

**California Regional Water Quality Control Board
San Francisco Bay Region**

Order No. R2-2017-0030

**Amendment of Order No. R2-2014-0010
(NPDES No. CA0030210)
for Lehigh Southwest Cement Company and
Hanson Permanente Cement, Inc.,
Permanente Plant
Cupertino, Santa Clara County**

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

1. Lehigh Southwest Cement Company (Discharger) owns and operates the Permanente Plant (Facility), located at 24001 Stevens Creek Blvd., Cupertino; the Discharger mines limestone and rock, and produces cement and construction aggregate, at the Facility.
2. On March 20, 2014, the Regional Water Board adopted Order No. R2-2014-0010 (NPDES Permit No. CA0030210, Permit), which serves as Waste Discharge Requirements and regulates point source discharges from the Facility to Permanente Creek.
3. The Fact Sheet (Attachment 1) contains background information and rationale for this Order's requirements and is hereby incorporated into and constitutes findings for this Order; it provides information about the Facility. Permit Table 1 and Permit Fact Sheet (Permit Attachment F) sections I and II provide additional information.
4. The Permit requires the Discharger to construct a final treatment system capable of treating all quarry pit water, process wastewater, and stormwater commingled with process wastewater discharged from the Facility. The final treatment system will use biological treatment, ultra-filtration, and reverse osmosis technologies to remove metals from these flows and then gravity-drain the treated flows to Permanente Creek via Discharge Point No. 001.
5. Permit Attachment C, page C-3, specifies a location for the final treatment system and a final process flow configuration for the Facility. However, changes to the final treatment system design since 2014 necessitate different locations for the treatment system and Discharge Point No. 001 and a revised final process flow configuration to ensure adequate area for treatment units, adaptability to changing Facility conditions, and efficient flow management.
6. When the Regional Water Board adopted the Permit, the Discharger was sending process-related flows to Pond 9 (see Permit Attachment F, section II) for treatment and discharge to Permanente Creek at Discharge Point No. 003; the Discharger has discontinued this practice to comply with the Permit and to protect subsequently discovered California Red-Legged Frogs in Pond 9. The Discharger now diverts these flows to the final treatment system. The only remaining inputs to Pond 9 and discharges from Discharge Point No. 003 comprise

upwelled groundwater and creek water, rain that falls directly into the pond, and runoff from the directly adjacent hillside.

7. This Order amends the Permit to revise the final treatment system design and final process flow configuration, including redirection of flows previously sent to Pond 9 and discharged at Discharge Point No. 003.
8. Pursuant to Water Code section 13389, this Order authorizes discharges only and is thus exempt from the provisions of the California Environmental Quality Act. This Order does not authorize construction or alteration of the treatment systems and related appurtenances.
9. The Regional Water Board notified the Discharger and interested agencies and persons of its intent to amend the Permit and provided an opportunity to submit written comments and recommendations. The Fact Sheet for this Order provides details regarding the notification.
10. The Regional Water Board, in a public meeting, heard and considered all comments pertaining to the amendment. The Fact Sheet for this Order provides details regarding the public hearing.

IT IS HEREBY ORDERED, pursuant to the provisions of California Water Code Division 7 (commencing with § 13000) and regulations adopted thereunder, and the provisions of the federal Clean Water Act and regulations and guidelines adopted thereunder, that the Discharger shall comply with the Permit as amended by this Order. The Permit changes are shown below with underline for additions and ~~strike through~~ for deletions:

1. Replace Permit Attachment B, page B-2, with Attachment 2 of this Order (“Facility Map”).
2. Replace Permit Attachment C, page C-3, with Attachment 3 of this Order (“Revised Final Line Drawing of Flows; Final Treatment Flow Configuration”).
3. Revise Permit Table 2 as follows:

Table 2. Discharge Locations

Discharge Point	Effluent Description	Discharge Point Latitude (North)	Discharge Point Longitude (West)	Receiving Water
001	Treated quarry dewatering water, Primary Crusher wash water , Crusher Slope Drainage Area stormwater, Cement Plant Reclaim Water System wastewater, Rock Plant aggregate wash water, Truck Wash water, <u>subsurface flow from the East Materials Storage Area (EMSA) (intercepted by the EMSA French drain, EMSA catchment and drainage swales, and any additional related infrastructure)</u> , non-stormwater, and stormwater, <u>all discharged from Pond 4A the final treatment system</u>	37.31713°	-122.11165°	Permanente Creek
		<u>One or more locations anywhere between approximately 37.32507°N, -122.08286°W and 37.31744°N, -122.11557°W</u>		

Discharge Point	Effluent Description	Discharge Point Latitude (North)	Discharge Point Longitude (West)	Receiving Water
002	Settled stormwater, including stormwater from Crusher Slope Drainage Area east of Pond 13B, discharged from Pond 13B	37.31674°	-122.10167°	Permanente Creek
003	Stormwater from roads and hillsides, pumped from Dinky Shed Basin and direct rainfall and the directly adjacent hillside and upwelled groundwater, discharged from Pond 9	37.31339°	-122.09058°	Permanente Creek
004	Settled stormwater from rain falling directly on the Rock Plant, discharged from Pond 17	37.31431°	-122.08893°	Permanente Creek
005	Settled stormwater from the former Aluminum Plant, entry road, and nearby hillside, discharged from Pond 20	37.31899°	-122.087159°	Permanente Creek
006	Settled stormwater from the East Materials Storage Area (EMSA), discharged from Pond 30	37.32241°	-122.08551°	Permanente Creek

4. Revise Permit provision IV.B (including Table 5 title) as follows:

B. Discharge Point Nos. 002, through 004, and 005

The Discharger shall comply with the following effluent limitations at Discharge Point Nos. 002, ~~through 004, and 005~~, with compliance measured at Monitoring Locations EFF-002, ~~through~~ EFF-004, and EFF-005 as described in the MRP.

Table 5. Effluent Limitations – Discharge Point Nos. 002, through 004, and 005

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5. Revise Permit Provision VI.C.6.c as follows:

c. Additional Stormwater Provisions

- i. Upon an initial detection of a pollutant at Discharge Point Nos. 002 or 004 through 006 in excess of the action levels in Table 7, below, the Discharger shall review the selection, design, installation, and implementation of its BMPs to identify necessary modifications...

6. Add new Permit Provision VI.C.7 as follows:

7. Flow Study Plan and Monitoring

The Discharger shall ensure minimum flows in Permanente Creek adjacent to the Facility as necessary to protect existing aquatic habitat beneficial uses until such reaches are disrupted for habitat restoration in accordance with a restoration plan the Regional Water Board authorizes.

- a. By December 1, 2017, the Discharger shall submit a Flow Study Plan to determine the minimum flow necessary to protect existing Permanente Creek aquatic habitat beneficial uses year-round and management measures to sustain such flows.
- b. By March 1, 2018, the Discharger shall submit a Flow Study Report reflecting any and all Regional Water Board staff feedback on the Flow Study Plan. The report shall propose actions necessary to ensure minimum flows necessary to protect existing aquatic habitat beneficial uses. At times, these actions may include pumping some, but not necessarily all, effluent from the final treatment system to upstream reaches. The Flow Study Report shall include monitoring actions to demonstrate flows sufficient to protect existing aquatic habitat beneficial uses.
- c. By May 1, 2018, the Discharger shall implement the actions set forth in the Flow Study Report as necessary to protect existing aquatic habitat beneficial uses. The Discharger shall also report in the cover letter to its monthly self-monitoring reports its findings from the monitoring actions set forth in the Flow Study Report.
- d. If the Flow Study Report proposes discharges at any Permanente Creek location other than the concrete-culverted portion of Permanente Creek near Pond 20, the Discharger shall ensure that such discharges do not cause sedimentation or erosion within Permanente Creek sufficient to cause or contribute to adverse impacts on Permanente Creek beneficial uses.

7. Revise Permit Monitoring and Reporting Program (Table E-1) as follows:

Table E-1. Monitoring Locations

Sampling Location Type	Monitoring Location Name	Monitoring Location Description
Effluent	EFF-001	<p><u>Before the final treatment system is constructed and operating in accordance with the final process flow diagram shown in Attachment C, Schematic C-3:</u></p> <p>A point in the outfall from Pond 4A (Discharge Point No. 001), following treatment and prior to the receiving water, at which all waste tributary to the outfall is present. <i>Latitude 37° 19' 1.68" N Longitude 122° 6' 41.94" W</i></p> <p><u>After the final treatment system is constructed and operating in accordance with the final process flow diagram shown in Attachment C, Schematic C-3:</u></p> <p>A point in the outfall from the final treatment system (Discharge Point No. 001), following treatment and prior to the receiving water, at which all waste tributary to the outfall is present. <i>Approximate Latitude 37° 19' 3.95" N</i> <i>Approximate Longitude -122° 5' 17.84" W</i></p>

Sampling Location Type	Monitoring Location Name	Monitoring Location Description
⋮	⋮	⋮
Effluent	EFF-006	A point in the outfall from Pond 30 (Discharge Point No. 006), prior to the receiving water, where all runoff from the East Materials Storage Area (EMSA) tributary to the outfall is present. <i>Latitude 37°19'23.3" N Longitude 122°5'7.9" W</i>
Receiving Water	RSW-001	<u>Before the final treatment system is constructed and operating in accordance with the final process flow diagram shown in Attachment C, Schematic C-3:</u> A point in Permanente Creek within 50 feet upstream of in-stream Pond 13. <u>After the final treatment system is constructed and operating in accordance with the final process flow diagram shown in Attachment C, Schematic C-3:</u> A point 50 feet downstream of Discharge Point No. 001.
Receiving Water	RSW-001A	A point at the confluence of Wild Violet Creek and Permanente Creek upstream of Outfall 001 Discharge Point No. 002. <i>Latitude 37°19'13" N Longitude -122°7'55" W</i>
⋮	⋮	⋮

8. Revise Permit Monitoring and Reporting Program (Table E-3) as follows:

Table E-3. Effluent Monitoring—Monitoring Locations EFF-002 through EFF-005

Parameter ^[1]	Units	Sample Type ^[2]	Minimum Sampling Frequency
Flow ^[3]	MG	Continuous	1/Month
Total Suspended Solids (TSS)	mg/L	Grab	1/Quarter
Oil and Grease ^[4]	mg/L	Grab	1/Quarter
pH	standard units	Grab	1/Quarter
Settleable Matter	mL/L-hr	Grab	1/Quarter
Turbidity	NTU	Grab	1/Quarter
Conductivity	μmhos/cm	Grab	1/Quarter
Chromium (VI)	μg/L	Grab	1/Quarter
Mercury	μg/L	Grab	1/Quarter
Nickel	μg/L	Grab	1/Quarter
Selenium	μg/L	Grab	1/Quarter
Thallium	μg/L	Grab	1/Quarter
Standard Observations ^[5]	---	---	Each Occurrence

Footnotes:

^[1] TSS, oil and grease, settleable matter, and turbidity monitoring are not required at Monitoring Location EFF-003.

^[2] Grab samples shall be collected during daylight hours.

^[3] Flow shall be monitored continuously at all monitoring locations. The following information shall be reported in monthly self-monitoring reports for all monitoring locations:

- Daily average flow (gpd)
- Monthly average flow (MGD)

- Total monthly flow volume (MG)
- ⁴³⁴ Oil and grease sampling and analysis shall be conducted in accordance with U.S. EPA Method 1664.
- ⁴⁴⁵ Standard observations are listed in Attachment G section III.C.1, Receiving Water Observations.

This Order shall take effect on August 1, 2017 or the first day of the month after the Court approves the corresponding amendments to its 2015 Consent Decree in Case No. 5:15-cv-01896-HRL, involving the Discharger, U.S. EPA, and the Regional Water Board, whichever is later.

I, Bruce H. Wolfe, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of an order adopted by the California Regional Water Quality Control Board, San Francisco Bay Region, on July 12, 2017.

BRUCE H. WOLFE
Executive Officer

Attachment 1 – Fact Sheet
Attachment 2 – Facility Map
Attachment 3 – Revised Final Process Flow Diagram

ATTACHMENT 1 – FACT SHEET

This Fact Sheet describes the legal requirements and technical rationale that serve as the basis for this Order’s requirements.

Purpose

This Order amends Order No. R2-2014-0010 (NPDES Permit No. CA0030210, Permit) to accurately reflect the final treatment system design and final process flow configuration, including flows previously sent to Pond 9 and discharged at Discharge Point No. 003. Specifically, this Order replaces the facility map (Permit Attachment B, page B-2, “Facility Map”) and process flow diagram (Permit Attachment C, page C-3, “Final Line Drawing of Flows; Final Treatment Flow Configuration”) with updated versions and revises related text accordingly throughout the Permit.

Background

Lehigh Southwest Cement Company (Discharger) operates the Permanente Plant (Facility), a limestone quarry and cement production facility that also produces construction aggregate. The Facility is located at 24001 Stevens Creek Blvd., Cupertino. The Facility discharges wastewater and stormwater runoff associated with industrial activities to Permanente Creek, a water of the United States and a tributary to San Francisco Bay within the Santa Clara Basin watershed. Currently, these discharges are regulated pursuant to the Permit.

The Permit requires the Discharger to construct a final treatment system and comply with all Permit requirements. The Permit specifies a location for the final treatment system and Discharge Point No. 001 and a particular process flow configuration. However, the final treatment system design necessitates a different treatment system location, moving Discharge Point No. 001, and modifications to the final process flow configuration to ensure adequate area for treatment units, adaptability to changing Facility conditions, and efficient flow management. Moreover, when the Regional Water Board adopted the Permit, the Discharger was sending process-related flows to Pond 9 for treatment and discharge to Permanente Creek at Discharge Point No. 003; the Discharger has discontinued this practice in response to the discovery of California Red-Legged Frogs in Pond 9.

Authority to Amend Permit

The Regional Water Board may amend the Permit with good cause pursuant to 40 C.F.R. section 122.62(a)(2). The reopener provisions in Permit provision VI.C.1 allow the Regional Water Board to amend the Permit as necessary in response to updated water quality objectives, regulations, or other new and relevant information that becomes available after Permit issuance, and other circumstances as allowed by law. The Discharger may request Permit modification based on any of these circumstances. In a letter to the Regional Water Board dated December 30, 2016, the Discharger applied for a Permit amendment to account for changes to the final treatment system and process flow configuration. The discovery of California Red-Legged Frogs in and near Pond 9 is also a basis for this amendment.

Rationale for Specific Revisions

1. Replace Permit Attachment B, page B-2, with Attachment 2 of this Order (“Final Facility Map”).

Permit provision III.A prohibits discharges other than those shown in the facility map in Attachment B, page B-2. The map shows Discharge Point Nos. 001 through 006 and the Facility’s water and wastewater conveyance system. Attachment 2 of this Order updates the discharge points and process flow diagram to match the Discharger’s design. The new location for Discharge Point No. 001 will allow discharge by gravity at a location nearer to the final treatment system, which will require less pumping and allow for a simpler process flow configuration.

2. Replace Permit Attachment C, page C-3, with Attachment 3 of this Order (“Revised Final Line Drawing of Flows”).

The Permit prohibits discharges other than those shown in the final process flow diagram in Permit Attachment C, page C-3 (“Final Line Drawing of Flows; Final Treatment Flow Configuration”). This Order amends the final process flow diagram to be consistent with the updated final treatment system design and Facility flows. The updated final treatment system design eliminates discharges from Discharge Point No. 003; directs several flows that were previously discharged at Discharge Point Nos. 002 through 006 to the final treatment system and, subsequently, Discharge Point No. 001; and generally improves stormwater management and treatment of contaminated runoff before discharge to Permanente Creek. Major changes to the process flow diagram are follows:

- a. The final treatment system includes two treatment trains consisting of an ultra-filtration/reverse osmosis system, a bioreactor, and a settling tank for bioreactor backwash. The second train provides flexibility in case of needed maintenance and capacity to treat additional quarry or wet weather flows. Optional mineral injection provides additional treatment of final treatment system flows as needed prior to discharge. The feed/sediment tank, previously shown before the final treatment system, is deleted.
- b. The final treatment system discharges directly through Discharge Point No. 001 instead of through Pond 4A.
- c. A potential discharge point from the final treatment system to the city sewer is added, as are solid waste (sludge) flows from the backwash settling tank to the thickener tank or to non-hazardous waste storage totes. Discharge to the city sewer would require city approval.
- d. Flows into what has been referred to as the Cement Plant Reclaim Water System (water management infrastructure in and around the Cement Plant Area) are now also managed through Pond 1, which was installed after the Permit was adopted to provide additional storage capacity. These flows include cooling water from the cement plant, office building, and finish mill cooling tower water systems; Rock Plant sump water; and truck wash water.

- e. The Dinky Shed Basin water has been re-routed to flow to Pond 1 instead of Pond 9 and Discharge Point No. 003.
- f. The East Materials Storage Area French drain, installed after the Permit was adopted, intercepts subsurface flow from the Eastern Materials Storage Area and directs it to a water collection tank, from which it can then be directed either for consumptive re-use in the cement plant or to the final treatment system by way of Pond 1 and Pond 11 (see item g, below). This flow previously reached Pond 30 and was discharged from Discharge Point No. 006. The change allows this flow to go to the final treatment system for subsequent discharge at Discharge Point No. 001.
- g. Flows from Pond 1 are sent to Pond 11; flows from Pond 11 are sent for in-plant reuse or to the quarry, then to the final treatment system by way of a frac tank and Pond 1250.
- h. Primary Crusher System flow to the final treatment system is deleted. The Primary Crusher System previously managed water using open concrete basins, from which comingled process wastewater could overflow during storm events; the previous final process flow diagram specified that such wastewater was to be directed to the final treatment system. In 2014, the Discharger replaced the Primary Crusher System with a new crusher that no longer generates process wastewater because it more efficiently uses and contains water used within the system.
- i. Bioreactor effluent recycle water flows to Pond 11; flow from Pond 1250 can also be sent back to Pond 11.
- j. Groundwater flow to Pond 13B for discharge through Discharge Point No. 002 is deleted.
- k. The intermittent truck wash water flow to Pond 20 and Discharge Point No. 005 is deleted.
- l. The process flow diagram includes the following annotation: “Configurations that divert additional process and stormwater to the final treatment system comply with the ‘Revised Final Line Drawing of Flows,’ provided that they comply with the other requirements of this Order.” This is included to allow the Discharger flexibility to treat additional flows (i.e., remove additional pollutants) as needed without seeking another Permit amendment.

3. Revise Permit Table 2.

The Order amends Permit Table 2 to update the effluent descriptions and discharge point locations consistent with Permit Attachment C, page C-3, as amended. The reasons for these changes are as follows:

- a. **Discharge Point No. 001.** This Order amends the effluent description to match the final treatment system design and facility flows as shown in the amended final process flow diagram; it also amends the discharge point location. The Discharger will no longer send process-related flows to Pond 4A; instead, these flows will be sent to the final treatment system and then to Permanente Creek. The Discharger no longer sends Primary Crusher wash water to Pond 4A because the Discharger has replaced the Primary Crusher with a new crusher that does not generate process wastewater, as explained in item 2.h above.

The amended location of Discharge Point No. 001 is one or more locations in Permanente Creek adjacent to the Facility, providing flexibility to enable the Discharger to ensure flows necessary to support existing Permanente Creek aquatic habitat beneficial uses, while minimizing the need for the Discharger to pump effluent upstream. Treated effluent may be discharged downstream (northwest) of the location identified in the Permit as originally adopted, in a concrete-culverted portion of Permanente Creek near Pond 20; the outfall at this location was a previously permitted discharge point under Regional Water Board Order No. R2-2008-0011 (Sand and Gravel General NPDES Permit) and is the same as the Pond 1 emergency overflow discharge point. This location will allow gravity discharge of final treatment system effluent.

- b. Discharge Point No. 002.** This Order amends the effluent description to delete Crusher Slope Drainage Area stormwater. The Discharger no longer sends this stormwater to Pond 13B for discharge through Discharge Point No. 002; instead, it sends this flow to the final treatment system prior to discharge at Discharge Point No. 001.
- c. Discharge Point No. 003.** This Order amends the effluent description to remove discharges that have been discontinued. Because the Discharger discovered California Red-Legged Frogs in Pond 9, it cannot operate Pond 9's filtration system, with which it had planned to treat process wastewater and industrial stormwater before discharge at Discharge Point No. 003. Therefore, the Discharger now sends these flows, including water from the Dinky Shed Basin, to the final treatment system by way of Ponds 1 and 11 for treatment and discharge through Discharge Point No. 001. Only upwelled groundwater and creek water, rain that falls directly into the pond, and runoff from the directly adjacent hillside (which does not contact raw, interim, or waste materials, or finished cement products) will flow to Pond 9 and Discharge Point No. 003; therefore, treatment at Pond 9 prior to Discharge Point No. 003 is no longer required.
- d. Discharge Point No. 004.** This Order amends the effluent description to include only stormwater that flows directly from the Rock Plant to Pond 17 for discharge through Discharge Point No. 004. The Discharger now sends stormwater from the hillsides adjacent to the Rock Plant (which does not contact raw, interim, or waste materials, or finished cement products) around the Rock Plant and discharges it directly to Permanente Creek.
- e. Discharge Point No. 005.** This Order amends the effluent description to clarify that the former Aluminum Plant is not operational.
- f. Discharge Point No. 006:** This Order amends the effluent description to include stormwater from operational areas around the eastern portion of the Eastern Materials Storage Area. This change clarifies that the catchment for Pond 30 includes the area of ongoing operations to comply with the Permit and other State and county requirements.

4. Revise Permit provision IV.B (including Table 5 title).

This Order amends Permit provision IV.B to remove numeric effluent limitations on total suspended solids (TSS), oil and grease, pH, settleable matter, and turbidity at Discharge Point No. 003. The Discharger no longer directs process-related flows to

Pond 9, no longer uses Pond 9 to control sediment from mining activities, and no longer uses Pond 9 to treat Facility flows. Because Pond 9 no longer discharges process wastewaters or stormwater associated with industrial activity, the technology-based effluent limits are no longer needed at Discharge Point No. 003.

5. Revise Permit Provision VI.C.6.c.

This Order amends Permit Provision VI.C.6.c to no longer apply Stormwater Action Levels to Discharge Point No. 003. The Stormwater Action Levels are based on the benchmark concentrations in the State Water Resources Control Board's (State Water Board's) *Waste Discharge Requirements for Discharges of Storm Water Associated with Industrial Activities Excluding Construction Activities*, NPDES Permit No. CAS000001 (State Water Board Order No. 07-03-DWQ) and U.S. EPA's *NPDES Stormwater Multi-Sector General Permit for Industrial Activities* (2008). Because the Discharger no longer discharges industrial stormwater at Discharge Point No. 003, the Stormwater Action Levels no longer apply.

6. Add Permit Provision IV.C.7.

This Order adds Permit Provision IV.C.7 to require the Discharger to conduct a study to determine the minimum flows necessary to protect existing Permanente Creek aquatic habitat beneficial uses year-round and to provide such flows until affected reaches are altered as part of a Regional Water Board-authorized habitat restoration project. This provision is necessary to ensure that altering the volume, location, and timing of effluent discharges does not harm existing aquatic habitat beneficial uses between Pond 4A and downstream discharge locations. Aquatic habitat beneficial uses within this reach include cold freshwater habitat (for trout) and preservation of rare, threatened, or endangered species (e.g., California Red-Legged Frogs).

7. Revise Permit Monitoring and Reporting Program (Table E-1).

The Permit Monitoring and Reporting Program (Table E-1) specifies effluent and receiving water monitoring locations. This Order updates the descriptions of these locations to match Table 2, as amended, and to account for the change in the location of Discharge Point No. 001.

8. Revise Permit Monitoring and Reporting Program (Table E-3).

This Order amends the Permit Monitoring and Reporting Program (Table E-3) to no longer require the Discharger to monitor specified effluent parameters at Monitoring Location EFF-003. Because Discharge Point No. 003 will no longer discharge any process-related flows, and this Order removes the TSS, oil and grease, settleable matter, pH, and turbidity effluent limits at this discharge point, monitoring for those parameters is no longer required at that location. The amended Permit retains monitoring for flow, pH, conductivity, chromium (VI), mercury, nickel, selenium, thallium, and standard observations to support future reasonable potential analyses.

Antidegradation

Antidegradation policies require that the existing quality of waters be maintained unless degradation is justified based on specific findings. State Water Board Resolution No. 68-16 sets forth California's antidegradation policy. Consistent with 40 C.F.R. section 131.12, Resolution

No. 68-16 incorporates the federal antidegradation policy. The Basin Plan implements and incorporates by reference both the State and federal antidegradation policies. Permitted discharges must be consistent with these antidegradation policies.

This Order complies with the antidegradation policies because it will not result in any additional pollutant discharges and will not reduce receiving water quality. In fact, this Order will result in less pollutant discharge and will increase receiving water quality relative to that authorized by the Permit; it requires flows previously discharged at Discharge Point Nos. 002 through 006 (which receive less treatment) to be discharged at Discharge Point No. 001 after treatment by the final treatment system. This Order maintains existing effluent limitations at Discharge Points No. 001, 002, and 004 through 006. It removes effluent limitations at Discharge Point No. 003, but only because Pond 9 will no longer discharge process wastewaters or stormwater associated with industrial activity there. Instead, waters that would have flowed through Pond 9 will be diverted to the final treatment system, thus removing some pollutants (e.g., selenium) that would otherwise have been discharged.

California Environmental Quality Act

Under Water Code section 13389, this action to amend an NPDES permit is exempt from the provisions of the California Environmental Quality Act, Public Resources Code division 13, chapter 3 (commencing with § 21100). Compliance with California Environmental Quality Act provisions is only required for NPDES permit actions pertaining to new sources as defined by the federal Clean Water Act (i.e., sources constructed after New Source Performance Standards were published). The Facility has been in operation since before February 23, 1977, when the first relevant New Source Performance Standards were published. U.S. EPA guidance states that the source of an industrial discharge is the facility generating the discharge, not the system treating it; thus, the changes to the final treatment system and the updated process flow configuration do not trigger new source requirements.

Notification of Interested Parties

The Regional Water Board developed a tentative Permit amendment and encouraged public participation in this amendment process:

- A. **Notification of Interested Parties.** The Regional Water Board notified the Discharger and other interested agencies and persons of its intent to amend the Permit and provided an opportunity to submit written comments and recommendations. Notification was provided through the *Cupertino Courier*. The public had access to the agenda and any changes in dates and locations through the Regional Water Board's website at <http://www.waterboards.ca.gov/sanfranciscobay>.
- B. **Written Comments.** Interested persons were invited to submit written comments concerning the tentative amendment as explained through the notification process. Comments were due either in person or by mail at the Regional Water Board office at 1515 Clay Street, Suite 1400, Oakland, California 94612, to the attention of Lena Germinario.

For full staff response and Regional Water Board consideration, the written comments were due at the Regional Water Board office by **5:00 p.m. on June 12, 2017**.

- C. **Public Hearing.** The Regional Water Board held a public hearing on the tentative amendment during its regular meeting at the following date and time and at the following location:

Date: July 12, 2017
Time: 9:00 a.m.
Location: Elihu Harris State Office Building
1515 Clay Street, 1st Floor Auditorium
Oakland, CA 94612

Contact: Lena Germinario, (510) 622-2359, LGerminario@waterboards.ca.gov

Interested persons were invited to attend. At the public hearing, the Regional Water Board heard testimony pertinent to the amendment. For accuracy of the record, important testimony was requested to be in writing.

Dates and venues change. The Regional Water Board web address is <http://www.waterboards.ca.gov/sanfranciscobay>, where one could access the current agenda for changes in dates and locations.

- D. **Reconsideration of Amendment.** Any aggrieved person may petition the State Water Board to review the Regional Water Board's decision regarding the amendment. The State Water Board must receive the petition at the following address within 30 calendar days of the Regional Water Board action:

State Water Resources Control Board
Office of Chief Counsel
P.O. Box 100, 1001 I Street
Sacramento, CA 95812-0100

For instructions on how to file a petition for review, see http://www.waterboards.ca.gov/public_notices/petitions/water_quality/wqpetition_instr.shtml.

- E. **Information and Copying.** Relevant supporting documents and comments received are on file and may be inspected at the address above at any time between 9:00 a.m. and 5:00 p.m., Monday through Friday. Copying of documents may be arranged by calling (510) 622-2300.
- F. **Register of Interested Persons.** Any person interested in being placed on the mailing list for information regarding the amendment should contact the Regional Water Board, reference the Facility, and provide a name, address, and phone number.
- G. **Additional Information.** Requests for additional information or questions regarding this Order should be directed to Lena Germinario, (510) 622-2359, LGerminario@waterboards.ca.gov.