APPENDIX A

Order Number R2-2019-0026, Site Cleanup Requirements for City of San José, San José-Santa Clara Regional Wastewater Facility Biosolids Ponds

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CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION

ORDER No. R2-2019-0026

SITE CLEANUP REQUIREMENTS for:

CITY OF SAN JOSE
SAN JOSE/SANTA CLARA REGIONAL WASTEWATER TREATMENT FACILITY
BIOSOLIDS PONDS

Location:

700 LOS ESTEROS ROAD
SAN JOSE, CA 95134
SANTA CLARA COUNTY

The California Regional Water Quality Control Board, San Francisco Bay Region (Water Board) finds that:

1. **Discharger.** The City of San Jose (the Discharger) is a majority owner of, operates, and manages the San Jose/Santa Clara Regional Wastewater Facility (RWF), which is located at 700 Los Esteros Road, San Jose (see Figure 1), and serves a population of approximately 1.5 million. Currently, the RWF provides tertiary treatment of domestic, industrial, and commercial wastewater from the Cities of San Jose, Santa Clara, and Milpitas and Cupertino Sanitary District (Cupertino), West Valley Sanitation District (Campbell, Los Gatos, Monte Sereno, and Saratoga), and Santa Clara County Sanitation Districts 2 and 3 and Burbank Sanitation District (serving unincorporated Santa Clara County). The City of Santa Clara gained 20 percent ownership in the RWF in 1959 by partially funding upgrades to the RWF.

2. **Purpose of and Need for Order.** Pursuant to California Water Code (CWC) Section 13304, this Order requires site investigations for the cleanup and closure of the biosolids that were discharged into the 25 legacy biosolids ponds (numbered 1- 25) at the RWF (see Figures 2 and 3). Specifically, this Order requires the Discharger to:

    1. Complete additional sampling and analysis of the biosolids;
    2. Identify and evaluate cleanup and closure options;
    3. Select a preferred Alternative for the final cleanup and closure of the legacy biosolids ponds; and
    4. Submit a workplan and schedule to achieve cleanup and closure.

    Through discussions with the Discharger, the legacy biosolids ponds' cleanup and closure will be completed in two phases. The first phase is the highest priority and consists of cleaning up and closing Ponds 16-19. The second phase consists of cleaning up and

closing Ponds 1 to 15 and 20 to 25, except for Ponds 4 and 8 (see Finding 3). This Order does not prescribe requirements for any other portion of the RWF, including any ponds used for the storage or disposal or the biosolids currently generated by the RWF. currently generated biosolids. The Order is needed because of the potential threat to beneficial uses of the waters of the state and public health posed by the discharge of biosolids to the legacy biosolids ponds as described below.

3. **Active and Legacy Biosolids Ponds.** Currently, the Discharger processes and dewaters the biosolids generated at the RWF. Once dried, the biosolids are trucked to the Newby Island Landfill for use as alternative daily cover. The National Pollutant Elimination Discharge (NPDES) Permit issued by the Regional Water Board (Order No. R2-2014-0034) for the RWF's treated effluent discharge into nearby surface waters contains specific biosolids management requirements but does not authorize permanent on-site sludge or biosolids storage or disposal.

   Historically, biosolids were stored on-site in 25 ponds, which are referred to herein as the legacy biosolids ponds. Specifically, between 1962 and 1974, the Discharger collected and discharged biosolids from the RWF into 25 ponds in a 211-acre area adjacent to the RWF (Figures 2 and 3). Each pond is approximately 8.3 acres in area. Together, these 25 legacy biosolids ponds contain approximately one million cubic yards of biosolids. This activity occurred in large part prior to wastewater pretreatment requirements under the Clean Water Act and, therefore, the biosolids in the legacy biosolids ponds contain industrial waste, including metals, from industrial activities that were not subject to pretreatment requirements. Biosolids currently generated by the RWF are treated to the standards required in the RWF's NPDES Permit (Order No. R2-2014-0034) and are not subject to, or within the scope of, this Order's requirements.

   Since use of the legacy biosolids ponds ceased about 1974, the ponds remained static until the material in the biosolids ponds was bulldozed into windrows in 1998. Ponds 4 and 8 contain biosolids material, but are planned to continue their use as a stormwater basin and a City of San Jose Police Department bomb disposal site, respectively. This Order requires a closure plan for the remaining 23 legacy ponds (hereafter, the Site) in order to properly clean up and close the Site.

4. **Site Location and Adjacent Wetlands.** The area where the legacy biosolids ponds are located includes waters of the state and the U.S., as identified by field surveys conducted in 2011. The area is also diked former Baylands. In addition, adjacent to the Site, there are approximately 50 acres of wetlands and former salt ponds that are waters of the state and the U.S. The former salt ponds are part of the Don Edwards San Francisco Bay National Wildlife Refuge (Refuge), owned and operated by the U.S. Fish and Wildlife Service, except for Pond A18, which is owned and operated by the Discharger.

5. **Surface Water Bodies.** The main surface water bodies adjacent to the Site are wetlands and former salt ponds, and Artesian Slough, where the RWF discharges its effluent. The Refuge borders the Site from northwest to northeast and consists of a dendritic pattern of meandering sloughs and creeks, former salt ponds, and restored tidal marsh. Artesian Slough flows from southwest of the Site to the northwest, to its confluence with Coyote Creek, before eventually discharging to San Francisco Bay.

Other surface waters near the Site include the Guadalupe River and Alviso Slough. The land comprising the Site also historically contained wetlands and currently contains wetlands that have been created over time within the ponds at the Site.

6. **Hydrogeology.** The Site lies within the northern part of the Santa Clara Valley groundwater basin, an extensive zone of unconsolidated to semi-consolidated clay, silts, sands, and gravels. The primary freshwater aquifers in this basin occupy buried channel deposits within the Pleistocene alluvium, which consists of permeable sand, silt, and cobbles. The buried channel deposits are grouped into "upper" and "lower" aquifers. The upper aquifer begins at a depth of about 45 feet below mean sea level (msl), while the lower aquifer is encountered at a depth of about 200 feet msl. The lower aquifer serves as the primary drinking water source for the Santa Clara Valley. Regional groundwater flow within the aquifer system is towards the Bay and is recharged by runoff from the Santa Cruz Mountains and the Diablo Range. Near the Bay, including the area occupied by the legacy biosolids ponds, these aquifers are separated from each other by the Pleistocene Bay Mud, an extensive clay layer that forms an aquitard.

   Near the Site, the upper regional aquifer is overlain by a younger, Holocene-aged sequence of Bay Mud. Within the Holocene Bay Mud, there is a shallow water-bearing zone that consists of a two- to five-foot-thick layer of sand located approximately 12 to 15 feet below msl. Groundwater in this shallow zone is recharged from local runoff and percolation, including percolation from Artesian Slough. The quality of this groundwater is generally poor because of extensive saltwater intrusion, which results in high concentrations of total dissolved solids (TDS). Young Bay Mud clay is expected to underlie most of the RWF, including the legacy biosolids ponds. Young Bay Mud is generally classified as either fat clay or elastic silt and tends to be relatively weak and highly compressible under new loads.

7. **Biosolids Quality Characterization.** The material in the legacy biosolids ponds was sampled and analyzed three times over the past 22 years to determine the material's waste classification and potential reuse options. The modified California Waste Extraction Test (modified WET), which uses deionized water as the extraction fluid, or the standard WET method, which uses citric acid as the extraction fluid, were both used in the studies. The intent of the analysis is to determine the potential for metals in the biosolids to leach out over time. The three studies tested the material for conformance with the Total Threshold Limit Concentration (TTLC) and Soluble Threshold Limit Concentration (STLC) criteria for evaluating the biosolid's waste classification under California waste classification criteria, and the federal Toxicity Characteristic Leaching Procedure (TCLP) for classification of the biosolids under federal waste classification criteria.

   All studies concluded that the total metal concentrations in the biosolids material did not exceed hazardous waste criteria. Additionally, all three studies concluded that the federal standards for hazardous waste were not exceeded and analysis using the modified WET test with deionized water indicated there were no exceedances of hazardous waste levels. However, there were some exceedances of California STLC criteria when the Standard WET test with a citric acid was performed (to simulate the acidic conditions typically found in landfills). Specifically, lead, chromium, and cadmium leached out at levels

exceeding California hazardous waste levels when citric acid is used as the extraction fluid.

The contaminants and sample locations at the Site that exceeded the STLC California hazardous waste criteria varied by study. Based on the three studies, it appears that some of the material in the biosolids ponds would be classified as a California hazardous waste if all the biosolids material was considered for offsite disposal, and therefore could only be disposed of at a Class I landfill facility. However, other options may exist for Site cleanup that may not trigger hazardous waste disposal requirements, such as described in Finding 9.

Although the three studies did not test the material from the berms that separate the legacy biosolids ponds, through discussions with the Discharger, it is assumed that the berms were constructed from Bay Mud when the biosolids ponds were windrowed and may be comprised of material that would not exceed state and federal hazardous waste criteria and thresholds for beneficial reuse. Therefore, it is possible that the berm material could be beneficially reused for a nearby ecotone levee, as described below in Finding 14. Soil samples from the berms in Ponds 16-19 taken in March 2019 indicated the berm material in those ponds may be suitable for reuse as wetland foundation material or on-site consolidation, but additional sampling and testing of the berm material in the remaining ponds is needed to confirm their quality is similarly suitable for reuse as the material in Ponds 16-19. This Order requires the berm material to be sampled and analyzed in addition to sampling and analysis of the legacy biosolids ponds' materials (Task 1), which will be a driving factor in developing the final closure plan.

8. **Closure Options.** The Water Board has discussed regulatory oversight of the Site with the Department of Toxic Substances Control (DTSC), and the agencies have agreed the Water Board will act as the primary agency for overseeing cleanup and closure of the Site. Water Board staff will coordinate and work with other local, federal, and state agencies, including DTSC as required for cleanup and closure of the Site. Based on the Discharger's submittals required herein, the Water Board could consider using an "Area of Contamination" (AOC) approach to facilitate on-site closure without the need to regulate and permit the Site as a Class I landfill facility. The AOC approach would allow the movement of wastes within a contiguous area of generally dispersed contamination without being subject to land disposal hazardous waste criteria and without triggering land disposal restrictions or minimum technology requirements. This approach would utilize the closure requirements specified in Title 27, Division 2, of the California Code of Regulations (hereafter, Title 27).

   Under current conditions, the material from the legacy biosolids ponds is exposed and contains contaminants that could adversely affect human health and the environment, including wildlife. The ponds must be closed properly to avoid further threats to human health and the environment. Biosolids disposal alternatives were evaluated in a 2002 report (Brown and Caldwell 2002), and a preliminary geotechnical evaluation of the biosolids was conducted by GEO/Resource Consultants in 1994. The Discharger further evaluated disposal options for the material in the biosolids ponds in 2011 (2011 Preliminary Closure Alternatives). The scope of the closure options considered in 2011 was focused on assessing the Site's potential to facilitate land development after closure and for reusing the material. The 2011 Preliminary Closure Alternatives report

considered five different options for closure and cleanup of the Site as summarized in Table 1.

However, based on the analysis in the 2011 Preliminary Closure Alternatives report, other viable closure alternatives may exist that were not previously considered that could be evaluated by the Discharger. This Order requires the Discharger to move beyond a preliminary closure analysis and evaluate final closure alternatives and select a preferred closure alternative for the Site (Task 1 and Task 2). Options may include, but are not limited to, reusing some or all the biosolids material as ecotone fill, using an AOC approach that was discussed in the 2011 Preliminary Closure Alternatives Report, clean-closure of the Site, and utilizing Title 27 closure requirements.

Table 1: Summary of the alternatives, and their respective considerations, evaluated in the 2011 Preliminary Closure Alternatives report.

Alternative No.	Description	Material Classification	Constraints Identified	Cost Estimate (Millions)[1]	Timeframe (Years)[2]
1	Class I and Class II Off-site Disposal	Class II (biosolids ponds 2,3, and 25); Class I (All other biosolids ponds)	Limited Class I landfill options (only one in California); capacity of landfills; and transportation	$180	10
2	Class II Off-site Disposal	Class II (DTSC Variance Needed)	Capacity of landfills; transportation; and variance from DTSC	$98	5 - 6
3	Nevada Disposal	Class II (DTSC Variance Needed)	Transportation to Nevada for land application at agricultural land and mining facilities; viable facility for land application not identified; and variance from DTSC needed.	$160	5 - 12
4	On-site Disposal Outside Biosolids Ponds Footprint	Class I	Construction of hazardous waste landfill cell would be needed; leachate disposal; methane venting; environmental monitoring; compensatory mitigation for fill of jurisdictional waters; and mounding aesthetics	$20	2 - 4
5	On-site Disposal Within Biosolids Ponds Footprint	Class I	Construction of hazardous waste landfill cell would be needed; leachate disposal; methane venting; environmental monitoring; compensatory mitigation for fill of jurisdictional waters; and mounding aesthetics	$20	2 - 4

[1] Approximate

[2] Includes both the anticipated permitting and implementation length, approximate.

9. **Water Quality Control Plan.** The Water Quality Control Plan for the San Francisco Bay Basin (Basin Plan) was duly adopted by the Water Board and approved by the State Water Resources Control Board (State Water Board), U.S. EPA, and the Office of Administrative Law where required. The Basin Plan is the Water Board's master water quality control planning document. It designates beneficial uses of receiving waters, establishes water quality objectives, and contains implementation programs and policies to achieve those objectives for all waters addressed by the Plan. Existing and potential beneficial uses of waters within the Site and adjacent areas include the following:

   Alviso Slough: Estuarine Habitat (EST), Fish Migration (MIGR), Preservation of Rare and Endangered Species (RARE), Water Contact Recreation (REC-1), Noncontact Water Recreation (REC-2), and Wildlife Habitat (WILD);

   Artesian Slough: EST, RARE, REC-1, REC-2, and WILD;

   San Francisco Bay[3]: Commercial and Sport Fishing (COMM), EST, Industrial Service Supply (IND), MIGR, Navigation (NAV), RARE, REC-1, REC-2, Shellfish Harvesting (SHELL), Fish Spawning (SPWN), and WILD;

   Tidal Wetlands: COMM, EST, MIGR, RARE, REC-1, REC-2, SPWN, and WILD; and

   Groundwater: Municipal or domestic water supply (MUN).

   Regional Water Board Resolution No. 89-39, "Sources of Drinking Water," defines potential sources of drinking water to include all groundwater in the region, with limited exceptions for areas of high TDS, low yield, or naturally high contaminant levels. Since TDS in both the Bay Mud and alluvium groundwater underlying the Site exceeds 30,000 mg/l, domestic water supply is not considered a probable future beneficial use. The current and potential beneficial use of the groundwater in the alluvial deposits surrounding the Site is for industrial process supply.

10. **State Water Board Policies.** State Water Board Resolution No. 68-16, "Statement of Policy with Respect to Maintaining High Quality of Waters in California," applies to this discharge. It requires maintenance of background levels of water quality unless a lesser water quality is consistent with maximum benefit to the people of the state, will not unreasonably affect present and anticipated beneficial uses, and will not result in exceedance of applicable water quality objectives. This Order and its requirements are consistent with Resolution No. 68-16. It does not authorize any lowering of water quality but requires a closure plan for the legacy biosolids ponds to prevent further water quality degradation by appropriately isolating the biosolids from surface and groundwater.

    California Safe Drinking Water Policy: It is the policy of the State of California that every human being has the right to safe, clean, affordable, and accessible water adequate

[3] Basin Plan Section 2.2.1 indicates that the beneficial uses of any specifically identified water body generally apply to its tributary streams. Because the former salt ponds are hydrologically connected to San Francisco Bay, the beneficial uses that are identified for San Francisco Bay also apply to the former salt ponds.

for human consumption, cooking, and sanitary purposes. While, as noted above, the groundwater underlying this Site is not, and probably could not, be considered a drinking water source, this Order promotes this policy as the closure of the legacy biosolids ponds is intended to prevent further water quality degradation.

State Water Board Resolution No. 92-49, as amended (Resolution No. 92-49): "Policies and Procedures for Investigation and Cleanup and Abatement of Discharges Under CWC Section 13304," applies to this discharge. It directs the Regional Water Boards to set cleanup levels equal to background water quality or the best water quality that is reasonable, if background levels cannot be restored. Cleanup levels other than background must be consistent with the maximum benefit to the people of the state, not unreasonably affect present and anticipated beneficial uses of such water, and not result in exceedance of applicable water quality objectives. This Order and its requirements are consistent with the provisions of Resolution No. 92-49 because it requires the Discharger to assess the feasibility of clean-closure and attaining background levels of water quality. Attaining background levels of water quality may not be feasible, but the Water Board can approve the closure plan if required findings under Resolution No. 92-49 are made.

11. **California Environmental Quality Act (CEQA).** This action is not a project as defined in the California Environmental Quality Act (CEQA; Pub. Resources Code §§ 21000 et seq.). There is no possibility that adoption of this Order may have a significant effect on the environment (14 CCR §§ 15378 and 15061, subd. (b)(3)).

12. **Basis for CWC Section 13304 Order.** The Discharger has caused or permitted waste to be discharged or deposited where it is or probably will be discharged into waters of the state and creates or threatens to create a condition of pollution or nuisance. “Waste” includes “sewage and any and all other waste substances, liquid, solid, gaseous, or radioactive, associated with human habitation, or of human or animal origin, or from any producing, manufacturing, or processing operation, including waste placed within containers of whatever nature prior to, and for purposes of, disposal” (CWC § 13050(d)). Wetlands that are waters of the state are located on the Site, including on and around the legacy biosolids ponds. As such, the biosolids waste has discharged and threatens to continue to discharge into waters of the state. The biosolids waste creates or threatens to create a condition of pollution because it includes pollutants exceeding background levels, as noted herein, at levels that may meet or exceed the state thresholds for hazardous waste. Those levels unreasonably affect beneficial uses including WILD (wildlife habitat) and RARE (habitat for special-status species). Prior study has shown that the biosolids pose an unacceptable risk to ecological receptors, which include wildlife and special-status species. The waste creates or threatens to create a condition of nuisance because the biosolids waste is potentially injurious to health. Specifically, there is a potential human health risk from the biosolids waste due to the expected increase in human activity in the vicinity of the Site during construction of the Shoreline Project, described below, and use of the publicly assessible flood risk management levee upon completion of the Shoreline Project.

13. **Solid Waste Disposal Requirements.** Because closure options for the legacy biosolids ponds involve wastes being removed from the immediate place of release or potentially

left in place, this Order requires the closure plan to comply with waste management standards for discharges of waste to land for closure under Title 27.

Section 21400 of Title 27 includes a mandatory clean-closure attempt of surface impoundments, such as the legacy biosolids ponds, under which all residual waste must be completely removed from the impoundment and discharged to an approved landfill or land treatment unit. The Regional Water Board may, however, find that it is infeasible to attempt clean closure, due to both cost and technical considerations. The Regional Water Board will evaluate the feasibility of clean-closure based on the cleanup alternative analysis plan required in this Order. Clean-closure may not be feasible and an alternative that incorporates consolidation and reuse of some of the legacy biosolids in the Shoreline Project, described below, could potentially be more feasible, cost-effective, and provide additional multi-benefits, as described below.

14. **Opportunities for Coordination.** There is an opportunity to coordinate cleanup and closure of the Site with the adjacent South San Francisco Bay Shoreline Project (Shoreline Project), and such coordination may benefit both projects by reducing costs, reducing barriers to permitting (e.g., associated with the cleanup's potential wetland impacts), and allowing faster provision of improved flood protection to the RWF. The Shoreline Project includes lands adjacent to the Site. The Discharger is collaborating with the U.S. Army Corps of Engineers (Corps), the California Coastal Conservancy, and the Santa Clara Valley Water District, the Shoreline Project sponsors, to facilitate construction of the Shoreline Project, which will provide flood protection for the community of Alviso and the RWF.

    The Shoreline Project includes construction of an approximately 3.8-mile-long flood risk management (FRM) levee and associated ecotone levee that are planned to be completed by 2023. The Shoreline Project's FRM levee is anticipated to be constructed along the Site's northeast boundary to its northwest boundary, but the final FRM alignment at the RWF had not been finalized as of issuance of this Order. The Corps has expressed an interest in having the Site area in the vicinity of Ponds 16-19 cleaned and available for the levee construction, which would result in an alignment that would be easier to construct and also allow conversion to tidal action of a portion of the Bay that would otherwise be located landward of the levee. The Discharger and other Shoreline Project stakeholders have indicated interest in constructing the ecotone levee with a combination of material from the biosolids ponds and clean fill that prohibits biological exposure from or pathways to the biosolids material. The Regional Water Board's order for the Shoreline Project, Order No. R2-2017-0049, conditionally allows the beneficial reuse of legacy biosolids and biosolids pond berm material in its ecotone levee. Reuse of a portion of the legacy biosolids and the pond berms could reduce the amount of material that must be otherwise managed on-Site or disposed of elsewhere. Additionally, coordination with the Shoreline Project, by allowing an alternate levee alignment in the vicinity of Ponds 16-19, would allow Ponds 16-19 to be restored to tidal action, which is anticipated to result in tidal marsh restoration. Restoring Ponds 16-19 would likely result in higher quality habitat than what currently exists in these ponds and mitigate a large portion of the Discharger's impacts to wetlands that will occur if the cleanup includes on-Site closure and consolidation. Mitigating a large portion of the Discharger's impacts to

wetlands by allowing restoration of Ponds 16-19 would substantially reduce the Discharger's financial obligation related to compensatory mitigation by minimizing the costs associated with implementing large-scale compensatory mitigation, including land acquisition, design, permitting, construction, and post-construction operation and maintenance.

15. **Amendment.** This Order does not approve or yet require any specific cleanup of the legacy biosolids ponds. The Regional Water Board will review the required closure plan and its associated environmental document, after which it can either amend this Order or issue a new order to approve and require implementation of an approved cleanup plan.

16. **Notification of Interest Parties.** The Regional Water Board has notified the discharger and all interested agencies and persons of its intent under CWC Section 13304 to prescribe site cleanup requirements for the discharge and has provided them with an opportunity to submit their written comments.

IT IS HEREBY ORDERED pursuant to the authority in CWC section 13304 that the Discharger, its agents, successors, and assigns shall cleanup and abate the effects described in the above findings as follows:

TASKS

1. **Closure Alternatives Analysis Plan**. The Discharger shall submit a Closure Alternatives Analysis Plan (CAAP), acceptable to the Executive Officer, that evaluates alternatives for the final cleanup and closure of the legacy biosolids ponds. The CAAP shall:

    a. Include cleanup and closure alternatives that are evaluated in terms of effectiveness, feasibility, and cost;

    b. Include appropriate additional sampling and analysis of, or a work plan for, the legacy biosolids ponds' berm material sufficient to characterize them for beneficial reuse or on-site consolidation. If determined necessary, include a work plan for additional sampling and analysis of the legacy biosolids sufficient to characterize them for beneficial reuse or on-site consolidation;

    c. Include a scope of work and schedule for the implementation of the preferred method for closure of the biosolids ponds;

    d. Evaluate a clean-closure alternative's feasibility in accordance with the requirements of Title 27, Section 21400; and

    e. Evaluate the feasibility of achieving background water quality consistent with Resolution No. 92-49.

    The alternatives required to be evaluated in Task 1.a may include, but are not limited to, the following: use of the AOC closure approach; excavation and off-site disposal of

contaminated materials; consolidation and capping in-place with monitoring of the closure's effectiveness; allowing a part of the Site to be used for the Shoreline Project's alignment; and reuse of material from the biosolids ponds as part of the Shoreline Project. Alternatives that involve the beneficial reuse of the biosolids should consider the Shoreline Project's requirements and should include, but not be limited to, an evaluation of the potential for reusing the material in the biosolids ponds and their berms as fill in the Shoreline Project.

COMPLIANCE DATE: Not later than 45 days from this Order's issuance date.

2. **Consolidation/Closure Plan.** The Discharger shall submit a detailed Closure Plan, including the closure schedule, acceptable to the Executive Officer, for the preferred alternative for the cleanup and closure of the legacy biosolids ponds. The preferred alternative must fully protect the beneficial uses of waters of the state and human health. The Closure Plan shall:

   a. Identify the preferred alternative based overall effectiveness, feasibility, cost, and the environmental impacts identified in an environmental analysis under CEQA.

   b. Include design criteria consistent with Title 27 section 21400 to properly contain waste on Site if the Regional Water Board finds, based on the CAAP, that clean-closure and cleanup to background levels for soil and water quality are infeasible.

   c. Include a scope of work and schedule for the implementation of the preferred method for cleanup and closure of the biosolids ponds, including a work plan that identifies and sets a schedule to obtain the necessary approvals for the work.

   d. Include a schedule for the preferred alternative to ensure the Site is fully closed and associated mitigation measures completed, including any required compensatory mitigation for impacts to wetlands and other waters of the state, by **November 1, 2023**, or as otherwise consistent with the Shoreline Project's construction schedule and planned activities in the legacy biosolids ponds' vicinity.

   If the Discharger coordinates with the Shoreline Project, the Closure Plan shall ensure that Ponds 16-19 are cleaned up sufficient to convey them to the Corps by **January 1, 2021**, so the land may be acquired for use in the Shoreline Project by May 2021, or as otherwise consistent with the Shoreline Project's construction and land acquisition schedule. Proposals to reuse material from the legacy biosolids ponds in the Shoreline Project shall be consistent with the Regional Water Board's order for the Shoreline Project, Order No. R2-2017-0049.

   COMPLIANCE DATE: Not later than 90 days after the CAAP has been reviewed and accepted by the Executive Officer.

PROVISIONS

1. **Compliance.** The Discharger shall comply immediately, or as prescribed by the time schedules herein, with all the requirements of this Order. All required submittals must be acceptable to the Executive Officer, who will review the submittals for compliance with the requirements of this Order. As provided by California law, violating this Order may result in an enforcement action requiring corrective action or imposing civil monetary liability.

2. **Technical Reports.** All technical reports submitted pursuant to this Order shall be prepared under the supervision of and signed under penalty of perjury by an appropriately qualified professional in the field of the reports' content matter, either be licensure or other demonstrable expertise, as verified and accepted by the Executive Officer.

3. **Contractor and Consultant Qualifications.** All technical documents shall be signed by and stamped with the seal of a California registered geologist, a California certified engineering geologist, or a California registered civil engineer.

4. **Lab Qualifications.** All samples shall be analyzed by state-certified laboratories or laboratories accepted by the Regional Water Board using approved U.S. EPA methods for the type of analysis to be performed. Quality assurance/quality control (QA/QC) records shall be maintained for Regional Water Board review. This provision does not apply to analyses that can only reasonably be performed on-site (e.g., temperature).

5. **Document Distribution.** Electronic and paper versions of all correspondence, technical reports, and other documents pertaining to compliance with this Order shall be provided to the Regional Water Board, and electronic copies shall be provided to the following agencies list, which may be disturbed by the Executive Officer as necessary:

    a. The City of San Jose local enforcement agency, in the City's Code Enforcement Division;

    b. The City of Santa Clara; and

    c. The Santa Clara Valley Water District.

6. **Submittal Revisions.** Where the Discharger becomes aware that it failed to submit any relevant facts in a report or submitted incorrect information in any report to the Water Board, it shall promptly submit such facts or information.

7. **Report Certification.** All application reports or information to be submitted to the Executive Officer shall be signed and certified as follows:

    a. For a corporation – by a principal executive officer or the level of vice president.

    b. For a partnership or sole proprietorship – by a general partner or the proprietor, respectively.

c. For a municipality, state, federal, or other public agency – by either a principal executive officer or ranking elected official

A duly authorized representative of a person designated in this provision may sign documents if all the following are met:

d. The authorization is made in writing by a person described in paragraph (a) of this Provision;

e. The authorization specifies either an individual or position having responsibility for the overall operation of the regulated facility or activity; and

f. The written authorization is submitted to the Executive Officer

Any person signing a document under this Provision 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 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."

8. **Cost Recovery.** The Discharger shall be liable, pursuant to CWC section 13304, to the Water Board for all reasonable costs actually incurred by the Water Board to investigate unauthorized discharges of waste and to oversee cleanup of such waste, abatement of the effects thereof, or other remedial action, required by this Order. After the Discharger enrolls in a State Water Board-managed reimbursement program, reimbursement shall be made pursuant to this Order and according to the procedures established in that program. Any disputes raised by the Discharger (as applicable) over reimbursement amounts or methods used in that program shall be consistent with the dispute resolution procedures for that program.

I, Michael Montgomery, Executive Officer, do hereby certify that the foregoing is a full, complete and correct copy of an Order adopted by the California Regional Water Quality Control Board, San Francisco Bay Region on August 28, 2019.

_____
Michael Montgomery
Executive Officer

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FAILURE TO COMPLY WITH THE REQUIREMENTS OF THIS ORDER MAY SUBJECT YOU TO ENFORCEMENT ACTION, INCLUDING, BUT NOT LIMITED TO: IMPOSITION OF ADMINISTRATIVE CIVIL LIABILITY UNDER CWC SECTION 13350, OR REFERRAL TO THE ATTORNEY GENERAL FOR INJUNCTIVE RELIEF OR CIVIL OR CRIMINAL LIABILITY

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Attachments: Figure 1: RWF Site Location
Figure 2: Legacy Biosolids Ponds (numbered)
Figure 3: RWF Land Use Map

Attachments:

RWF Site Location, Legacy Biosolids Ponds, and RWF Land Use Map

Figure 1: RWF Site Location.

LEGEND

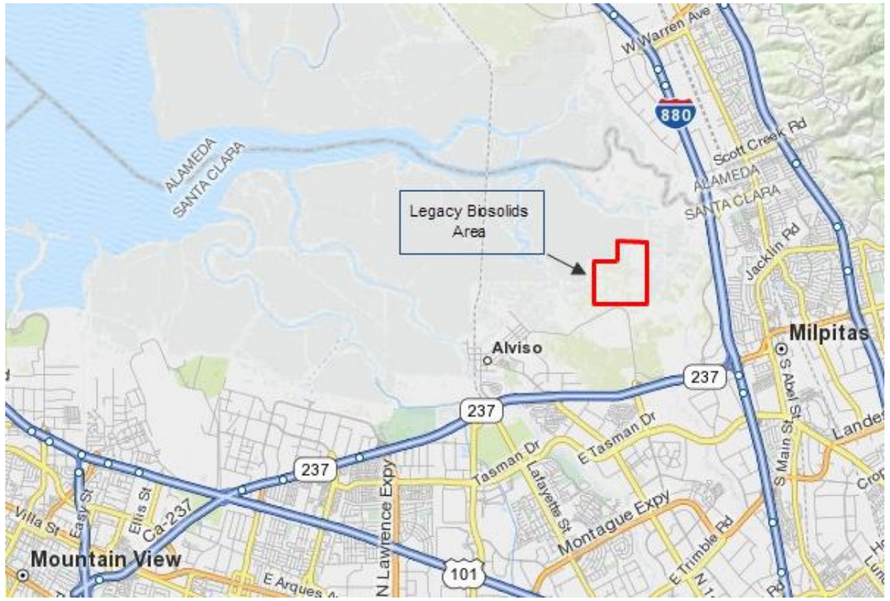
11 Lagoon Number

Edge of Legacy Biosolids Area

LAGOON HISTORY

1-3, 5-7, 9-12: Constructed between 1960 and 1967, filled until 1970.
13-19: Constructed in 1969, filled until 1974.
20-25: Constructed in 1973, filled until 1974.
4: Biosolids removed, converted to storm water storage basin in 1994.
8: Biosolids removed, converted to bomb disposal site in 1992.

LOCATION MAP



REFERENCE:
Google Earth Pro, Imagery date 10/2/09

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500 250 0 500
APPROXIMATE SCALE (feet)

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LEGACY BIOSOLIDS LAGOON AREA

WATER POLLUTION CONTROL PLANT
SAN JOSE, CALIFORNIA

PLATE
1

Figure 2: Legacy biosolids ponds site. The pond numbering system shown here is also used in the SCRs.

EXISTING PLANT LAND USE

Current Plant land uses are identified in the adjacent diagram and areas for each use is summarized in the following table.

Table 1 - Existing Plant Land Uses

Existing Land Uses	Area
Current Plant Facilities	
Operational Area*	167
Residual Solids Management Area	532
Old Biosolids Lagoons	254
Recycled Water Transmission Pump Station	3
SC Valley Water District Flood Control Easement	171
Municipal Water System Tank	3
Sub Total	*1130*
Buffer Lands	
East of Zanker Road (excluding recycling expansion area, and including Tesla Motors site)	103
West of Zanker Road	408
North of Zanker Road including Nine Par Landfill	123
Sub Total	*641*
Expansion Areas	
South Bay Water Recycling Expansion Area	31
Sub Total	*31*
Salt Pond A18	
Salt Pond A18	856
Sub Total	*856*
Total	**2651**

Source: H.T. Harvey & Associates, 2007.

** Includes Wet Weather Retention Basin*

Figure 3: RWF Land Use Map