photos 3, 4a and 4b). Regional Water Board staff identified a couple of potential discharge points in this area adjacent to Oregon Gulch behind the stockpiles of fine material (see attached site map 1). Farzad Kasmaei directed Dustin Tillinghast (Facility staff) and Kristine Cloward (Facility consultant) to monitor these areas and collect samples when runoff occurs during Qualifying Storm Events (QSEs). The site map must be updated accordingly to include drainage areas and all potential sampling/discharge points for the entire Facility. Also, the Discharger was notified to avoid storing any industrial materials that can be readily mobilized by contact with stormwater in and adjacent to the watercourses (creeks).

Also, the processing area where screening and crushing operations take place was inspected. Farzad Kasmaei observed an existing wash pond that receives wash water via a pond inlet and it appeared to be turbid (see photo 5). However, the pond is not shown on the site map. Per the Discharger, this pond is connected to an adjacent settling pond (photo 6) via a subsurface perforated pipe for further treatment. The Discharger was directed to include these stormwater features that are missing on the site map (see attached site map 1).

Per the Discharger the water stored in this pond is mostly reused and recirculated. However, excessive water from the pond drains to a large settling pond downstream via a trench. Per the Discharger, the large pond is maintained approximately every six years.

The inspection group inspected the wash plant area including the series of settling ponds. No activities were observed within this area and the settling ponds were empty during the inspection. According to Dustin Tillinghast, this area is generally inactive during the dry season since there is not enough water available to be used. However, during the wet season this area will be active with water in the settling ponds. Regional Board staff did not observe any sediment/erosion control issues in this area during the inspection.

Staff observed a significant number of uncovered large stockpiles of fine material on the west side of the boneyard and adjacent to Oregon Gulch. These stockpiles were placed adjacent to Oregon Gulch with no sediment or erosion control BMPs installed to prevent erosion and sediment delivery into the receiving water which cause an imminent threat to receiving water (see photo 7 and site map 3). Per the SWPPP map provided, an

earthen berm was installed as a perimeter control at the time of SWPPP preparation. During the inspection the earthen berm was indiscernible from the stockpiles. Stockpiles appear to have been placed on top of the berm rendering it wholly ineffective. These fine materials can be readily mobilized by contact with stormwater which would result in a direct discharge to Oregon Gulch, which is a tributary to the Trinity River which is impaired for sediment/siltation.

The Regional Water Board staff instructed Kristine Cloward and Dustin Tillinghast to move the stockpiles away from the creek before the rainy season starts. Also, Regional Water Board staff stated that erodible material should not be stored adjacent to receiving waters. Additionally, earthen berms used as a BMP throughout the facility can be a pollutant source when they are constructed from fine erodible material.

While inspecting the area on the southern side of the yard near the wash ponds, Regional Board staff observed substrate disturbance in Oregon Gulch. It appeared that equipment had operated in and manipulated the channel. A pile of earthen material was observed along the channel for approximately 100 linear feet. It is unclear where material originated (see photo 8).

Several large check dam berms were installed in the Oregon Gulch channel below a road crossing, the check dams cover approximately 0.4 acres and 350 linear feet along Oregon Gulch. Discharger stated that these check dams were installed at the request of a neighboring parcel owner and are located on the adjacent BLM parcel (see photo 9). The Regional Water Board has no record of any active or past permits for culvert installation or other crossing construction on this parcel. Amanda Piscitelli stated that permits are needed for channel maintenance or other activities in waters of the State. In the course of walking through the Facility, the inspection group observed evidence of hydrocarbon material spills on the ground from the construction dozers as well as spills from a forklift within the oil shed area (see photos 10, 11a and 11b). The Discharger has stored the spill prevention kits in the truck maintenance building. However, Farzad Kasmaei reminded Dustin Tillinghast to ensure that the trucks and industrial equipment are well maintained, the facility's crew are trained, and to ensure that spills are responded to immediately in accordance with preventative maintenance and spill prevention and response sections of the IGP.

Concrete bank armoring was observed on the left bank of Poison Gulch, upstream of the culvert crossing near DP-5. Additional concrete armoring was observed along the bank of Poison Gulch downstream of the crossing near the office (see photos 12a and 12b). Culverts in Poison Gulch, as shown on SWPPP site map, appear to have been installed or replaced without water quality certification. The Regional Water Board has no record of any active or past permits for culvert installation or other crossing construction.

The inspection group then walked down to the western portion on the facility where concrete operations take place. There are a couple of existing concrete washout ponds that are not lined (see photos 13a and 13b). These washout ponds are filled with concrete washout water from the concrete plant. Concrete wash water is an industrial process waste and is typically very high in pH. Per Dustin Tillinghast, these ponds are not lined and allow untreated concrete washout materials to be infiltrated into the soil upgradient of Oregon Gulch. Kristine was not able to confirm that the Discharger had conducted any investigation or groundwater monitoring to ensure that there is no threat to groundwater quality. While the IGP allows for and encourages the Discharger to reuse and infiltrate the Facility's stormwater runoff, this does not apply to hazardous materials, process wastes, or pollutants such as contaminated wastewater with a high pH.

Some improvements had been made since September 2021 inspection. The Discharger had partially cleaned the boneyard area and most of the scrap metals have been hauled away for pollutant source control. Per the Discharger, additional cleanup activities are in progress to remove more scrap metals and to minimize the exposure of rain to industrial materials. The Discharge also added earthen berms in numerous locations in an attempt to contain stormwater. Following the 2021 inspection, the Discharger hired a stormwater consultant, VESTRA, to revise the SWPPP and site map which were found to be insufficient. Updated documents have been recently uploaded to SMARTS.

Amanda Piscitelli accompanied Dustin Tillinghast to the adjacent parcel (APN 024-010-046-000) owned and managed by Eagle Rock Inc., but that is not currently enrolled under the IGP as no regulated industrial activities are occurring. Reginal Water Board staff observed that an access road was installed with several watercourse crossings lacking any culverts (see photos 14a, 14b). An access road appears to have been installed through several ephemeral drainages flowing southerly toward Oregon Gulch, with graded material present in drainages. The Regional Water Board has no record of any active or past permits for road installation or other crossing construction on this parcel.

Staff also observed a constructed off-channel pond with a graded berm. The pond area with berm is approximately one acre (see photo 15a). The pond appeared to have been recently installed and the Discharger stated it is filled with water piped subsurface from Oregon Gulch. Additionally, bark was spread throughout the parcel, as well as around the pond and near access road crossings (see photos 15b). Staff observed channel modification in Oregon Gulch with surface water flow that appeared to go subsurface downstream. The Discharger stated that channel had been modified to access water (see photos 16a and 16b).

Conclusions:

Per the Regional Water Board staff's observations, the Discharger is currently in violation of the IGP and Clean Water Act Section 401 Water Quality Certification and/or Waste Discharge Requirements (Dredge/Fill Projects).

Uncovered fine materials are currently stored adjacent to Oregon Gulch without implementing applicable minimum BMPs such as housekeeping and sediment/erosion control BMPs. These fine materials can be readily mobilized during the next rainfall event.

There are additional imminent threats to water quality at the Property. Channel bed modifications and in-stream crossings (fords) in Oregon Gulch have destabilized the channel substrate. During rainfall events, fine sediment generated from these activities will be deposited downstream. Fine sediment is deleterious to aquatic resources, especially salmonids. Several earthen berms (check dams) have been constructed in Oregon Gulch. This un-permitted placement of fill within the channel diverts flow and disrupts natural flow regimes. Storms with significant rainfall have the potential to destabilize the berms and deposit earthen material, including fine sediment, downstream.

Poison Gulch has also been modified and impacted by unauthorized activities. Several culverted watercourse crossings were observed, and it is unclear if they were sized to accommodate 100-year flood flow with debris and sediment loads. Some culverts appeared improperly installed. Crossings with undersized and incorrectly installed culverts are at risk of plugging, overtopping, and failure. Failed crossings deliver earthen fill material, including fine sediment, downstream. Concrete armor observed on the bank and near a culverted watercourse crossing appear to be for bank stabilization. Concrete is non-native fill, vulnerable to deterioration, and not typically authorized for bank stabilization projects. It is unknown if other portions of Poison Gulch have been modified, filled, crossed, or stabilized. Further review, delineation, and assessment of all Waters of the State on the Eagle Rock, Inc. parcels is needed.

The Regional Board staff identified additional potential discharge/sampling points. Also, no erosion control berms were observed along with the fine stockpiles as it is shown on the site map. The Discharger was notified to avoid storing fine materials adjacent to the Creeks to the extent feasible and install an effective sediment/perimeter control BMPs for receiving water protections.

Site map must be revised to reflect the current condition of the site. All discrepancies must be addressed. The drainage areas, potential monitoring/sampling points and any stormwater features such as missing wash pond must be included on the site map. The SWPPP may need to be revised accordingly.

Evidence of hydrocarbon material spills were observed on the ground. The truck and industrial equipment must be well maintained, and the facility's crew must be well

trained to respond to any leakage immediately in accordance with spill prevention and response section of the IGP.

On the adjacent Eagle Rock Inc. parcel (024-010-046-000) the access road has several unpermitted watercourse crossings. None of the observed crossings contained culverts suggesting that vehicles and equipment are driving through the watercourses at any time of the year. Access road approaches are currently hydrologically connected to the watercourses. Crossings should be assessed by a qualified professional to determine appropriate crossing design. The constructed off-channel pond installed is filled with water piped subsurface from Oregon Gulch. Division of Water Rights should be contacted to review potential water rights that may be needed. Observed channel modification in Oregon Gulch should be assessed and remediated. Dredge and fill activities within waters of the United States require prior authorization from the U.S. Army Corps of Engineers under section 404 of the Clean Water Act and issuance of a state water quality certification by the Regional Water Board under section 401 of the Clean Water Act. Permits will need to be obtained to address the crossings and channel modification.

Attachment(s):

1. Photos
2. Site maps

Photos:

Photos 1a, 1b: Looking south at the easternmost portion of the facility where materials are stored, and mining operation occurs. Picture taken by Farzad Kasmaei.

Photo 2a, 2b: Looking northeast at the check dams installed along the earthen berm where the stormwater samples are collected (DP-6) prior to discharging into Oregon Gulch. Picture taken by Farzad Kasmaei.

Photo 2c: Sediment basin on Oregon Gulch near access road on eastern portion of parcel. Picture taken by Amanda Piscitelli.

Photo 3: Looking southwest at naturally vegetated fine materials stored adjacent to Oregon Gulch. Potential discharge point. Picture taken by Farzad Kasmaei.

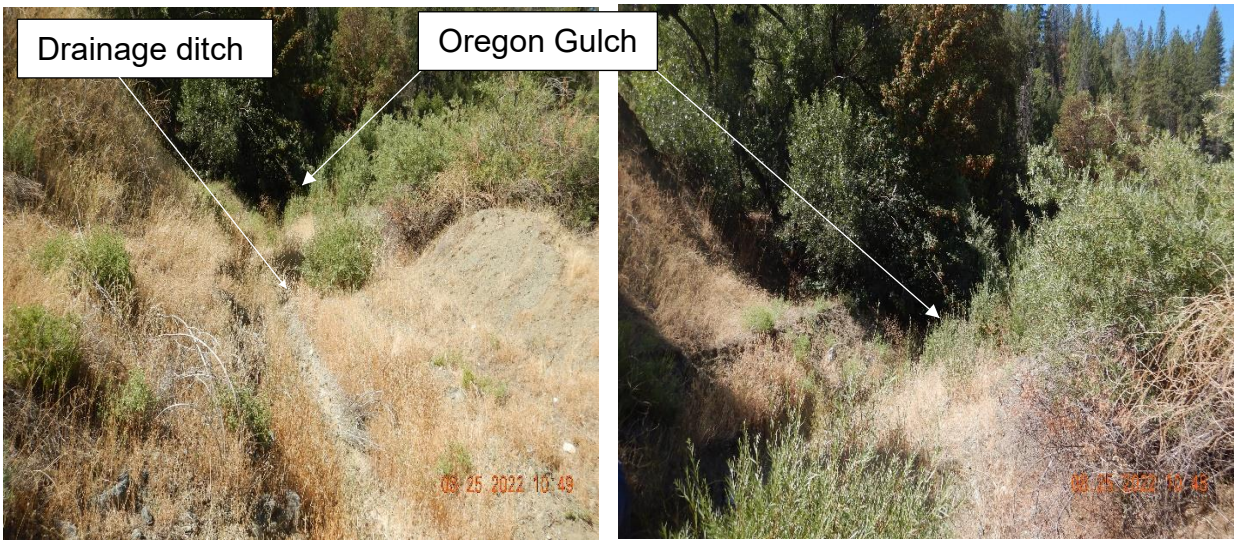


Photo 4a, 4b: Looking southwest at a shallow drainage ditch that drains into Oregon Gulch. Potential discharge point. Picture taken by Farzad Kasmaei.

Photo 5: Looking south at the processing area where screening and crushing operations take place. The wash pond receives a highly turbid wash water from this area, and then it drains to a settling pond via a subsurface perforated pipe for further treatment. Picture taken by Farzad Kasmaei.

Photo 6: View of settling pond that receives wash water from the wash water pond via a perforated pipe. The water is mostly recirculated/reused. Picture taken by Farzad Kasmaei.

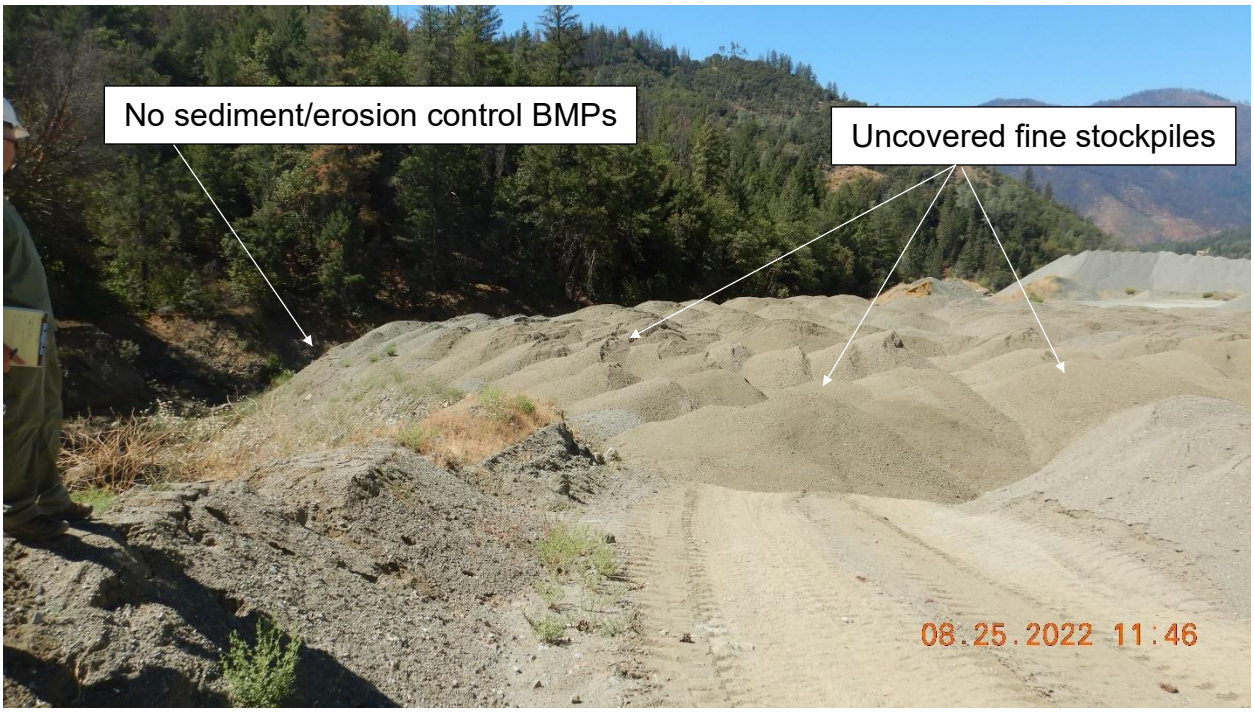


Photo 7: View of significant number of uncovered fine stockpiles stored adjacent to Oregon Gulch. No sediment/erosion control BMPs were observed to protect the Creek. Picture taken by Farzad Kasmaei.

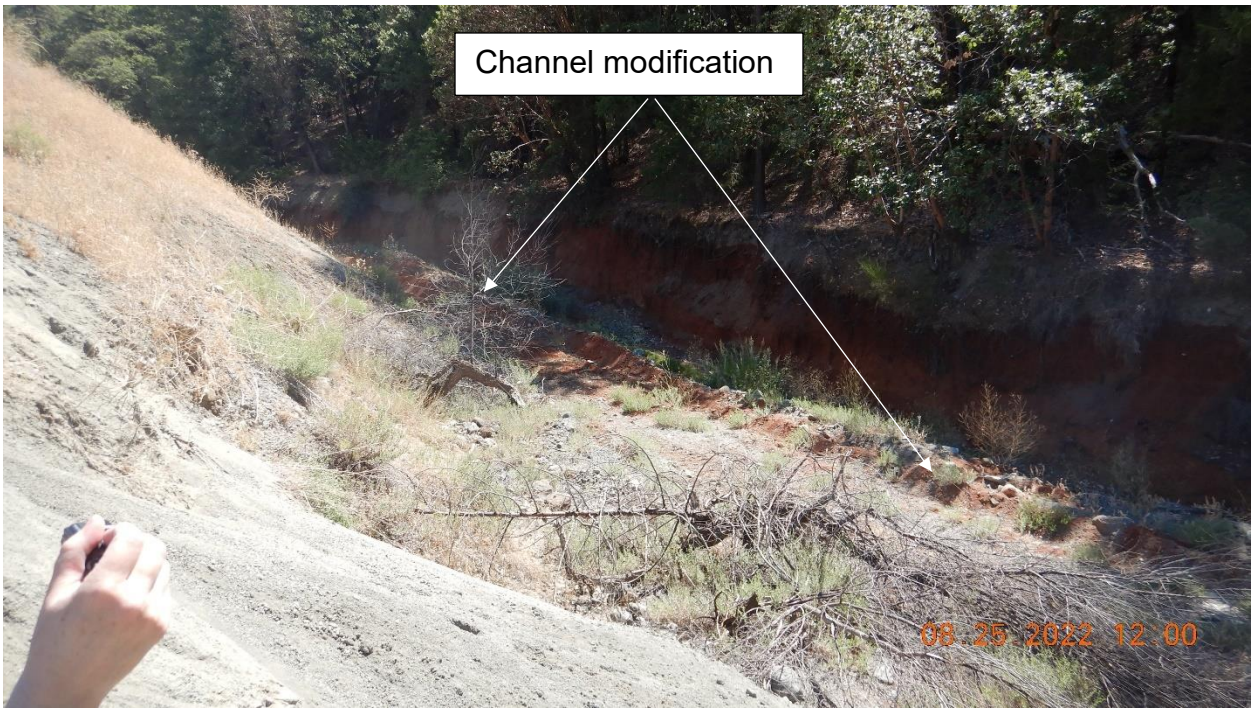


Photo 8: View of channel modification in Oregon Gulch. Picture taken by Farzad Kasmaei.

Photo 9: View of the installed wide berms in Oregon Gulch. Picture taken by Amanda Piscitelli.

Photo 10: Evidence of hydrocarbon spills on the ground from a dozer near Poison Gulch. Picture taken by Amanda Piscitelli.

Photo 11a, 11b: Evidence of hydrocarbon spills within the roofed oil shed area. Picture taken by Farzad Kasmaei.

Photos 12a, 12b: Photo 12a concrete armor on left bank of Poison Gulch. Photo 12b concrete armor on right bank of Poison Gulch downstream of road crossing near office.

Photos 13a, 13b: looking east at existing concrete washout ponds that are not lined. Picture taken by Farzad Kasmaei.

Photo 14a: Access road drainage crossing, facing downstream.

Photo 14b: Drainage swale with road crossing material in foreground.

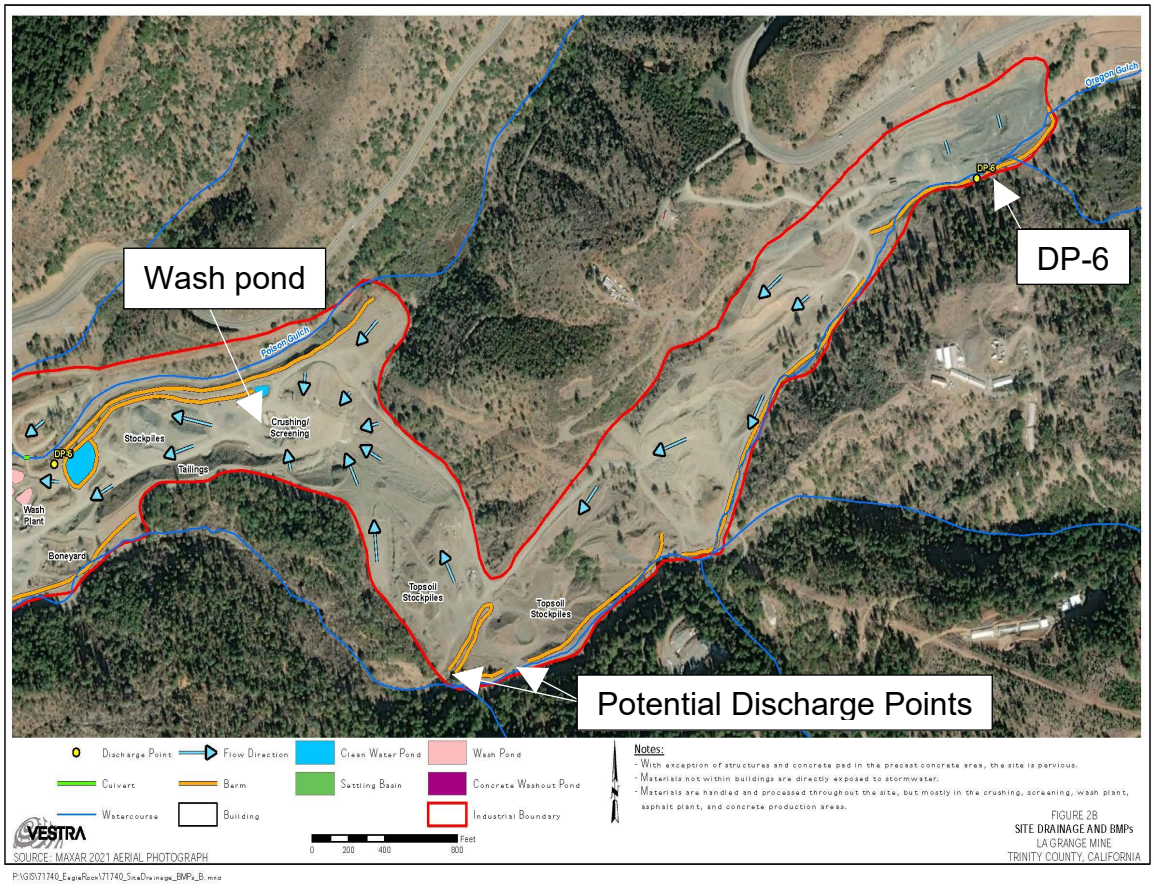
Photo 15a: Pond installed off channel, filled with water piped from Oregon Gulch.

Photo 15b: Back of pond with bark spread on ground around pond.

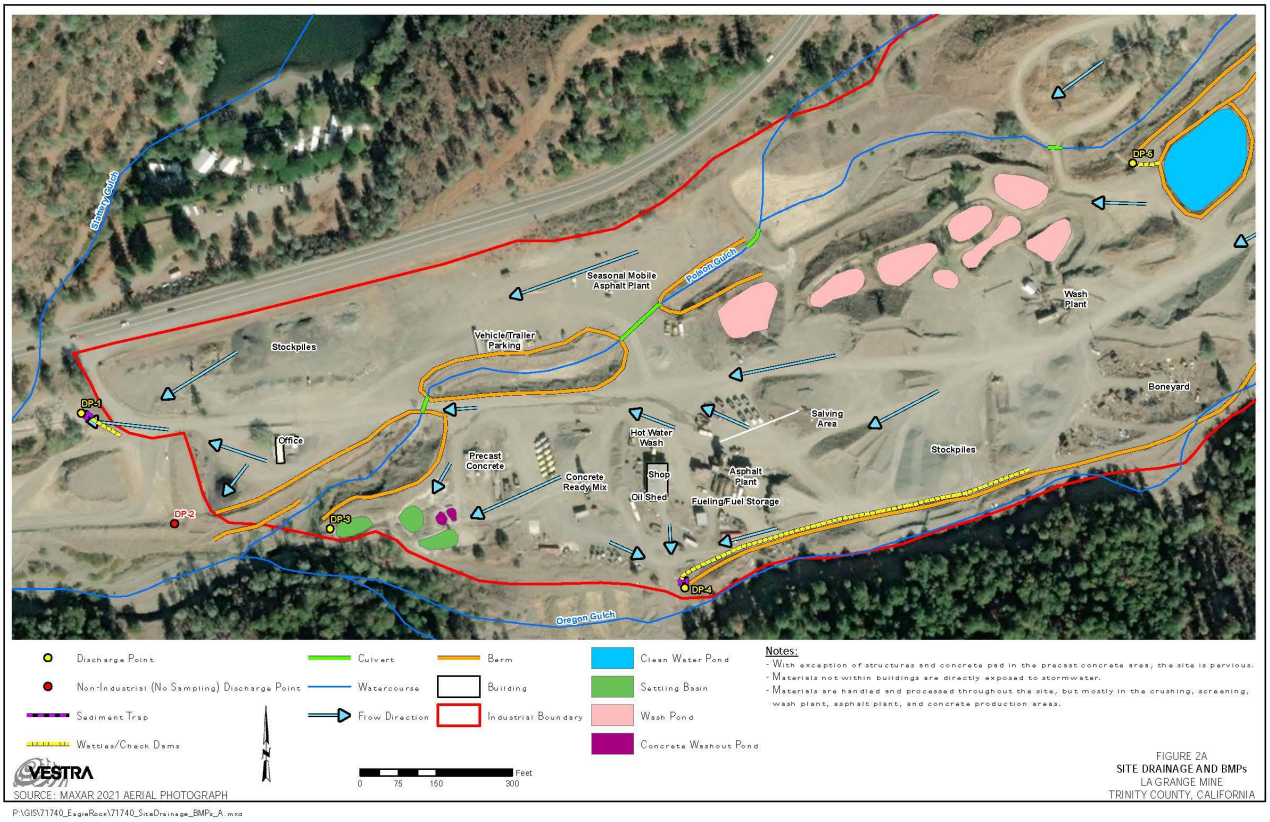
Photo 16a: channel modification in Oregon Gulch, facing downstream.

Photo 16b: Surface water in Oregon Gulch, goes subsurface at downstream end.

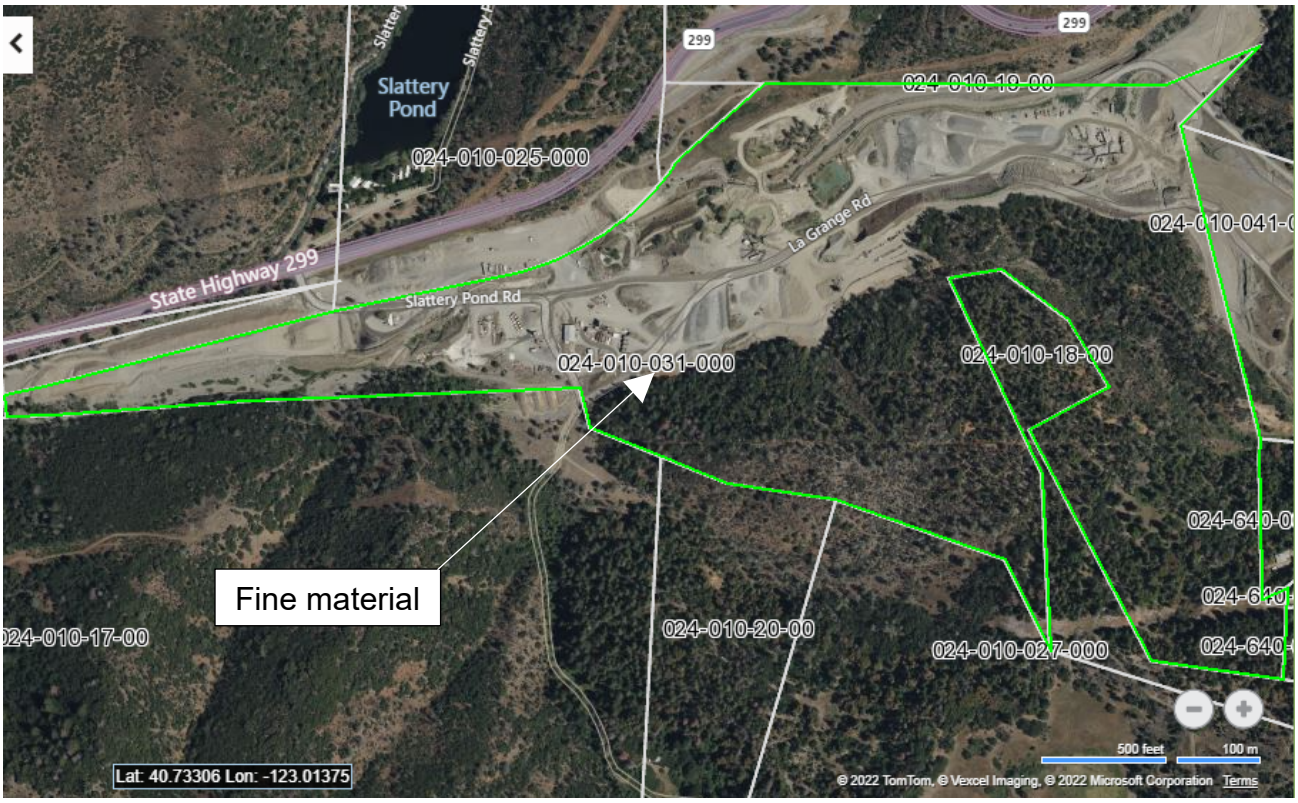
Site Maps:



Site map 1: The site map has been prepared by Discharger's consultant, indicating the central and eastern portions of the Facility. Stormwater flow directions, sampling locations, clean water pond locations and the location of the earthen berms are shown on the site map.



Site map 2: The site map has been prepared by Discharger's consultant, indicating the central and western portions of the Facility. Stormwater flow directions, sampling locations, clean water and settling pond locations and the location of the earthen berms are shown on the site map.



Site map 3: Aerial view of parcel (APN 024-010-031-000) outlined in green where large fine materials are stored adjacent to Oregon Gulch. Per LandVision this parcel is owned by ERI.