

ATTACHMENT K

COMMENTS RECEIVED AFTER RELEASE OF THE FINAL SUBSEQUENT ENVIRONMENTAL IMPACT REPORT

Memorandum

To: Yolo Co. Planning Commission
Cc: Board of Supervisors
From: The Sierra Club Yolano Group
Date: October 7, 2025
Re: Inadequate Disclosures and Unanswered Questions in the County's Administration of the Cache Creek Area Parkway plan and in the CEMEX FEIR Renders It Deficient and Unsuitable for Certification and Approval of Entitlements for the Currently Proposed Mining Project Extension/Expansion

Dear Commissioners – We have reviewed both the Final SEIR for the CEMEX mine extension project and the Staff Report for your meeting this Thursday. We have found both to be severely deficient in terms of disclosures of environmental hazards and without sufficient protection and/or mitigation to render these potential environmental hazards to “less than significant” status. We will address these specific deficiencies in the FEIR in a future report prior to the planned Public Meeting to consider your recommendations to the BOS re certification of the FEIR and approval of project entitlements.

My comments in this correspondence provides some historic context to the County's Off-Channel Mining program, discusses the general program failures, and makes recommendations to the Planning Commission to resolve the ongoing problems in the program in general and the CEMEX project in particular.

Historical Context of the County's Off-Channel Surface Mining Program

In 1996, the County implemented with great fanfare the Cache Creek Area Plan (CCAP) in which off-channel mining sites adjacent to the Creek were to be converted to reclaimed agriculture, restored habitat, and impoundment lakes providing recreational opportunities. The Plan was presented to the public as a unique undertaking under which the County would receive income from the sale of sand and gravel and the public would receive the reclaimed or restored lands centered on pristine lakes strung like pearls along Cache Creek. This was to be called the Cache Creek Parkway. In addition, the public was promised reclaimed farmland that would be equivalent to or, as was repeatedly promised, “*even better than*” the farmland destroyed by the mining process.

Unfortunately, even after 30 years this vision has not been even remotely realized and none of the lofty goals are even close to being met. And now the County is facing the prospect of inheriting a barren moonscape of contaminated impoundment pits, functionally worthless reclaimed farmland, and purportedly restored habitat that only shows stunted plant growth with virtually no wildlife value.

How did this happen and what can be done to remediate this environmental disaster?

Current Status of the Mining Sites

Impoundment Pits – Almost every off-channel surface mining impoundment pit currently being monitored shows elevated levels of methyl mercury contamination in fish in violation of the Surface

Mining Reclamation Ordinance. Worse still, the mandatory annual reports showing the result of the monitoring are years late in being filed by the County. We disclosed these clear and obvious violations to you in a memo dated February 7 earlier this year. In that memo we also pointed out that the Lake Management Plans to resolve the elevated levels of methyl mercury contamination that are required by the Surface Mining Reclamation Ordinance to be “implemented” within 3 years of Enhanced Analysis of the water in the pits are also years late. This is despite being explicitly recommended by the County’s methyl mercury expert, Dr. Slotten in his 2020 report on methyl mercury monitoring to the County. But, to date, not a single Lake Management Plan has even been “prepared”, much less actually “implemented”.

Although in February we were promised by the then Interim County Administrator that we would get a near-immediate response from the County addressing our allegations, the long-awaited response from the County did not appear until about a month ago - and then only in the form of a response sent to the Planning Commission as “Correspondence” for your previous meeting. But as we pointed in our letter of September 11 (attached for your convenience), this Response from the County was riddled with false claims that these obvious deficiencies in the administration of the mining program were simply ministerial in nature and everything is going along swimmingly. That could not be further from the truth.

Instead we are now looking at a series of impoundment pits extensively contaminated with methyl mercury for which methyl mercury monitoring reports are years late and Lake Management Plans designed to mitigate the contamination reports have not yet even been prepared. Indeed, the two largest pits at the CEMEX plant have always shown elevated levels of methyl mercury contamination.

And what is CEMEX’s response? Well in their current application for expanded output from their facility, they are asking for permission to simply fill in the old pits and dig two even larger pits. But they have not provided a shred of evidence showing what they will be doing differently in the new pits to prevent a reoccurrence of these problems. CEMEX is ostensibly asking you not to worry because these new pits do not have to be completed and show compliance for another 20 years!. It appears outwardly that the attitude by CEMEX and the County is to simply let future Planning Commissioners and Supervisors and the public deal with the problem as they have not otherwise provided any facts to support the claim that the methyl mercury problem is under control - despite having 30 years to figure it out.

We are reminded of the saying often attributed to Albert Einstein which, paraphrased, states, “*Expecting a different result after doing the same thing over and over is a definition of insanity*”.

CEMEX and Staff are now functionally asking you to behave insanely and approve their plan for a 20-year extension and expansion of mining while repeating exactly their demonstrably failed practices they have been doing for the last 30 years in terms of impoundment pit construction and management but assuring you that this time it will somehow result in a different outcome.

Reclaimed Farmland – In their SEIR, CEMEX and Staff tout the progress toward reclaiming farmland and infer things are going along just fine based on two sites they discuss. But even after 5 years of

attempts they have not even achieved production equivalent to industry norms much less brought it back to prime farmland status as existed before mining.

Indeed, neither CEMEX nor any other mining company has yet to demonstrate they have successfully reclaimed *even an acre of farmland such that it is now being currently now being farmed economically*. The one site that has been accepted as reclaimed by the County and most often touted as a successful farmland reclamation effort was the Teichert Muller site. This property was reportedly farmed with wheat crops in 2006 and 2007 following extensive cover-cropping in 2006 and the addition of 1 foot of additional topsoil in 2007. Reported crop yields of about 3 tons per acre were achieved which slightly exceed pre-mining reported production of slightly less than 3 tons per acre. Based on these 2 years of wheat farming, the property was subsequently accepted by the County as successfully reclaimed in 2014 and financial assurances were released.

But the County failed to disclose that farming of that property was subsidized by Teichert. It was also not disclosed what additional crop-enhancing additives were added to the soil or other efforts to increase yields which may not be economical to continue farming in the future on that land..

The obvious question to be asked is, *"Has that reclaimed farmland actually been productively farmed since?"* The answer is a **"NO"**. That property has reportedly not been farmed since "successful" reclamation almost 18 years ago which suggests post-reclamation economic viability of farming may not be possible. Indeed, if this farmland was successfully reclaimed as purported by Teichert and the County, why has it not once been productively farmed since instead remaining as a weed-filled, fallow plot of land?

Perhaps the answer lies in an analysis of the soil structure on the site performed by House Consulting in 2021 wherein they reported, *"The soil surface was dry and loose to about four to six inches deep, and hard below that. There is little evidence of a developing soil structure; the soil particles appeared to be not aggregated but instead singular. We also observed a substantial amount of rocks and gravel mixed into the soil surface."*

In their 2021 report, House Consultants also stated that, *"It is also important to note that while crops grown on reclaimed agricultural land can reach desired productivity standards as described herein, the soils themselves will not match the pre-mining quality or productivity."* They further stated that, *"...the literature reflects that reclaimed soils are not the same quality as original soils due to loss of soil structure and organic matter during the period of mining when the top soils are stockpiled for later use. The literature also reflects challenges in managing production on reclaimed fields."*

The Yolo County Surface Mining Reclamation Ordinance otherwise explicitly requires that farmland be reclaimed to its original quality and *"of good health, supporting earthworm populations and microbial health, such that the soils can support equivalent agriculture production"*. Based on objective results achieved thus far, it hardly sounds like farmland can be reclaimed to this prime condition as existed before mining began and was explicitly promised by the mining companies and the County when the off-channel mining program was promulgated.

Yet despite CEMEX's problems in their own attempts to reclaim farmland and the abject failure of every other mining company's attempts to successfully reclaim farmland along Cache Creek to ongoing productivity, CEMEX and the County are now trying to convince you to recommend approval of their proposed scheme to fill in their current impoundment pits with even more mining waste and turn it back into prime, productive farmland.

We once again refer you to Einstein's definition of insanity.

Our Recommendation to the Planning Commissioners

To get the Surface Mining program back on track and hold the mining companies responsible to fulfill their obligations under the Surface Mining Reclamation Ordinance and their permit entitlements, we recommend the County implement the following recommendations.

Recommendation 1 – Allow No New Permitting of New Mines or Extensions or Expansions of Existing Mines until Full Compliance with the Surface Mining Reclamation Ordinance is Achieved - In our earlier memo to you in February of this year, we explicitly noted in detail the ongoing violations of the Surface Mining Reclamation Ordinance by both the County and every one of the mining companies . At that time, we recommended that the County *NOT* permit any new mines or extensions or expansions of existing mines until all of the mining companies and the County come into full compliance with the Surface Mining Reclamation Ordinance. In the absence of any material progress towards meeting that goal, we still stand by that recommendation.

Recommendation 2 – Allow No New Mining Compliance Certifications to be Sent to the State until Full Compliance with the Surface Mining Reclamation Ordinance is Achieved - We also noted in that same communication that the County has for years filed reports with the State of California Division of Mines that falsely certify that all of the mining companies are in full compliance with both the California Surface Mining and Reclamation Act and the County's Surface Mining Reclamation Ordinance. They did so by submitting erroneous "*Statements of Facts*" to the Planning Commission wrongfully certifying such compliance in order to get your necessary approvals for these annual certifications. We recommended that the Planning Commission NOT approve or authorize any such certifications of compliance in the future until the County provide extensive details affirming such compliance in the future. We also stand by that recommendation.

Recommendation 3 – Establish an Independent Advisory Committee Focused on Off-Channel Mining Restoration- Further, in Public Comments to the Commission and the BOS, in the past we recommended that an independent Advisory Committee be established that is specifically devoted to the unique problems facing the County and the mining companies in restoring and reclaiming formerly mined lands. The current Technical Advisory Committee for Cache Creek has only concerned itself with in-channel problems on Cache Creek. While their skill set has proven very useful in addressing in-channel problems facing the Creek, their expertise is not particularly well-suited for addressing off-channel mining problems. We recommend that such an Independent Advisory Committee be comprised of individuals with particular expertise in i) farmland restoration, ii) methyl mercury

bioaccumulation in the environment and remediation, and iii) environmental habitat restoration with particular emphasis on riparian habitats.

Recommendation 4 – Require the Mining Companies Themselves to be Responsible for Compliance with the Methyl Mercury Monitoring and Lake Management Plan Implementation - We also noted in our recent communication to you in early September that that the County has assumed functional responsibility for ensuring both the methyl mercury monitoring reports are submitted and the Lake Management Plans are implemented in a timely manner. The Surface Mining Reclamation Ordinance otherwise states explicitly that these are the responsibilities of the mine “operator” – not the County. The County claimed that they have done so to ensure “consistency” in the reporting and implementation required under the ordinance. However, such “consistency” could have just as easily been demanded of the mining companies and, in doing so, the County could be relieved of the liabilities associated with assuming these responsibilities themselves. Further, for whatever reasons the County has proven itself completely incapable of properly administering these functions and responsibilities and we urge the County to order the mining companies to assume these responsibilities themselves as specified in the County’s Reclamation Ordinance.

Recommendation 5 – Hold a Special Meeting or Series of Meetings to Discuss the Ongoing Failures in the Off-Channel Mining Program and a Path Forward - By all outward appearances, the County’s administration of their Cache Creek Area Plan has gone completely off the rails. Methyl mercury monitoring and Lake Management Plans are severely behind mandatory deadlines and the farmland reclamation process is stalled. It is abundantly clear that severe deficiencies exist and are ongoing and the County and/or mining companies are seemingly incapable of resolving the problems after 30 years. So now what should the Planning Commission do in the face of this ongoing complete lack of compliance to ensure that the standards demanded by the Surface Mining Reclamation Ordinance are achieved in the future? We believe it is incumbent on the Planning Commission get to the bottom of these myriad of problems and shortcomings and again recommend that a special meeting or series of meetings be convened by the Planning Commission in which these deficiencies are explored in detail and an objective, verifiable plan be put in place to ensure such gross mishaps are not repeated in the future. We still stand by that earlier recommendation.

In this absence of such changes as recommended above, we believe the program will continue without proper safeguards and there exists a very real risk that in several decades the County will end up end up with thousands of acres of spoiled earth instead of the pristine Parkway promised to us over 30 years ago.

Thanks you for your consideration of this matter.

Respectfully submitted

Alan Pryor, Chair
Sierra Club Yolano Group