



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2
CARIBBEAN ENVIRONMENTAL PROTECTION DIVISION
CITY VIEW PLAZA II BUILDING, 7TH FLOOR
ROUTE 165 GUAYNABO, PUERTO RICO 00968

June 29, 2022

Via Electronic Mail

Mr. Carlos R. Román González
President
RL Partners, LLC
167 JB Huyke, JB Huyke Urbanization
San Juan, Puerto Rico 00918
Email: cromancapital@gmail.com

**Re: Notice of Site Visit and Record Review Findings
Request for Information Pursuant to Section 308(a) of the Clean Water Act
RFI ID: CEPD-CWA-02-IR-2022-011
NPDES ID: PRR100090**

Dear Mr. Román González:

This letter addresses the findings of non-compliance with the 2022 National Pollutant Discharge Elimination System ("NPDES") Construction General Permit for Construction Activities (the "2022 CGP")¹ that resulted from review of records and observations made by the United States Environmental Protection Agency ("EPA") during the site visit performed at the Aguadilla Pier Construction Project (the "Project") on June 9, 2022. The Project is located at PR-Road 111, Intersection with PR-4458 Road (Interior), Aguadilla, Puerto Rico (the "Site"). This letter also serves to request RL Partners, LLC ("RLP" or "RL Partners") to submit information to EPA pursuant to Section 308(a) of the Act, 33 U.S.C § 1318.

A. Review of Records

The EPA performed a review of the electronic Notice of Intent that RL Partners submitted under the 2017 NPDES General Permit for Construction Activities (the "2017 CGP") and 2022 CGP for the Project. The EPA also reviewed EPA databases known as "Central Data Exchange / NeT"² and "ICIS" ("Integrated Compliance Information System") to determine the NPDES permitting status for the Project. The EPA review revealed:

1. On March 10, 2020, Mr. Victor Nieves, RL Partners' Manager, signed and certified an electronic Notice of Intent for the Project under the 2017 CGP on March 10, 2020 (the "March 2020 eNOI"). EPA granted coverage on March 24, 2022. The March 2020 eNOI included two documents concerning the site map for the Project.³

¹ Refer to 87 Fed. Reg. 3522 (January 24, 2022) and <https://www.epa.gov/npdes/2022-construction-general-permit-cgp>.

² Refer to <https://permitsearch.epa.gov/epermit-search/ui/search>.

³ Documents are titled "Medidas de Control Site Plan Legalizacion Gazebo y Jaula de Caballos" and "Medidas de Control and Descargas Pluviales Muelle de Azuca-Model".

2. On October 21, 2020, Mr. Victor Nieves, RL Partners' Manager, amended the March 2020 eNOI. Three documents were included in the amended March 2020 eNOI concerning the site map for the Project.⁴
3. RL Partners did not submit an electronic Notice of Termination for the Project under the 2017 CGP.
4. On May 12, 2022, Mr. Victor Nieves, RL Partners' Manager, signed and certified an electronic Notice of Intent under the 2022 CGP on May 12, 2022 (the "May 2022 eNOI"). EPA granted coverage on May 26, 2022. The May 2022 eNOI included one document concerning the site map for the Project.⁵
5. RL Partners identified one discharge in the May 2022 eNOI (Outfall 001: Aguadilla Bay).
6. The Site Map included in the May 2022 eNOI shows three (3) distinct discharge locations where concentrated stormwater runoff flows from the Project into a cliff, which in turn flows into the Atlantic Ocean.
7. The May 2020 eNOI does not identify all discharge locations (outfalls).
8. During the period between April 29 and June 24, 2022, EPA performed reviews of aerial imageries of public domain. **Attachment 2**⁶ and **Attachment 3**⁷ depict two aerial imageries obtained from such review. The reviews revealed the following:
 - a. An access road from the Site to a construction project known as "The Cliff Villas Hotel and Country Club" (the "The Cliff Site") located along a concrete retaining wall without erosion controls and soil stabilization.
 - b. Land disturbing at both sides of a concrete retaining wall, and no erosion and soil stabilization controls were observed at the access road from the Site to The Cliff Site, located at the east end of the concrete retaining wall.
 - c. Two slopes where land disturbing was performed and without soil stabilization.
 - d. Accumulation of vegetative waste material east of the above ground storage tank.
 - e. Areas north of the mechanical shop building without erosion controls and soil stabilization.

⁴ Documents are titled "Descargas Pluviales Aguadilla Pier Revision 1", "Medidas de Control Site Plan Legalizacion Gazebo y Jaula de Caballos-1" and "Medidas de Control and Descargas Pluviales Muelle de Azuca-Model".

⁵ Refer to document titled "Medidas de Control and Descargas Pluviales Muelle de Azuca-Model" in **Attachment 1** of this letter.

⁶ Google Earth Pro, April 2022.

⁷ June 2022 posts on Facebook by Surfrider Puerto Rico.

B. Site Visit

On June 9, 2022, two EPA officials performed a site visit of the Project pursuant to Section 308(a) of the Clean Water Act (“CWA”), 33 U.S.C. § 1318(a).⁸ EPA took pictures during the site visit to document the observations, which are included and described below:⁹

1. ***Picture 1 (below):*** Areas where stormwater runoff flows from The Cliff Site into the Site through an access road located on west side of the retaining concrete wall, which is depicted in ***Picture 2***, below.



2. ***Picture 2 (next page):*** Stormwater runoff from The Cliff Site into the Site through the dirt road bordering the west side of the retaining concrete wall. The stormwater runoff from the dirt road in turn flow towards a discharge point from the Site into the Atlantic Ocean. This dirt roads lacks soil stabilization and velocity dissipation for concentrated runoff was not observed.

⁸ Mr. José A. Rivera, Lead Environmental Engineer, and Ms. Yolianne Maclay, P.E., Senior Environmental Engineer, EPA’s Clean Water Act Team, conducted the site visit. Mr. Daniel Jones, The Cliff Site Project Manager, and Mr. Victor Nieves, Manager, accompanied the EPA Inspectors during the site visit.

⁹ Inspector Maclay took the pictures with an EPA-owned camera, with brand and model “Nikon Coolpix P530 Camera”. All pictures taken were unaltered transferred to the Inspector Maclay EPA-owned laptop.



3. ***Picture 3 (below):*** A dirt road that conveys stormwater from The Cliff Site and the Site into another area of the Site. Crushed stone, silt fence and straw wattles were observed, as depicted in this picture. Stormwater runoff in turn flows downhill on concrete road.



4. **Picture 4 (below):** Discharge point located at the Site. These pipes ultimately discharge stormwater runoff from The Cliff Site and the Site into the Atlantic Ocean.



5. **Picture 5 (below):** Portion of the retaining concrete wall between The Cliff Site and the Site. Disturbed soils on both sides of the retaining concrete wall without erosion controls. This is another location in which storm water runoff flows from The Cliff Site into Site. In addition, grubbing and clearing on a slope conducted at the Site, along west side of the main road.¹⁰



¹⁰ Mr. Jones indicated that such land disturbing (i.e., clearing and grubbing) was conducted to support land surveying activities.

C. **FINDINGS**

The findings of the site visit and information currently available to EPA suggest that RL Partners may be in violation of conditions and requirements of the 2022 CGP. These findings of non-compliance include, but are not limited to:

1. **Part 2.1** – Lack of erosion controls and flow management for stormwater runoff flowing from The Cliff Site into the Site.
2. **Part 2.2** – Lack of erosion controls in areas of the Site where runoff from land disturbing activities had taken place and soil stabilization has not been established.
3. **Part 2.3** – Lack of soil stabilization in areas of the Site where land disturbing activities had taken place.
4. **Part 2.2.5** – Lack erosion controls for vegetative waste piles.

Pursuant to Part 5 of the 2022 CGP (*Corrective Actions*), RL Partners must take all corrective actions to address all of the conditions identified at the Site mentioned above. RL Partners is required to prepare and submit a definitive Compliance Plan of Action (“CPA”) to address the findings described above, as well as the required amendments of the Stormwater Pollution Prevention Plan (“SWPPP”) developed for the Project under Part 7.4 of the 2022 CGP, and implementation of erosion and sediment controls and soil stabilization at the Site under Part 2 of the 2022 CGP.

The CPA must include, at a minimum, the following:

- a. A response to each finding included hereinabove.
- b. A detailed description of the corrective action(s) taken or to be taken, including whether the corrective action is a temporary or a permanent action.
- c. A detailed implementation schedule for each temporary action and each permanent action.
- d. A requirement for the submittal of bi-weekly progress reports with documentation of the corrective actions taken.
- e. A modification of the SWPPP [to include the permanent actions that need to be taken].
- f. The estimated costs for the design and implementation of each temporary action and each permanent action.

The implementation schedule in the CPA must be based on the deadlines established in Sub-part 5.2 of the 2022 CGP to the maximum extent possible. For those corrective actions that will take more than forty-five (45) calendar days to implement, RL Partners must submit a detailed explanation of the causes that prevent RL Partners from implementing the corrective action(s) sooner than forty-five (45) days, the interim actions that RL Partners has taken and will take toward achieving the overall goal of the corrective action(s), and any other information RL Partners deems necessary for EPA to gain a

complete understanding of the limitations on RL Partners' ability to complete the corrective action(s) sooner.

EPA may, at its discretion, review and submit comments to RL Partners regarding the CPA. The CPA must be submitted to EPA via electronic mail ("email") within fifteen (15) calendar days of receipt of this letter to the following EPA designated official.

Mr. José A. Rivera, BSCE
Team Leader
Clean Water Act Team
Multimedia Permits and Compliance Branch
Caribbean Environmental Protection Division
U.S. Environmental Protection Agency, Region 2
City View Plaza II - Suite 7000
#48, PR-165, Km 1.2
Guaynabo, Puerto Rico 00968-8069
Email: rivera.jose@epa.gov

D. Request for Information

Section 308(a) of the CWA states that whenever it is necessary to carry out the objectives of the CWA, including determining whether a person is in violation of Section 301(a) of the CWA, EPA shall require the submission of any information reasonably necessary to make such a determination. Pursuant to the authority of Section 308 of the CWA, EPA may require the submission of information necessary to assess the compliance status of any facility and its related appurtenances.

EPA issues this Request for Information ("RFI") to RL Partners pursuant to the authority vested in the Administrator of EPA by Section 308(a) of the CWA. This authority has been duly delegated to the Regional Administrator of EPA Region 2, and further re-delegated to the Director, Caribbean Environmental Protection Division.

EPA is hereby requesting information from RL Partners pursuant to the authority granted under Section 308(a) of the CWA concerning the Project. Please review and follow the instructions in Enclosure 4 (Instructions and Definitions); review the information being requested in Enclosure 5 and submit the information requested therein; and submit a signed and dated Statement of Certification (Enclosure 6), which is to be signed and dated by a RL Partners' authorized officer pursuant to the signatory requirements in 40 C.F.R. § 122.22. This statement certifies that the response submitted to the EPA is complete and contains all documents and information responsive to this RFI that are known to you, following a complete and thorough review of all information and sources available to you.

The requested information must be sent to the following EPA Region 2 designated official: Mr. José A. Rivera, Team Leader, Clean Water Act Team, Multimedia Permits and Compliance Branch, at rivera.jose@epa.gov.

If you are without access to a computer and must submit the response by U.S. mail, RL Partners should notify Mr. Rivera at (787) 977-5842, or by email at rivera.jose@epa.gov, when it sends a document in such a manner.

Please be advised that you are under a continuing obligation to supplement your response if information not known or not available to you as of the date of submission of your response should later become known or available to you. In this instance, you must supplement the response to EPA within ten (10) business days.

If at any time in the future you become aware of additional information or find that any portion of the submitted information is false, misleading or misrepresents the truth, you must notify EPA of this fact immediately and provide a corrected response within ten (10) business days. If any part of the response is found to be untrue, you may be subject to criminal prosecution.

This RFI is not subject to the approval requirements of the Paperwork Reduction Act of 1980, 44 U.S.C. §§ 3501-3520. RL Partners may, if so desire, assert a business confidentiality claim covering all or part of the information requested by this letter. A business confidentiality claim may be asserted by placing on (or attaching to) the information, at the time it is submitted, a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as “trade secret” or “proprietary” or “company confidential.” Information covered by such a claim will be disclosed by EPA only in accordance with and by means of procedures set forth in Sub-Part B, 40 C.F.R. Part 2.

If no such claim accompanies the information contained in the response to the RFI when it is received by EPA, it may be made available to the public by EPA without further notice to you. You should read the above-cited statutory and regulatory provisions carefully before asserting a business confidentiality claim, since certain categories of information are not properly the subject of such a claim. Allegedly confidential portions of otherwise non-confidential documents should be clearly identified by you. If you desire confidential treatment of information only until a certain date or until the occurrence of a certain event, your response should state so.

Failure to comply in all respects with this request for information may result in the initiation of an enforcement action under Section 309 of the CWA, 33 U.S.C. §1319, under which injunctive relief and penalties may be sought. Such an enforcement action may include the assessment of penalties of up to \$56,460 per day for each day of continued non-compliance.

Because this is a formal information request issued to you pursuant to Section 308(a) of the CWA, you are legally required to respond within a reasonable time frame. **EPA requests that you fully respond to the requested information within fifteen (15) calendar days of receipt of this letter by electronic mail.** However, the EPA acknowledges that the COVID-19 pandemic may be impacting RL Partners’ operations. If that is the case, EPA will consider, at its sole discretion, RL Partners’ specific circumstances that could affect a timely response to this RFI, while ensuring that the EPA receives the relevant information it needs to effectively evaluate RL Partners’ compliance with Sections 301(a), 308(a) and 402(p) of the CWA. Therefore, you or your authorized representative should contact Mr. Rivera at (787) 977-5842, or by email at rivera.jose@epa.gov, in a timely manner for further instructions.

The electronic delivery of RL Partners’ response to this letter and RFI is strongly encouraged. To the extent possible, any documents to be submitted in response to this RFI should be in Portable Document Format (“PDF”).

EPA also encourages you and your staff to become familiar with the Small Business Resource Information Sheet. This Information Sheet provides an array of resources, including workshops, training sessions, hotlines, websites and guides, to help small businesses understand and comply with federal and state environmental laws. In addition to helping small businesses understand their environmental obligations and improve compliance, these resources will also help such businesses find cost-effective ways to comply through pollution prevention techniques and innovative technologies. The Information Sheet is available at <https://www.epa.gov/sites/default/files/2017-06/documents/smallbusinessinfo.pdf>.

If you have any questions concerning this RFI, please contact Mr. Rivera at (787) 977-5842, or by email at rivera.jose@epa.gov.

Sincerely,

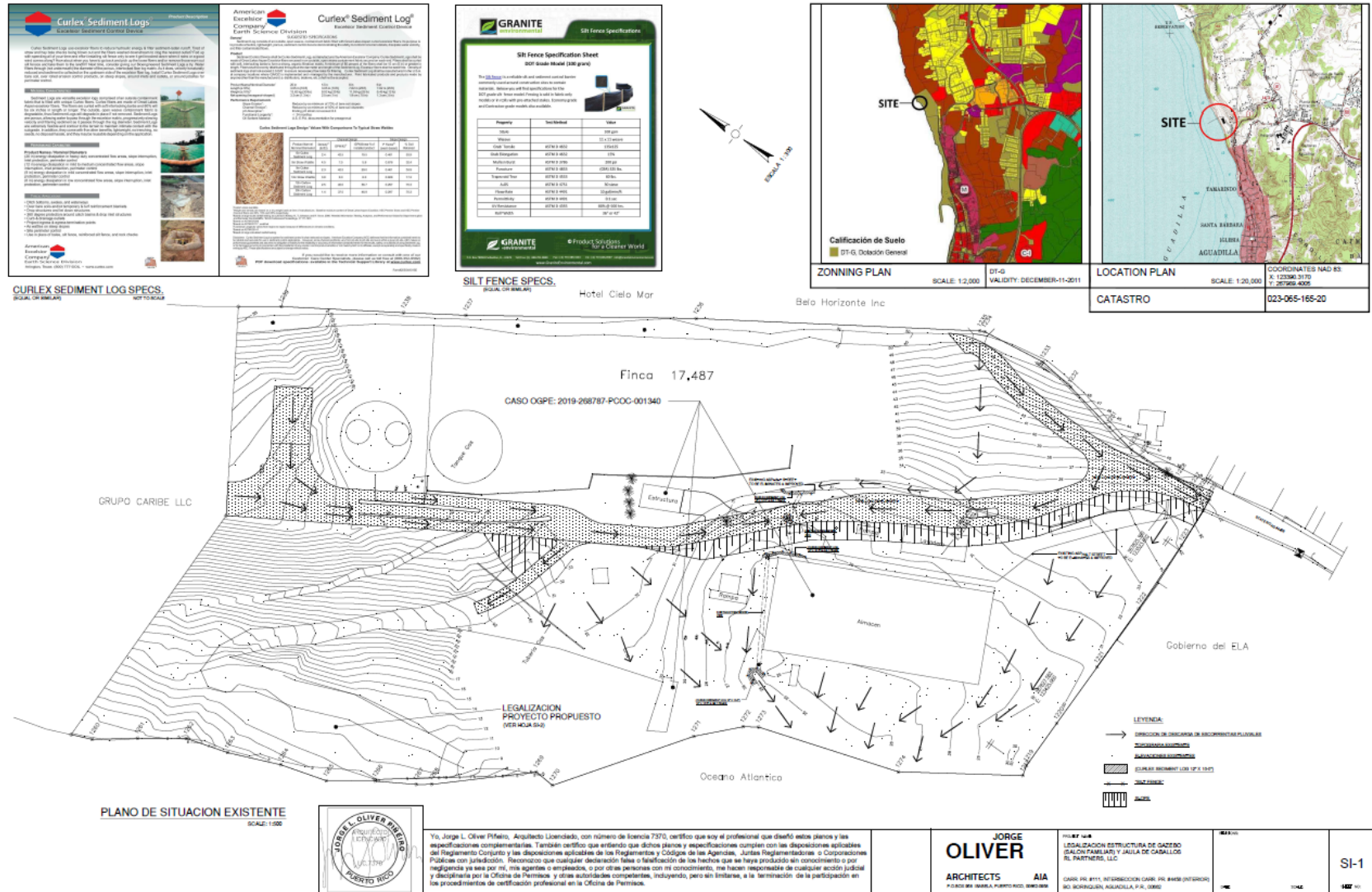


Carmen R. Guerrero Pérez
Director
Caribbean Environmental Protection Division

Attachments

cc: Víctor Nieves, RL Partners, LLC (via email at cromancapital@gmail.com)
Daniel Jones, Grupo Caribe, LLC (via email at djones@hotmail.es)
Ángel Meléndez, DNER/WQA (via email at angel.melendez@drna.pr.gov)

ATTACHMENT 1



ATTACHMENT 2



ATTACHMENT 3



ATTACHMENT 4

INSTRUCTIONS AND DEFINITIONS

In responding to this RFI, please apply the following instructions, definitions, and information:

- a. The signatory should be an officer or agent who is authorized to respond on behalf of RL Partners pursuant to the NPDES signatory requirements regulations codified at 40 C.F.R. § 122.22.
- b. A complete separate response must be made to each individual question in this RFI. Identify each answer with the number of the question to which it is addressed and precede each answer with the question to which it is addressed.
- c. Interpret “and” as well as “or” to include within the scope of the question as much information as possible. If two interpretations of a question are possible, use the one that provides more information.
- d. In preparing your response to each question, consult with all present and former employees, agents and/or contractors whom you have reason to believe may be familiar with the matter to which the question pertains, regardless of whether the source is in your immediate possession.
- e. In answering each question, identify all contributing sources of information.
- f. If you are unable to answer a question in a detailed and complete manner or if you are unable to provide any of the information or documents requested, indicate the reason for your inability to do so. If you have reason to believe that there is an individual who may be able to provide more detail or documentation in response to any question, state that person's name and last known address and phone number and the reasons for your belief.
- g. If anything is deleted from a document produced in response to this RFI, state the reason for and the subject matter of the deletion.
- h. For each document produced in response to this RFI, indicate on the document or in some other reasonable manner, the number of the question to which it applies. If a document is requested but is not available, state the reason for its unavailability.
- i. For terms referred in this RFI, you will find its meaning in Section 502(5) of the Act, 33 U.S.C. § 1362, and 40 C.F.R. § 122.2. When referring to the “construction activities”, RL Partners shall include all those activities that involved earth movement activities, as defined in Appendix A - Definitions and Acronyms of the 2022 National Pollutant Discharge Elimination System (“NPDES”) Construction General Permit for Stormwater Discharges from Construction activities (“2022 CGP”). The 2022 CGP is found at <https://www.epa.gov/npdes/2022-construction-general-permit-cgp>. 87 Fed. Reg. 3522 (January 24, 2022).

- j. The terms “parcels of land” and/or “site” shall include all areas that will encompass construction activities for the Project, including soil borrow areas and soil waste areas; all accesses and internal roads to construction activities and/or staging areas for equipment and materials; all rights of way for the construction and/or installation of utilities such as electric power, internet, cable, potable water, water wells, sanitary sewers and storm sewers; and any other area that will support constructions activities adjacent to the parcels of land.

ATTACHMENT 5

INFORMATION REQUESTED

RL Partners shall submit the following information pursuant to the instructions and definitions contained in Enclosure 4, above. Please use the RFI ID Number (CEPD-CWA-02-IR-2022-011) when referring to this Project:

1. The names of RL Partners officers on the date when the May 2022 eNOI was signed. Submit their telephone numbers, emails and addresses.
2. State the name of the entity and/or company engaged in construction activities at the Project. Submit the name, telephone number, email and address of the construction general manager for the Project.
3. Indicate the name of the entity that employed or contracted the construction general manager for the Project.
4. A copy of the construction contracts between the owners of the Project and the company engaged in construction activities at the Project. If there was an oral agreement to conduct earth movement activities and/or construction activities, submit a detail explanation of the terms of such agreement and the names and contact information (i.e., telephone number, email, address) of the persons involved.
5. A copy of the construction contracts between the owners of the Project and any other individual and entity contracted to conduct earth movement activities and/or construction activities. If there was an oral agreement to conduct earth movement activities and/or construction activities, submit a detail explanation of the terms of such agreement and the names, email and contact telephone number of the persons involved.
6. Indicate the position Mr. Victor Nieves hold when he signed May 2022 eNOI.
7. A copy of the original SWPPP developed for the Project under the 2017 CGP. Submit a copy of any amendments thereto under the 2017 CGP.
8. A copy of all Site Inspection documentation under Part 4.7 of the 2017 CGP.
9. A copy of all Site Inspection documentation under Part 4.7 of the 2022 CGP.
10. A copy of all Corrective Action documentation under Part 5.4 of the 2017 CGP.
11. A copy of all Corrective Action documentation under Part 5.4 of the 2022 CGP.
12. A copy of the Project schedule for temporary and permanent cessation of construction activities in each portion of the Project under Part 7.2.3.f.ii of the 2017 CGP.

13. A copy of the Project schedule for the temporary and final stabilization of exposed areas for each portion of the Site under Part 7.2.3.f.iv of the 2017 CGP.
14. Each period (start date and end date) when earth movement activities and/or construction activities were not conducted at the Project. Refer to Part 2.2.14 of the 2022 CGP.
15. The total area of surface soil (in acres) that remains to be provided with temporary soil stabilization as of the date of this letter. Refer to Part 2.2.14 of the 2022 CGP.
16. The total area of surface soil (in acres) that remains to be provided with final soil stabilization as of the date of this letter.
17. All legible aerial photographs taken by RL Partners depicting the areas of the Project where earth movement activities and/or construction activities have been conducted as of the date of this letter.
18. A picture depicting any rain gauge that had been installed and retained for the Project.
19. Indicate the location where the rain gauge was installed.
20. A copy of any logs that RL Partners has used and uses to record rain precipitation data collected for the Project to the date of this letter.

ATTACHMENT 6

STATEMENT OF CERTIFICATION

I certify that I have examined and am familiar with the information in the enclosed documents, including all attachments. Based on my personal inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are, to the best of my knowledge and belief, true and complete. I am aware that there are significant penalties for knowingly submitting false statements and information, including the possibility of fines or imprisonment pursuant to Section 309 of the CWA, 33 U.S.C. § 1319, and 18 U.S.C. §§ 1001, 1341 and 1505.

(Signature)

(Printed Name)

(Title)

(Date)