

# ATTACHMENT D

## AMENDMENT TO THE SOLANO CONCRETE (CEMEX) MINING AND RECLAMATION PERMIT #95-093

### CONDITION OF APPROVAL

#### Add the following Condition of Approval 45.1

COA 45.1: Dewatering is allowed on the site subject to the following requirements:

- Net annual water use shall not exceed the per year amount analyzed in the 1996 EIR.
- No offsite discharge of pumped groundwater shall occur.
- As required under Section 10-4.412 of the OCSMO, CEMEX will monitor water levels in the wet pits, and nearby monitoring wells on a quarterly basis and will quantify the amount of water pumped from and returned to the wet pit(s).
- CEMEX shall notify the County if an adverse impact to existing wells or water resources is identified. Consistent with the OCMP EIR, an effect shall be considered adverse if the reduction in simulated groundwater levels exceeds two feet at any well located within 1000-feet of the pit boundary or results in well failure. If adverse impacts are found to be occurring, dewatering activities will be modified to eliminate adverse impacts, or the applicant shall otherwise mitigate impacts to the satisfaction of the County. Any measures designed to mitigate adverse impacts identified after implementation of dewatering activities shall be approved by the Planning Commission at a regularly scheduled meeting

**CONDITIONS OF APPROVAL**  
**MINING PERMIT AND RECLAMATION PLAN NO. ZF #95-093**

*CEMEX MINING AND RECLAMATION PROJECT*

*Confirmed Official Conditions: October 22, 2020*  
*2020 Ten-Year Permit Review: February 11, 2021*

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The following conditions of approval include all mitigation measures contained within the Final EIR, except where noted in the staff report. Modification to mitigation measures can only occur if: 1) the effectiveness of the measure in reducing the applicable environmental impact is not affected; or, 2) subsequent environmental analysis is performed to examine the new proposed measure and associated environmental impact.

**MISCELLANEOUS CONDITIONS**

1. The operator shall agree to indemnify, defend, and hold harmless the County or its agents, officers, and employees from any claim, action, or proceeding (including damage, attorney's fees, and court cost awards) against the County or its agents, officers, or employees to attack, set aside, void, or annul an approval of the County, advisory agency, appeal board, or legislative body concerning the permit or entitlement when such action is brought within the applicable statute of limitations.

The County is required to promptly notify the operator of any claim, action, or proceeding, and must cooperate fully in the defense. If the County fails to promptly notify the operators of any claim, action, or proceeding, or if the County fails to cooperate fully in the defense, the operators shall not thereafter be responsible to defend, indemnify, or hold the County harmless as to that action. The County may require that the operators post a bond in an amount determined to be sufficient to satisfy the above indemnification and defense obligation.

2. Annual production is limited to 1,000,000 tons (sold weight) and 1,204,819 tons mined weight). The annual production level may be exceeded by 20 percent to 1,200,000 tons (sold weight) in any one year, so long as the running ten-year production average does not exceed 10,000,000 tons (sold weight). Under no circumstances may annual production exceed 1,200,000 tons (sold weight). Pursuant to Action 2.4-9 of the OCMP and Action 6.4-4 of the CCRMP, this limit shall not apply to recycled waste material or aggregate obtained from in-channel maintenance work performed in accordance with the CCAP.
3. The operator shall pay tonnage fees to the County and the Cache Creek Conservancy for every ton of aggregate materials sold. Payment of these fees shall be in accordance with the

CCAP and all implementing ordinances, and the Gravel Mining Fee Ordinance enacted for this purpose.

4. Pursuant to Section 10-11.02(e) of the Gravel Mining Fee Ordinance, operators approved to utilize the Twenty Percent Production Exception Surcharge shall pay an additional \$0.20 per ton for tonnage in excess of the base amount. Payment of these fees shall be in accordance with the CCAP and all implementing ordinances, and the Gravel Mining Fee Ordinance enacted for this purpose.
5. The processing of aggregate material approved under this Mining Permit shall cease when either permitted reserves are depleted or the life of the permit has expired, whichever event occurs first. The operator may apply for permit approval to extend aggregate processing beyond the limits described above. The extension may not exceed an additional period of twenty years and shall be subject to appropriate environmental review.
6. The Mining Permit is approved for a period not to exceed thirty years, starting from the date that mining begins. The operator shall certify in writing that mining has commenced. Written notification shall be received by the County within three days of mining commencement. If notification has not been received by the County within one year of permit approval, then this Mining Permit and its accompanying entitlements shall be null and void.

If permitted aggregate reserves are still available at the end of the approved thirty-year period, the operator may apply to renew the permit. The extension may not exceed an additional period of twenty years and shall be subject to appropriate environmental review.

7. The operator shall be responsible for all costs associated with implementing and monitoring these conditions.
8. The operator shall submit financial assurances, in a form consistent with Section 10-5.702 of the Surface Mining Reclamation Ordinance, in the amount of \$699,655 for reclamation of Phase 1, naming the County of Yolo and the California Department of Conservation as beneficiaries, prior to the commencement of mining.
9. The project to which these conditions are applicable is as described in the Project EIR and summarized in the Yolo County Board of Supervisors Staff Report dated November 25, 1996, as modified only by the adopted conditions of approval including mitigation measures. Any subsequent substantive changes in the project description (as determined by Yolo County) may only occur subject to amendment or modification of the Mining Permit and/or Reclamation Plan.
10. In compliance with Section 10-5.520.2 (Permanent Easements) of the Reclamation Ordinance, upon the completion of reclamation within each phase of the project, the operator shall enroll each reclaimed parcel in Williamson Act contracts, or other equivalent

long-term easements or deed restrictions satisfactory to the County, for the purpose of protection of the agricultural use of the reclaimed land in perpetuity.

11. In order to comply with the compatibility findings in Section 51238 et al. of the California Land Conservation Act (Williamson Act), only that portion of the Farnham East parcel in Phase 3 (APN: 049-070-05) which will be reclaimed to prime agricultural land, shall be mined prior to 2006.
12. This Mining Permit and the accompanying entitlements, shall not be considered effective until a Development Agreement between the County and the operator has been executed. The Development Agreement shall include, but not be limited to, provisions for the following: implementation of net gain improvements, funding mechanisms for various programs associated with the project, all approved conditions of approval including EIR mitigation measures, relinquishment of existing in-channel permit rights, sunseting of the processing plant and all operations at the mining site, dedication of reclaimed land and access to the County or other non-profit organization, and other items as deemed appropriate by the executing parties.
13. The operator shall reclaim the areas south of the permanent lakes in Phases 1, 3, 4, 5, and 6 to the agricultural production of tree crops, as described in the application.
14. The aggregate processing plant, located on the northern 20 acres of the Kaupke parcel (APN: 049-070-13) shall be reclaimed in accordance with the CCAP.
15. Temporary soil stockpiles shall be located on unmined phases within the approved mining areas or may be located outside of the mining area if the stockpile is to be farmed and harvested with an agricultural crop. Stockpiles shall not otherwise impact adjoining agricultural fields outside of the mining area. A revised reclamation plan shall be submitted to the Community Development Director for review and approval, if the stockpile locations change from the original proposal as a result of this condition.
16. The operator shall comply with both the spirit and intent of all applicable requirements of SMARA, the County Code (particularly Chapters 4 and 5), and all conditions of approval. The operation must remain consistent with the spirit and intent of the Cache Creek Area Plan.
17. The operator is prohibited from proceeding with any new wet excavation, unless ambient mercury levels in the creek have been determined pursuant to Section 10-5.517 of the Reclamation Ordinance, six months prior.
18. The operator shall modify the mining and reclamation plans to account for the required 200-foot buffer from the channel boundary, less "credit" for the existing road levee. The pit slopes in modified areas may be steepened to 2:1, if supported by site-specific slope stability analyses. A slope stability analysis, prepared by a Registered Engineer, and revised mining

and reclamation plans shall be submitted to the Community Development Director prior to the commencement of mining in Phase 3.

19. Pursuant to Action 2.4-13 of the Off-Channel Mining Plan, the CEMEX aggregate processing plant and all associated facilities must be closed, moved, and the site reclaimed consistent with the CCAP when mining has concluded at the site under the terms of the long-term permit, unless extended under subsequent permits to allow mining of additional aggregate deposits.
20. The operation is prohibited from processing imported aggregate material. This condition shall not apply to materials needed to meet construction specifications, recyclable material, aggregate obtained from in-channel maintenance work performed in accordance with the CCAP, or previously stockpiled material from prior permits.
- 21 - 24. Deleted due to repeat language.
25. Pursuant to Action 2.4-2 of the Off-Channel Mining Plan, comply with Mining Ordinance Section 10-4.403 (Accident Reporting) related to reporting of accidents and/or hazardous conditions at the site, and Section 10-4.419.1 (Hazardous Material Storage) related to annual submittal/update of a Hazardous Materials Business Plan (HMBP) and Spill Prevention Countermeasure Contingency Plan (SPCCP).
26. Pursuant to Action 6.4-8 of the OCMP, Section 10-4.440 of the Mining Ordinance, and Section 10-5.523 of the Reclamation Ordinance, hedgerows and other vegetated buffers required between restored habitat areas and adjoining farmland, shall use entirely native species. These hedgerows/buffers are intended to minimize the potential for riparian areas to serve as harbors for predators and insect pests. These buffers are intended to also reduce noise, dust, and spraying generated by agricultural operations.
27. Pursuant to Action 6.5-14 of the Cache Creek Resources Management Plan, the operator shall enter into a legally-binding agreement which ensures the implementation of channel improvements/maintenance required pursuant to Section 10-4.429 (Setbacks) of the Mining Ordinance and/or Section 10-5.506 (Bank Stabilization Maintenance) of the Reclamation of Ordinance, along the creek frontage adjoining the proposed mining area. Mining within each phase may occur concurrently with the CCAP channel improvements. However, CCAP channel improvements along the entire frontage of the mined phase shall be completed prior to the commencement of overburden removal and mining within the next subsequent phase. The agreement shall also require that a deed restriction be placed on those parcels on which the improvements occur, to require future owners of the property to maintain the streambank protection improvements. A bond or other financial instrument shall be provided by the operator prior to the commencement of mining within 700 feet of the CCAP channel boundary for the maintenance of any bank stabilization features during the 30-year mining period. Maintenance of the bank stabilization features following the completion of reclamation shall be the responsibility of the property owner.

If, in moving from any one phase of mining to the next, the operator is unable to fulfill this condition within 12 months, due to delays outside of the control of the operator, the operator may optionally enter into an agreement with the County that allows deferral of construction of the channel improvements that would have otherwise been required at that time, to a reasonable future time when the events outside of the operator's control will no longer preclude meeting the condition. The operator must demonstrate to the County a good faith effort to satisfy the condition in order to enter into the optional deferral agreement. The use of the optional deferral agreement shall not allow any channel improvements that would have been required under this condition to be waived. The intent of allowing the optional deferral agreement to address a possible situation wherein the operator may be unable to satisfy the condition due to disagreement between responsible/permitting agencies, delay on the part of the County in identifying the specific improvements, or other similar circumstances.

28. All approved modifications to the application, as documented in the Yolo County Board of Supervisors Staff Report dated November 25, 1996, shall be implemented by the operator as a condition of approval.
- 28.3 The operator shall install conveyors to transport aggregate from the mining area to the processing plant site by 2005. If conveyors have not been constructed by the projected date, then the operator shall submit a letter to the Community Development Director by January 1, 2006, describing the reasons for delay and a revised deadline for installation.
- 28.6 Total production allowed under this Mining Permit shall not exceed 26.7 million tons (sold weight) and 32.2 million tons (mined weight). No mining in excess of this limit shall occur without additional approval by the Planning Commission and appropriate environmental review. Pursuant to Action 2.4-9 of the OCMP and Action 6.4-4 of the CCRMP, this limit shall not apply to recycled waste material or aggregate obtained from in-channel maintenance work performed in accordance with the CCAP.
- 28.7 The applicant shall be in full compliance and good standing at all time with the terms of other required federal, state, and regional agency permits.

## **EIR MITIGATION MEASURES**

### **Land Use and Planning**

29. Implement Mitigation Measures 4.4-3a, 4.4-4a, and 4.4-7a of the Final EIR for the proposed project (Mitigation Measure 4.2-1a).
30. The project mining schedule or reclamation plan shall be modified to ensure that if Phase 3 lands are to be mined before the Williamson Act contracts expire, then reclamation shall be

to prime agricultural uses only. Alternatively, if mining in Phase 3 does not begin until after 2006, no change to the reclamation plan would be required (Mitigation Measure 4.2-3a).

31. The County shall determine whether the operator's offer to dedicate reclaimed lands in Phases 5 and 6 for the proposed Recreation Node fulfill the policies of the CCRMP. The County and the operator shall enter into discussions to resolve how public access to the future recreation facility can be accommodated. If determined to be feasible, the project plans shall be modified to include a public access road along the eastern boundary of the site (Mitigation Measure 4.2-8a).

### **Geology and Soils**

32. Implement the performance standards included in Sections 10-5.504, 10-5.505, 10-5.512, and 10-5.526 of the County Surface Mining Reclamation Ordinance. (Mitigation Measure 4.3-1a).
33. Implement the performance standards included in Sections 10-4.406, 10-4.413, and 10-4.431 of the County Off-Channel Mining Ordinance; and Sections 10-5.507, 10-5.508, and 10-5.530 of the County Surface Mining Reclamation Ordinance (Mitigation Measure 4.3-2a).
34. The County shall revise the CCRMP channel boundary in the vicinity of the site to reflect the Cunningham Engineering (1995) 100-year floodplain boundary. The hydraulic model used to determine the boundary assumes replacement of the Capay Bridge with a three-span bridge. If this assumption changes, additional HEC-2 modeling shall be required to establish the revised CCRMP boundary. If this boundary changes significantly upon modeling, additional review may be required (Mitigation Measure 4.3-4a).
35. Portions of the northern margin of Phases 2, 3, 5, 6, and 7 shall be redesigned to provide a minimum 200-foot setback from the existing Cache Creek stream bank, in conformance with the requirements of Section 10-4.429 of the County Off-Channel Mining Ordinance. The revised project design shall be submitted prior to the commencement of mining within Phase 3 and shall be consistent with the recommended slope design presented in the current application. If the redesigned project results in changes in any other mining area boundaries, additional CEQA review may be required (Mitigation Measure 4.3-4b).
36. The portions of the levee in Phases 3, 5, and 6 shall be raised to provide 100-year flood protection for these areas. Prior to raising the levee, a hydraulic analysis prepared and signed by a licensed engineer, demonstrating that off-site flooding impacts would not be created, must be submitted to the County for review. This mitigation measure would be consistent with the proposed project and the requirements of the OCMP. Any levee work performed shall be completed prior to the commencement of mining within the affected phases (Mitigation Measure 4.3-4c).

37. Implement the performance standards included in Sections 10-4.416 and 10-4.429 of the County Off-Channel Mining Ordinance and Section 10-5.506 of the County Surface Mining Reclamation Ordinance. Specifically, the operator shall conduct annual monitoring and maintenance of the channel banks and levees at the northern margin of the project site during the mining and reclamation period. The monitoring shall be conducted by a licensed engineer and shall minimally include visual inspection of channel banks and levees for evidence of erosion or slope instability. Evidence of erosion shall include, but not be limited to, the existence of oversteepened banks and loss of vegetation. Evidence of slope instability shall include formation tension cracks, arcuate scarps, or unexcavated benches.

The annual report of channel bank and levee conditions shall be submitted to the Yolo County Community Development Director with the Annual Mining and Reclamation Report. The report shall identify the location (on scaled maps and photographs), the estimated area and volume of eroded materials or slope failure, a determination of the cause(s) of erosion or slope failure, and recommendations for remedial action. Recommended remedial actions shall be implemented prior to November 1 of each year (Mitigation Measure 4.3-4d).

38. Following reclamation, the YCCDA shall determine, on the basis of inspection of the performance of the channel banks and levees during the mining and reclamation period, the need for continued channel bank and levee monitoring and reporting. The landowner shall be responsible for continued monitoring and maintenance. A restriction shall be placed on the deed for the underlying property requiring continued inspection and maintenance of channel banks and levees, and allowing access by the County for same (Mitigation Measure 4.3-4e).
39. The project design shall be revised to provide a biotechnical bank protection design to replace the placement of rip rap on that section of the south bank of Cache Creek extending 1,500 feet downstream from the I-505 bridge unless engineering evaluations demonstrate that rip rap must be used to control erosion. The revised project design shall be submitted to the Yolo County Community Development Director and Caltrans for approval prior to the commencement of mining in Phase 7 (Mitigation Measure 4.3-4f).
40. In compliance with Section 10-4.429 and 10-5.506, mining within Phase 7 shall not be conducted within 700 feet of the existing stream bank until stream bank stabilization is provided for that portion of the south bank of Cache Creek upstream from the I-505 bridge. The bank protection shall be performed in accordance with the guidelines presented in the Cache Creek Resource Management Plan and Cache Creek Improvements Plan. The bank protection design shall be submitted to the Yolo County Community Development Director for approval prior to the commencement of mining in Phase 7 (Mitigation Measure 4.3-4g).
41. Recommendations of the geotechnical report for stabilization of the south bank of Cache Creek shall be implemented within one year after the commencement of mining. Bank stabilization shall be implemented only if mining will occur within 700 feet of the channel bank and stabilization measures shall be required only within the creek frontage of the phase

to be mined. Prior to construction of the improvements, detailed plans identifying the type of stream bank protection shall be submitted to the Technical Advisory Committee (TAC) for review and approval. The bank protection plans shall incorporate biotechnical methods of bank stabilization when appropriate to erosion control (Mitigation Measure 4.3-4h).

42. The operator shall enter into a Development Agreement with the County that commits the operator to participate in implementation of the Cache Creek Improvements Program for that portion of the Creek frontage owned or controlled by the operator, adjoining the permitted off-channel mining area, as required by Condition #27. Participation shall include, but not be limited to, contribution of equipment and labor for channel widening projects and channel maintenance mining recommended by the County (Mitigation Measure 4.3-4i).
43. Prior to the commencement of mining below the groundwater level, the operator shall contact the California Division of Safety of Dams (DSD) for a determination on whether the alluvial separators that would be created by the project fall under DSD jurisdiction (Mitigation Measure 4.3-4j).

### **Hydrology and Water Quality**

44. The operator must apply for, and receive, a floodplain development permit from Yolo County prior to mining activities within U.S. Department of Housing and Urban Development designated 100-year floodplains, as required by the County General Plan and the County Flood Damage Prevention Ordinance (Mitigation Measure 4.4-1a).
45. Implement the performance standards contained in Sections 10-4.413, 10-4.417, 10-4.427, and 10-4.428 of the County Off-Channel Mining Ordinance; and Sections 10-5.507, 10-5.510, 10-5.519, 10-5.524, 10-5.528, and 10-5.530 of the County Surface Mining Reclamation Ordinance (Mitigation Measure 4.4-3a).
46. Implement the performance standards contained in Section 10-4.413, 10-4.417, 10-4.427, and 10-4.428 of the County Off-Channel Mining Ordinance; and Section 10-5.507, 10-5.510, 10-5.517, 10-5.519, 10-5.524, 10-5.528, 10-5.530, and 10-5.532 of the County Surface Mining Reclamation Ordinance. (Mitigation Measure 4.4-4a).
47. Pursuant to Section 10-5.516 of the Reclamation Ordinance, all reclaimed lowered agricultural surfaces shall be, at minimum, five feet above average high groundwater. The reclamation plan for the Solano West parcel (Phase 7) shall be modified to meet this requirement (Mitigation Measure 4.4-7a).

### **Agriculture**

48. Implement the performance standards included in Sections 10-5.525 of the County Surface Mining Reclamation Ordinance to reduce the impact of the permanent loss of agricultural

land. Compliance with this mitigation may be phased to track with the phasing of the mining. Compliance shall be verified by phase (Mitigation Measure 4.5-2a).

49. Implement the performance standard included in Section 10-5.516 of the County Surface Mining Reclamation Ordinance to mitigate the potential impacts of high seasonal groundwater on crop productivity. The mitigation requires that all reclaimed agricultural surfaces are a minimum of five feet above the average seasonal high groundwater level. To meet this standard, the elevation of the reclaimed agricultural fields within the Solano West parcel in Phase 7 shall be raised two or more feet above the reclaimed surface elevation (Mitigation Measure 4.5-5a).
50. Implement Mitigation Measure 4.5-2a of the Final EIR for the proposed project (Mitigation Measure 4.5-8a).

### **Biological Resources**

51. Figure 8 of the HRP shall be revised to indicate the location of hedgerow plantings, around the Hutson parcel in Phase 1 or as specified as part of habitat enhancement in a Section 2081 permit if required by the CDFG, or to mitigate as a 1:1 ratio the actual loss of fence row habitat (Mitigation Measure 4.6-2a).
52. Mature oak trees at the fringe of mining areas shall be preserved. These shall include: the two oaks at the southwestern corner of the mining area on the Solano West parcel in Phase 7; the two oaks at the southeastern corner of the mining area along the boundary between the Farnham West and Hutson parcels on Phase 1; and the single oak at the southeastern edge of the mining area on the Snyder East parcel in Phase 4. Stockpiling of topsoil and overburden in the vicinity of these five trees shall be restricted to beyond the tree driplines. As required by Section 10-4.436 of the County Off-Channel Mining Ordinance, temporary fencing shall be provided around the dripline of these trees to prevent possible construction-related damage. Fencing shall remain in place until stockpiles are removed and the surrounding lands are returned to agricultural production (Mitigation Measure 4.6-2b).
53. As required by Section 10-4.436 of the County Off-Channel Mining Ordinance, temporary fencing shall be installed at the boundary of the habitat restoration area along the Cache Creek corridor, prior to initiation of any mining activity for each phase of the project. The fencing shall remain in place throughout the duration of active mining until reclamation has been completed for each project phase (Mitigation Measure 4.6-2c).
54. Levee and channel stabilization improvements shall be designed to avoid impacts to riparian habitat on the site. Levee improvements on the Snyder East and West parcels in Phases 3, 5, and 6 shall be set back from the edge of the upper terrace to eliminate fill slopes which would extend into the riparian habitat. The project design shall be revised to provide a biotechnical bank protection design to replace the replacement of rip rap on that section of the south bank of Cache Creek extending 1,500 feet downstream from the I-505 bridge,

unless engineering evaluations demonstrate that rip rap must be used at certain locations to control severe erosion (Mitigation Measure 4.6-2d).

55. The HRP shall be revised to include provisions to remove tamarisk and giant reed from the site as part of the creek restoration effort and to modify restoration plans for the in-channel depression north on the Snyder East parcel in Phase 6 to enhance the existing riparian woodland rather than establishing seasonal marsh at this location (Mitigation Measure 4.6-2e).
56. At least one permanent island shall be created on one of the permanent lakes to improve their wildlife habitat value. The artificial islands and submerged peninsulas described in the HRP shall be retained on all lakes. Characteristics of the permanent island shall include the following:
  - a. The elevation of the island shall extend a minimum of five feet above the average high groundwater level (approximately 125-foot elevation) to prevent complete inundation during the winter months. Slopes of the island shall not exceed 3:1 above the average low groundwater level.
  - b. The channel of water separating the island from the mainland shall have a minimum distance of 20 feet and a depth reaching at least 5 feet during the average summer low groundwater level to prevent predators from wading to the island during the summer months. A temporary levee to permit vehicle access and maintenance of restoration plantings on the island shall be included in the design, but the levee shall be removed following completion of the minimum five year monitoring program for the restoration effort.
  - c. The island shall be revegetated according to the HRP, with perennial marsh at the lowest elevations and low terrace riparian species up to the average high groundwater level, with a cover of grassland and scattered shrubs provided over the top of the island (Mitigation Measure 4.6-3a).
57. The unique bluff habitat between the upper terrace and the existing haul road on the Snyder East parcel in Phase 6 shall be preserved. Mitigation Measure 4.3-4a of the Final EIR for the proposed project provides appropriate mitigation for this impact (Mitigation Measure 4.6-3b).
58. A CDFG Code Section 2081 authorization, or the posting of a reclamation bond or letter of credit naming CDFG as the beneficiary, or other alternative mechanism acceptable to CDFG, shall be executed prior to commencement of mining (Mitigation Measure 4.6-4a).
59. The proposed HRP shall be revised to include specific provisions to ensure compliance with the USFWS "General Compensation Guidelines for the Valley Elderberry Longhorn Beetle." This shall include measures to: protect all elderberry shrubs to be retained; transplanting

shrubs that cannot be avoided; planting replacement elderberry seedlings and associated riparian vegetation at appropriate ratios; and defining short and long-term maintenance, monitoring, and protection methods for the designated mitigation areas. A preconstruction survey for elderberry shrubs shall be performed by a qualified biologist prior to commencement of mining. The survey shall serve to confirm previous mapping of elderberry locations and determine whether any new shrubs have become established within the new mining area for which protection or replacement should be provided. The results of the survey shall be submitted to the USFWS as a report summarizing the purpose, findings, and recommendations consistent with the provisions of the revised HRP. All elderberry shrubs to be retained shall be flagged and fencing provided where necessary to preclude possible damage or loss of shrubs (Mitigation Measure 4.6-5a).

60. Implement the performance standard included in Section 10-4.433 to prevent the inadvertent take of bank swallows (Mitigation Measure 4.6-5b).
61. The HRP shall be revised to include specific provisions to replace the artificial bank swallow nesting habitat created by past mining activities on the Hutson parcel. These provisions shall include design, construction, and maintenance activities necessary to implement one or more of the following options: establishing suitable nesting habitat on designated side slopes of the permanent lakes, replicating conditions on the Hutson parcel in Phase 1 at a new location; restoring the vertical bluffs above the mining-related riparian habitat in the northern portion of the Snyder East parcel in Phase 6; and/or creating and perpetuating a vertical bank along a designated segment of the active channel of Cache Creek (Mitigation Measure 4.6-5c).
- 61.5 A pre-construction raptor survey shall be conducted by a qualified wildlife biologist prior to initiation of mining to determine the presence or absence of active raptor nests which could be disturbed or lost within the new mining area. The results of the survey shall be submitted to the CDFG as a report summarizing the purpose, findings, recommendations, and status of any nests encountered. Elements of the pre-construction nesting survey and construction restrictions shall include the following:
  - Conduct the survey 30 days prior to any grading or other habitat modifications if proposed during the breeding season for tree nesting raptors (from March 1 through August 15). Confirmation surveys on presence or absence of burrowing owl ground nesting colonies shall be required prior to initiation of a particular phase of mining at any time of year to ensure absence of any resident owls.
  - If an active raptor nest is encountered, establish an appropriate buffer around the nest location, as determined in consultation with representatives of CDFG. The perimeter of the buffer zone shall be flagged in the field at 50-foot intervals, and all construction activities, including grading, tree removal, equipment storage, and stockpiling of soils, shall be prohibited within this buffer zone.

- Prohibit construction activities within the designated buffer zone until the consulting wildlife biologist has determined that breeding was unsuccessful, that the young have fledged from the nest, or that a CDFG-approved relocation plan has been successfully implemented.
  - Prohibit construction activities, including removal of any nest tree or burrow, within the designated buffer zone unless written confirmation from the wildlife biologist on the status of nesting activity has been submitted in writing to CDFG (Mitigation Measure 4.6-5d).
62. Channel bank modifications shall be coordinated with the U.S. Army Corps and California Department of Fish and Game. If required by jurisdictional agencies, appropriate authorization to modify jurisdictional habitat shall be obtained prior to grading or other modifications. Use of biotechnical bank protection design methods shall be encouraged where bank stabilization is required, such as the segment of active erosion on the Kaupke parcel north of Phase 2 (Mitigation Measure 4.6-6a).

#### **Air Quality**

63. Implement the performance standard included in Section 10-4.407 of the County Off-Channel Mining Ordinance (Mitigation Measure 4.7-1a).
64. Implement the performance standards included in Sections 10-4.407 and 10-4.415 of the Off-Channel Mining Ordinance (Mitigation Measure 4.7-2a).
65. Implement Mitigation Measures 4.7-1a and 4.7-2a of the Final EIR for the proposed project (Mitigation Measure 4.7-3a).
- 65.1 The operators are encouraged to use cleaner vehicles and equipment and retrofit existing vehicles and equipment with diesel particulate filters (DPFs). Pursuant to Section 10-4.414.1 (Energy) of the Mining Ordinance, wherever practical and feasible, aggregate facilities shall use clean electric energy from the grid or install alternative on-site electricity generation systems to replace diesel equipment and reduce criteria pollutant emissions.

#### **Traffic and Circulation**

66. By July 1, 1999, the operator shall construct a left-turn lane for eastbound movements on State Route 16 into the processing plant. The operator shall be responsible for 100 percent of the costs of the improvement. Encroachment Permits from Caltrans will be obtained prior to construction (Mitigation Measure 4.8-1a).
67. The operator shall pay a fair share toward the construction of left-turn lanes on each approach, and the installation of a traffic signal, at the SR 16/County Road 98/Main Street intersection to maintain acceptable levels of service. Prior to the commencement of mining,

the operator shall pay \$1,200 to the City of Woodland Public Works Department, to be used in the construction of turn lanes and a traffic signal at the intersection of State Route 16 and County Road 98. This amount has been determined to be the operator's fair share portion of the cost of improvements at the intersection and will fully mitigate the potential traffic impacts at this location (Mitigation Measure 4.8-2a).

### **Noise**

68. In compliance with Section 10-4.421 (Noise: General Standard) of the Mining Ordinance, daytime noise levels at the property boundary shall not exceed 80 dBA  $L_{eq}$  during mining and reclamation of the site. If earth-moving operations are conducted at grade within less than 58 feet from the property boundary, the operator shall ensure that no more than one scraper is used at any one time (Mitigation Measure 4.9-1a).
69. Implement the performance standards included in Section 10-4.421 of the County Off-Channel Mining Ordinance (Mitigation Measure 4.9-1b).
70. Implement the performance standard included in Section 10-4.422 (Noise: Sonic Safety Devices) of the County Off-Channel Mining Ordinance (Mitigation Measure 4.9-3a).

### **Aesthetics**

71. Implement the performance standard included in Section 10-4.429 of the County Off-Channel Mining Ordinance (Mitigation Measure 4.10-1a).

### **Cultural Resources**

72. Implement the performance standard included in Section 10-4.410 (Cultural Resources) of the County Off-Channel Mining Ordinance (Mitigation Measure 4.11-1a).
73. The operator shall implement a training program that alerts project employees involved with earthmoving as to the nature of paleontological and archaeological resources in the region, the laws that protect the resources, and responsibilities for reporting potential findings to appropriate authorities. This program shall be developed by a qualified cultural resource professional (Mitigation Measure 4.11-1b).
74. No mining within the Snyder West parcel (Phases 4 and 6) shall be conducted until an accurate mapping of YOL-69 is completed, and the site is evaluated by an archaeologist to determine its significance and uniqueness. The following tasks shall be performed:
  - a. Contract a surveyor to accurately map the cultural resource site on a topographic map, based on information, preliminary map, and recommendations contained in the YOL-69 mechanical subsurface testing report (Holman & Associates, 1996). Upon

completion of mechanical testing, the borders of the deposits shall be staked by the archaeologist.

- b. Mapping of the resource shall be completed prior to commencement of mining in mining areas that include the resources.
  - c. Register the information obtained, including a map of the Yol-69 site, on State of California Archaeological Site Survey forms for filing at the State Historical Preservation Regional Office located at Sonoma State University. Prepare a professional report with all cultural resources information obtained and submit it for approval to the Northwest Information Center. A copy shall also be sent to the Community Development Director.
  - d. Before mining begins on Yol-69, an archaeologist shall be contracted to evaluate the Yol-69 site and determine its significance and uniqueness as defined in Appendix K of CEQA. A program of in-field evaluation testing shall be undertaken inside the newly recorded borders of Yol-69 to determine its significance. The evaluation of this site shall be extensive enough to guide the development of a mitigation program if the site is found to be significant. If the site is not found to be significant or unique, no archaeological mitigation program, such as in-field data retrieval through hand excavation and recording of findings, will be required. However, an archaeologist must be present during the excavation of this site to monitor for indicators of human skeletal remains.
  - e. If it is determined that the site contains significant cultural resources, an appropriate mitigation program shall be developed, before mining begins on Yol-69, based on the information obtained during the site evaluation. This mitigation program shall include an extensive in-field data retrieval through hand excavation. This program of data retrieval must be conducted by an archaeologist and could include but not be limited to professional in-field excavation of a percent of the area to be destroyed by the project to record the artifacts encountered and other data that might contribute to the scientific understanding of the culture and the way of life of the prehistoric people who lived in the region. In addition, an archaeologist must be present during the mining of the portion of the site that was not hand excavated to monitor for any indication of human skeletal remains (Mitigation Measure 4.11-2a).
75. Implement Mitigation Measure 4.11-1b of the Final EIR for the proposed project (Mitigation Measure 4.11-2b).
76. Implement Mitigation Measure 4.11-1a of the Final EIR for the proposed project (Mitigation Measure 4.11-2c).

## Hazards

77. Implement the performance standard included in Section 10-4.415 of the County Off-Channel Mining Ordinance (Mitigation Measure 4.12-1a).
78. Implement the performance standard included in Sections 10-4.406 and 10-4.431 of the County Off-Channel Mining Ordinance; and Sections 10-5.510 and 10-5.530 of the County Surface Mining Reclamation Ordinance (Mitigation Measure 4.12-3a).

## 2020 CCAP TEN-YEAR PERMIT REVIEW CONDITIONS

79. Comply with Section 10-4.420.1 of the County Mining Ordinance and 10-5.517 of the County Reclamation Ordinance related to Mercury Bioaccumulation in Wildlife.
80. Pursuant to Sections 10-4.433 (Soil Stockpiles), 10-5.508 (Erosion Control), 10-5.533 (Wetland Habitat), and 10-5.601(c)(1) of the Reclamation Ordinance, reclamation, restoration, vegetative erosion control, etc. occurring after December 31, 2020 shall utilize plant material and/ seed mixes collected in the vicinity of the project site in order to control the origin of the genetic stock and provide the most site-adapted ecotypes. Native seeds, plants, and cuttings used for such activities shall be ecotypes of Cache Creek Watershed genetic origin including areas outside of Yolo County and of Yolo County genetic origin when materials are used that originate from outside of the Cache Creek Watershed.

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*Additional relevant conditions of approval:*

**Board of Supervisors Resolution No. 00-228, approved via Minute Order No. 00-048 on December 12, 2000:**

**Board of Supervisors Minute Order No. 01-126, approved April 22, 2001:**

1. The project shall be in compliance with all adopted conditions of approval for Zone File #2000-087 as contained herein and identified below. In addition, the project shall be in compliance with all existing permits and conditions of approval, including Zone Files 1901, 95-093, and ZA 736.
2. The project shall be completed in compliance with all applicable Federal and State laws, Yolo County Code Regulations and Engineering Design Specifications and Standards.
3. In accordance with Yolo County Code Section 8-2.2415, the applicant shall agree to indemnify, defend, and hold harmless the County or its agents, officers and employees from any claim, action, or proceeding (including damage, attorney fees, and court cost awards)

against the County or its agents, officers, or employees to attach, set aside, void, or annul an approval of the County, advisory agency, appeal board, or legislative body concerning the permit or entitlement when such action is brought within the applicable statute of limitations. The County shall promptly notify the applicant of any claim, action or proceeding and that the County cooperates fully in the defense, the applicant shall not thereafter be responsible to defend, indemnify, or hold the County harmless as to that action. The County may require that the applicant post a bond in an amount determined to be sufficient to satisfy the above indemnification and defense obligation.

4. Caltrans shall be forwarded a copy of any future development on the subject parcels to ensure that no significant impact to State Highway 16 and right-of-way are created.
5. Properties which are subject to a single Williamson Act Contract shall not be divided for the purpose of sale, non-agricultural lease or financing unless a division of the Williamson Act Contract is first approved as provided in Yolo County Zoning Ordinance and Land Conservation Act of 1965 (Williamson Act).
6. Upon acceptance and approval of the Williamson Act Contracts by the Yolo County Board of Supervisors, a record copy shall be provided by the applicant to the Planning and Public Works Department.
7. A “Certificate of Acceptance” will be issued by the Planning and Public Works Department within 30 days of receiving the recorded contracts.
8. Within thirty (30) days of the issuance of the “Certificate of Compliance” the applicant shall record the certificate accompanied by map and legal description of the approved Lot Line adjustment and Williamson Act Contract Division with the County Recorder’s Office, or it shall be deemed null and void.
9. Prior to final Building Approval for the new batch plant, any areas of bare ground at the abandoned batch plant site in the town of Madison shall be re-vegetated to the satisfaction of the and Public Works Director to increase filtration and prevent erosion and runoff onto State Highway 16.
10. The applicant shall obtain all necessary building permits for any demolition, construction and/or repair of any existing structures on either site, including approval from the County Environmental Health Division and the Madison Fire District, if appropriate, for compliance with adopted Health, Safety, Building, and Fire Codes, as amended.
11. Relocation of the batch plant shall commence within one (1) year of the effective date of the Planning Commission’s approval, or said Use Permit shall be deemed null and void without further action.

12. The site of the existing batch plant shall be cleared of all weeds, brush and debris, prior to issuance of the Final Building Permit for the relocated batch plant.
13. Prior to issuance of the Final Building Permit, the applicant shall submit a bond or other financial instrument acceptable to the Planning and Public Works Director in the amount of \$30,000 to provide financial assurance for the new plant area.
14. Failure to comply with the Conditions of Approval, as approved by the Board of Supervisors, may result in the following actions:
  - Non-issuance of future building permits;
  - Revocation of the Conditional Use Permit and/or Mining Permit;
  - Legal action.

**Board of Supervisors Minute Order No. 03-112, approved April 15, 2003:**

1. The project shall be in compliance with all adopted conditions of approval for Zone File #2002-127 as contained herein and identified below. In addition, the project shall be in compliance with all existing permits and conditions of approval, including Zone Files 1901, 95-093, and ZA 736, and in particular, Condition No. 74 and Mitigation Measure 4.11-2a of Development Agreement No. 96-287 for the CEMEX Long-term Off-channel Mining Permit.
2. The project shall be completed in compliance with all applicable Federal, State and County laws and regulations.
3. All aspects of Phases IV and VI shall be included as part of the interchange in the phasing sequence.
4. There shall be no change to any aspect of the approved Mining and Reclamation Plan with the exception of the interchanging of Phases IV and VI. All other aspects of Development Agreement No. 96-287 for the CEMEX Long-Term Off-Channel Mining Permit shall remain in full force and effect.
5. Prior to conducting any mining activity in Phase VI (propose Phase IV) the applicant shall submit a bond or other financial instrument acceptable to the Planning and Public Works Director in the amount of \$348,372 to provide financial assurance for the subject phase.
6. Failure to comply with the Conditions of Approval, as approved by the Board of Supervisors, may result in the following actions:
  - Non-issuance of future permits to the applicant for projects or activities at the site;
  - Revocation of the approved Mining Permit;
  - Legal action