Tucker Ellis | LLP

2211 Michelson Drive, Suite 1100 | Irvine, CA 92612 | TEL 949.622.2600

March 10, 2025 | douglas.hedenkamp@tuckerellis.com

**VIA EMAIL**

Mr. David Randall
Senior Planner
DRandall@FresnoCountyCA.gov
Fresno County Public Works and Planning Department
Development Services and Capitol Project Division
2220 Tulare St., 6th Floor
Fresno, California 93721

Re: Draft Environmental Impact Report SCH #2020060123, EIR No. 7763 (Draft EIR) For the Proposed Unclassified Conditional Use Permit Application Nos. 3666 and 3667, CEMEX Rockfield Quarry Project

Mr. Randall:

I represent the City of Fresno, and I write to submit the following comments on the Draft EIR for the CEMEX Rockfield Quarry Project (the "Draft EIR"). As set forth below, the City has identified several procedural and substantive deficiencies that preclude certification of the Draft EIR in its present form.

Chief among the substantive deficiencies is: (1) the Draft EIR's failure to consider the physical impacts of increased hauling by heavy trucks over North Friant Road by shifting truck traffic from the other aggregate mines listed on page 4.17-20 of the EIR to the CEMEX Rockfield Quarry Site and Plant Site (collectively, the "Project"), (2) failure to consider the cumulative impacts of the Project and these other aggregate mines in the cumulative impacts section, despite using these other mines to effectively erase the transportation impacts from the Project, and despite noting that, taken together, these projects will result in an increase of over 3,000,000 annual VMTs by Stage 2 of the Project (3) failure to discuss impacts to water quality, such as the potential alteration to groundwater flow as a result of continuous dewatering during mining operations below the existing groundwater level, mobilization of naturally occurring constiutents, such as arsenic, iron, lead, and manganese into the ground water (these hydrology and water quality impacts and improved mitigation measures to address them are discussed in more detail in the letter dated March 3, 2025 from the City of Fresno Department of Public Utilities to David Randall, Fresno County Public Works and Planning Department, a copy of which is attached as Exhibit 1 hereto).

Chief among the procedural deficiencies is the fact that the Project described in the Draft EIR includes portions of APNs 300-070-43ST, 48ST, and 50ST, which are not included in the applications for Conditional Use Permits 3666 and 3667, and were not listed in the Notice of Preparation ("NOP"), Notice of Completion ("NOC") or Notice of Availability ("NOA").

These and other deficiencies are discussed below in the order in which they appear.

**1. Project Application**

The land use application for Conditional Use Permit 3666, which applies to the Plant Site, is incomplete and does not meet the requirements of the Fresno County Zoning Code 838.5.060, because it contains no reference to the land owned by the California Department of Fish and Wildlife (the "CDFW") referred to on page 2-2 of the EIR's Project Description as portions of APNs 300-070-43ST, 48ST, and 50ST (the "CDFW Property"). If that land is to be included in the Project, it must be listed in the Conditional Use Permit application, and an Authorization of Agent to Act on Behalf of Property Owner must be filed with Fresno County (the "County"). Accordingly, the application is incomplete based on the Draft EIR's Project Description.

**2. Notice of Preparation**

The NOP for the EIR was dated June 3, 2020 and posted on June 5, 2020 as SCH No. 2020060123. That NOP is not valid for the EIR, because the project description included in the NOP lists the Plant Site as "Assessor Parcel Numbers (APNs) 300-070-56S, 57S, 58S, 59S, & 60S," and does not identify the CDFW Property as part of the Plant Site, unlike the Project Description in the EIR. (*Compare* NOP, Attachment A at p. 1, *with* EIR at p. 2-2.)

The Plant Site Aerial included in the NOP also omits the CDFW Property, and is inconsistent with the Aerial depicted in the EIR. (*Compare* NOP, Figure 2 *with* EIR, Figures 2-1 and 2-6.) Project Description/Operational Statement, Appendix B-2, states on page 14 that the CDFW Property is already currently being utilized as part of the Plant Site for mining operations, so this state-owned land should have been identified in the NOP.

This is a significant omission because the NOP was sent to the State Clearinghouse, pursuant to the CEQA Guidelines (California Code of Regulations, Title 14, Section 15000-15387) for mandatory notice to the following reviewing agencies:

> California Air Resources Board (ARB), California Department of Conservation (DOC), California Department of Parks and Recreation, California Department of Resources Recycling and Recovery, California Department of Transportation, District 6 (DOT), California Department of Water Resources (DWR), California Governor's Office of Emergency Services (OES), California Natural Resources Agency, California Regional Water Quality Control Board, Central Valley Fresno Region 5 (RWQCB), California San Joaquin River Conservancy (SJRC), California State Lands Commission (SLC), Central Valley Flood Protection Board, Delta Stewardship Council, Office of Historic Preservation, State Water Resources Control Board, Division of Water Quality, California Native American Heritage Commission (NAHC), California Department of Fish and Wildlife, Central Region 4 (CDFW)

When the NOP was distributed to the reviewing agencies, those agencies, and CDFW in particular, should have been provided notice that CDFW property was being considered as part of the Project in the EIR.

The project description in the NOP also fails to adequately describe the true expansive nature of the Project, which it merely describes as allowing "the Rockfield Quarry a continuation and modification of its current aggregate (rock, sand, and gravel) mining and processing operations." (NOP, Attachment A at p. 1.) The project description does not adequately identify as significant new land uses activities such as significantly increasing the mining depth to 600 feet below grade that requires hard rock blasting adjacent to the San Joaquin River, public parks, camping sites, adding a material recycling of concrete and asphalt concrete, adding on-site sales of materials to the public, resuming aggregate mining at the Plant Site and adding a large hot-mix asphalt plant. The Project results in reduced setbacks and buffers and other project features that were previously required by the Previous CUPs.

**3. Notice of Completion**

The Notice of Completion dated July 6, 2020, (NOC) is not valid for the proposed Draft EIR. As with the NOP, filed one month earlier, the NOC was sent to the same agencies with the same incorrect project location, incorrect project description and including Figure 1 and 2 that do not show the CDFW Property that is included in the Draft EIR.

Only two letters were received by the State Clearinghouse on the NOP, California Department of Fish and Wildlife (CDFW) and Native American Heritage Commission (NAHC). CDFW submitted a letter dated July 6, 2020, that states the CDFW is submitting comments as a Responsible Agency, a permitting agency. However, since the Draft EIR also includes the CDFW Property, it should have been given notice that it is actually an owner of part of the Project, in which case its comments could have addressed more than its interest merely as a permitting agency.

**4. Notice of Availability**

The "Reissued Notice of Availability of a Draft Environmental Impact Report (EIR) for the proposed modification to the existing CEMEX Rockfield Quarry (EIR No. 7763 and Unclassified Conditional Use Permit Application Nos. 3666 and 3667)" (the "NOA") for the Draft EIR is posted on the County of Fresno website.

NOA's are typically posted at the Project Site, mailed to adjacent landowners, interested parties and posted at the County of Fresno administrative offices. Public involvement is one of the fundamental objectives of CEQA. Thus, adequate notification to the public of the availability of a Draft EIR is important in achieving this objective (CEQA Guideline §15201, Public Resources Code §21083 and 21087).

As with the NOP and NOC, the NOA merely describes the proposed Project as a "continuation and modification of its current aggregate (rock, sand and gravel) mining and processing operations," and fails to describe the vastly expanded operations that would be allowed under the Project. Like the NOP, the NOA omits the APN numbers for the CDFW Property.

The County of Fresno has failed to comply with the requirements of CEQA and State Law with incorrect and misleading public notices. The proposed Project needs to be correctly noticed and recirculated in order for State and Federal agencies, interested parties and the general public to determine their interest in the proposed Project.

**5. Draft Environmental Impact Report No. 7763 SCH# 2020060123**

**Chapter 1**, Introduction and **Chapter 2**, Executive Summary need to be revised to reflect the significant revisions to Draft EIR.

**a. Chapter 2: Project Description**

The Draft EIR project description is insufficient and inaccurate in describing the proposed Project and does not comply with CEQA Guidelines and CEQA regulations. The Draft EIR project description is inconsistent with the Project Description/Operational Statement (Appendix B-2) that is part of the Surface Mining Reclamation Plan (Appendix B-1). The Draft EIR needs to be revised and recirculated.

**i. <u>Project Location</u>**

CEQA §15124, Project Description, lists the required information needed to evaluate and review the environmental impacts of the proposed Project. CEQA §15124(a) states:

> The precise location and boundaries of the proposed project shall be shown on a detailed map, preferably topographic. The location of the project shall also appear on a regional map.

The Draft EIR fails to comply with CEQA §15124(a) because the Project Location is both internally inconsistent within the Draft EIR, and inconsistent with the applicable Project CUP applications, which do not include the CDFW Property.

Within the Draft EIR, Figure 1-1 (Regional Location) and Figure 1-2 (Site Location) do not include the whole of the action which has the potential for resulting in either direct physical change in the environment or the reasonably foreseeable indirect physical change in the environment (CEQA Guidelines §15379(a); Public Resources Code §21065). Figures 1-1 and 1-2 do not appear to include the CDFW Property (APNs 300-070-43ST, 48ST and 50ST).

Draft EIR section 2.2.1, Project Location, states that the "12.9 acres owned by the [sic] California Department of Fish and Wildlife" is included in the 138.5-acre Plant Site and is currently used by the Applicant for current mining operations. The Draft EIR states:

> This Draft EIR assumes that CDFW will permit CDFW to continue to be used for mining and processing operations under the proposed project. Therefore, this 12.9-acre area is included in the 138.5-acre Plant Site.

However, the Draft EIR depicts the location of the Project, particularly the land owned by the State of California, inconsistently or not at all in the Draft EIR and therefore, does not disclose and analyze the significant environmental impacts of the whole project.

Moreover, Conditional Use Permit 3577-A, to extend operational time limit from July 28, 2023 to July 28, 2027 does not include the land identified as "portions of APNs 300-070-43ST, 48ST and 50ST." Exhibit 2 of CUP 3755, Location Map, depicts the Plant Site as located on APNs 300-070-56S, 57S, 58S, 59S and 60S and consists of approximately 122 acres. APNs 300-070-56S, 57S, 58S, 59S and 60S total to 121.94 acres.

**ii. Plant Site Aggregate Mining**

The Project Description/Operational Statement (Appendix B-2) state on page 2 that "At the Plant Site, mining of the alluvial deposit will resume…." Therefore, aggregate mining that occurred in the past cannot be considered a part of the baseline conditions and needs to be treated as a new and unapproved land use pursuant to Fresno County Zoning Code Section 868.6.020, Expiration. Section 868.6.020A.1.c. states:

> If there is a cessation in the occupancy or use of land or structure(s) authorized by the permit or approval for a period in excess of two years, the permit or approval shall expire and be deemed void.

Aggregate mining is a use of land, such as the concrete plant or asphalt plant. If there is cessation of a particular approved land use in a conditional use permit for more than two years, the land use permit expires. The Draft EIR needs to be revised and recirculated to eliminate previous aggregate mining environmental impacts on the Plant Site from the baseline as existing conditions.

**iii. Section 2.4.8 Current Operating Entitlements and Vested Rights.**

The Project Description fails to adequately describe the current operating entitlements and vested rights, because it fails to describe the approved Site Plans and Rehabilitation Plans that were imposed as conditions on the existing CUPs. This leads to omitted and misleading information regarding the restrictions on the current site operations.

For example, in Table 2-1, Rockfield Modification Project Characteristics, the Draft EIR incorrectly states there is no maximum mining depth under the existing CUPs for the Plant and Quarry Sites. To the contrary, Condition No. 21 to CUP 2032 for the Quarry Site required the submission and approval of a Site Plan Review, which would have established the maximum depth of excavation, most likely at 45'. The parameters of the approved Site Plan Review, which are a condition of approval, should be disclosed. The Staff Report for CUP 2032 states that "The applicant estimates groundwater depth to be 20 feet and is proposing to excavate to a depth of 45 feet." (Staff Report, § C; *see also* City of Fresno Department of Public Utilities, Exhibit 1 hereto, for further commentary on hydrology and the impacts of deeper mining.) The Mining Plan attached to the Staff Report shows the "Maximum Excavation Depth" to be 45'.

Similar Site Plan Review requirements are set forth in CUP 367, though there is no indication of maximum depth in the CUP itself. (CUP 367, Area A Condition No. 24, Area B Condition No. 10.) Nevertheless, since mining stopped at 32 feet bgs (Draft EIR 2-29), it seems likely that a similar limit is present in the current Site Plan. Since these Site Plans are part of the express conditions on the existing CUPs, they should be disclosed in the Draft EIR.

Similarly, both CUPs required the submission and approval of rehabilitation plans. (CUP 2032, Condition 13; CUP 367, Area A Condition 18, Area B Condition 11.) These plans may include requirements that are inconsistent with the depths proposed for the Project in the Draft EIR. Other requirements in the current rehabilitation plans may be inconsistent with the Project, thereby leading to other potential impacts from the Project. Accordingly, the terms of the existing rehabilitation plans should be disclosed in section 2.4.8.

In addition, section 2.4.8 states that the Operations at the Rockfield Quarry are currently governed by and vested under CUPs 367, 2032, 2209, 3063, and 3093. However, this is only partially true. As disclosed on page 2-8, there are currently no mining operations on the Plant Site. Accordingly, there is no longer any vested right to "continue" mining on the Plant Site.

Moreover, vested rights under SMARA are limited to mining of areas that were "'clearly intended'" to be excavated—as measured by objective manifestations, not subjective intent" when the vested rights were first triggered. (*Calvert v. County of Yuba* (2006) 145 Cal.App.4th 613, 625.) Accordingly, the vested rights do not cover any expansion of the area allowed to be mined. The area intended to be mined at the time of the CUPs is delineated on the Site Plans that were required to be approved before mining commenced. Accordingly, once again, the bounds of mining disclosed in the Site Plans must be disclosed in the Project Description.

**iv. <u>Stockpiling</u>**

Table 2-1, Rockfield Modification Project Characteristics, indicates that the Project will mine and process 3.3 MT of aggregate per year, but sell 3.0 MT per year. It appears the excess 0.3 MT per year of waste/fines will be stockpiled until the sites are reclaimed at the end of mining. The Draft EIR needs to identify the amount of sand/fines and mine waste that is existing on site and stockpiled in berms to understand the impact of adding additional sand/fines and mine waste.

In Appendix B-1, page 57, Paragraph 4.4.23 states the Plant Site will use the fines, tailings and other mining waste to reclaim the bottom 20 feet of the excavation. The Quarry Site will deposit the fines, tailing and mining waste in the bottom of the excavation. The Plant Site will not be reclaimed for 30 years, and the Quarry Site will not be reclaimed for 100. This will amount to 30 MT stockpiled until reclamation or 551 acres of sand and mine waste at 25 feet in height. The Draft EIR needs to detail how the waste/fines will be stockpiled, the amount, maximum height and duration of stockpiling on each site before final reclamation, identify the significant environmental impacts associated with large numerous stockpiles and provide meaningful mitigation. Stockpiling mitigation should include:

- Limiting stockpiles height to 25 feet to prevent visibility from the surrounding properties and public roads

- Covering the sand and mine waste with impermeable material to prevent blowing sand and dust

- Limiting the amount of stockpiled material to 1MT at any one time (1MT at 25 feet in height results in 18.36 acres of stockpiled material) The Project is required to export from the Project Site any material over 1 MT.

**v. Project Life**

Table 2-1 indicates the proposed project life of 30 years for the Plant Site and 100 years for the Quarry Site. As stated above, surface mining by its very nature is a finite and temporary land use. State and local regulations require a reclamation plan as part of the permit. The Draft EIR uses models to predict future conditions under which the Project will operate to identify the significant environmental conditions and mitigation of the Project's environmental impacts. No analysis provided in the Draft EIR can model conditions or determine the Project's environmental impact on the area and region 30 years out, let alone 100 years in the future. The Draft EIR will become obsolete in identifying significant environmental impacts and mitigation for those impacts many years before the end of the Project Life. The Project Life should be reduced to the lowest modeling limitations presented in the Draft EIR.

**vi. Figures 2-1 And 2-2 Aerials**

Figure 2-1 incorrectly shows the "CUP Boundary" as including the CDFW Property. As noted above, the CUP applications do not include the CDFW Property. Figure 2-1 should be corrected to show the actual CUP boundary. Figure 2-2 is not legible to determine the "Existing CUP Boundary." Figure 2-2 needs to be corrected to clearly show the existing and proposed project boundary.

**vii. Existing Setbacks**

The existing setbacks stated on Page 2-15 are not consistent with the existing CUPs and approved project features and need to be corrected to provide accurate information to determine the significant environmental impacts of the Project as detailed below. The existing CUPs are described as and have the following conditions of approval concerning what conditions of approval and project design features apply:

> Fresno County Resolution No. 11848 (CUP 3093 and 3094) Condition 1 states: "All conditions of Conditional Use Permits Nos. 367,2032, 2235, 2241 3063 and 3064 shall remain in full force and effect except as modified by the condition below."

> Fresno County Resolution 11776 (CUP 3063 and 3064) Condition 1 states: "All conditions of Conditional Use Permits Nos. 367,2032, 2235, 2241 shall remain in full force and effect except as modified by the condition below."

On Page 2-16 the Draft EIR states: "1) No stockpiled soil or materials placed closer than 25 feet from any property boundary except visual/sound berms." This is an incomplete description of the intent of the previous approved CUPs. Condition 3 of CUP 367 for the Plant Site states:

> Except for the main sand pile, the height of the material stockpiles shall not exceed 25 feet unless the Permittee is able to satisfy County that it will plant landscaping which will, within five (5) years of planting, effectively screen such stockpiles from view from Friant Road.

On page 2-18 of the Draft EIR states: the setback for the Quarry Site is a 200-foot mining setback from the river edge. However, Condition No.15 of CUP 2032 expands that and states:

> All excavation operations, including stockpiling, shall be set back a minimum of 200 feet from the existing San Joaquin River Channel. Riparian vegetation shall not be disturbed.

The setback from San Joaquin River is a project feature of CUP 2032 and is more precisely identified in the Mining Plan cross section attached to the CUP (a copy of which is attached hereto as Exhibit 3), which identifies the approved plan's setback from the San Joaquin River as:

> 200' Setback from existing stream channel or 20' setback from the reclamation board's existing designated floodway, whichever is further from the river bank.

Figure 4.10-1 depicts the current and regulatory floodways and floodplains for the Project Sites. However, the Plant Site does not include the Project's area owned by the State of California. The Draft EIR should include a map showing the setback line as required by the Previous CUPs in order to analyze the impact of the proposed Project to the existing setback requirements.

On page 2-18 the Draft EIR states: "7) no stockpile soil or material will be placed closer than 25 feet from any property boundary except visual/sound berms." This statement is not accurate and needs to be corrected. Condition No. 3 of CUP 2032 for the Quarry Site states:

> Stockpiling of materials shall not be allowed within 200 feet of the south property line, nor shall an excavation be allowed within a 260-foot radius of the front entry of the residences on the adjoining property to the south.

Also, Condition No. 12 of CUP 367 for the Quarry Site states:

> Stockpiling of material shall not be allowed within 200 feet of Friant Road or that portion of the north property line adjoining Lost Lake Park unless Permittee

> screens any such closer stockpiling with approved landscaping so that it is not visible from Friant Road and the north property line of Lost Lake Park.

**viii. General Plan Land Use Designations**

On page 2-28 the Draft EIR implies there has been continuous recovery of mineral resources at the "combined" project sites for more than 100 years. This is not a correct description of the recovery of mineral resources at the Plant Site. The Plant Site is subject to a separate conditional use permit (CUP 3666). The Project Description/Operational Statement (Appendix B-2) states that aggregate mining has stopped on the Plant Site and therefore has not been continuous. Pursuant to Fresno County Zoning Code Section 868.6.020, Expiration, the mining of aggregate (land use) that is subject to a conditional use permit at the Plant Site has expired. Therefore, it is considered a new land use at the Plant Site and is not included in the Draft EIR baseline to determine Project's significant environmental impacts.

The Draft EIR States the uses allowed in the agriculture designation include special agricultural uses and agriculture-related activities, including value-added processing facilities listed in Table LU-1. General Plan Table LU-1, Agriculture/Resource states:

> This designation provides for the production of crops and livestock, and for location of necessary agriculture commercial centers, agricultural processing facilities, and certain nonagricultural activities.

Although surface mining is allowed in Agricultural designated land, it is not an agricultural use. The Draft EIR implies that any process located on the Project Site is a "Value-Added Agricultural Use (Processing Facility). However, the Fresno County General Plan, Appendix A, Glossary, defines "Value-Added Agricultural Uses as:

> Uses of facilities that increase the value of agricultural produce over the cost of raw produce, such as canning, drying, freezing or packaging agricultural produce for the ultimate sale to consumers.

The use of value added agricultural to justify the inclusion adding concrete and asphalt recycling is not consistent with the Fresno County General Plan.

The proposed Project is inconsistent with the Fresno County General Plan Goal PF-F and Policy PF-F.3, Solid Waste Facility Siting. Policy PF-F.3, e. states:

> Solid waste facilities shall not be located adjacent to rivers, reservoirs, canals, lakes or other waterways.

The proposed Project is located adjacent to the San Joaquin River.

As noted above, Appendix B-1, page 57, Paragraph 4.4.23 states the Plant Site will use the fines, tailings and other mining waste to reclaim the bottom 20 feet of the excavation. The Quarry Site will deposit the fines, tailing and mining waste in the bottom of the excavation. The Plant Site will not be reclaimed for 30 years, and the Quarry Site will not be reclaimed for 100.

This will amount to 30 MT stockpiled until reclamation or 551 acres of sand and mine waste at 25 feet in height. In other words, the Project will include a significant disposal of solid waste onto the Project site. (Fresno County Municipal Code, Section 8.20.010.M ("defining solid waste"); Pub Res. Code 40191 (same), 40192 (defining "disposal" as final deposition of solid waste onto land).)

In addition, the proposed Project includes the acceptance and recycling of used concrete and asphalt concrete. The Project Description indicates the annual tonnage of 200,000 MT. Solid waste processing facilities are considered solid waste facilities under the Public Resources Code and the Fresno County Municipal Code. (Public Resources Code §§ 40172, 40194; Fresno County Municipal Code § 8.20.010(G).)

The proposed uses of the Project as a solid waste facility are not consistent with the Fresno County General Plan. The EIR must be revised to address this land use impact.

**ix. Proposed Project Elements**

On page 2-40 the Draft EIR states that the Quarry Site is designed to continue avoidance of the riparian corridor along the San Joaquin River and mining setbacks required under the existing CUPs would remain the same. Figure 2-8, Proposed Quarry Site Mining Plan, needs to be revised to depict the setbacks required under the previous CUPs.

Also, on page 2-40 the Draft EIR states that the existing screening berms along North Friant Road frontage and the south property line would remain in place. The Draft EIR needs to provide the height and location of the existing berms and provide information on the north property line screening or setback. The Draft EIR should include a line-of-site analysis that depicts the maximum height of stockpiles on the Project Sites.

Table 2-6, Existing and Proposed Daily Truck Trip Generation does not include trips from the Material Recovery Facility that is planned to accept used concrete and asphalt concrete which is projected to total 200,000 tons per year. The table and its use within the Draft EIR need to be corrected to accurately depict generated truck trips and identify the significant environmental impact of the Project.

**x. Trail Easements**

On page 2-51, the Draft EIR states that the applicant is in discussions with the San Joaquin Conservancy's (SJRC) Executive Officer towards providing trail easements at the Plant and Quarry Site. The Draft EIR concludes that no further CEQA review is warranted because SJRC has not "currently" proposed development and construction. The trails are part of the San Joaquin River Parkway Master Plan. The Draft EIR further states that should the trails be proposed for development in the future, project-level CEQA review would be required prior to construction. This is not an accurate summary of the Project's impact on the San Joaquin River Parkway Master Plan.

The Draft EIR, states in Section 2.3, Project Purpose and Objectives, 10): Provide potential Parkway trail easement. The Project needs to make provisions for an easement to allow the San Joaquin River Parkway Master Plan to go forward and provide linkage to trails within a certain time limit, instead of 100 years from now. Project Description/Operational Statement, Appendix B-2 states that the Project will "acquire, through purchase, easements, or other mutually satisfactory transactions, land for recreation areas and the expansion of existing parks and recreation areas." Specific mitigation measures should be included in the Draft EIR requiring the Project to provide the necessary trail easements consistent with the San Joaquin River Parkway Master Plan and Lost Lakes Park Master Plan, acquire, through purchase, easements, or other mutually satisfactory transactions, land for recreation areas and the expansion of existing parks and recreation areas within five years of Project approval.

**xi. Other Agencies Whose Approval May Be Required**

The proposed Project includes the acceptance and recycling of used concrete and asphalt concrete, and the final disposal of fines, overburden, and other mining waste onto the land. The Project Description indicates the annual tonnage of 200,000 MT in concrete and asphalt waste for recycling. This is considered a large Material Recovery Facility. This land use is subject to regulations as a proposed Material Recovery Facility, and possibly as a solid waste disposal facility. Recycling of concrete and asphalt concrete is subject to a Solid Waste Facility Permit (SWFP). The Draft EIR needs to provide details in the Project Description how the operation of the Material Recovery Facility and the disposal of fines, overburden, and other mining waste will take place and be consistent with all applicable regulations of CalRecycle.

**b. Chapter 4: Environmental Analysis**

**i. Section 4.1 Aesthetics**

The Draft EIR is inadequate in describing the significant impact on a designated scenic roadway. On page 4.1-61 of the Draft EIR states there are no state scenic highways. However, there are local designated scenic highways.

The Draft EIR is not consistent with the Fresno County Rural Bikeways Plan that depicts North Friant Road on Figure OS-1 of the Fresno County General Plan as a designated scenic highway. The Draft EIR is not consistent with the City of Fresno General Plan that depicts North Friant Road as a scenic highway. The Project has the potential to significantly impacting the off-site views from the roadway if not mitigated. The Draft EIR is inadequate because it did not analyze the off-site views from the designated scenic highway and did not include Project features to prevent the Project operations from being visible from the scenic roadway. Mitigation Measure 4.1-1 is inadequate to lessen the visual impact of the Project from the designated scenic roadways. The Project should include the following mitigation:

> No stockpiles or mining facilities including the cement plant, asphalt plant, material recovery or buildings shall be visible from North Friant Road or surrounding properties.

The Draft EIR is insufficient in mitigating the Project's impact on Light and Glare. The Project will introduce a new source of night time lighting in the surrounding community. The Draft EIR concludes that design features will result in a less than significant impact. However, there is no requirement that the Project implement any of the features discussed. Therefore, the following mitigation measure should be added to the Draft EIR:

- Night lighting on the property shall be arranged and controlled so as not to luminate public rights-of-way or adjacent properties.
- The Project shall only use high-pressure sodium and cut-off fixtures to minimize light pollution.
- The Applicant shall submit a lighting plan to the County Planning Department for approval prior to construction of the processing facilities that will identify the location of lights, how they will be aimed, and types of shielding that will be utilized such that light bulbs and reflectors are not visible from public viewing areas and illumination of the vicinity and the nighttime sky is minimized.
- Nighttime lighting on the Project Site shall be limited to areas required for the safety of project personnel and the public.
- The Project's fencing shall either be constructed of non-reflective material, treated, or painted to reduce visual impacts.
- Non-reflective surfaces or non-reflective paint shall be used for the processing plant equipment and structures to minimize glare from these facilities.

### ii. Section 4.3 Air Quality

The air quality assumptions are inadequate to determine Project's environmental impacts and the conclusions in Section 4.3, Air Quality. The Draft EIR needs to be revised and recirculated.

#### (1) AQ Modelling

The air quality assessment was peer reviewed by Taylor Environmental in 2020, and was apparently completed in March of 2022. It is now March of 2025, and this analysis would appear to be woefully out of date. Were the latest versions of the air quality modelling tools used? Did they apply the latest regulations, such as the 2022 Advanced Clean Fleets Regulation and amendments to the 2004 Transport Refrigeration Unit (TRU) Airborne Toxic Control Measures?

#### (2) Baseline Selection

The AQ modelling is fundamentally flawed, because it arbitrarily selects as the baseline year 1998. (Appendix D-1 at p. 88 ("The Baseline was determined based on historical production records for the year 1998").) This flawed baseline was then subtracted from the

project impacts, and evaluated against the significance criteria. This is material, because emissions technology has advanced since 1998, and operations at the site have changed. An up-to-date baseline of the current conditions should be used to analyze the Project's impacts.

**(3) Aggregate Processing and Stockpiling**

Appendix D-1, Air Quality, Health Risk, and Climate Change Impact Assessment, list the Project features that are used in assessing air emissions. The air emissions were incorrectly modeled on aggregate production of 3 MT per year. Table 2-1 lists 3.3 MT per year of aggregate processing. The remaining .3 tons per year are fines and mine waste that will remain on the Project Sites and stockpiled until they are deposited in the bottom of the mine at the time of reclamation, 30 to 100 years in the future. The Draft EIR air quality assessment needs to be revised to include this significant increase of 30 MT of aggregate processing and stockpiling to identify the significant environmental effect and provide mitigation.

**(4) Concrete Recycling**

The Draft EIR does not discuss the exposure to asbestos from recycling older concrete or provide protocols to prevent exposure to workers and the public. Mesothelioma Hope website provides information on "The Risk of Asbestos in Concrete." The Draft EIR needs to be revised to include analysis of the risk of airborne asbestos exposure from recycling used concrete.

**(5) Project Components for Air Quality Analysis**

Table 4.3-8, Rockfield Modification Project Components of Air Quality and Greenhouse Gas Modeling, does not include operation mobile equipment, onsite and offsite delivery trucks, or onsite and offsite workers vehicles. The air quality and greenhouse gas modeling are insufficient to analyze the significant environmental effect of the proposed Project. Table 4.3-8 needs to be revised to include all Project components.

**(6) Baseline Emissions**

Baseline emissions information depicted in Table 4.3-9, Historical Production Data, needs to be revised. Production of aggregate, concrete and asphalt is seasonal with an increase in production during Summer months. The baseline emission data needs to describe how the Maximum Hour and Maximum Day is determined for modeling.

**(7) Emissions**

Tables 4.3-10, 4.3-11 and 4.3-12 needs to be revised to include operation mobile equipment, onsite and offsite delivery trucks, or onsite and offsite workers vehicles.

Tables 4.3-16 and 4.3-17 needs to clearly depict the thresholds of significance for each source pollutant.

**(8) VMT Impacts on GHGs and Air Quality**

Table 34 of Appendix D-1 states the Project vehicles are heavy-heavy duty and are not subject to heavy duty GHG Phase 1 regulations. However, there are heavy duty trucks that have a direct and indirect impact that are generated by delivery of Project's products and acceptance of materials for recycling. Although the Vehicle Miles Travel (VMT) is used to determine transportation impacts and has been limited to passenger vehicles and light trucks, VMT for the operational aspects of the Project still applies to determine environmental impacts from air quality and hazards. The Project's air quality modeling needs to include the 6.2 million annual VMT generated by the Project (Appendix I-2, Estimates of Vehicle Miles Traveled). To the extent the VMT analysis indicates that the Project will result in a reduction of regional VMTs from similar aggregate mining operations, the EIR must still analyze the air quality impacts caused by the redistribution of VMTs. For instance, will heavier traffic on Friant Rd. result in higher levels of diesel particulate exposure in closer proximity to sensitive receptors?

**(9) Compliance with Air Quality Plans**

On page 4.3-57, the Draft EIR, concerning Impact 4.3.1, is insufficient and needs to be revised. The emission data for Project operations exceeds daily and annual San Joaquin Valley Air Pollution Control District (SJVAPCD) thresholds which results in conflict with air quality plans.

In addition, the analysis concludes the Applicant will be able to comply with future rule making by the SJVAPCD concerning implementation of applicable air quality plans. Thus, concluding that the level of significance before mitigation is less than significant. There is no requirement in the Draft EIR for the Project to comply with future air quality attainment plans during the 100-year Project duration. This assumption was used to support a determination of less than significant is not support by proposed Project components. The air quality assessment assumed minor changes in rulemaking in the future will "likely" lessen future Project impacts on air quality. A mitigation measure should be included to the Draft EIR requiring the Project to comply and implement all new technology, air quality plans, goals and regulations in the future.

**(10) Natural Gas**

California Energy Commission has a goal of eliminating natural gas use by 2045. The use of natural gas has a significant impact on greenhouse gases in California. The Project proposes the use of natural gas for the asphalt plant and therefore would not be in compliance with this goal. The Project, to comply should build the new asphalt plant using electricity instead of natural gas or other fossil fuels. This will result in a reduction in air pollutants. The Project should be revised to use electricity instead of natural gas or other fossil fuels for the asphalt plant and other Project components.

The Project should be required to use all-electric mining trucks. Caterpillar has successfully demonstrated the first battery electric 793 large mining truck. The Project should be required to use all-electric mining vehicles to lessen air quality impacts.

Caterpillar Electric 793 Mining Truck

**(11) Greenhouse Gases Modeling**

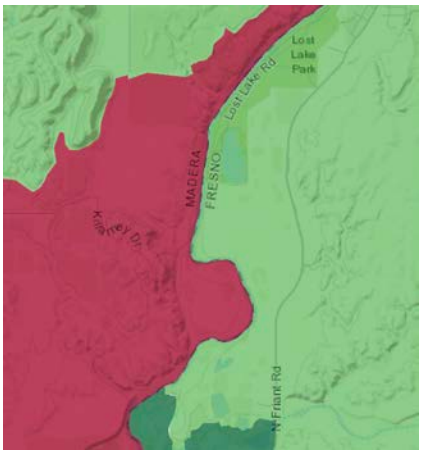
The Project used the South Coast Air Quality Management District's guidance on impact analysis for GHG, stating that SJVAPCD modeling was outdated. The advantage to the Project was the exclusion of emissions from sectors that are required to participate in the Cap-and-Trade Program, i.e. gasoline and diesel. This is an impermissible deferral of the obligation to disclose the environmental impacts of this Project. The Project should use the SJVAPCD modeling or another suitable methodology that actually analyzes the impacts from this Project.

**(12) CO2 Emissions**

SJVAPCD uses the CalEEMOD model to determine project's air quality impacts. The air quality analysis in Appendix D-2 also states the Project uses CalEEMOD. On page 4.3-62, Table 4.3-23, Mitigated and Unmitigated CO Concentration was modeled without including the 6.2 million annual VMT generated as required in the CalEEMOD. Therefore, the conclusion the Project does not exceed CO concentration is not accurate and needs to be revised to analyze the entire Project's environmental impact on CO concentrations and other air pollutants. The Draft EIR needs to be revised to include all sources of air pollutants from the Project for air quality modeling.

**(13) Fugitive Dust Control**

The Draft EIR needs to include an analysis of the Project's dust particulate (PM2.5) impact on the Census Tract 6039001000 located westerly from the Project in unincorporated Madera County and surrounding area in order to determine the cumulative net increase of an criteria pollutant. CalEnviroScreen 4.0 indicates this area has a high pollution burden of 90 percentile for PM2.5 as shown in red. High PM2.5 (94 Percentile) is also the existing condition for adjacent Census Tracts easterly in Fresno County but has a lower overall pollution burden as shown in green due to other socio/environmental factors, such as the ability to deal with pollution load. The increase in aggregate production from 1.3 MT to 3.3 MT annually at both the Plant and Quarry Site will exasperate the existing conditions on this area.



Source: CalEnviroscreen 4.0

Mitigation Measure 4.3-2, Fugitive Dust Control Plan, on page 4.3-62 is not adequate and needs to be revised to include that all trucks hauling materials need to be completely covered both on-site and delivery trucks to reduce fugitive dust generated by the Project.

Table 4.3-20 identifies that CO, PM10 and PM2.5 exceeds significance criteria. Mitigation Measure 4.3-2 is not adequate to mitigate the significant environmental impacts to less than significant. The Draft EIR needs to identify additional measures that the Project can implement in order to make the finding of less than significance. Therefore, without additional analysis and mitigation the Draft EIR results in Significant and Unavoidable.

Mitigation Measure 4.3-2 Fugitive Dust Control should include the following additional mitigation:

> All truck loading/unloading facilities to be equipped with one 110/208-voltpower outlet for every two-truck loading/unloading facility. A minimum 2-foot-by-3foot sign shall be clearly visible at each loading lock and in a readable letter size that states: “Diesel engine idling limited to a maximum of 2 minutes.” The sign shall include instructions for diesel trucks idling for more than 2 minutes to connect to the 110/208-vole poser to run any auxiliary equipment.

**(14) <u>Air Quality Impact on Sensitive Receptors</u>**

On page 4.3-63, Table 4.3-24 indicates the Project exceeds the threshold for environmental significance for Excess Cancer per Million People Exposed and for the Maximum Acute Hazard Index. The Draft EIR reached this conclusion even without including the 6.2 million annual VMT generated by the Project or the added aggregate processing and stockpiling. There is no explanation why “Fence-line Receptors” are not included in the table. However, users and workers at the adjacent recreation parks would have exposure. The Draft EIR needs to include additional mitigation to reduce air quality impact and health risks from the Project.

Thes mitigation measures should include the following:

- All truck loading/unloading facilities to be equipped with one 110/208-voltpower outlet for every two-truck loading/unloading facility. A minimum 2-foot-by-3-foot sign shall be clearly visible at each loading dock that indicates, “Diesel engine idling limited to a maximum of 2 minutes.” The sign shall include instructions for diesel trucks idling for more than 2 minutes to connect to the 110/208-volt power to run any auxiliary equipment.

- The use of electric-powered “yard trucks” or forklifts to move truck trailers around a truck yard or truck loading/unloading facility.

- The use of buildings or walls to shield commercial activity from nearby residences or other sensitive land uses.

- The use of EPA-rated Tier 4 Final engines in diesel-fueled construction equipment when construction activities are adjacent to existing sensitive receptors.

- The planting and maintenance of vegetative buffers between truck loading/unloading facilities and nearby residences, schools, daycare facilities, and any other sensitive receptors. As part of detailed site design, a landscape architect licensed by the California Landscape Architects Technical Committee shall identify all locations where trees should be located, accounting for areas where shade is desired such as along pedestrian and bicycle routes, the locations of solar photovoltaic panels, and other infrastructure.

- The use of all electrical-powered Transportation Refrigeration Units (TRUs).

- The use of all electric heavy-duty trucks.

- Designate truck routes that avoid sensitive land uses, including low-income and minority neighborhoods.

**(15) Odors**

The proposed Project includes a hot-mix asphalt plant that will generate 200,000 tons of asphalt per year. Hot-mix asphalt plants generate noxious odors that can impact people even 1.5 miles away. The discussion of Impact 4.3-4, starting on page 4.3-65, states that the hot-mix asphalt is a continuation of the of past activities. However, the asphalt plant stopped operations in 2009 and therefore is not considered a part of the baseline conditions and needs to be treated as a new and unapproved land use pursuant to Fresno County Zoning Code Section 868.6.020, Expiration.

The Draft EIR states that no odor complaints were received when the previous asphalt plant operated, however there is no information on what type of asphalt plant was in operation. There are no records to search for odor complaints and it is based on a person’s memory. Therefore, not a reliable assumption to make a finding of no previous odor complaints. This just as likely indicates there is poor record keeping and lack of concern about the asphalt plant’s impact on the community.

The odor impact analysis assumes facts that are not part of the Draft EIR or its Project description as justification of reduced Project air quality impacts. Section 4.3-4 states that the proposed asphalt plant would generate fewer odor producing emissions than the past due to its fuel source being natural gas instead of diesel and due to the use of new technology to capture 95% of blue smoke emissions and therefore concludes "it is not anticipated that Stage 1 operations on the Plant Site could generate odors that would adversely affect a substantial number of people." This assumption is not supported by facts.

The use of natural gas instead of diesel will not occur until a natural gas line is installed to the asphalt plant for Phase 1 at the Plant Site. There is no discussion of the fuel source for the asphalt plant when it is relocated in Phase 2 at the Quarry Site. The Draft EIR does not identify when natural gas will be used in Phase 2 at the Quarry Site. There is not discussion what happens to the fuel source as the asphalt plant is moved to accommodate surface mining in either Phase 1 or Phase 2. There is no discussion that identifies and details the "new technology" will capture 95% of blue smoke or if the asphalt plant will include this technology. The Draft EIR needs to be revised to provide specific equipment that will capture 95% of blue smoke.

The Draft EIR bases Project Impacts on air quality odors based on a "modern" asphalt plant. The Draft EIR does not provide any details on what a modern asphalt plant consists of or a list of equipment that reduces odor impacts, just that the asphalt plant will receive a permit from the SJVAPCD prior to operation. However, this is not a guarantee that the proposed asphalt plant will not generate offensive odors to the surrounding community during the life of the Project.

The County of Orange, which has a similar air inversion condition as the San Joaquin Valley, approved a hot-mix asphalt plant on a portion of a former gravel quarry in 1993 located in unincorporated Orange County north of the City of Irvine. There are a series of rolling hills and valleys that separate the asphalt plant from the nearest residences, 0.5 miles away. An EIR with a Health-Based Risk Assessment was prepare in 2005 for a residential development that concluded it was unlikely that releases from the asphalt plant would have the potential of adversely affecting the residential development since the asphalt plant received the necessary permits.

However, this was not the result and even with the expert assistance of the South Coast Air Quality Management District (SCAQMD) it was very difficult to stop adversely affecting the surrounding community, even at 1.5 miles away. The asphalt plant emitted odors that resulted in eventually the City of Irvine buying the asphalt plant to eliminate the nuisance from its residents at a cost to tax payers of between $50 and $100 Million Dollars.

In 2020, the City of Irvine filed a "Complaint for Public Nuisance Abatement Injunction, Equitable Relief and Civil Penalties (30-2020-01153015-CU-MC-CJC) (Irvine Lawsuit) against the hot-mix asphalt plant. The Lawsuit stated that since 2019, 468 complaints relating to the asphalt plant were fielded by SCAQMD with the vast majority related to issues with asphalt, oil, tar-like odors and smoke. SCAQMD stated in 2022 that they had received more than 1,400 odor complaints from the asphalt plant source.

SCAQMD issued in 2022 eight odor nuisance NOVs to the asphalt plant. The asphalt plant was expanded in 2016 with active permits for existing equipment. Irvine's asphalt plant is considered "modern" and SCAQMD stated it is working with the operator on a "carbon adsorption unit" under a research permit. The plant in 2022 was to evaluate if there was a decrease in odor or emissions. SCAQMD also required the asphalt plant to instruct drivers to cover any loads of asphalt prior to leaving the facility and instruct drivers on approved truck routes. None of this worked to mitigate odors and the City of Irvine purchased the asphalt plant in 2023.

Draft EIR, Impact 4.3-4 states that there are residences within 0.25 miles from the proposed asphalt plant and concludes that it is "unlikely" that substantial odors from the asphalt plant would be generated at these distances based on Figure 4.3-4, Wind Rose. However, Figure 4.3-4 depicts a wide area of impact surrounding the Project under typical low wind conditions. Section 4.3.1.1, Environmental Factors Affecting Air Quality, that states: "Low wind speed conditions limit horizontal air dispersion and can result in a buildup of air pollutants." The conclusion that residences 0.25 miles away will not experience substantial odors is not supported by fact and is likely. This would result in a significant environmental impact that needs to be mitigated.

Figure 4.3-4, Wind Rose, is insufficient to adequately depict the influence of wind on the Project. Winds are seasonal and vary between winter (December – February) spring (March – May) summer (June – August) and fall (September – November). The Draft EIR should be revised to provide the seasonal analysis of wind direction and speed that is overlaid on aerial maps of the surrounding 3-mile area that includes all sensitive receptor locations.

Mitigation Measure 4.3-4: Asphalt Plant Emissions Controls, is not sufficient to mitigate the significant odors and air pollutants from the asphalt plant. Mitigation Measure 4.3-4 should be revised as follows:

> Prior to the issuance of any permit a sign shall be posted at each entrance to the Project, with letters large enough to be read from the public road, with the San Joaquin Valley Air Pollution Control District most current toll-free phone number (800-870-1037), website address and email address to make odor, vehicle smoke and dust complaints. The sign shall include the name of the facility and address. The sign shall be updated as soon as any of the information changes.
>
> The operator of the facility will annually mail to each property owner within 3 miles of the Project Site, the County of Fresno and any interested parties requesting the notice, a letter with information on how to file an air pollution complaint to the San Joaquin Valley Air Pollution Control District with the following explanation:
>
> > The District receives complaints that may constitute a public nuisance. The state's public nuisance law (CH&SC 41700) prohibits emissions which cause odors or other disturbances in the community that impact a

significant number of people, create a threat to public health or cause damage to property.

Asphalt loads are required to be covered prior to leaving the facility and operator shall instruct drivers on approved truck routes.

Mitigation Measure 4.3-4, 1) states that asphalt cements with lower VOC/SVOC emissions, as approved by the SJVAPCD, shall be used to the "extent feasible" will not result in a measurable reduction in VOC/SVOC. The proposed mitigation does not quantify a limit on the use of processes that generate higher VOC/SVOC. The use of lower VOC/SVOC depends on how the asphalt is being uses, such as the specification requirement of the roadway being paved. The Draft EIR needs to identify the different types of asphalt processes, their use and the amount of VOC/SVOC they emit, and the anticipated percentage of Project's production of the different types of asphalt, especially the production of lower VOC/SVOC asphalt. The mitigation measure needs to quantify and limit on the amount of high VOC/SVOC asphalt that can be produced in order to mitigate the Project's environmental air quality impacts.

Mitigation Measure 4.3-4, 2) states: "To reduce VOC emissions, periodic burner tune-ups shall be implemented" is not adequate to mitigate the significant environmental impacts on air quality. The mitigation measure needs to identify the equipment being added that is used to reduce air pollution impacts. The Draft EIR in determining "less than significant impact" relies on the uses of "new technology" that will capture 95% of blue smoke. The mitigation measure should include that the Project will conform to all new laws to prevent generation of air pollutants and update its equipment and procedures to conform with any new rule making, within six months of enactment.

The use of the term "periodic" has no quantifiable meaning and will not result in adequate mitigation. The mitigation needs to include a meaningful time limit, such as daily, weekly or monthly that the burner tune-up shall take place.

Mitigation Measure 4.3-4 3) needs to be revised to apply to the features and environmental impacts of the Project instead of a project located in Imperial County.

The mitigation measure should include that the County of Fresno will monthly inspect the operations of the Project to determine that the Plant Site and Quarry Site are implementing all design features, conditions of approval and mitigation measures. The County of Fresno will keep records of all inspections, public complaints and notice of corrections during the life of the Project (100 years). This information shall be available to the public.

**(16) <u>Odor - Pond Pits</u>**

The Reclamation Plan will result in pond pits on each Project Site. The Draft EIR acknowledges stagnant water can lead to odors. The impact analysis assumes that there will be enough groundwater flow through the Plant Site pond and the Quarry Site to eliminate pond stagnation. Appendix G-4, Groundwater Conditions Quarry Site, indicates after reclamation there will be low inflow of groundwater with higher evaporation to prevent a pond deeper than

110 feet. The Draft EIR impact analysis states that the Quarry Site pond will upwell twice a year that will result in no pond odors.

The Quarry Site pond is over 400 feet from the surrounding surface. It is unlikely the pond will experience wind upwelling given the depth of the quarry walls, narrow surface water area and the typical low wind conditions in the area. Ocean upwelling only occurs in 4 places on earth and account for only 1% of the ocean surface.

Upwelling can occur with change in surface water temperature. However, deep quarry ponds typically remain very cold all year so it is unlikely that upwelling will occur due to warm surface water and certainly not twice a year. The Draft EIR does not support the assumption that the pond pits will not become stagnant and create an odor nuisance to the surrounding sensitive receptors. The Draft EIR should include a mitigation measure to prevent stagnant water as is included in Previous CUPs. Conditional Use Permit 2032, included Condition No. 14:

> All water bodies shall be designed to avoid stagnant water or shall be improved with appropriate circulation systems. Corrective measures shall be taken to eliminate the stagnant condition of the pond adjacent to the plant site.

The Draft EIR conclusion of Less than Significant after mitigation for air quality impacts is not supported by the analysis or the proposed mitigation to lessen the identified environmental impacts. The Draft EIR should fine the Project's environmental impact on air quality is Significant and Unavoidable.

**iii. Section 4.4 Biological Resources**

The Draft EIR is insufficient in describing the environmental impact of the Project's Biological Resources and providing mitigation for Project's significant environmental impacts. Mitigation Measures 4.4-1a, 4.4-1b and 4.4-1c only require the biological resources clearance surveys "at the start of construction" or "initiation of a mining phase." The Project only has two phases, Phase 1 of 30 years and Phase 2 of 70 years. The mitigation measures are inadequate to prevent the significant Project impacts on Burrowing Owls, Western Pond Turtle and Western Spadefoot, and nesting birds. The mitigation measure needs to be revised to require annual surveys and when mining operations occur or are relocated within the Project Site to prevent mining operation's impacts on biological resources.

**iv. Section 4.8 Greenhouse Gas Emissions**

The Project used the South Coast Air Quality Management District's guidance on impact analysis for GHG, stating that SJVAPCD modeling was outdated. The advantage to the Project was the exclusion of emissions from sectors that are required to participate in the Cap-and-Trade Program, i.e. gasoline and diesel. This is an impermissible deferral of the obligation to disclose the environmental impacts of this Project. The Project should use the SJVAPCD modeling or another suitable methodology that actually analyzes the impacts from this Project.

**v. Section 4.9 Hazard and Hazardous Materials**

The Draft EIR is insufficient in describing the environmental impact of the Project and needs to be revised. Section 4.9 needs to include the exposure to asbestos from processing 200,000 tons annually of used concrete to make aggregate. The Draft EIR needs to include mitigation to lessen the exposure to workers and the community from asbestos in the aggregate process and stockpiling of broken and crushed concrete that may contain asbestos by requiring testing of used concrete prior to accepting material.

Impact 4.9-3 states that "upon completion of the final reclamation activities, the Plant Site and Quarry Site would be converted to open space land use." The Fresno County General Plan defines Open Space Land as:

> Any parcel or area of land or water that is essentially unimproved and devoted to an open space use for the purpose of: 1) the preservation of natural resources; 2) the managed production of resources; 3) outdoor recreation; or 4) public health and safety.

The Project is not consistent with the Fresno County General Plan definition of Open Space Land. Table 2-2, Allowable Uses and Permit Requirements for Agricultural Zones (attached as Exhibit 2 hereto) lists all the land uses allowed, however none of the land uses listed could be accommodated if the Project's Reclamation Plan is implemented.

The Fresno County Zoning Code Section 834.4.220, Material Extraction Sites, defines "Reclamation" as:

> Reclamation. The combined process of land treatment that minimizes water degradation, air pollution, damage to aquatic or wildlife habitat, flooding, erosion, and other adverse effects from surface mining operations, including adverse surface effects incidental to underground mines, so that mined lands are reclaimed to a usable condition which is readily adaptable for alternate land uses and create no danger to public health or safety. The process may extend to affected lands surrounding mined lands, and may require backfilling, grading, resoiling, revegetation, soil compaction, stabilization, or other measures.

The Draft EIR describes that reclamation of the 85-foot-deep pit at the Plant Site is to result in a 65-foot-deep quarry hole with eventually 20 feet of water that is not accessible by the public and has no recreational value or use. The Previous CUP's approved by the County require the Reclamation Plan to show the number of lakes with islands (CUP 2032, Condition of Approval No. 13). All other terms of the previously approved rehabilitation plans required in the CUPs should be disclosed for a fair comparison of the final impacts of this project following reclamation.

The Quarry Site's 600-foot-deep pit is to result in a 400-foot sheer walled quarry with eventually 200 feet of water at the bottom. There is no public accessibility or recreational value to the reclamation plan as presented in the Draft EIR. Surface mining quarries are notoriously

hazardous with drowning fatalities. Quarries have steep drop-offs, deep water, sharp rocks, flooded equipment, submerged wire and industrial waste according to an article by Hobart M. King, PhD, RPG, "Abandon Mine and Quarry Accidents Claim Several Lives per Year," (attached as Exhibit 4 hereto).

The Draft EIR needs to be revised to provide analysis of the dangers of closed surface mines on the public. The Project and Reclamation Plan needs to be revised to leave the Project Sites in a useable condition which is readily adaptable for alternative land uses and create no danger to the public health or safety.

The Draft EIR should analyze the potential for a significant human health impact from mosquito borne pathogens and other vectors that may find habitat in the multiple ponds that will be created within the proposed Project. The Vector-Borne Disease Section of the California Department of Public Health has published Best Management Practices for Mosquito Control in California (the "Vector BMPs"), available at westnile.ca.gov/pdfs/BMPMosquitoControl.pdf. The document indicates that "Standing water mosquito breeding sites may include artificial containers, treeholes, catch basins, open ditches, retention/detention ponds, natural or constructed ponds and wetlands, stormwater management devices, and the edges of streams." The multiple ponds present in the project therefore present possible breeding grounds for mosquitos, which have been found to be infected with West Nile Virus in Fresno County. (https://westnile.ca.gov/case_counts.php?year=2023&option=print.) This potential impact should be evaluated and the Universally Applicable Mosquito Control BMPs and other appropriate BMPs identified in the Vector BMPs should be included in the Draft EIR. Further analysis and development of appropriate mitigation measures should be performed in consultation with the Fresno Mosquito and Vector Control District.

### vi. Section 4.11 Land Use

#### (1) Zone Change

Table 2-1, Rockfield Modification Project Characteristics, includes "Concrete and Asphalt Recycling" with the "annual sales" of 200,000 MT in both Phase 1 and 2. As noted above, the Project also includes a solid waste disposal component for the fines, overburden, and other mining wastes. Pursuant to Fresno County Zoning Code Section 808.2.- Agricultural Zones, Table 2-2, Allowable Uses and Permit Requirements for Agricultural Zones, a Recycling Facility or Solid Waste Disposal Facility is not an allowed land use in the Agricultural Zone. Therefore, the proposed Project is required to apply for a zone change in order to include concrete and asphalt recycling and processes and large scale solid waste disposal.

#### (2) Lost Lake Park Master Plan

The Draft EIR is not consistent with the Lost Lake Park Master Plan and needs to be revised to include analysis of consistency with the approved plan. Lost Lake Park Master Plan, dated 2011, plans trail connections to and through the Project Sites. The Central Valley Vision Plan to improve livability and the regions need for recreational opportunities.

**(3) Surface Mining and Reclamation Act**

The Draft EIR is not consistent with the California Surface Mining and Reclamation Act (SMRA). The intent of the legislature pursuant to Cal. Pub. Res. Code § 2712:

> It is the intent of the Legislature to create and maintain an effective and comprehensive surface mining and reclamation policy with regulation of surface mining operations so as to assure that:
>
> a. Adverse environmental effects are prevented or minimized and that mined lands are reclaimed to a usable condition which is readily adoptable for alternative land uses.
>
> b. The production and conservation of minerals are encouraged, while giving consideration to values relating to recreation, watershed, wildlife, range and forage, and aesthetic enjoyment.
>
> c. Residual hazards to the public health and safety are eliminated.

The proposed Project results in significant and unavoidable environmental direct, indirect and cumulative impacts for aesthetics, air quality and transportation that cannot be mitigated. Therefore, the adverse environmental effects of the Project are not prevented or minimized. The Project is not consistent with Section 2712(a).

The Project's reclaimed condition of the Plant Site and Quarry Site has no other adoptable land use than a pit pond surrounded by steep walls. There is no visual benefit to the community because the water is located so far down from the surface. Painting the quarry walls brown is insufficient to mitigate the visual impact of the steep quarry walls that cannot be planted with vegetation and are too steep to maintain vegetation.

The Draft EIR concludes the reclamation plan will be used for open space, riparian and open water wildlife habitat. There is no evidence presented that water wildlife will have a beneficial use of the pit pond. Section 4.4 Biological Resources, states:

> Adverse effects to special-status species could occur if wildlife that encounter the quarry pit pond or quarry lake are exposed to water with elevated concentration of metals or minerals.

The Project does not include measures to prevent the accumulation of metals or minerals. In fact, the Project proposes to abandon mining equipment and other metals in the mine pit that will be broken down over time by water resulting in accumulation of metals. The Project's Reclamation Plan does not provide a recreational value to the community. There is no mitigation measure that requires land dedication for trail easements or purchase of alternative land for recreational use. Although the Project Description/Operational Statement in Appendix B-2 makes many statements of mitigation the operator will do, many are not part of the Project and have not been included as mitigation measures in the Draft EIR. The Project is not consistent with Section 2712(b).

As discussed above, abandoned quarries are fundamentally dangerous to the community, especially in a high-use recreational area as the San Joaquin River. The abandoned quarry is an attractive nuisance that people will be tempted to go into. The Project will leave behind very dangerous quarry pits. The only protection for the public is a 4-foot-high barb wire fence. The Project is not consistent with Section 2712(c).

Special consideration needs to be applied to the Project in determining consistency with the SMRA and CEQA. The proposed Project is located near to urban development and the area will continue to grow in population with associated housing and commercial development that will result on an increase in people exposed to the dust, odor, noise, air pollutants and safety concerns generated from the Project. A 491 multifamily project has been constructed the northeast corner of Friant Road and Copper Avenue, less than 3 miles from the Project. The Project is located within a highly desirable recreation area of the region. The need for recreational use will continue to grow as the population in the area increases during the life of the Project. The area is already in need of additional recreational opportunities. The Project will result in exposing an increasing number of people using the San Joaquin River recreational facilities to odors, dust, noise, air pollutants and safety concerns during the life of the Project.

### vii. Section 4.17 Transportation

#### (1) Truck Routes

The Draft EIR is insufficient in describing the Project's environmental impacts on transportation and needs to be revised. Section 4.17 needs to include a map of approved truck routes accessing the Project Sites from major transportation facilities in Fresno County and surrounding cites.

The VMT analysis in Appendix I-2 discloses that the Project will result in an increase from the existing 3,153,449 VMTs of the current operation to 6,668,850 VMTs in Phase 2. While the analysis also provides that a no-project alternative will result in 8,060,099 VMTs as a result of demand being "redistributed" to other mines in different locations, Figure 4.17-2 of the Draft EIR shows that these other sites are located away from Friant Road, which will be the most heavily travelled street by trucks from the proposed Project. In light of the sheer volume of VMTs that could be "redistributed" depending on the existence of the Project makes a clear map of truck routes even more crucial to understanding the impacts of this Project.

#### (2) Pedestrians

The Draft EIR is insufficient in describing the existing pedestrian facilities in the Project vicinity. Section 4.17.1.4 must be updated to include the Eaton Trail on the west side of North Friant Road that serves both pedestrians and cyclists. Intersection trail crossings exist along North Friant Road at the intersections of Copper, Lakewood, Champlain, Fort Washington, Shepherd, Audubon and Fresno. Each of these pedestrian intersections connect residents of the City of Fresno to Woodward Park, trail facilities, residential, office and retail uses.

**(3) Transportation Policies**

The Draft EIR is insufficient in identifying applicable land use and planning policies and ordinance. The proposed Project needs to be consistent with City of Fresno Active Transportation Plan https://www.fresno.gov/publicworks/active-transportation-plan/ seven (7) goals:

1. Safety Enhancement
2. Connectivity, Accessibility and Comfort
3. Equity and Inclusivity
4. Economic Vitality & Quality of Life
5. Education, Encouragement & Enforcement
6. Data Collection and Performance Monitoring
7. Ongoing Maintenance

The Draft EIR is not consistent with the City of Fresno Active Transportation Plan's safety goals. It is common sense that more than doubling the annual mining activity, adding aggregate mining at the Plant Site (which is a new use, since the prior use was ceased), adding an asphalt plant, increasing concrete production, adding material recovery operations and sales of materials from the plant will increase heavy trucks on the roadways accessing the Project Sites from major transportation corridors. The added truck traffic on roadways, such as North Friant Road will exasperate existing safety issues to motorist, cyclist and pedestrians. There have been multiple pedestrian and bicyclist fatalities along Friant Road. Pursuant to Jill Gromley, Assistant Director, Traffic Engineering Division, City of Fresno:

> There have been 189 collisions reported along Friant Road corridor from Blackstone to Copper River Drive from January 1, 2019 to December 31, 2024. Sixty-two (62) of these collisions resulted in injuries and 8 were fatal. Three of the fatal collisions involved pedestrians and one involved a bicyclist. Park patrons and trail users frequently park east of Friant Road and walk through the Woodward Park entrance on Fort Washington or utilize the parking lot on the southeast corner of the Friant/Copper intersection. The residential uses east of Friant Road generate high volumes of park patrons and trail users crossing Friant Road. Frequent complaints from visitors at the park and trail users is the high speed of traffic along Friant Road and large volumes of truck traffic.

The population of Fresno County will increase over the life of the Project (100 years) which will result in increased likelihood of conflicts between trucks from the Project and pedestrians and cyclist. Although the City of Fresno monitors roadway speed, intersection operations, and adjusts speed limits accidents and deaths still occur. The Project should

implement the measures of the Fresno Area Transportation Plan and include Project features to mitigate truck traffic safety impacts on the surrounding area.

**(4) Transportation Impacts other Than VMT**

The Draft EIR is insufficient in assessing transportation impacts and needs to be revised. Pursuant to OPR's Technical Advisory on Evaluation Transportation Impact in CEQA, dated December 2018, Paragraph G Analyzing Other Impacts Related to Transportation, page 25 a change in the methodology of assessing transportation impacts does not relieve a public agency of the requirement to analyze a project's potential significant transportation impacts to air quality including mobile sources, noise, safety, or any other impact associated with transportation. Under Public Resources Code section 21099(b)(3), the deprecation of level of service analysis does not "preclude the application of local general plan policies, zoning codes, conditions of approval, thresholds, or any other planning requirements." Accordingly, the County's traffic index thresholds of significance (along with consideration of other non-delay related impacts) are still applicable.

Using the County's TI thresholds, Chapter 4.17 concludes that the Project results in significant unavoidable impacts after mitigation to pavement conditions on Friant Road between North Fork Road and Copper River Drive, and Willow Avenue between Friant Road and Copper Avenue. (Draft EIR at 4.17-29 through 30.) These impacts are virtually undeniable, given the 6 million VMTs from Project-related vehicles, mostly heavy trucks delivering aggregate and asphalt from the Project and the acceptance of used concrete and asphalt concrete for recycling. While the LOS impacts may be moot in light of SB 743, these pavement impacts are not.

Furthermore, in the discussion of impact 4.17-3, regarding increases to hazards, the Draft EIR concludes that no such impact would occur, in part because "the operator of the Rockfield Quarry would be required to pay an equitable share of pavement improvements to the County of Fresno to improve the pavement section and accommodate the traffic index values, thereby keeping road conditions safe." This is inconsistent with the conclusion in Impact 4.17-1 that the mitigation measure would be insufficient to avoid a significant adverse impact.

The City of Fresno is concerned about the Project's significant unmitigated environmental impact to its roadway surfaces from truck traffic carrying heavy loads. The Project truck traffic Average Daily Trips is expected to increase 57% over existing conditions in State 1 and an additional 38% in Stage 2. Figure 4.17-1, Traffic Study Intersection and Project Trip Distribution Percentages, indicates that 55% of the Project traffic will utilize North Friant Road to southwest of the Project Site. That traffic will be dispersed throughout the City of Fresno. Public Works Director, Scott Mozier, PE, TE estimates that the cost to repave Friant Road from SR-41 to the northern city limit is $12.8 million dollars. This would occur at 20-year frequencies, there would be a total of five rehabilitation projects for a 100-year repaving cost of $64 million dollars. This is a significant cost to the City of Fresno of Project related to non-LOS transportation impacts.

The Draft EIR needs to provide an up to date analysis of the transportation impact of truck traffic on surrounding roads (not just Friant Road and Willow Avenue) and provide a

Project Trip Distribution analysis that indicated the percentage of truck traffic using study area roadways and intersections. The Draft EIR needs to provide an analysis of the existing condition of roadways and the potential of the Project's truck traffic to degenerate the life of the roadway pavement and provide mitigation for the Project's transportation impacts.

In addition, the Draft EIR should consider additional mitigation measures to address this significant impact. The Project should pay for the repair of all Project-related impacts to wear and tear of roadways. The following mitigation measure should be added to the Project:

> The Applicant/Owner shall enter into an agreement with the City of Fresno to pay for all cost of roadway damage caused by the Project's truck traffic. The Applicant/Owner will pay the cost to prepare a study and monitor roadway conditions every 5 years thorough the life of the Project and until the Reclamation Plan has been fully implemented.

**viii. Section 4.16 Recreation**

The Draft EIR is insufficient in describing the recreational facilities near the Project Sites. A map should be provided to depict the location of the recreation facilities identified in Table 4.16-1.

Table 4.16-1 is not accurate in describing the uses of the recreation facilities. San Joaquin River Ecological Reserve – Willow Unit and Lost Lake Park had access from a bridge and once the bridge is rebuilt, will have public access. Currently, public access can be made via the river by boat. The Draft EIR needs to use descriptions provided by the facility such as day use, hiking trails and camping. The Draft EIR presents information in a manner to lessen the public's value of the recreation facilities around the Project.

**ix. Section 4.19 Hydrology And Water Quality**

The Hydrology and Water Quality analysis fails to consider significant potential impacts and several mitigation measures that should be revised to address those impacts.

For example, the proposed Project stands to greatly increase the depth of mining, which would require continuous dewatering in areas beneath the existing groundwater levels. This may result in the movement of water from deeper confined areas of the aquifer, reducing the availability of water for other wells in the area. Additional analysis of that potential impact is required.

The Draft EIR notes the presence of mobilized natural constituents in recycled silt pond water, but dismisses that impact as the result of "variability in sampling procedures," and discounts the presence of manganese and iron without sufficient analysis. The variability in measurements may be the result of operational factors. The Draft EIR must consider whether mobilized constituents have entered the groundwater at high concentrations, and must fully address the potential health implication of elevated iron and manganese concentrations.

In addition, the mitigation measures listed in this section require further refinement. The Blasting Protocols (Mitigation Measure 4.10-1) need more detail regarding the frequency of monitoring, and specific actions that would be triggered by any protocol violations, as well as information about verification of compliance and the use of specific monitoring actions using measurable water quality metrics.

The Plant Site Pond Adaptive Management Program (Mitigation Measure 4.10-5) needs to provide additional information regarding: (1) who will oversee and enforce the plan, (2) the threshold water quality parameters for trigging corrective action, (3) timelines for implementing corrective measures, (4) the risks to human health and safety from herbicide use for vegetation management, (5) guidelines for the selection of such herbicides, and (6) measures to handle high testing variability due to seasonal cycles.

The Plant Site Pond Adaptive Management Program Funding Mechanism (Mitigation Measure 4.10-5) should provide details regarding the amount of funding, and the method of determining whether stabilization has occurred for the purposes of cancelling the funding mechanism.

The Quarry Site Groundwater Adaptive Management Program (Mitigation Measure 4.10-10a) involves monitoring multiple wells across the site, and beyond, which could create logistical challenges. The measure should require the Project Applicant to demonstrate long-term access to offsite wells and further specify contingencies for situations where available data is insufficient. Also, additional data should be provided regarding how quickly a 15% reduction in the water column could realistically occur given the large-scale nature of the Project.

The Quarry Site Groundwater Adaptive Management Program Funding Mechanism should have a provision for extending the duration beyond three years if the groundwater systems impacted by dewatering take longer than that to stabilize. In addition, this measure should clarify that monitoring and corrective actions will continue indefinitely if groundwater levels do not recover to the baseline levels.

These impacts and mitigation measures, as well as some additional general observations and recommendations are discussed in more detail in the letter dated March 3, 2025 from the Fresno Department of Public Utilities to David Randall, Fresno County Public Works and Planning Department, a copy of which is attached as Exhibit 1 hereto.

**c. Chapter 5: Cumulative analysis**

The cumulative impact analysis is deficient as it does not include all of the aggregate mining operations that were used to eliminate the VMT impact from off-site hauling trips for the Project. Specifically, it includes only Austin Quarry, and omits Sanger Sand & Gravel, Kings River Sand & Gravel, Madera Quarry, Carmelita Resources, and Riverbend Sand & Gravel.

In section 4.17, the Draft EIR claims that the Project will contribute 6,683,850 VMTs by Phase 2. (Draft EIR at 4.17-20.) In the individual analysis of the Project, those VMTs are ignored based on the argument that in the absence of the Project, these other mines would

contribute between 8 and 8.6 million VMTs. (Draft EIR at 4.17-23 through 24.) If this is the case, then these projects, taken together, clearly have a significant cumulative impact, and the proposed Project "contributes measurably" to the effect. This is the very definition of a cumulative impact.

Moreover, the CEQA Guidelines state that when a list is used to evaluate cumulative impacts, consideration should be given to the type of project "when the impact is specialized, such as a particular air pollutant or mode of traffic." (CEQA Guidelines § 15130(b)(2).) Here, the VMT analysis already identified similar projects using a particular mode of traffic and creating related and interdependent impacts. Those projects should all be included in the cumulative impact analysis, particularly with regards to transportation, GHG, aesthetics, and air quality analysis.

On page 5-11, the Draft EIR states that SJVAPCD considers a project's individual emissions of criteria air pollutants to be both individually significant and cumulatively considerable it they exceed the applicable significance thresholds. The proposed Project exceeds significance thresholds because the Draft EIR did not include a significant quantity of aggregate mining (30 MT) of fines and mine waste, the stockpiling of the excess mine waste on the Project Site for 100 years, or modeling of VMT impact on threshold criteria. These impacts must be reexamined in the cumulative impact section as well, following the addition of the similar aggregate mining projects.

The Draft EIR is insufficient in analyzing the cumulative impacts of the Project on air quality. The proposed Project will result in a cumulative impact on PM2.5 because the proposed mitigation for fugitive dust is not adequate to lessen the Project impact to less than significant. The Project's impact is Significant and Unavoidable. The Project has a significant impact on exposing sensitive receptors to dust and odor because not all feasible mitigation has been included in the Project. The Asphalt Plant Emission Controls are not adequate to lessen the exposure to sensitive receptors from dust and odors and results in significant and unavoidable impact. The Project has not included all feasible mitigation to less the adverse impact of the asphalt plant on a substantial number of people.

### d. Appendix B-2: Project Description/Operational Statement

#### i. Project Need and Economic Impact

The information provided on Page 6, of Appendix B-2, Project Description/Operational Statement is inaccurate and misleading as to the amount of permitted aggregate mining and processing facilities within the Fresno P-C Region in stating that there is an existing 50-Year permitted capacity of 6.0 MT, but a 50-Year need for 6.1 MT. California Geological Survey, Aggregate Sustainability in California, 2018, Table 1 (attached as Exhibit 5 hereto). Comparison of 50-Year Demand to Permitted Aggregate Reserves for Aggregate Study Area as of January 1, 2017, indicates the Fresno P-C Region has a 305 MT 50-Year Demand, has 556 MT Permitted Aggregate Reserve that results in having 182% of the 50-Year demand. This results in a 6.1 MT 50-Year demand, but the permitted 50-Year aggregate reserve is 11.12 MT. These figures do not

include the Fresno County Carmelita Project's permitted aggregate production of 1.25 MT per year.

**e. Chapter 6: Alternative Analysis**

The Alternative Analysis prematurely rejected the Reduced Operational Life Alternative. The County found that it would reduce utilization of a known MRZ-2 resource in conflict with Fresno County's General Plan and does not fully meet some of the project objectives." This ignores the possibility (or given the site's history, the virtual certainty) that the Project Owner would seek a further extension of the CUPs upon their expiration. At that time, an environmental review could take place to more accurately analyze impacts taking place far in the future from the present day. Armed with that more accurate analysis, the County could then re-evaluate the continuing need for the mine, and weigh that need against the environmental concerns then prevailing. This would have the additional benefit of allowing the County to consider mitigation measures using technological advancements that have not yet taken place.

The same deficiency appears in the discussion of alternatives 2-6. Those alternatives should recognize that a limited CUP approval now does not preclude a further expansion or extension of mining following expiration or exhaustion of current limitations. Accordingly, these alternatives could meet the project objectives, but with the benefit of further environmental review and possibly more effective mitigation to be implemented at a later date.

In addition, the analysis of the project alternatives incorrectly states that neither the proposed project nor Alternatives 1, 2, 3, 4, or 5 would result in any significant transportation impacts." (Draft EIR at 6-19, 6-30, 6-38, 6-49, 6-57.) To the contrary, Chapter 4.17 identified significant unavoidable impacts after mitigation, both in terms of signalization and pavement damage. These impacts must be recognized in the discussion of the alternatives.

**6. Conclusion.**

For the foregoing reasons, the NOP, NOC, NOA, and Draft EIR all require significant revision, and should be revised and recirculated for public comment.

Sincerely,

TUCKER ELLIS LLP

Douglas A. Hedenkamp
Partner

Enclosures:

Exhibit 1 – Letter dated March 3, 2025 from the Fresno Department of Public Utilities to David Randall, Fresno County Public Works and Planning Department, a copy of which is attached as Exhibit 1 hereto

Exhibit 2 – Fresno County General Plan, Table 2-2, Allowable Uses and Permit Requirements for Agricultural Zones

Exhibit 3 – CUP 2032 Mining Plan cross section.

Exhibit 4 – Hobart M. King, PhD, RPG, “Abandon Mine and Quarry Accidents Claim Several Lives per Year,”

Exhibit 5 - California Geological Survey, Aggregate Sustainability in California, 2018, Table 1, Comparison of 50-Year Demand to Permitted Aggregate Reserves for Aggregate Study Areas as of January 1, 2017.

# Exhibit 1

City of FRESNO

**Department of Public Utilities**

Administration
1626 E Street
Fresno, California 93706
559-621-8600
www.fresno.gov

March 3, 2025

**Sent Via Email Only**

David Randall
Senior Planner
Fresno County Public Works and Planning Department
Development Services and Capitol Projects Division
2220 Tulare St., 6th Floor
Fresno, CA 93721

**SUBJECT:** RESPONSE TO THE NOTICE OF AVAILABILITY OF A DRAFT ENVIRONMENTAL IMPACT REPORT (EIR) FOR THE PROPOSED MODIFICATION TO THE EXISTING CEMEX ROCKFIELD QUARRY (EIR NO. 7763 AND UNCLASSIFIED CONDITIONAL USE PERMIT APPLICATIONS NO. 3666 AND NO. 3667)

Dear Mr. Randall:

The City of Fresno, Department of Public Utilities, (DPU) is in receipt of the reissued Notice of Availability, received on January 24, 2025, for the Draft Environmental Impact Report (EIR) for the Proposed Modification to the Existing Cemex Rockfield Quarry (EIR No. 7763 and Unclassified Conditional Use Permit Application Nos. 3666 and 3667) (Project). The purpose of this response letter is to convey DPU's concerns following review of the EIR Sections 4.10 – Hydrology and Water Quality and 4.19 – Utilities and Service Systems, particularly as they relate to water supply and water quality impacts.

## BACKGROUND

CEMEX Construction Materials Pacific LLC has submitted applications to Fresno County (County) for two unclassified Conditional Use Permits (CUPs). These applications seek approval to continue and modify existing aggregate mining and processing activities, including the extraction of rock, sand, and gravel, at the Rockfield Quarry. The proposed project encompasses two distinct locations, situated approximately two miles apart:

1. Plant Site (approximately 139 acres): Located on the west side of North Friant Road, between North Willow Avenue and Little Dry Creek, approximately 1.2 miles north of the City of Fresno limits.
2. Quarry Site (approximately 352 acres): Located on the west side of North Friant Road, between Bluff Avenue and Lost Lake Road, approximately 2.7 miles north of the City of Fresno limits.

Since 1924, the Plant Site has supported aggregate mining and processing, including an aggregate processing plant, a ready-mix concrete facility, and ancillary operations that also process raw aggregate brought in from the Quarry Site. Mining and processing activities disturb nearly the entire plant site, aside from mandated setbacks along Friant Road.

At the Quarry Site, permitted for aggregate mining since 1960 (with initial operations dating back to 1913 to 1920 and a later resumption in the late 1980s), mining is focused on the alluvial deposit. There are no processing facilities onsite; instead, raw aggregate is transported approximately two miles south via Friant Road to the Plant Site for processing. Most of the Quarry Site has been extensively mined and disturbed, except for required setbacks along the San Joaquin River and Friant Road. Groundwater or surface water encountered during excavation is pumped either to a reclaimed pond in the northeast corner (the "Northeast Pond") or to recharge trenches along the site's western boundary. Historically, when the Northeast Pond was mined about 20 years ago, water from excavations was pumped to a nearby recharge trench, but following the completion of that excavation, water is now directed to the Northeast Pond for recharge.

The Modification Project is planned in two stages:

- In Stage 1, lasting up to 30 years, operations will continue concurrently at both sites. At the Plant Site, the existing processing plant, ready-mix concrete plant, and related facilities will remain active, with a new modern asphalt plant replacing the outdated unit. Mining will proceed to a depth of about 85 feet below ground surface, with water pumped from excavations to recharge trenches along the site's boundaries. Upon completion, the Plant Site will be reclaimed as 138.5 acres of open space, riparian, and open water wildlife habitat. At the Quarry Site, mining will be modified to extract the underlying hard rock (granite) beneath the alluvial deposit via drilling and blasting to roughly 600 feet bgs while maintaining the Northeast Pond as a groundwater recharge source. A new aggregate processing plant, located in a previously excavated pit about 30 feet bgs, will be added, and wash water will be recycled onsite.
- In Stage 2, hard rock mining and processing will continue exclusively at the Quarry Site. The ready-mix concrete and hot-mix asphalt plants will be relocated from the Plant Site to the Quarry Site, and once excavation is complete, mining

and processing equipment will be removed (except for water management infrastructure). The Quarry Site will then be reclaimed as 352.4 acres of open space, riparian, and open water wildlife habitat.

The City and Project are within the same Kings Subbasin, thus making the Project subject to the objectives of the North Kings Groundwater Sustainability Agency (NKGSA) as imposed by the Sustainable Groundwater Management Act (SGMA).

## WATER SUPPLY AND GROUNDWATER USAGE

### *Plant Site*

1. The Applicant holds riparian rights to withdraw water from the San Joaquin River for use in aggregate processing at the Plant Site. River water arrives via a dedicated delivery ditch on the west side of the property. After use in washing rock, sand, and gravel, the process of water now carrying fine sediments, flows to silt ponds, where these fines settle out. The clarified water is then circulated back to the processing plant or used for dust control, with any surplus recharging the underlying aquifer. The water level in the silt ponds fluctuates seasonally based on rainfall and groundwater levels, and new ponds may be formed as mining operations shift across the site. Current usage of river water for processing totals approximately 295 acre-feet per year.
2. Current Groundwater Usage
    - The Plant Site supports aggregate mining and processing, including a ready-mix concrete facility and ancillary operations.
    - Water usage primarily involves low-volume pumping for operational needs such as equipment wash-down, dust control, and limited dewatering if shallow groundwater is encountered during excavation (although much of the site is already heavily disturbed).
    - Existing practices indicate that most onsite water demand is met with minimal groundwater pumping, supplemented by any necessary surface water management.
3. Proposed Groundwater Usage (Stage 1 and Transition to Stage 2)
    - During Stage 1, the existing processing plant and ready-mix facility remain at the Plant Site, with groundwater usage continuing at levels similar to current operations (e.g., equipment washing, dust control).
    - A new asphalt plant will replace the outdated one, but no substantial increase in groundwater extraction is anticipated, as pumping volumes are projected to remain low and used efficiently.

- By Stage 2, once mining ceases at the Plant Site, the ready-mix and asphalt plants relocate to the Quarry Site, substantially reducing or eliminating most groundwater usage at the Plant Site.
- Ultimately, the Plant Site will be reclaimed, thereby further decreasing any groundwater withdrawals. By Stage 2, once mining ceases at the Plant Site, the ready-mix and asphalt plants relocate to the Quarry Site, substantially reducing or eliminating most groundwater usage at the Plant Site.
- Ultimately, the Plant Site will be reclaimed, thereby further decreasing any groundwater withdrawals.

***Quarry Site***

1. No surface water from the San Joaquin River is used at the Quarry Site. Instead, the site relies on the Northeast Pond, a permanent water body located in the northeastern portion of the property that functions as a dedicated groundwater recharge feature. By allowing water to percolate into the underlying aquifer, this pond plays an important role in maintaining local groundwater levels. Beyond the Northeast Pond, several additional ponds have formed over time due to historical and ongoing mining activities. These are typically seasonal or temporary features, receiving water primarily from rainfall runoff and shallow groundwater inflows. Their size and shape may vary seasonally and in response to quarrying operations. If standing water in these ponds impedes active mining, it can be pumped out to facilitate continued excavation. As the quarry expands into new areas, freshly excavated depressions may accumulate water, creating new temporary ponds.
2. Current Groundwater Usage
    - Historically, mining at the Quarry Site has been focused on alluvial deposits. Dewatering activities are limited to pumping water from active excavation areas to a recharge pond (the "Northeast Pond") or to recharge trenches along the site boundary.
    - These small-scale pumping efforts are designed to manage water levels within the excavation while reintroducing excess water to the local aquifer system via recharge features.
    - There are no active large-volume production wells at the Quarry Site for processing or potable use.

3. Proposed Groundwater Usage (Stage 1 and Stage 2)

    - In Stage 1, mining will expand to underlying hard rock (granite), requiring continued dewatering of excavation areas. However, this water will again be recycled or returned to recharge ponds or trenches, minimizing net groundwater consumption.
    - A new aggregate processing plant will be constructed in a previously mined pit (approximately 30 feet below ground surface), using wash water that is largely recycled onsite. Any groundwater usage is expected to remain limited to operational needs such as drilling, dust control, and equipment cleaning.
    - In Stage 2, full-scale hard rock mining continues, and the ready-mix and asphalt plants relocate from the Plant Site to the Quarry Site. Groundwater demand may shift onsite but overall remains modest, given the emphasis on water recycling and on pumping water primarily for dewatering and dust control.
    - Ultimately, upon mine closure, the Quarry Site is to be reclaimed as open space and habitat, at which point groundwater pumping would cease, apart from possible minimal flows needed to maintain water features for reclamation purposes.

The existing and proposed water use was summarized in Table 4.19-1, which is reproduced below:

| Source | Project Phase | | | | Change from Existing Conditions | | |
|---|---|---|---|---|---|---|---|
| | Existing | Stage 1 | Stage 2 | Reclamation | Stage 1 | Stage 2 | Reclamation |
| **Plant Site** | | | | | | | |
| San Joaquin River | 295 | 125 | 0 | 0 | -170 | -295 | -295 |
| Groundwater Supply Wells | 35 | 60 | 0 | 0 | 25 | -35 | -35 |
| Reclamation Period Evaporation and Evapotranspiration | 0 | 0 | 440 | 440 | 0 | 440 | 440 |
| **Plant Site Total:** | **330** | **185** | **440** | **440** | **-145** | **110** | **110** |
| **Quarry Site** | | | | | | | |
| Groundwater Supply Wells | 0 | 1 | 55 | 0 | 1 | 56 | 0 |
| Water Use from Ponded Pits | 440 | 465 | 495 | 0 | 24 | 55 | -440 |
| Reclamation Period Evaporation and Evapotranspiration | 0 | 0 | 0 | 585 | 0 | 0 | 585 |
| **Quarry Site Total:** | **440** | **465** | **550** | **585** | **25** | **111** | **145** |
| **Project Total:** | **770** | **650** | **990** | **1,025** | **-120** | **220** | **255** |

Available of water vs. the proposed water use was summarized in Table 4.19-2, which is reproduced below:

| Site | Water Source | Existing | Stage 1 | Stage 2 | Reclamation |
|---|---|---|---|---|---|
| Plant Site | Rainfall, groundwater inflow, silt pond, deep seepage | 420 | 865 | 600 | 440 |
| Quarry Site | Rainfall, groundwater inflow from alluvial & weathered rock, seepage from recharge ditch & NE Pond | 635 | 675 | 715 | 600 |
| | Total Availability for Both Sites: | 1,055 | 1,540 | 1,315 | 1,040 |
| | Total Water Use: | 770 | 650 | 990 | 1,025 |
| | Total Availability vs. Total Use: | +285 | +890 | +325 | +15 |

## HYDROLOGY AND WATER QUALITY

### *Plant Site Hydrogeologic Setting*

Groundwater monitoring at the plant site is currently conducted in four shallow alluvial wells. These wells were installed in 2018 and extend from approximately 96 to 116 feet below ground surface (bgs). The alluvial deposits at this location typically consist of unconsolidated materials such as sand, silt, clay, and gravel, which can provide a relatively shallow groundwater pathway. Based on the data collected to date, groundwater flow in the shallow alluvial aquifer at the plant site generally trends toward the south-southwest.

### *Quarry Site Hydrogeologic Setting*

Groundwater at this site is found in three distinct geologic units: alluvium, weathered rock, and hard rock. Each unit has different physical and hydrogeologic characteristics, which influence both the depth of the wells and the direction of groundwater flow.

1. Alluvium (Shallow Wells)
    - The alluvial deposits consist of unconsolidated materials such as sand, silt, clay, and gravel.
    - Four wells are currently completed in the alluvium, each less than 30 feet deep.
    - These shallow wells are identified by an "S" at the end of their well number (e.g., Well 1S).
2. Weathered Rock (Intermediate Wells)
    - Beneath the alluvium lies a layer of partially decomposed or weathered bedrock.
    - Four wells are screened within the weathered rock at depths generally

between 40 and 70 feet.

- These are labeled with an "M" after the well number (e.g., Well 2M).

3. Hard Rock (Deep Wells)
    - The deepest geologic unit comprises unweathered (competent) bedrock.
    - Seven wells—designated with a "D" (e.g., Well 3D)—are drilled into this hard rock formation, reaching depths of approximately 600 feet.

Based on current hydrogeologic data, groundwater flow in the shallow (alluvial) wells is predominantly toward the south and southeast. In the weathered rock wells, flow is also generally toward the southeast.

Groundwater sampling at the Quarry Site's groundwater monitoring wells occurred in 2018, 2019 and then a more comprehensive groundwater sampling event occurred in September and October 2021.

## POTENTIAL IMPACTS NOT DISCUSSED IN EIR

### 1. Potential alteration to natural groundwater flow characteristics

Currently, "the depth of groundwater across the Quarry Site has been measured as varying from about 10 to 45 feet bgs" (page 4.10-37) while, for the Plant Site, "the depth to groundwater varies from about 10 to 40 feet bgs" (page 4.10-34). The Project involves extensive mining below the existing groundwater levels, hundreds of feet in the case of the Quarry Site, which requires continuous dewatering of the mines. The applicant has emphasized that groundwater usage in Phase 1 and Phase 2 will be relatively similar to existing conditions. However, the continuous dewatering of the mines and subsequent recharge of that water into onsite ponding basins may result in the movement of the water from deeper, potentially confined aquifers to the shallower, unconfined aquifer. Many of the City wells in the northern portion of the City draw water from the deeper, confined aquifers, and continuous dewatering of mines in the vicinity of those confined aquifers may reduce water availability for those wells. As such, there needs to be a greater understanding of the volume of water expected to be dewatered from the mines over both Phase 1 and Phase 2, whether the volume changes seasonally or annually, and if the water recharged onsite is able to reach those deeper aquifers.

### 2. Mobilization of naturally occurring constituents

The EIR seemed to de-emphasize the potential impact of mobilizing naturally occurring constituents, including arsenic, iron, lead, and manganese. Based on the water quality data shown in Table 4.10-3, continuous aggregate processing with recycled silt pond water appears to release and concentrate the naturally occurring constituents in the silt ponds. There was no discussion of whether the silt pond was lined nor of any water

treatment associated with the silt ponds, so it was assumed that all the silt pond water freely percolates into the groundwater aquifer. The newly mobilized constituents appear to have impacted multiple monitoring wells throughout the Plant site in the vicinity of the silt pond, as shown in Table 4.10-5. Elevated iron and/or manganese was detected from the monitoring wells on the following dates:

| | | MW-2 | MW-3 | | MW-4 | |
|---|---|---|---|---|---|---|
| Constituent | Units | 8/9/18 | 10/17/18 | 8/28/19 | 10/24/18 | sMCL |
| Iron | µg/L | 530 | <30 | 2,600 | <30 | 300 |
| Manganese | µg/L | 790 | 2,600 | 1,030 | 300 | 50 |

There did not appear to be any elevated concentrations of arsenic or lead.

The explanation provided in the EIR was unsatisfactory. It stated, "However, the iron and manganese concentrations vary substantially between sampling events. Thus, the occasional elevated levels of iron and manganese identified in some of the samples from Plant Site wells MW-2, MW-3, and MW-4 most likely represent naturally occurring concentrations in suspended solids within the samples and may be the result of variability in sampling procedures" (page 4.10-42).

The EIR did not consider the possibility that concentrated and mobilized iron and manganese from the silt ponds infiltrated into the groundwater, thus triggering the extremely high concentrations that well exceed background levels. Furthermore, the variability in the concentrations detected are likely a result of operational factors such as when the silt pond is filled or not, whether water is being actively used for aggregate processing and being discharged back to the silt pond, and the groundwater level at the time of the sampling, with higher groundwater levels likely leading to a reduced time of travel from the silt ponds to the monitoring wells.

Furthermore, the EIR appears to be dismissive of the potential health implications of elevated manganese concentrations. During the discussion of Impact 4.10-4, it stated, "Iron and manganese concentrations showed high variability and exceed their respective Basin Plan standards and secondary MCL standards in some of the samples collected. Note that Basin Plan standards for iron and manganese are the same as the secondary MCL standards (300 µg/L for iron and 50 µg/L for manganese)...The secondary MCL standards are established as a threshold above which constituents may impart undesirable tastes and odors, or can cause staining and scaling, but do not pose a health threat. Therefore, the exceedance of the secondary MCL standards for iron and manganese concentrations in some of the samples collected does not pose a risk to human health" (page 4.10-94).

It appears the analysis did not take into consideration the recent California legislation introduced to require a maximum contaminant level (MCL) for manganese.

On March 29, 2022, Senate Bill 1124 (SB 1124) was revised to the "Public health goal: primary drinking water standard: manganese" bill with the following requirements:

- On or before July 1, 2023, the Office of Environmental Hazard Assessment (OEHHA) is to prepare a public health goal for manganese.
- The State Water Resources Control Board (SWRCB), after OEHHA publishes a public health goal for manganese, is to adopt a primary drinking water standard for manganese and to establish monitoring requirements for manganese.
- On or before January 31, 2024, the SWRCB is to consider establishing a notification or response level for manganese that would remain in place until the state board adopts a primary drinking water standard for manganese.

In a letter from the Director of the CalEPA Office of Environmental Health Hazard Assessment to the Deputy Director of the SWRCB Division of Drinking Water[1], it states, "In response to your request dated April 7, 2022, the Office of Environmental Health Hazard Assessment (OEHHA) has reviewed the recommendation for a revised notification level (NL) for manganese developed by the Division of Drinking Water (DDW) scientific staff. Based on the potential risk for manganese induced neurotoxicological effects in bottle fed infants, DDW staff recommended a health protective concentration (HPC) of 20 µg/L, equivalent to 20 parts per billion (ppb), to serve as the basis for future recommended revisions to the current manganese notification and response levels of 500 µg/L and 5,000 µg/L, respectively. Based on a review of the information presented, OEHHA agrees with an HPC of 20 µg/L as the basis for the NL. OEHHA also suggests some additional steps, as outlined below, for future work on developing an HPC for manganese".

As such, the EIR should now consider the consequences of how the concentration and mobilization of manganese in the water infiltrating from the silt ponds will impact downstream communities, including the City of Fresno, in light of a notification level and potential MCL for manganese being set at the HPC of 20 µg/L.

Furthermore, as the bedrock is fractured over the course of mining operation, it is possible that the infiltration from the manganese laden silt basins will find a preferential path into deeper aquifers. Therefore, the EIR must also consider the potential wider spread mobilization of the manganese with future mining activities.

[1] Available at: https://oehha.ca.gov/sites/default/files/media/mn_nl_recommendation_050322.pdf

## RECOMMENDATIONS FOR EIR MITIGATION MEASURES

With the impacts already detailed in the EIR, along with the additional impacts raised in this letter, the City of Fresno strongly recommends that the mitigation measures consider the following:

**Impact 4.10-1: Violate Surface Water Quality Standards or Waste Discharge Requirements or Otherwise Substantially Degrade Surface Water Quality at the Plant Site or Quarry Site During Mining and Reclamation**

**Mitigation Measure 4.10-1: Blasting Protocols**

- **Implementation Details:** While it is great that the protocol will be appended to the Mitigation Monitoring and Reporting Program, more detail on specific measures (e.g., frequency of monitoring or specific actions triggered by protocol violations) could help ensure clarity in enforcement.
- **Enforcement Mechanisms:** How will compliance with the protocols be verified? Including specific monitoring or reporting actions that link back to measurable water quality metrics (e.g., turbidity during blasting) might improve transparency.

**Impact 4.10-5: Violate Groundwater Quality Standards or Otherwise Substantially Degrade Groundwater Quality at the Plant Site due to the Ponding of Water in the Excavation**

**Mitigation Measure 4.10-5a: Plant Site Pond Adaptive Management Program**

- **Monitoring:** Identify who is overseeing and enforcing the adaptive management plan.
- **Threshold Clarity:** While the thresholds for various water quality parameters (e.g., pH, DO) are provided, it would be helpful to have more specific guidance on the thresholds for corrective action (beyond simply exceeding action levels) and timelines for implementing corrective measures.
- **Possible Risks from Vegetation Removal:** As described in the text of the EIR, "Elevated iron and manganese levels are common in and around reclaimed mining excavations that have filled with water because decaying vegetation on the bottom of ponds can create oxygen-deficient, or reducing, conditions. The reducing conditions mobilize naturally occurring iron and manganese from within the silts and other sediments present at the bottom of the reclaimed mining excavations" (Page 4.10-95). As such, vegetation removal is needed to reduce the mobilization of iron and manganese. However, the use of herbicides to manage vegetation could be problematic should chemicals used in the treatment of the vegetation

pose risk to human health. As such, the mitigation measure should provide proper guidelines for the selection of chemicals used in the vegetation removal, should it be needed.

- **Seasonal Variability:** There is a commitment to testing iron and manganese levels after seasonal cycles, but further clarity on how to handle high variability due to weather or seasonal changes (e.g., during wet or dry seasons) would ensure more accurate interpretation of data.

**Mitigation Measure 4.10-5b: Plant Site Pond Adaptive Management Program Funding Mechanism**

- **Clarity on Funding Amounts:** The measure states that the funding must be "sufficient," but no details are provided on what constitutes a sufficient amount. Providing more specific estimates based on monitoring costs would help ensure that the funding is adequate for long-term mitigation needs.
- **Mechanism Termination Criteria:** The conditions under which the funding mechanism is canceled (after five years of stabilization) are clear. However, it might be helpful to specify how "stabilization" will be definitively determined, especially in the case of ongoing water quality issues that could be challenging to resolve quickly.

**Impact 4.10-10: Substantially Decrease Groundwater Supplies During Mining Operations and After the Completion of Reclamation at the Quarry Site such that the Project Could Interfere with Existing Groundwater Supply Wells**

**Mitigation Measure 4.10-10a: Quarry Site Groundwater Adaptive Management Program**

- **Complicated Monitoring Locations:** The program involves monitoring multiple wells across the site and beyond (including private wells), which could create logistical challenges. Ensuring access to private wells or finding reliable substitutes for unmonitored areas might be difficult. It may be helpful to demonstrate long-term access to offsite wells and to further specify contingencies for situations when monitoring data is insufficient.
- **Threshold for "Significant Impact":** While the 15% reduction in water column is conservative, additional data might be needed on how quickly such impacts could realistically occur under various environmental conditions, especially given the large-scale nature of the Project.

**Mitigation Measure 4.10-10b: Quarry Site Groundwater Adaptive Management Program Funding Mechanism**

- **Post-Mining Monitoring Duration:** While three years is a reasonable duration, the groundwater systems impacted by dewatering could take longer than three years to fully stabilize. Extending the duration of monitoring or specifying the criteria for extending monitoring if needed would strengthen this mitigation.
- **Monitoring after Mining:** It would be helpful to clarify if monitoring and corrective actions would continue indefinitely if groundwater levels do not recover to baseline levels. The mechanism should account for this possibility without having to revise it at every stage of the process.

**General Recommendations:**

- **Observance of North Kings Groundwater Sustainability Plan**: As a Project within the NKGSA, the applicant is required to observe all North Kings Groundwater Sustainability Plan guidelines. Should there be a negative impact on neighboring domestics wells, the financial costs for the mitigation shall be entirely borne by the applicant.
- **Need for Current Groundwater Quality Data:** The most recent groundwater quality data was collected in 2021, which may not accurately reflect current conditions, particularly following recent wet and drought periods that can alter aquifer chemistry and water levels. Collecting and analyzing new data before the planned expansion begins will provide a more reliable baseline for understanding current conditions and monitoring any future changes linked to mining activities. Additionally, it may be beneficial to collect water quality samples during active operation as well as when there is a prolonged pause in operation to better establish a no operation baseline and current impacts from active operation.
- **Groundwater Well Sampling Program:** While discussed, it is recommended to develop and implement a structured, recurring groundwater sampling program focused on monitoring water quality at strategically selected wells located both upgradient and downgradient of the Quarry and Plant Sites. This program should include:
    1. **Key Parameters:** Electrical conductivity, dissolved oxygen, oxidation-reduction potential, and manganese levels
    2. **Flexibility for Additional Parameters:** The program should be designed to incorporate other water quality indicators as necessary. These additional parameters might be recommended by regulatory agencies, the City or County, or other stakeholders to address emerging concerns or site-specific conditions.
- **Consistent Sampling Schedule:** To detect trends or anomalies in a timely manner, sampling events should be conducted at regular intervals, such as

monthly. Adhering to a predictable schedule will enhance the reliability of trend analyses, enable early identification of potential issues, and support proactive decision-making regarding any necessary mitigation or operational adjustments.

- **Adaptive Management:** If data indicates any significant changes in groundwater quality, implement appropriate mitigation measures (e.g., adjustments to surface water management practices, enhanced water treatment) in consultation with regulatory agencies and other stakeholders. Additionally, as the site conditions evolve, continue to refine the groundwater well sampling program to ensure ongoing protection of downgradient groundwater users.
- **Enhanced Reporting Transparency:** Across the mitigation measures, ensuring clear and accessible reporting (e.g., publicly available monitoring reports) would help build trust with stakeholders.
- **Third-Party Reviews:** While third-party oversight for funding is mentioned, adding independent review of the environmental data and mitigation effectiveness would further strengthen the integrity of these programs.
- **Contingency Planning:** Developing more explicit contingency plans for situations where the monitoring and mitigation measures fail to resolve issues within the prescribed timeframes would help prevent prolonged environmental impacts.

Should you have any questions, feel free to contact Peter Maraccini by email at Peter.Maraccini@Fresno.gov or by telephone at (559) 621-1603.

Sincerely,

Brock D. Buche, PE, PLS
Director of Public Utilities

cc: Anthony White, MBA, Assistant Director
Paul Amico, PE, Assistant Director
Peter A. Maraccini, PE, PhD, PMP, Licensed Engineer Manager
Dejan Pavic, PE, Projects Administrator
Debbie Khounsavath, Planner

# Exhibit 2

# TABLE 2-2
# ALLOWABLE USES AND PERMIT REQUIREMENTS FOR AGRICULTURAL ZONES

| Land Use[1] | Permit Requirement by Zone[2] | | | | |
|---|---|---|---|---|---|
| | AE | AL | A-1[3] | A-2[3] | See Section |
| **Agricultural Uses** | | | | | |
| Agricultural Accessory Storage, Structures, and Uses | P | P | P | P | |
| Agricultural Commercial Center | C | | C | | 834.4.040 |
| Agricultural Processing, Area Products, including Cooperatives | C | | C | | |
| Agricultural harvesting, curing, processing, packaging, packing, sales, shipping for products produced on-site (i.e., not subject to Section 834.4.390). | P | P | | | |
| Agricultural processing, packaging, sales, shipping, etc. (products may be from on- or off-site holdings when owned by the same entity as the facility. | P | P | | | 834.4.390 |
| Animal Raising, Specialty Commercial | D | | D | D | 834.4.050 |
| Animal Uses (includes fish and fur bearing in the A-2) | P | P | P | P | 834.4.050 |
| Aquaculture (includes Fish Farms, Commercial) | D | D | D | D | |
| Cattle Dairies and Feedlot Facilities (Does **NOT** exceed a capacity of 500 cattle) | D | | D | | 834.4.110 |
| Cattle Dairies and Feedlot Facilities (Does exceed a capacity of 500 cattle) | C | | C | | 834.4.110 |
| Crop Production | P | P | P | P | |
| Grain Elevators, Commercial | C | | C | | |

**Key to Permit Requirements**

| Symbol | Applicable Process | See Chapter |
|---|---|---|
| P | Permitted use | |
| C | Conditional Use Permit required | 842.5 |
| D | Director's Review and Approval required | 846.5 |
| TUP | Temporary Use Permit required | 858.5 |
| *Blank* | Use not allowed | |

**Notes:**

1 See Article 7 for definitions of the land uses listed.

2 For any land use listed as permitted (P), a Director approved Site Plan Review Permit may be required for construction activities (e.g., additions, alterations, construction, reconstruction, or remodeling) in compliance with Chapter 854.5 (Site Plan Review).

3 See Section 806.2.030.C for Obsolete and Deleted Zones.

**TABLE 2-2**
**ALLOWABLE USES AND PERMIT REQUIREMENTS**
**FOR AGRICULTURAL ZONES (Continued)**

| Land Use[1] | Permit Requirement by Zone[2] | | | | |
|---|---|---|---|---|---|
| | AE | AL | A-1[3] | A-2[3] | See Section |
| **Agricultural Uses (Continued)** | | | | | |
| Hog/Swine Personal Use (4 max.) | P | | | | 834.4.050 |
| Hog/Swine, Sheep, or Goat Feed Lots | C | | C | | |
| Hog/Swine Ranches | C | | C | | 834.4.050 |
| Horticulture/Greenhouses | P | D | P | D | |
| Meat Processing, Commercial | C | | C | | 834.4.230 |
| Mushroom Growing | C | C | C | | |
| Mushroom Growing, Incidental | C | C | C | | |
| Poultry Raising, Large | D | | D | D | 834.4.290 |
| Poultry Raising, Small | P | | P | P | 834.4.290 |
| Poultry/Rabbit Processing | C | | C | | |
| Stock Yards/Feed Lots | C | | C | C | |
| Value-added agricultural uses in addition to agricultural harvesting, curing, processing, packaging, packing, sales, and shipping for products produced on-site. | P | | | | 834.4.390 |
| Commercial establishments for the processing of agricultural products and value-added uses not authorized under the by-right value-added uses above. | C | | | | 834.4.390 |
| Wineries/Distilleries, Large | C | | C | C | |
| Wineries/Distilleries, Small | D | | D | D | 834.4.410 |
| Wholesale Limited Winery Distillery and Brewery | P | P | | | 834.4.415 |
| Micro Winery, Distillery and Brewery | P | P | | | 834.4.415 |
| Minor Winery, Distillery and Brewery | P | P | | | 834.4.415 |
| **Agricultural Sales and Service Uses** | | | | | |
| Agricultural Chemicals, Sales and Service | C | | C | | |
| Agricultural Auction /Sales Yards | C | | C | C | |
| Building Materials Sales | C | | C | | |
| Commercial Dehydration Operations | C | | C | | |
| Contactors Storage Yard, Agricultural Services | D | | D | | |
| Dog Grooming (in conjunction with single-family residence) | D | D | D | D | |

| | | | | | |
|---|---|---|---|---|---|
| Farm Equipment and Machinery Sales, Rental, Storage and Maintenance | C | | C | | |
| Farm Labor Contractor Services | D | | D | | |

**Key to Permit Requirements**

| Symbol | Applicable Process | See Chapter |
|---|---|---|
| P | Permitted use | |
| C | Conditional Use Permit required | 842.5 |
| D | Director's Review and Approval required | 846.5 |
| TUP | Temporary Use Permit required | 858.5 |
| *Blank* | Use not allowed | |

**Notes:**

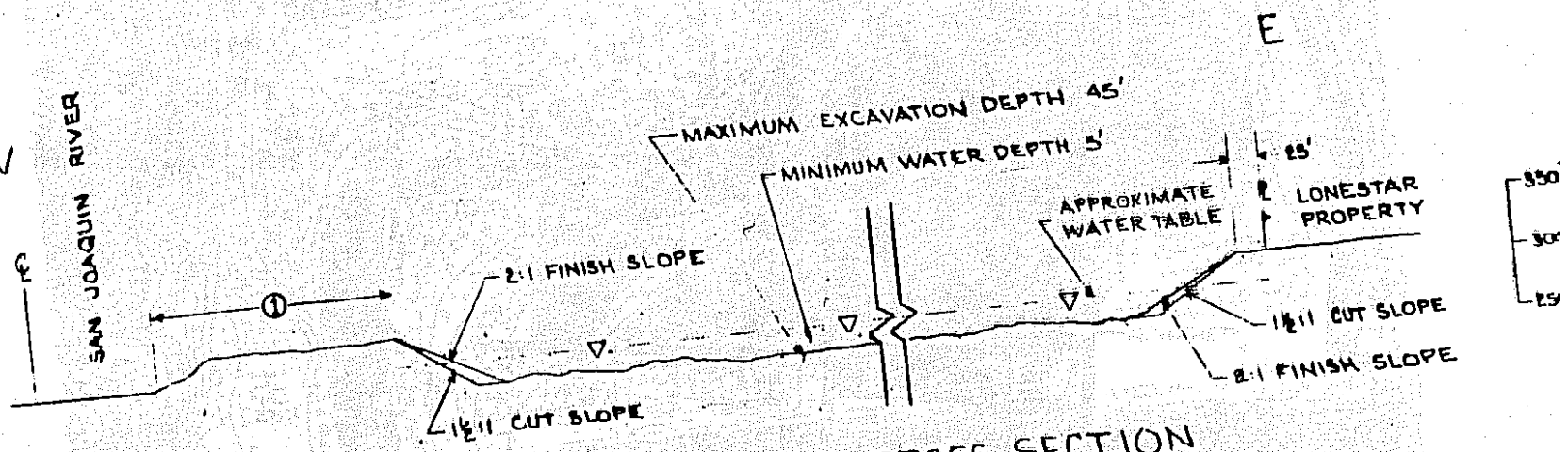
1 See Article 7 for definitions of the land uses listed.

2 For any land use listed as permitted (P), a Director approved Site Plan Review Permit may be required for all construction activities (e.g., additions, alterations, construction, reconstruction, or remodeling) in compliance with Chapter 854.5 (Site Plan Review).

3 See Section 806.2.030.C for Obsolete and Deleted Zones.

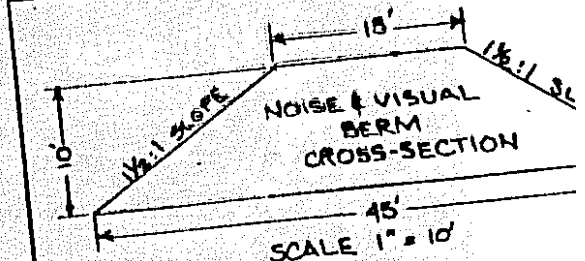
# Exhibit 3

# MINING PLAN




## TYPICAL E-W CROSS SECTION

SCALE 1" = 100'




LONESTAR IND. INC. | DATE 4/25/84 | DRAWN BY P

DRAWING NO. 3551

# Exhibit 4

# Abandoned Mine and Quarry Accidents Claim Several Lives per Year

**Most of the victims are young and went to the quarry to swim or ride an ATV.**

**Article by: Hobart M. King, PhD, RPG**

## Dangerous Places!

Abandoned mines and quarries are dangerous places! In a typical year, several people die in accidents that occur in abandoned mines across the United States. Some of these deaths can be prevented if citizens know the danger of these properties; if landowners make better efforts to warn and limit access; and, if governments have improved programs for reclaiming or regulating them.

***Don't swim in quarries!***
**Drowning is the leading cause of death in abandoned mines and quarries.**

If you are a mineral collector, hiker, recreational vehicle rider, swimmer, or curious person, you have no business entering an abandoned or inactive mine or quarry. In almost every instance, you will be trespassing because abandoned mines and quarries are almost always on private property.

**Abandoned mine structure:** Structures at abandoned mine sites are often dangerous and unstable. They can also house dangerous chemicals or explosives. Stay out of these structures. Bureau of Land Management image.



## Where Do Fatalities Occur?

Deaths in abandoned and inactive mines occur across the United States. Many of them occur in the eastern coal fields, the sand and gravel quarries of the upper Mississippi Valley, limestone quarries in the southeast, or the metal

Categories
Diamonds
Earthquakes
Fossils
Gemstones
General Geology
Geologic Hazards
Geology Dictionary
Geology News
Geology.com Store
Gold
Landslides
Metals
Meteorites
Minerals
Oil and Gas
Plate Tectonics
Rocks
Rock Tumblers
Satellite Images
Teacher Resources
U.S.A. Maps
Volcanoes
World Map
World Records
Map Collections
Africa Maps
Antarctica Map

Abandoned or Inactive Mine Fatalities

Arctic Map
Asia Maps
Australia Map
Canada Maps
Caribbean Maps
Central America Maps
Europe Maps
North America Maps
South America Maps
United States Maps
World Maps



mines in the southwest. Deadly accidents can happen in any type of abandoned mine or quarry. Stay out!

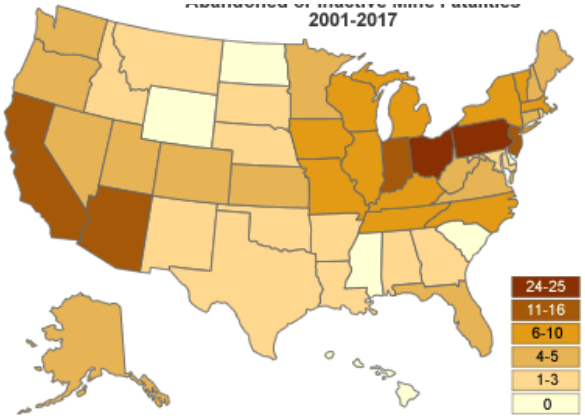
## Drowning is the Leading Cause of Death

Drowning is the number one cause of death in abandoned mines. Most people involved in this type of accident went to a quarry for swimming. Quarries are extremely dangerous places to swim. Steep drop-offs, deep water, sharp rocks, flooded equipment, submerged wire, and industrial waste make swimming risky.

Another risk factor is the very cold water. Many quarry operations excavate to depths below the water table and use pumps to keep the mine dry while it is in operation. When mining stops, the pumps are turned off and the quarry floods by the inflow of cold groundwater. This groundwater inflow can keep the quarry water very cold even in late summer.

Jumping or falling into cold water can be fatal - even for a young healthy person. Here is a quote from the **National Institute of Health** on how a body responds to sudden immersion in cold water...

> *A fall in skin temperature elicits a powerful cardiorespiratory response, termed "cold shock," comprising an initial gasp, hypertension, and hyperventilation despite a profound hypocapnia. [...] The respiratory responses to skin cooling override both conscious and other autonomic respiratory controls and may act as a precursor to drowning.*




**Abandoned mine fatalities map:** Deaths in abandoned and inactive mines occur across the United States. Many of them occur in the eastern coal fields, the sand and gravel quarries of the upper Mississippi Valley, and metal mines in the southwest. Image by Geology.com using data from newspaper articles and the **Mine Safety and Health Administration**. Examples of newspaper articles are provided at the bottom of this article.



## Don't Go Swimming in a Quarry

Most deaths that occur in abandoned mines and quarries are drownings. Most of the people who drown didn't fall in by accident. They went there to swim. Don't swim in a quarry. The water can be dangerously cold, there are no lifeguards, no rescue equipment, and it is simply not safe.

| Deaths Per State (2001-2017) | |
|---|---|
| Ohio | 25 |
| Pennsylvania | 24 |
| California | 16 |
| Indiana | 12 |
| New Jersey | 12 |
| Arizona | 11 |
| Illinois | 10 |
| Tennessee | 10 |
| Iowa | 9 |

| Abandoned Mine Fatalities per Year | |
|---|---|
| 2017 | 7 |
| 2016 | 5 |
| 2015 | 10 |
| 2014 | 5 |
| 2013 | 4 |
| 2012 | 15 |
| 2011 | 5 |
| 2010 | 20 |
| 2009 | 13 |

## ATV Accidents

ATV accidents are the second leading cause of death. Quarries and surface mines are dangerous places to ride an ATV. Riders unfamiliar with the quarry can speed over a quarry's high wall or embankment. Death can result when an ATV is driven too close to a high wall and the rock, previously fractured from blasting, collapses from vibrations or weight. ATV riders have been killed by driving into wire fences at high speeds and losing control on gravel or sand-covered surfaces.

**ATV accidents are the second leading cause of death in abandoned mines and quarries.**

## Falls and Asphyxiation

Falls are also deadly. Rock climbing in a mine or quarry is especially dangerous. The rock of a high wall or a mine has been fractured by blasting and can be highly unstable. The rocks that the climber depends upon for support can break free, or the climber's weight can destabilize an entire face of rock. Falls also occur in underground mines when the victim walks across rotted timbers covering a vertical shaft or steps over a ledge while negotiating a dark area.



| | |
|---|---|
| Massachusetts | 9 |
| Missouri | 9 |
| Wisconsin | 9 |
| Kentucky | 8 |
| North Carolina | 8 |
| New York | 7 |
| Michigan | 6 |
| Vermont | 6 |
| Alaska | 5 |
| Colorado | 5 |
| Florida | 5 |
| Kansas | 5 |
| Minnesota | 5 |
| New Hampshire | 5 |
| Oregon | 5 |
| Utah | 5 |
| Virginia | 5 |
| Connecticut | 4 |
| Maine | 4 |
| Nevada | 4 |
| Washington | 4 |
| West Virginia | 4 |
| Nebraska | 3 |
| Oklahoma | 3 |
| Alabama | 2 |
| Arkansas | 2 |
| Georgia | 2 |
| Louisiana | 2 |
| Maryland | 2 |
| Idaho | 1 |
| Montana | 1 |
| New Mexico | 1 |
| Rhode Island | 1 |
| South Dakota | 1 |
| Texas | 1 |
| Delaware | 0 |
| Hawaii | 0 |
| Mississippi | 0 |
| North Dakota | 0 |
| South Carolina | 0 |
| Wyoming | 0 |

| | |
|---|---|
| 2008 | 21 |
| 2007 | 21 |
| 2006 | 24 |
| 2005 | 28 |
| 2004 | 29 |
| 2003 | 23 |
| 2002 | 27 |
| 2001 | 21 |
| Total | 278 |

### Causes of Fatalities (2001-2017)

| | |
|---|---|
| Drowning | 201 |
| ATVs | 23 |
| Fall | 24 |
| Other | 21 |
| Asphyxiation / Suffocation | 9 |
| Total | 278 |

### Fatalities by Age (2001-2017)

| Age | Number |
|---|---|
| 0 - 10 | 7 |
| 11 - 20 | 100 |
| 21 - 30 | 74 |
| 31 - 40 | 32 |
| 41 - 50 | 33 |
| 51 - 60 | 14 |
| 61 - 70 | 7 |
| 71 - 80 | 3 |
| 81 - 90 | 1 |
| Unknown | 7 |
| Total | 278 |

### Fatalities by Gender (2001-2017)

| | |
|---|---|
| Male | 255 |
| Female | 23 |

**Where Did This Data Come From?** The data used to create the tables and map on this page was obtained from newspaper articles that we encountered in our daily readings and website reports complied by the Mine Safety and Health Administration. The actual number of fatalities is, without any doubt, higher than the numbers shown in the tables and on the map.



Asphyxiation typically happens in underground mines. These mines can contain dangerous gases or have low levels of oxygen. Some victims have not realized that they were inhaling dangerous air until it was too late. Other causes of death include electrocution, passage collapse, and rockfalls.

**Stay Out and Stay Alive:** Abandoned Mine Safety. Video produced by the Office of Surface Mining Reclamation and Enforcement.

## Why No Reclamation?

Today all mining operations must be reclaimed when work is completed. Miners are expected to return the land to a condition similar to before the mining was done - or in an alternative condition specified in their approved mining permit.

To assure that reclamation is done, the mining company must post a performance bond. The bond money is used to reclaim the land if the mining company goes bankrupt or fails to reclaim the land as required. Sometimes there is not enough bond money to complete the reclamation work, and that work goes undone.

Many abandoned mines were closed long before permitting and bonds were required. The responsibility to reclaim these mines can fall to the current property owner or to the government. Reclamation is expensive, so many of these jobs have not been completed.

### Equipment, Structures, and Mine Openings

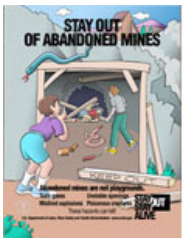
The buildings, structures, and equipment left at abandoned mines are also dangerous. The buildings and structures can be old and unstable. Floors can collapse when they are walked on. Supports can be rusted away. Chemicals, explosives, or electrical equipment and other dangers are sometimes left inside. Don't explore equipment and structures at abandoned mines.

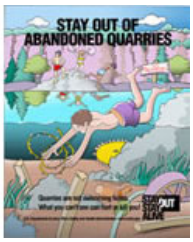
**Abandoned iron processing facility in England:** The abandoned mines problem is not confined to the United States. Open pits, underground mine entries, mineral processing facilities, and other abandoned works can be found in all parts of the world. The photo above is of an abandoned iron processing facility in North Yorkshire, England. Photograph copyright iStockphoto / PaulaConnelly.

Underground mines are especially dangerous. They are dark inside, have loose rocks on the walls and roof, and there can be deep shafts and tunnels concealed by rotten wood covers. Underground mines are often used as homes by bats, bears, snakes, and other dangerous animals.

## People of All Ages Are Killed

Abandoned mine accidents claim the lives of people of all ages. Children sometimes enter mines without supervision, and adults sometimes take children with them when entering an abandoned mine site. A table on this page shows the age distribution of abandoned and inactive mine deaths. Most victims are young and die by drowning. Older victims die from a variety of causes.






**MSHA educational books:** The "Fatalities by Age" chart on this page shows that young people account for most of the fatal accidents. The **Mine Safety and Health Administration** has produced educational materials appropriate for school-age children.

### If You Know of An Abandoned Mine...

Dangerous mining sites should be reported - especially if you know that there are dangerous activities going on there. You can start by reporting to your local police. Another good place to report is the **Office of Surface Mining's contact list**.

## Spread the Word!

Help educate people in your area about the dangers of abandoned mines. One life saved is worth a lot of effort.

## Where Did This Data Come From?

The data used to create the tables and map on this page was obtained from newspaper articles that we encountered in our daily readings and website reports complied by the Mine Safety

**The victims range in age from preschool children to an 85-year-old mining veteran.**

**News articles about fatal non-employee mine accidents**

**Columbus Teen Drowns in Marion's Quarry Park**: NBC4 Staff; WCMH-TV Columbus; 05/20/2017

**Teen Dies After Diving From Florida Lime-Rock Mining Quarry**: U.S. News & World Report; 07/12/2017

**Update: MCSO Names Tampa Teen Recovered From Quarry**: Austin L. Miller; GateHouse Media; 05/28/2017

**Teen Who Drowned After Swimming in Berkeley County Quarry is Identified**: Katiann Marshall; Herald-Mail Media; 06/11/2017

**Body Pulled From Quarry in Mays Landing**: Vincent Jackson; The Press of Atlantic City; 06/12/2017

**Police identify Kingsport Man Who Drowned at Fort Dickerson Park Quarry**: USA Today Network - Tennessee; 09/18/2017

**Quarry Drowning Victim Identified**: WBIR Staff; WBIR-TV; 06/19/2017

**Cocke County Sheriff's Office Investigating Accidental Drowning**: WVLT TV; 05/28/2016

**Howell Man Who Died During Pa. Quarry Swim Identified**: Karen Wall; Patch Media; 07/18/2016

**Surry Man Pulled From Sullivan Quarry Last Week Has Died**: Ryan McLaughlin; Bangor Daily News; 07/25/2016

**Mine Search Ends Without Finding Missing Man**: Chris Lawrence; Metro News; 09/02/2016

**Police Positively ID Body Recovered From VT Quarry as Missing Woman Hadil Marzouq**: Lindsay Nielsen and Samantha DiMascio; News10 ABC; 12/19/2016

**Wife Finds Husband's Body in Mine Shaft, Utah Officials Investigating Cause of Death**: Zach Whitney; Fox13 Salt Lake City; 01/09/2015

**Westerly Man Dies After Falling 80+ Feet Into Quarry**: Neil Remiesiewicz; WPRI 12; 05/25/2015

**2 Chickasha Teens Drown in Caddo County Rock Quarry**: Jonathan Greco; KOCO News 5; 06/13/2015

**Body Found at Flooded Quarry in Robeson Township**: Steven Henshaw; Reading Eagle; 08/02/2015

**Lehigh Valley Quarries Getting a Flood of Trespassers**: Pamela Lehman; The Morning Call; 09/12/2015

**Lower Mount Bethel Quarry Victim Identified by Northampton County Coroner**: Tony Rhodin; Lehigh Valley Live; 06/16/2015

**After Manchester Girl's Death, Police Increase Patrols**: Amanda Oglesby; app. Part of the USA Today Network; 07/07/2015

**Police Recover Body of N.J. Teen Who Drowned in Quarry**: Andy Polhamus; New Jersey On-Line; 07/02/2015

**Body of Drowning Victim in Knoxville Found by Rescue**

and Health Administration. The actual number of fatalities is, without any doubt, higher than the numbers shown in the tables and on the map.

## Find Other Topics on Geology.com:

Search

**Rocks:** Galleries of igneous, sedimentary and metamorphic rock photos with descriptions.

**Minerals:** Information about ore minerals, gem materials and rock-forming minerals.

**Volcanoes:** Articles about volcanoes, volcanic hazards and eruptions past and present.

**Gemstones:** Colorful images and articles about diamonds and colored stones.

**General Geology:** Articles about geysers, maars, deltas, rifts, salt domes, water, and much more!

**Geology Store:** Hammers, field bags, hand lenses, maps, books, hardness picks, gold pans.

**Earth Science Records:** Highest mountain, deepest lake, biggest tsunami and more.

**Diamonds:** Learn about the properties of diamond, its many uses, and diamond discoveries.

**Squad**: Greg Brobeck; WATE; 04/23/2015

**Crews Recover Body at South Knoxville Quarry**: WVLT TV; 05/30/2014

**Cold Water Blamed in Man's Drowning**: Nancy Lowry; New Castle News; 06/11/2014

**Virginia Tech Wrestler Dies in Apparent Swimming Accident**: Amy Friedenberger; source; 07/03/2014

**UPDATED: Forest Park Graduate Drowns in Fredericksburg Quarry**: Author; Inside NoVa; 07/08/2014

### More Minerals

**Minerals**

**Kyanite**

**Cinnabar**

**Rhodonite**

**Quartz**

**Tourmaline**

**Topaz**

**Rhodochrosite**

# Exhibit 5

## Table 1. Comparison of 50-Year Demand to Permitted Aggregate Reserves for Aggregate Study Areas as of January 1, 2017.

| **AGGREGATE STUDY AREA[1]** | **50-Year Demand** (million tons) | **Permitted Aggregate Reserves** (million tons) | **Permitted Aggregate Reserves Compared to 50-Year Demand** (percent) | **Projected Years Remaining** |
|---|---|---|---|---|
| Bakersfield P-C Region | 338 | 1,708 | 505 | More than 50 |
| Barstow-Victorville P-C Region | 163 | 117 | 72 | 31 to 40 |
| Claremont-Upland P-C Region | 202 | 90 | 45 | 21 to 30 |
| El Dorado County | 82 | 15 | 18 | 11 to 20 |
| Fresno P-C Region | 305 | 556 | 182 | More than 50 |
| Glenn County | 41 | 22 | 54 | 21 to 30 |
| Merced County | 154 | 61 | 40 | 21 to 30 |
| Monterey Bay P-C Region | 333 | 297 | 89 | 41 to 50 |
| Nevada County | 41 | 52 | 127 | More than 50 |
| North San Francisco Bay P-C Region | 492 | 263 | 53 | 21 to 30 |
| Palmdale P-C Region | 569 | 163 | 29 | 11 to 20 |
| Palm Springs P-C Region | 238 | 163 | 68 | 31 to 40 |
| Placer County | 188 | 387 | 206 | More than 50 |
| Sacramento County | 724 | 327 | 45 | 21 to 30 |
| Sacramento-Fairfield P-C Region | 295 | 109 | 37 | 21 to 30 |
| San Bernardino P-C Region | 939 | 156 | 17 | 11 to 20 |
| **San Fernando Valley/ Saugus-Newhall[2]** | **387** | **17** | **4** | **10 or fewer** |
| San Gabriel Valley P-C Region | 751 | 297 | 40 | 21 to 30 |
| San Luis Obispo-Santa Barbara P-C Region | 226 | 58 | 26 | 11 to 20 |
| Shasta County | 82 | 49 | 60 | 31 to 40 |
| South San Francisco Bay P-C Region | 1,320 | 506 | 38 | 21 to 30 |
| Stanislaus County | 160 | 39 | 24 | 11 to 20 |
| Stockton-Lodi P-C Region | 409 | 203 | 50 | 21 to 30 |
| Tehama County | 49 | 30 | 61 | 31 to 40 |
| Temescal Valley-Orange County[2] | 1,079 | 862 | 80 | 41 to 50 |
| Tulare County | 130 | 53 | 41 | 21 to 30 |
| Ventura County[2] | 241 | 84 | 35 | 11 to 20 |
| Western San Diego County P-C Region | 763 | 265 | 35 | 11 to 20 |
| Yuba City-Marysville P-C Region | 344 | 679 | 197 | More than 50 |
| Total | 11,045 | 7,628 | 69 | |

[1] Aggregate study areas follow either a Production-Consumption (P-C) region boundary or a county boundary. A P-C region includes one or more aggregate production districts and the market area that those districts serve. Aggregate resources are evaluated within the boundaries of the P-C Region. County studies evaluate all aggregate resources within the county boundary.

[2] Two P-C regions have been combined into one study area.

**Bold** = study area with ten or fewer years of permitted reserves.