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March 11, 2025

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Subject: CEMEX Rockfield Quarry Modification Project (Project)
Draft Environmental Impact Report (DEIR)
SCH No.: 2020060123

Dear David Randall:

The California Department of Fish and Wildlife (CDFW) received a DEIR from Fresno County for the Project pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. Likewise, we appreciate the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under the Fish and Game Code.

CDFW ROLE

CDFW is California's **Trustee Agency** for fish and wildlife resources and holds those resources in trust by statute for all the people of the State (Fish & Game Code, Section 711.7, subd. (a) & 1802; Pub. Resources Code, Section 21070; CEQA Guidelines Section 15386, subd. (a)). CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species (Id., Section 1802). Similarly, for purposes of CEQA, CDFW is charged by law to provide, as available, biological expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect fish and wildlife resources.

Conserving California's Wildlife Since 1870

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CDFW is also submitting comments as a **Responsible Agency** under CEQA (Pub. Resources Code, Section 21069; CEQA Guidelines, Section 15381). CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for example, the Project may be subject to CDFW's lake and streambed alteration regulatory authority (Fish & Game Code, Section 1600 et seq.). Likewise, to the extent implementation of the Project as proposed may result in "take" as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & Game Code, Section 2050 et seq.), related authorization as provided by the Fish and Game Code may be required.

Fully Protected Species: CDFW has jurisdiction over fully protected species of birds, mammals, amphibians and reptiles, and fish, pursuant to Fish and Game Code sections 3511, 4700, 5050, and 5515. Fully protected species may not be taken or possessed at any time and no licenses or permits may be issued for their take except as follows:

- Take is for necessary scientific research,
- Efforts to recover a fully protected, endangered, or threatened species, live capture, and relocation of a bird species for the protection of livestock, or
- They are a covered species whose conservation and management is provided for in a Natural Community Conservation Plan (Fish & G. Code, §§ 3511, 4700, 5050, & 5515).

Additionally, specified types of infrastructure projects may be eligible for an Incidental Take Permit (ITP) for unavoidable impacts to fully protected species if certain conditions are met (see Fish & G. Code §2081.15). Project proponents should consult with CDFW early in the Project planning process if an ITP may be pursued for the Project.

CDFW Ecological Reserve: Fish and Game Code section 1583 states "Except in accordance with the regulations of the commission it is unlawful to enter upon any ecological reserves established under the provisions of the article, or to take therein any bird or the nest or eggs thereof, or any mammal, fish, mollusks, crustaceans, amphibia, reptiles or any other form of plant or animal life." In addition, California Code of Regulations, Title 14, Section 630 states "All ecological reserves are maintained for the primary purpose of developing a statewide program for protection of rare, threatened, or endangered native plants, wildlife, aquatic organisms, and specialized terrestrial or aquatic habitat types", and therefore, any other activity on these lands is restricted.

Nesting Birds: CDFW has jurisdiction over actions with potential to result in the disturbance or destruction of active nest sites or the unauthorized take of birds. Fish and Game Code sections that protect birds, their eggs and nests include Sections 3503

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(regarding unlawful take, possession or needless destruction of the nest or eggs of any bird), 3503.5 (regarding the take, possession or destruction of any birds-of-prey or their nests or eggs), and 3513 (regarding unlawful take of any migratory nongame bird).

Water Rights: The capture of stream flows to is subject to appropriation and approval by the State Water Resources Control Board (SWRCB) pursuant to Water Code section 1200 et seq. CDFW, as Trustee Agency, is consulted by SWRCB during the water rights process to provide terms and conditions designed to protect fish and wildlife prior to appropriation of the State's water resources. Certain fish and wildlife are reliant upon aquatic and riparian ecosystems, which in turn are reliant upon adequate flows of water. CDFW, therefore, has a material interest in assuring that adequate water flows within streams for the protection, maintenance, and proper stewardship of those resources. CDFW provides, as available, biological expertise to review and comment on environmental documents and impacts arising from Project activities.

PROJECT DESCRIPTION SUMMARY

Proponent: CEMEX

Objective: The proposed Project is a continuation and modification of aggregate (rock, sand, and gravel) mining and processing operations located on two properties, the Plant Site and the Quarry Site. The Project would occur in two stages as described below:

Stage 1: Stage 1 of the Project would include concurrent operations at both the Quarry Site and the Plant Site for up to 30 years. At the Plant Site, the existing aggregate processing plant will continue to be used to wash, screen, crush, and sort aggregate mined from the Plant Site. The existing ready-mix concrete plant, hot-mix asphalt plant, and related supportive facilities would continue to operate. The remaining alluvial deposit would be mined to a depth of approximately 75 feet below ground surface (bgs). Surface and/or groundwater encountered within the excavation would be pumped to groundwater recharge trenches along boundaries of the Plant Site. Upon completion of alluvial deposit mining at the Plant Site, operations at the Plant Site would cease, all equipment would be removed, and the site reclaimed as 122 acres of open space, riparian, and open water wildlife habitat.

At the Quarry Site, mining would be modified to include the hard rock (granite) that lies beneath the alluvial deposit currently being mined. Surface and/or groundwater encountered within the excavation will continue to be pumped to an existing reclaimed pond in the northeast corner of the Quarry Site for recharge to the groundwater and to existing groundwater recharge trenches along the western boundaries of the Quarry Site. Excavation of the hard rock would require drilling and blasting and would occur to a depth of approximately 600 feet bgs. An aggregate processing plant would be added

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to the Quarry Site to wash, screen, crush, and sort the aggregate. The plant would be located in a previously excavated pit approximately 30 feet bgs.

Stage 2: Stage 2 of the Project would continue hard rock mining and processing operations at the Quarry Site. The ready-mix concrete plant and the hot-mix asphalt plant will be relocated from the Plant Site to the Quarry Site adjacent to the aggregate processing plant. Upon completion of excavation at the Quarry Site, operations at the Quarry Site would cease and all equipment would be removed. Reclamation of the Quarry Site will create approximately 349 acres of open space, riparian, and open water wildlife habitat. The total Project life of the combined Stages 1 and 2 is estimated to be 100 years.

Location: The Project is located at two sites: 13475 N. Friant Road and 14765 North Friant Road, Fresno. The Project is located between North Friant Road and the San Joaquin River, in an unincorporated portion of Fresno County.

- Plant Site (CUP 3666): CEMEX's current Plant Site is located on approximately 122 acres on the west side of North Friant Road, on Assessor's Parcel Number (APNs) 300-070-56S, 57S, 58S, 59S, and 60S, approximately 1.5 miles north of the City of Fresno and approximately 0.7 mile north of the intersection of North Willow Avenue and North Friant Road.
- Quarry Site (CUP 3667): CEMEX's current Quarry Site is located on approximately 349 acres on the west side of North Friant Road, on APNs 300-040-19 and 20, 300-080-01S, 300-250-12 and portion of 300-310-01, approximately 2.0 miles north of CEMEX's current Plant Site and approximately 2.0 miles south of the unincorporated community of Friant.

Timeframe: Undetermined; however, mining and processing activities are anticipated to take approximately 100 years to complete.

COMMENTS AND RECOMMENDATIONS

CDFW offers the following comments and recommendations to assist Fresno County in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. Editorial comments or other suggestions may also be included to improve the CEQA document prepared for this Project.

The DEIR details the Project activities proposed at both the Plant Site and Quarry Site over the next century. CDFW would like to note that the length of the Project coupled with the uncertainty surrounding the extensive blasting and mining activities for the Quarry Site have CDFW concerned that the proposed Project would result in significant long-term impacts to species and habitats within and surrounding the San Joaquin River

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and its habitats and have the potential to significantly impact restoration and conservation goals in the Project vicinity. For instance, the Willow Unit of CDFW's San Joaquin River Ecological Reserve (SJREER) surrounds the current Plant Site on three sides (the fourth side being Friant Road). The Willow Unit was acquired with State Bond Funds, for the intended purpose of perpetual protection of riparian habitat and associated wildlife. The Willow Unit supports high quality riparian habitat for both nesting and migratory bird species.

Additionally, the San Joaquin River Restoration Program (SJRRP) is currently working to restore and maintain fish populations in "good condition" in the mainstem San Joaquin River downstream of Friant Dam to the confluence with the Merced River (i.e., Restoration Area) and restore and maintain naturally reproducing and self-sustaining populations of salmon and other fish. CDFW would like to note the SJRRP is working on two major passage improvements projects (Sack Dam and Mendota Dam) to allow volitional passage of anadromous fishes upstream to Friant Dam (upstream of the Project). Further, CDFW has invested millions of dollars to construct a state-of-the-art Salmon Conservation and Research Facility (SCARF; i.e., conservation hatchery), also upstream of this site, to help with the reintroduction of spring-run Chinook salmon (*Oncorhynchus tshawytscha pop. 11*). Once fully operational, the SCARF plans to release 1.2 million smolts annually from its volitional release channel upstream of the Project site. Further the Project is directly adjacent to the most important reach of the river for spring-run Chinook salmon to complete various life-cycle stages (egg, juvenile, and adult), with holding, spawning, incubation, and rearing occurring directly adjacent to the Project site.

Finally, the Lost Lake Recreation Area, which borders the Quarry Site to the north, is also State-owned land and is operated under an expired lease with Fresno County. Lost Lake Recreation Area provides important recreational opportunities to the public and also supports high quality riparian habitat for a variety of wildlife species, including many of the special-status species identified in the DEIR.

While CDFW acknowledges that a detailed analysis was included in the Project DEIR to evaluate impacts to the San Joaquin River and associated floodplain from the associated Project blasting and mining activities, CDFW is concerned that the duration of the Project, coupled with the complexity of the Project impacts, which includes blasting and excavation of bedrock down to approximately 600 feet, and uncertainty in climatic conditions due to climate change over the next 100 years, will result in significant unanalyzed direct and indirect impacts to biological resources beyond baseline conditions. CDFW is specifically concerned with potential Project-related impacts to riparian habitat and associated fish and wildlife which inhabit areas adjacent to the Project site, specifically impacts associated with noise (hydroacoustic and acoustic), blasting, water quality, vibration, and direct disturbance. In addition, deep

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mining activities could severely impact the underlying hydrology on which the San Joaquin River and the river's associated riparian vegetation depends, particularly if slope failure were to occur at the Quarry Site, the natural berms and levees surrounding the Project site were to fail from high flows or unforeseen climatic conditions, or if unanticipated rock fractures provide more hydrologic connection than assumed in the DEIR. This situation would be of particular concern to the SJRRP restoration activities, as water released from the Friant Dam is fully allocated for downstream riparian water right holders and SJRRP Restoration Flows. Any unintentional diversion, from events such as slope failure or deep pit capture and/or filling, would have significant impacts on downstream water deliveries and the success of SJRRP's goal in restoring a natural self-sustaining population of spring-run Chinook salmon below Friant dam.

In summary, CDFW is concerned Project activities, which include blasting and mining operations directly adjacent to the San Joaquin River to a depth of approximately 600 feet, and would occur over an approximate 100-year period, would result in significant direct and indirect impacts to sensitive resources within and adjacent to the Project site over the life of the Project. These impacts have the potential to disrupt San Joaquin River hydrology, impact the restoration and conservation goals within the San Joaquin River and associated SJRRP, as well as the restoration goals of the SJRRP. Due to these concerns, CDFW strongly recommends that the Project be modified to a more environmentally superior alternative, and that Project activities be adjusted to limit site blasting and excavation (i.e., activities associated with the Quarry Site) further away from the San Joaquin River and the river's associated habitats, reducing the potential for impacts to CDFW-owned lands, and sensitive species and habitats.

In addition to the general recommendation provided above, CDFW has concerns about the ability of some of the proposed mitigation measures to reduce impacts to less than significant and avoid unauthorized take for several special-status animal species, including the State endangered and fully protected bald eagle (*Haliaeetus leucocephalus*), the State threatened Swainson's hawk (*Buteo swainsoni*), the State and federally threatened California tiger salamander – Central California Distinct Population Segment (DPS) (*Ambystoma californiense pop. 1*), the State and federally threatened Chinook salmon – Central Valley spring-run Evolutionary Significant Unit (ESU), the State fully protected white-tailed kite (*Elanus leucurus*), the State candidate western burrowing owl (*Athene hypugaea*), tricolored blackbird (*Agelaius tricolor*), and Crotch's bumble bee (*Bombus crotchii*), the State species of special concern and federally proposed threatened western pond turtle (*Actinemys marmorata*) and western spadefoot (*Spea hammondi*), and the State species of special concern Chinook salmon – Central Valley fall/late-run ESU, hardhead (*Mylopharodon conocephalus*), Kern brook lamprey (*Lampetra hubbsi*), Pacific lamprey (*Entosphenus tridentatus*), and Sacramento hitch (*Lavinia exilicauda exilicauda*), the State species of special concern and federally

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threatened steelhead – Central Valley DPS (*Oncorhynchus mykiss irideus pop. 11*), and the State species of special concern western river lamprey (*Lampetra ayresii*).

Terrestrial Species

State Fully Protected Raptors

CDFW would like to note that, based on the information provided in the DEIR, habitat assessments and surveys for special-status species were focused mainly within the Project site, and focused surveys were not conducted for bald eagle (BAEA) and white-tailed kite (WTKI). Additionally, the DEIR does not appear to have a substantive analysis of direct and indirect impacts to biological resources adjacent to the Project site. CDFW is particularly concerned with the impacts from Project activities to BAEA and WTKI if these species were to nest within the habitats surrounding the Project site. Certain Project details and their associated potential impacts to biological resources are also lacking, such as a detailed analysis of the potential acoustic and vibratory impacts to BAEA and WTKI from the blasting and mining activities associated with the Quarry Site.

Mitigation Measure 4.4-1c is provided to mitigate for potential impacts to nesting birds, including BAEA and WTKI, and requires a preconstruction survey prior to Project activities and the implementation of inadequate no-disturbance buffers. CDFW does not concur that the surveys and no-disturbance buffers proposed in Mitigation Measure 4.4-1c are sufficient to mitigate for potential impacts to these species. CDFW is also concerned that Project activities such as blasting may result in indirect impacts to BAEA and WTKI, and these Project activities need to be more adequately analyzed in the DEIR. As such, CDFW recommends that the DEIR include a more robust analysis of potential impacts to BAEA and WTKI from ongoing Project activities, particularly for the blasting and mining proposed at the Quarry Site, and that this analysis include a sufficient area around the Project site.

In addition to the recommendation above, CDFW recommends the following:

Recommended Mitigation Measure 1: State Fully Protected Raptor Surveys

CDFW recommends that focused BAEA and WTKI surveys be conducted prior to the initiation of Project blasting activities. CDFW recommends that these surveys occur within the Project site and a ½-mile buffer of the Project site and that BAEA surveys follow the Bald Eagle Breeding Survey Instructions (CDFW 2010) protocol and be conducted by a qualified biologist prior to the initiation of plant construction or mining phases as outlined in the DEIR.

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Recommended Mitigation Measure 2: State Fully Protected Raptor Avoidance Buffer

If a BAEA or WTKI is found prior to or during surveys or Project activities, CDFW recommends implementation of a minimum ½-mile no-disturbance buffer. CDFW advises that this buffer remains in place until the breeding season has ended or until a qualified biologist has determined that nesting has ceased, the birds have fledged and are no longer reliant upon parental care for survival. In the event that a BAEA or WTKI is detected during surveys, and a ½-mile no-disturbance buffer is not feasible, consultation with CDFW is recommended.

Swainson's Hawk

CDFW would like to note that, based on the information provided in the DEIR, habitat assessments and surveys for special-status species were focused mainly within the Project site, and focused surveys were not conducted for Swainson' hawk (SWHA). Additionally, the DEIR does not appear to have a substantive analysis of direct and indirect impacts to biological resources adjacent to the Project site. CDFW is particularly concerned with the impacts from Project activities to SWHA if individuals were to nest within the habitats surrounding the Project site. Certain Project details and their associated potential impacts to biological resources are also lacking, such as a detailed analysis of the potential acoustic and vibratory impacts to SWHA from the blasting and mining activities associated with the Quarry Site.

Mitigation Measure 4.4-1c is provided to mitigate for potential impacts to nesting birds, including SWHA, and requires a preconstruction survey prior to Project activities and the implementation of inadequate no-disturbance buffers. CDFW does not concur that the surveys and no-disturbance buffers proposed in Mitigation Measure 4.4-1c are sufficient to mitigate for potential impacts to this species. CDFW is also concerned that Project activities such as blasting may result in indirect impacts to SWHA, and these Project activities need to be more adequately analyzed in the DEIR. As such, CDFW recommends that the DEIR includes a more robust analysis of potential impacts to SWHA from ongoing Project activities, particularly for the blasting and mining proposed at the Quarry Site, and that this analysis includes a sufficient area around the Project site.

In addition to the recommendation above, CDFW recommends the following: **Western Pond Turtle and Western Spadefoot**

CDFW would like to note that based on the information provided in the DEIR, habitat assessments and surveys for special-status species were focused mainly within the Project site, and focused surveys were not conducted for western pond turtle (WPT) and western spadefoot (WESP). CDFW would also like to note that DEIR did not focus

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on an evaluation of the habitat adjacent to the Project site, particularly along the San Joaquin River, and the DEIR does not appear to have a substantive analysis of direct and indirect impacts to biological resources adjacent to the Project site. CDFW is particularly concerned with the impacts from Project activities to WPT and WESP if this species were to utilize habitats surrounding the Project site. Certain Project details and their associated potential impacts to biological resources is also lacking, such as a detailed analysis of the potential acoustic and vibratory impacts to WPT and WESP and their associated burrows from the blasting and mining activities associated with the Quarry Site. CDFW is concerned that direct and indirect impacts to WPT and WESP, such as the potential collapse of burrows, inadvertent entrapment, direct mortality of individuals, and displacement due to sound or vibration, are not adequately analyzed in the DEIR. As such, CDFW recommends that the DEIR include a more robust analysis of potential impacts to WPT and WESP from ongoing Project activities, particularly for the blasting and mining proposed at the Quarry Site, and that this analysis include a sufficient area around the Project site. This additional analysis should consider information within several published research studies on various toad species which demonstrate that vibrations outside of typical emergence cues like rainfall can result in the emergence of toads from underground refugia, including during times of hibernation. It is also important to note that thunder, or sounds like thunder, can stimulate toad emergence. The vibrations and sounds associated with blasting could result in the atypical and seasonally inappropriate emergence of spadefoot, resulting in direct mortality, reduced survival, and impacts to reproductive success.

CDFW would also like to note that Mitigation Measure 4.4-1b of the DEIR states, “Pre-construction clearance surveys within the boundaries of the Quarry Site shall be conducted [...] A combination of visual and trapping surveys by a CDFW-qualified biologist may be performed.” CDFW is concerned the use of the phrase “may be performed” introduces an element of uncertainty and could lead to inadequate or nonexistent survey efforts, potentially affecting these sensitive species. As such, CDFW recommends revising this measure to explicitly require visual and trapping surveys prior to the initiation of any construction activities.

Aquatic Species

As noted above, extensive restoration, conservation, and management efforts are occurring within the San Joaquin River and adjacent SJRER, and aquatic species, including Chinook salmon, hardhead, Kern brook lamprey, Pacific lamprey, Sacramento hitch, steelhead, western river lamprey, sacramento sucker (*Catostomus occidentalis*), Sacramento pikeminnow (*Ptycocheilus grandis*), threespine stickleback (*Gasterosteus aculeatus*), as well as species of sculpin (*Cottus sp.*) have the potential to utilize the habitats directly adjacent to the Project site over the life of the Project. CDFW is concerned that the proximity of Project activities to the San Joaquin River and adjacent

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riparian habitat, particularly the blasting and mining activities associated with the Quarry Site, are likely to result in potentially significant impacts to aquatic species, particularly if slope failure were to occur at the Quarry Site or the natural berms and levees surrounding the Project site were to fail from high flows or unforeseen climatic conditions. In addition, unanticipated rock fractures could provide more hydrologic connection of the mining pit to the San Joaquin River than assumed in the DEIR, which could deep pit capture by the San Joaquin River and associated modification to San Joaquin River subsurface and subsurface flows. As such, CDFW has the following comments and recommendations:

San Joaquin River Floodplain

While the DEIR notes that the Plant Site and Quarry Site are not located within the modeled 100-year floodplain of the San Joaquin River, the river is not in direct hydraulic communication with the weathered and hard rock at the Quarry Site, and that dewatering of the deeper geologic units associated with the Quarry Site Project activities would not be expected to affect the quantity of the water within the river, CDFW would like to highlight there is extensive amount of uncertainty with these statements, particularly due to the difficulty in attempting to evaluate and analyze potential changes to the surrounding areas over time (e.g., changes in topography, rainfall amounts, etc.), particularly from high flows and/or increasingly extreme weather events associated with climate change. CDFW would also like to note that portions of the Project site are still located within the rivers historic floodplain and is potentially still connected to the San Joaquin River via subsurface flow and at times, potentially overland flow, when large flood flow events occur. CDFW would also like to note that the 20th century levee construction does not cut off the historic plain from local watershed processes.

The San Joaquin River flow/stage is the local control for the shallow groundwater table elevation. This San Joaquin River's influence on the groundwater table extends laterally away from the river into the historic floodplain's subsurface which is predominantly composed of alluvial (sand, gravel, and cobble) deposits. These sediments are found to cap local bedrock in some areas. The extraction or pumping of groundwater within the historic or present-day floodplain adjacent to the San Joaquin River, would influence river and hyporheic flow, and shallow groundwater elevations. Excavation or pumping below the groundwater table elevation within the floodplain would cause a local cone of depression that would draw down the groundwater table elevation. This would create a gradient that would pull water from the San Joaquin River and its subsurface, known as a losing stream. This would have the potential to have a significant impact to the San Joaquin River watershed and the success of the SJRRP.

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Levee Overtopping/Levee Failure

Friant Dam flood releases can occur in winter and spring. These flows have the potential to overtop or laterally incise levees, natural or constructed. Given the proposed Project's 100-year lifespan, it is critical that more dynamic language be incorporated into the DEIR to account for potential changes to the surrounding areas over time and potential for levee overtopping or failure. CDFW is concerned that flood releases, coupled with the potential for increased extreme flow events due to climate change, could jeopardize the integrity of the natural berms and levees surrounding the Project site, and that breaching of these barriers by high flows could result in long-term impacts to San Joaquin River fisheries and nearby restoration projects. As natural systems are inherently dynamic, it is essential to consider all potential scenarios for a Project with such an extended duration. Coordination with CDFW and other relevant agencies is strongly recommended to develop adaptive language that minimizes the potential long-term impacts of the Project.

Water Temperatures/Water Quality

Suitable San Joaquin River temperatures are essential for the success in restoring the river and for the goals associated with the SJRRP. In general, San Joaquin River temperatures increase as water flows downstream from Friant Dam except for the coldest months in late fall and early winter. The reduction of flow traveling downstream, by a surface or subsurface diversion associated with mining pit capture would increase this dynamic and cause the San Joaquin River to warm sooner and at a faster rate. This can cause lethal/sub-lethal conditions for salmon and other fishes. Water found within the historic San Joaquin River floodplain, surface and subsurface, would have different water quality and temperatures than San Joaquin River surface flow. While the DEIR notes that groundwater and onsite water associated with the mining activities would remain on the Project site for percolation into the groundwater aquifer, CDFW would like to reiterate that any surface or subsurface flow of water from the Project site would have the potential to warm the San Joaquin River and cause water quality issues that can result in lethal/sub-lethal conditions for fishes and potentially hinder SJRRP's efforts.

Rock Blasting and Impacts to Chinook Salmon

The San Joaquin River, from Friant Dam to Little Dry Creek, is the primary spring-run Chinook salmon over-summer holding, spawning, and incubation reach for the SJRRP based on river temperatures, streambed substrate, and flows. The Project is immediately adjacent to this important reach that supports these critical phases of salmon life history. Rock blasting adjacent to the San Joaquin River would likely cause physical vibrations laterally within the floodplain and into the riverine environment, may have significant impacts on the behavior of salmon adults with over-summer holding

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(April to September), habitat spawning selection (September to mid-November), and the incubation of alevin/fry (September - March). While the DEIR evaluates potential blasting impacts to salmonids and concludes that blasting activities would be below a significant harm threshold identified by the Alaska Department of Fish and Game, CDFW would like to note that in addition to direct mortality and harm, rock blasting may cause an avoidant behavior in salmon. If blasting were to cause avoidant behavior, blasting activities could act as a behavioral barrier blocking salmon from entering and occupying suitable holding and spawning habitat located near and upstream of the Project. In addition, physical vibrations rock blasting could result in premature emergence on alevin/fry from the redd incubation environment. Juveniles emerging too early result in poor survival from their inability to navigate flows, avoid entrainment, and successfully escape predators. Due to the complexity of trying to determine behavioral thresholds to fish salmon from the proposed blasting activities, CDFW reiterates the recommendation that the Project be modified to an environmentally superior alternative, and that Project activities be adjusted to site blasting and excavation (i.e., activities associated with the Quarry Site) further away from the San Joaquin River and the river's associated habitats. In addition to this general recommendation, CDFW recommends the following:

Recommended Mitigation Measure 15: Chinook Salmon Consultation

It is recommended the Project proponent consult with CDFW to determine how to minimize and mitigate impacts to juvenile salmon utilization of the San Joaquin River from rock blasting.

Blasting Protocols

Mitigation measure 4.10-1 of the DEIR requires implementation of the *Blasting Protocols* which specifies that blasting must begin at the center of the Quarry site and that monitoring of ground borne vibration can occur and be used to verify that predicted maximum ground vibrations are consistent with actual ground vibration measurements and allow for adjustments in blasting design to occur based on the monitoring results. CDFW is concerned that the blasting protocols may have unforeseen impacts to aquatic species and recommends having a biological monitor visually observe blasting activities adjacent to the San Joaquin River to look for signs of impacts to species (e.g. unusual behavior, mortality).

Editorial Comments and/or Suggestions

Blasting Impacts: Within the DEIR, noise significance thresholds are discussed. However, these thresholds primarily focus on impacts related to salmon, as detailed in the DEIR section "Effects of Nearby Blasting on Salmon in the San Joaquin River," and do not address potential impacts on other animal species. CDFW strongly recommends

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a comprehensive evaluation of the potential effects of acoustic and vibration impacts from the proposed blasting, particularly in relation to impacts to special-status species listed in previous sections of this letter. Furthermore, relevant thresholds or evaluation criteria should be established to minimize these effects and ensure the protection of wildlife in the surrounding areas.

Reclamation Plans: The DEIR, on page 148, states that at the Plant Site, “It is estimated that an approximately 100.5-acre, 20-foot-deep pond would form above the reclaimed bottom from groundwater and rainfall.” The Project proposes that, upon completion, the Plant Site would be converted into an open water habitat or lake with a relatively uniform bottom elevation and a depth of approximately 20 feet, which offers limited benefit to wildlife. CDFW recommends placing overburden and fines at the bottom of the pit to create topographic complexity, ensuring the formation of dry islands, peninsulas, and variable water depths. This more naturalistic approach would enhance the site’s suitability for wildlife use. As an example, CDFW suggests that the reclamation plan reference sites such as Ball Ranch (coordinates: 36.936284°, -119.736811° and 36.857447°, -119.834031°).

Overall, CDFW does not concur with the proposed reclamation plan. CDFW recommends the development of a more comprehensive reclamation plan in collaboration with relevant agencies. Given that the Project is anticipated to be completed over a 100-year timeframe, it is essential to create a detailed reclamation plan that incorporates dynamic language, allowing for flexibility to accommodate potential changes over time.

Quarry Site Groundwater Adaptive Management Program: Mitigation Measure 4.10-10a of the DEIR states, “To assess any potential effect on the CSA 44C wells due to the proposed excavation of a hard rock quarry pit at the Quarry Site, monitoring shall be conducted in the nested set of wells between the Northeast Pond and the CSA 44C wells, and in the CSA 44C wells themselves.” CDFW is concerned that monitoring at only one of the two well clusters near the San Joaquin River may not fully represent conditions along the entire boundary.

CDFW recommends the following:

1. Add pressure transducer monitoring to the MW-2 well cluster, located in the alluvium and weathered rock, to establish baseline conditions and evaluate potential impacts (MW-1 is already included and contains applicable thresholds and actions for MW-2).
2. Conduct further investigation into the elevation of the contact between the alluvium and weathered rock in relation to the adjacent channel bed and stream stage along the mine boundary shared with the San Joaquin River. This data

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should be used to refine the adaptive management program concerning potential streamflow depletion.

Sustainable Groundwater Management Act (SGMA), Interconnected Surface Waters, and Groundwater Dependent Ecosystems: Groundwater Sustainability Plans were prepared for the Kings Subbasin. The Kings Subbasin (Subbasin No. 5-022.08 of the San Joaquin Valley Groundwater Basin) is designated as a high priority Subbasin by the Department of Water Resources (DWR). SGMA defines sustainable groundwater management as, “management and use of groundwater in a manner that can be maintained during the planning and implementation horizon without causing undesirable results (Water Code, § 10721 (v)).” CDFW recommends that the DEIR include an analysis of Project-related activities in relation to the North Kings Groundwater Sustainability Plan, including analysis of potential undesirable results and adverse impacts to groundwater dependent ecosystems including the biological resources listed above.

CDFW recommends a hydrologic study or other information that identifies and analyzes the impacts to the aquatic ecosystems and fisheries of the San Joaquin River that may result from Project implementation. CDFW recommends that it include specific triggers for evaluating changes to surface and ground water levels and monitoring wetland and riparian habitats that would be affected by these changes.

Water Rights: The Project description allows for the diversion and storage of surface water for Project activities. As stated previously, the capture of stream flows is subject to appropriation and approval by the SWRCB pursuant to Water Code section 1200 et seq. CDFW recommends that the DEIR includes a detailed description of the water rights and water entitlements that would pertain specifically to the Project and address any applications or change petitions that may be filed. CDFW, as Trustee Agency, is consulted by the SWRCB during the water rights process to provide terms and conditions designed to protect fish and wildlife prior to appropriation of the State’s water resources. Given the potential for impacts to special-status species and their habitats, it is advised that required consultation with CDFW occur well in advance of the SWRCB water right application process.

Nesting birds: CDFW encourages that Project ground-disturbing and blasting activities occur during the bird non-nesting season; however, if ground or vegetation disturbing or blasting activities must occur during the nesting season (February 1st through September 15th), the Project applicant is responsible for ensuring that implementation of the Project does not result in violation of the Migratory Bird Treaty Act or relevant Fish and Game Code sections as referenced above.

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CDFW further recommends that the DEIR include that a qualified biologist conduct a pre-construction survey for active nests no more than three days prior to the start of ground or vegetation disturbance or blasting activities to maximize the probability that nests that could potentially be impacted are detected. CDFW also recommends that surveys cover a sufficient area around the Project site to identify nests and determine their status. A sufficient area means any area potentially affected, either directly or indirectly, by the Project. In addition to direct impacts (i.e., nest destruction), noise, vibration, and movement of workers or equipment could also affect nests. CDFW recommends that a qualified biologist establish a behavioral baseline of all identified nests. Once Project activities begin, CDFW recommends having a qualified biologist continuously monitor nests to detect behavioral changes resulting from the Project. If behavioral changes occur, CDFW recommends halting the work causing that change and consulting with CDFW for additional avoidance and minimization measures.

If continuous monitoring of identified nests by a qualified biologist is not feasible, CDFW recommends a minimum no-disturbance buffer of 300 feet around active nests of non-listed bird species and a 500-foot no-disturbance buffer around active nests of non-listed raptors. These buffers are advised to remain in place until the breeding season has ended or until a qualified biologist has determined the birds have fledged and are no longer reliant upon the nest or on-site parental care for survival. Variance from these no-disturbance buffers is possible when there is a compelling biological or ecological reason to do so. CDFW recommends that a qualified wildlife biologist advise and support any variance from these buffers and notify CDFW in advance of implementing a variance.

CNDDDB Positive Submission of Data: Please note that the California Natural Diversity Database (CNDDDB) is populated by and records voluntary submissions of species detections. As a result, species may be present in locations not depicted in the CNDDDB but where there are suitable habitats and features capable of supporting species. A lack of an occurrence record in the CNDDDB does not mean a species is not present. In order to adequately assess any potential Project-related impacts to biological resources, surveys conducted by a qualified wildlife biologist/botanist during the appropriate survey period(s) and using the appropriate protocol survey methodology are warranted in order to determine whether or not any special-status species are present at or near the Project site.

Adjacent State Protected Lands: As mentioned above, the Willow Unit of CDFW's San Joaquin River Ecological Reserve (SJRES) surrounds the Project site on three sides (the fourth side being Friant Road). A portion of the Plant Site acreage has encroached upon property owned by the State of California (both CDFW and the San Joaquin River Conservancy). This encroachment outside of lands now owned by Cemex was a condition present at the time of CDFW's acquisition of the Willow Unit

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from the Ball Family. However, the condition was to be remedied within a certain timeframe of purchase but the intended retraction and restoration of the State-owned acreage never occurred. Cemex and CDFW have had preliminary discussions about this issue, which could be resolved with a property exchange and parcel boundary adjustment, but final resolution will be needed prior to **any** expanded activities at the Plant Site.

Additionally, the Quarry Site borders Lost Lake Recreation Area. CDFW would like to note that Lost Lake Park not only is State-owned land, but the lands are under an expired lease with Fresno County. Both these CDFW lands provide habitat for several State and federally listed special-status species.

In addition to consultation with CDFW regional staff, CDFW recommends consultation with CDFW's Regional Ecological Reserve Management Unit staff well in advance of Project initiation to demonstrate accurate delineation of property boundaries to prevent inadvertent encroachment on CDFW owned lands. Consultation is also recommended to discuss planned ingress and egress to the Project site for the purposes of avoiding impacts on CDFW-owned lands, which is prohibited by Title 14 California Code of Regulations § 630. Please contact John Battistoni, Regional Ecological Reserve Management Unit Supervisor, at the address on the letterhead above or via email at John.Battistoni@wildlife.ca.gov.

Lake and Streambed Alteration: Project activities that substantially change the bed, bank, and channel of any river, stream, or lake are subject to CDFW's regulatory authority pursuant Fish and Game Code section 1600 et seq. Fish and Game Code section 1602 requires an entity to notify CDFW prior to commencing any activity that may (a) substantially divert or obstruct the natural flow of any river, stream, or lake; (b) substantially change or use any material from the bed, bank, or channel of any river, stream, or lake (including the removal of riparian vegetation); (c) deposit debris, waste or other materials that could pass into any river, stream, or lake. "Any river, stream, or lake" includes those that are ephemeral or intermittent as well as those that are perennial and may include those that are highly modified such as canals and retention basins.

CDFW is required to comply with CEQA in the issuance of a Lake or Streambed Alteration Agreement (LSAA); therefore, if the CEQA document approved for the Project does not adequately describe the Project and its impacts to lakes or streams, a subsequent CEQA analysis may be necessary for LSAA issuance. For information on notification requirements, please refer to CDFW's website (<https://wildlife.ca.gov/Conservation/LSA>) or contact CDFW staff in the Central Region Lake and Streambed Alteration Program at (559) 243-4593.

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Cumulative Impacts: Currently, the DEIR has a very broad analysis of cumulative impacts to biological resources and does not adequately evaluate impacts to specific resources. As such, the conclusions reached in the cumulative impacts analysis are not supported by substantial evidence and the analysis lacks sufficient rigor and transparency to adequately develop reasonable and feasible measures to reduce harm. To address this lack of evidence, CDFW recommends that a cumulative impact analysis be conducted for all biological resources that will either be significantly or potentially significantly impacted by implementation of the Project, including those whose impacts are determined to be less than significant with mitigation incorporated or for those resources that are rare or in poor or declining health and will be impacted by the Project, even if those impacts are relatively small (i.e., less than significant). CDFW recommends cumulative impacts be analyzed for the following species using an acceptable methodology to evaluate the impacts of past, present, and reasonably foreseeable future projects on resources and be focused specifically on the resource, not the Project. An appropriate resource study area should be identified and mapped for each resource being analyzed and utilized for this analysis. CDFW staff is available for consultation in support of cumulative impacts analyses as a trustee and responsible agency under CEQA.

Environmental Data

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations. (Pub. Resources Code, Section 21003, subd. (e).) Accordingly, please report any special-status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDDB). The CNDDDB field survey form can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The completed form can be mailed electronically to CNDDDB at the following email address: CNDDDB@wildlife.ca.gov. The types of information reported to CNDDDB can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

Filing Fees

The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required in order for the underlying Project approval to be operative, vested, and final. (Cal. Code Regs, tit. 14, Section 753.5; Fish & G. Code, Section 711.4; Pub. Resources Code, Section 21089.)

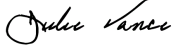
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CONCLUSION

CDFW appreciates the opportunity to comment on the DEIR to assist Fresno County in identifying and mitigating Project impacts on biological resources.

More information on survey and monitoring protocols for sensitive species can be found at CDFW's website (<https://www.wildlife.ca.gov/Conservation/Survey-Protocols>). Please see the enclosed Mitigation Monitoring and Reporting Program (MMRP) table which corresponds with recommended mitigation measures in this comment letter. Questions regarding this letter or further coordination should be directed to Evelyn Barajas-Perez, Environmental Scientist, at (805) 503-5738 or Evelyn.Barajas-Perez@Wildlife.ca.gov.

Sincerely,

DocuSigned by:

FA83F09FE08945A...

Julie A. Vance
Regional Manager

ATTACHMENT

ec: United States Fish and Wildlife Service
Justin Sloan/ Justin_Sloan@fws.gov

CDFW LSA/1600/ R4LSA@wildlife.ca.gov
CDFW CESA/ R4CESA@wildlife.ca.gov

State Clearinghouse
Governor's Office of Planning and Research
State.Clearinghouse@opr.ca.gov

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REFERENCES

- California Department of Fish and Wildlife. 2010. Bald eagle breeding survey instructions. California Department of Fish and Wildlife, Sacramento, California, USA.
- California Department of Fish and Game. 2012. Staff report on burrowing owl mitigation. California Department of Fish and Game, Sacramento, California, USA.
- California Department of Fish and Wildlife. 2015. Staff guidance regarding avoidance of impacts to tricolored blackbird breeding colonies on agricultural fields in 2015. Sacramento, California, USA.
- California Department of Fish and Wildlife. 2023. Survey considerations for California Endangered Species Act (CESA) candidate bumble bee species. Sacramento, California, USA.
- Swainson's Hawk Technical Advisory Committee. 2000. Recommended timing and methodology for Swainson's hawk nesting surveys in California's Central Valley. Swainson's Hawk Technical Advisory Committee.

Attachment 1

**CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
RECOMMENDED MITIGATION MONITORING AND REPORTING PROGRAM
(MMRP)**

PROJECT: CEMEX Rockfield Quarry Modification Project

SCH No.: 2020060123

RECOMMENDED MITIGATION MEASURE	STATUS/DATE/INITIALS
<i>Before Disturbing Soil or Vegetation</i>	
Fully Protected Raptors	
Recommended Mitigation Measure 1: Fully protected raptor Surveys	
SWHA	
Recommended Mitigation Measure 3: SWHA surveys	
Recommended Mitigation Measure 5: SWHA take authorization	
BUOW	
Recommended Mitigation Measure 6: BUOW surveys	
Recommended Mitigation Measure 8: BUOW take authorization	
TRBL	
Recommended Mitigation Measure 9: TRBL surveys	
Recommended Mitigation Measure 11: TRBL take authorization	
CBB	
Recommended Mitigation Measure 12: CBB surveys	
Recommended Mitigation Measure 14: CBB take authorization	
Chinook Salmon	
Recommended Mitigation Measure 15: Chinook salmon consultation	
<i>During Construction</i>	
Fully Protected Raptors	
Recommended Mitigation Measure 2: Fully protected raptors avoidance buffer	
SWHA	
Recommended Mitigation Measure 4: SWHA avoidance buffer	
BUOW	
Recommended Mitigation Measure 8: BUOW avoidance buffer	
TRBL	

Recommended Mitigation Measure 10: TRBL avoidance buffer	
CBB	
Recommended Mitigation Measure 13: CBB avoidance buffer	