

Restore the Delta
2616 Pacific Ave #4296, Stockton, CA 95204
209-479-2559
www.restorethedelta.org



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November 12, 2024

Jason Cashman Port of Stockton
Port of Stockton Commissioners
2201 West Washington Street
Stockton, California 95203
Via email to ceqa@stocktonport.com

**Re: Notice of Preparation and Initial Study for the Nevada Cement Company LLC
Stockton Terminal Modernization Project**

Dear Mr. Cashman and honorable Port Commissioners,

Restore The Delta is providing comments in response to the Port of Stockton's public scoping process for preparing a DEIR for the Nevada Cement Company LLC Stockton Terminal Modernization Project.

Restore the Delta is committed to restoring the Sacramento-San Joaquin Delta so that communities and ecosystems can thrive together with clean water and air. Our Carbon and Energy Program evaluates and advocates for standards in the emerging climate technology industries in the Sacramento-San Joaquin Delta region, with a focus on environmental & economic risks, public health implications, and community benefits. We collaborate with carbon removal and energy industries, government agencies, national labs, and community-based organizations to develop research and policy solutions grounded in environmental justice. Our goal is to support Delta community leaders to advocate for themselves for protective standards, transparency, and inclusion in economic development projects.

On initial review, we are cautiously optimistic about the Nevada Cement Company terminal modernization project due to the developer's commitment to early community engagement and proposed efficiency improvements to cement handling operations that offer potential to reduce air quality impacts. That said, we do have several concerns we believe should be rigorously evaluated in the Environmental Impact Report, including air pollution and cumulative impacts of the project in relation to other industrial development planned at the Port.

Eagle Materials, the company that recently purchased the Nevada Cement Terminal, reached out to Restore The Delta in fall of 2024 to share information about the project and offered a tour of the facility. This demonstrated to us a willingness to accept meaningful input in the early stages of project design, prior to CEQA scoping meetings. Company representatives also expressed an interest in co-designing harm mitigation measures. We request that Eagle Materials continue this

practice with us and other community-based organizations and be willing to engage in constructive dialogue with community stakeholders across the board.

We generally appreciate the objectives of the proposed improvements to the terminal to “improve the safe and efficient handling of cementitious material.” Improvements include the following:

- installation of a new, more energy-efficient unloader sized appropriately to the newer class of larger bulk material vessels;
- redevelopment of portions of the terminal to meet current seismic design requirements for larger, modern unloading infrastructure;
- construction of tracks to facilitate delivery of more railcars in fewer trips;
- replacement of an existing terminal storage bunker with a higher capacity storage dome; and
- modifications to truck and rail loading stations to allow direct, enclosed truck loading from storage bunkers with new dust filter systems.

We support the elements of the project designed to improve energy efficiency, reduce vessel traffic congestion in the shipping channel, reduce rail traffic, and lower air emissions of cement unloading operations overall. We are particularly keen on seeing the retirement of the Golden Arrow, a floating silo ship that was repurposed in 2003 for cement unloading operations at Berth 3/4 which currently poses significant air pollution hazards.

Our primary areas of concern, detailed below, are air pollution impacts to the Southwest Stockton community and cumulative environmental and public health impacts of numerous planned industrial developments at the Port of Stockton:

The EIR should detail anticipated emissions of criteria air pollutants and offer recommendations to minimize or mitigate these emissions in full.

a. As demonstrated in Table 2 (shown to the right), this project would entail an enormous expansion to current cement unloading operations. We share concerns raised in the Initial Study that “construction activities and operational increases in trucks, rail, and vessel calls would likely result in increased emissions of criteria air pollutants relative to baseline conditions.”

b. We recognize that temporary construction emissions associated with terminal upgrades may be unavoidable and hope these impacts can be minimized and mitigated by measures determined in consultation with the broader community.

Table 2
Modal Moves, Baseline and Proposed Project

Modal Moves	Baseline (2023)	Project Year 15 (Expected Maximum)
Import		
Railcars in ¹	0	1,429
Ship calls ²	10	69
Export		
Trucks ³	10,832	41,154
Railcars out ¹	520	9,825
Rail trips	52 ⁴	437 ⁵
Barge calls ⁶	0	45

Notes:

1. Rail calls are expressed in one-way moves assuming 114 tons per railcar for cement and 105 tons for supplementary cementitious materials.
2. Assumes a ship volume of 35,250 short tons per ship
3. Truck calls are expressed in one-way moves at 26 tons per truck.
4. Assumes an average of 10 cars per train for each move
5. Assumes a future railcar average of 45 cars per train arriving at and leaving the terminal. Assumes all railcars hauling in product for supplementary cementitious materials in pressure differential cars would also be reloaded with cement (1,429 cars) and leave the facility as a full (not an empty) movement, thus reducing the cars required for shipments of cement to be brought to site.
6. Assumes a barge volume of 5,000 short tons per barge

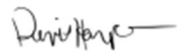
c. We are predominantly concerned with the potential for air quality impacts of *future site operations* on Southwest Stockton community members living approximately 500 feet south of the Nevada Cement terminal in the northeast corner of the Port's East Complex. The Port recognizes in the draft study the selection of this community by the California Air Resources Board for community air monitoring and the development of an air emissions reduction plan, pursuant to [AB 617](#). Any particulate impact on the air from this project would directly impact the residents of this community directly.

d. According to the Initial Study, Nevada Cement Terminal's Permit to Operate (Facility Number N-153), issued by the San Joaquin Valley Air Pollution Control District (SJVAPCD), allows for up to 2.628 million tons of cementitious materials to be received at the terminal per year via ship or rail, with a combined permitted truck and rail shipping capacity of 6,000 tons of cementitious materials per day. The EIR should investigate and disclose how recently this permit was issued, specific levels of air pollutants, any stipulated operating conditions for compliance (e.g. weather conditions, etc.), and any monitoring, reporting, and verification protocols required under the permit to ensure transparency in emissions reporting.

The EIR should include a cumulative impacts analysis for the project, incorporating projected environmental impacts of [industrial development projects that have been approved recently](#) by the Port of Stockton. Such a comprehensive analysis would allow for the design of appropriate project alternatives / mitigation measures. The expansion of multiple terminals at once warrants a more comprehensive analysis and potential shift in project design to mitigate cumulative impacts of increased ocean-going vessel traffic, increased truck traffic, and increased rail traffic. It is paramount that the cement terminal modernization project demonstrates an ability to contribute a reduction in cumulative air emissions (i.e. nitrogen oxides, particulate matter, and greenhouse gases, as specified in the Port's [Clean Air Plan](#)) compared to present (baseline) site emissions. Further, given that the project proposes an annual influx of 69 ocean going vessels by Project Year 15, the EIR should determine whether some amount of channel dredging is likely to be proposed in the future to accommodate increased shipping traffic. The EIR should also incorporate estimates of at-berth NOx and SOx emissions with and without implementation of onshore emissions capture and control systems, which we understand are [in development](#).

We look forward to the opportunity to collaborate in scoping of environmental impacts related to this project and to participate in co-design of harm mitigation measures with community-based stakeholders. Thank you for the opportunity to provide comments.

Sincerely,



Davis Harper
Carbon and Energy Program Manager



SAN JOAQUIN
—COUNTY—
Greatness grows here.

Environmental Health Department

Jasjit Kang, REHS, Director

Muniappa Naidu, REHS, Assistant Director

PROGRAM COORDINATORS

Jeff Carruesco, REHS, RDI

Willy Ng, REHS

Steven Shih, REHS

Elena Manzo, REHS

Natalia Subbotnikova, REHS

October 18, 2024

To: Director of Environmental Affairs
Attention: Jason Cashman

From: Naseem Ahmed; (209) 616-3018 
Senior Registered Environmental Health Specialist

RE: **Port of Stockton Notice of Preparation of Environmental Impact Report, SU-2400233**

The San Joaquin County Environmental Health Department agrees on the basis of this initial evaluation that the proposed project MAY have a significant effect on the environmental, and ENVIRONMENTAL IMPACT REPORT is required.



NATIVE AMERICAN HERITAGE COMMISSION

November 8, 2024

Jason Cashman
Port of Stockton
PO Box 2089
Stockton CA 95201

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Chumash

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Luiseño Indians

ACTING EXECUTIVE
SECRETARY
Steven Quinn

NAHC HEADQUARTERS
1550 Harbor Boulevard
Suite 100
West Sacramento,
California 95691
(916) 373-3710
nahc@nahc.ca.gov
NAHC.ca.gov

Re: 2024100490 Nevada Cement Company LLC Stockton Terminal Modernization Project, San Joaquin County

Dear Mr. Cashman:

The Native American Heritage Commission (NAHC) has received the Notice of Preparation (NOP), Draft Environmental Impact Report (DEIR) or Early Consultation for the project referenced above. The California Environmental Quality Act (CEQA) (Pub. Resources Code §21000 et seq.), specifically Public Resources Code §21084.1, states that a project that may cause a substantial adverse change in the significance of a historical resource, is a project that may have a significant effect on the environment. (Pub. Resources Code § 21084.1; Cal. Code Regs., tit.14, § 15064.5 (b) (CEQA Guidelines § 15064.5 (b)). If there is substantial evidence, in light of the whole record before a lead agency, that a project may have a significant effect on the environment, an Environmental Impact Report (EIR) shall be prepared. (Pub. Resources Code §21080 (d); Cal. Code Regs., tit. 14, § 5064 subd.(a)(1) (CEQA Guidelines § 15064 (a)(1)). In order to determine whether a project will cause a substantial adverse change in the significance of a historical resource, a lead agency will need to determine whether there are historical resources within the area of potential effect (APE).

CEQA was amended significantly in 2014. Assembly Bill 52 (Gatto, Chapter 532, Statutes of 2014) (AB 52) amended CEQA to create a separate category of cultural resources, "tribal cultural resources" (Pub. Resources Code §21074) and provides that a project with an effect that may cause a substantial adverse change in the significance of a tribal cultural resource is a project that may have a significant effect on the environment. (Pub. Resources Code §21084.2). Public agencies shall, when feasible, avoid damaging effects to any tribal cultural resource. (Pub. Resources Code §21084.3 (a)). **AB 52 applies to any project for which a notice of preparation, a notice of negative declaration, or a mitigated negative declaration is filed on or after July 1, 2015.** If your project involves the adoption of or amendment to a general plan or a specific plan, or the designation or proposed designation of open space, on or after March 1, 2005, it may also be subject to Senate Bill 18 (Burton, Chapter 905, Statutes of 2004) (SB 18). **Both SB 18 and AB 52 have tribal consultation requirements.** If your project is also subject to the federal National Environmental Policy Act (42 U.S.C. § 4321 et seq.) (NEPA), the tribal consultation requirements of Section 106 of the National Historic Preservation Act of 1966 (154 U.S.C. 300101, 36 C.F.R. §800 et seq.) may also apply.

The NAHC recommends consultation with California Native American tribes that are traditionally and culturally affiliated with the geographic area of your proposed project as early as possible in order to avoid inadvertent discoveries of Native American human remains and best protect tribal cultural resources. Below is a brief summary of portions of AB 52 and SB 18 as well as the NAHC's recommendations for conducting cultural resources assessments.

Consult your legal counsel about compliance with AB 52 and SB 18 as well as compliance with any other applicable laws.

AB 52 has added to CEQA the additional requirements listed below, along with many other requirements:

- 1. Fourteen Day Period to Provide Notice of Completion of an Application/Decision to Undertake a Project:** Within fourteen (14) days of determining that an application for a project is complete or of a decision by a public agency to undertake a project, a lead agency shall provide formal notification to a designated contact of, or tribal representative of, traditionally and culturally affiliated California Native American tribes that have requested notice, to be accomplished by at least one written notice that includes:

 - a. A brief description of the project.
 - b. The lead agency contact information.
 - c. Notification that the California Native American tribe has 30 days to request consultation. (Pub. Resources Code §21080.3.1 (d)).
 - d. A "California Native American tribe" is defined as a Native American tribe located in California that is on the contact list maintained by the NAHC for the purposes of Chapter 905 of Statutes of 2004 (SB 18). (Pub. Resources Code §21073).
- 2. Begin Consultation Within 30 Days of Receiving a Tribe's Request for Consultation and Before Releasing a Negative Declaration, Mitigated Negative Declaration, or Environmental Impact Report:** A lead agency shall begin the consultation process within 30 days of receiving a request for consultation from a California Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed project. (Pub. Resources Code §21080.3.1, subds. (d) and (e)) and prior to the release of a negative declaration, mitigated negative declaration or Environmental Impact Report. (Pub. Resources Code §21080.3.1(b)).

 - a. For purposes of AB 52, "consultation shall have the same meaning as provided in Gov. Code §65352.4 (SB 18). (Pub. Resources Code §21080.3.1 (b)).
- 3. Mandatory Topics of Consultation If Requested by a Tribe:** The following topics of consultation, if a tribe requests to discuss them, are mandatory topics of consultation:

 - a. Alternatives to the project.
 - b. Recommended mitigation measures.
 - c. Significant effects. (Pub. Resources Code §21080.3.2 (a)).
- 4. Discretionary Topics of Consultation:** The following topics are discretionary topics of consultation:

 - a. Type of environmental review necessary.
 - b. Significance of the tribal cultural resources.
 - c. Significance of the project's impacts on tribal cultural resources.
 - d. If necessary, project alternatives or appropriate measures for preservation or mitigation that the tribe may recommend to the lead agency. (Pub. Resources Code §21080.3.2 (a)).
- 5. Confidentiality of Information Submitted by a Tribe During the Environmental Review Process:** With some exceptions, any information, including but not limited to, the location, description, and use of tribal cultural resources submitted by a California Native American tribe during the environmental review process shall not be included in the environmental document or otherwise disclosed by the lead agency or any other public agency to the public, consistent with Government Code §6254 (r) and §6254.10. Any information submitted by a California Native American tribe during the consultation or environmental review process shall be published in a confidential appendix to the environmental document unless the tribe that provided the information consents, in writing, to the disclosure of some or all of the information to the public. (Pub. Resources Code §21082.3 (c)(1)).
- 6. Discussion of Impacts to Tribal Cultural Resources in the Environmental Document:** If a project may have a significant impact on a tribal cultural resource, the lead agency's environmental document shall discuss both of the following:

 - a. Whether the proposed project has a significant impact on an identified tribal cultural resource.
 - b. Whether feasible alternatives or mitigation measures, including those measures that may be agreed to pursuant to Public Resources Code §21082.3, subdivision (a), avoid or substantially lessen the impact on the identified tribal cultural resource. (Pub. Resources Code §21082.3 (b)).

- 7. Conclusion of Consultation:** Consultation with a tribe shall be considered concluded when either of the following occurs:
- The parties agree to measures to mitigate or avoid a significant effect, if a significant effect exists, on a tribal cultural resource; or
 - A party, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached. (Pub. Resources Code §21080.3.2 (b)).
- 8. Recommending Mitigation Measures Agreed Upon in Consultation in the Environmental Document:** Any mitigation measures agreed upon in the consultation conducted pursuant to Public Resources Code §21080.3.2 shall be recommended for inclusion in the environmental document and in an adopted mitigation monitoring and reporting program, if determined to avoid or lessen the impact pursuant to Public Resources Code §21082.3, subdivision (b), paragraph 2, and shall be fully enforceable. (Pub. Resources Code §21082.3 (a)).
- 9. Required Consideration of Feasible Mitigation:** If mitigation measures recommended by the staff of the lead agency as a result of the consultation process are not included in the environmental document or if there are no agreed upon mitigation measures at the conclusion of consultation, or if consultation does not occur, and if substantial evidence demonstrates that a project will cause a significant effect to a tribal cultural resource, the lead agency shall consider feasible mitigation pursuant to Public Resources Code §21084.3 (b). (Pub. Resources Code §21082.3 (e)).
- 10. Examples of Mitigation Measures That, If Feasible, May Be Considered to Avoid or Minimize Significant Adverse Impacts to Tribal Cultural Resources:**
- Avoidance and preservation of the resources in place, including, but not limited to:
 - Planning and construction to avoid the resources and protect the cultural and natural context.
 - Planning greenspace, parks, or other open space, to incorporate the resources with culturally appropriate protection and management criteria.
 - Treating the resource with culturally appropriate dignity, taking into account the tribal cultural values and meaning of the resource, including, but not limited to, the following:
 - Protecting the cultural character and integrity of the resource.
 - Protecting the traditional use of the resource.
 - Protecting the confidentiality of the resource.
 - Permanent conservation easements or other interests in real property, with culturally appropriate management criteria for the purposes of preserving or utilizing the resources or places.
 - Protecting the resource. (Pub. Resource Code §21084.3 (b)).
 - Please note that a federally recognized California Native American tribe or a non-federally recognized California Native American tribe that is on the contact list maintained by the NAHC to protect a California prehistoric, archaeological, cultural, spiritual, or ceremonial place may acquire and hold conservation easements if the conservation easement is voluntarily conveyed. (Civ. Code §815.3 (c)).
 - Please note that it is the policy of the state that Native American remains and associated grave artifacts shall be repatriated. (Pub. Resources Code §5097.991).
- 11. Prerequisites for Certifying an Environmental Impact Report or Adopting a Mitigated Negative Declaration or Negative Declaration with a Significant Impact on an Identified Tribal Cultural Resource:** An Environmental Impact Report may not be certified, nor may a mitigated negative declaration or a negative declaration be adopted unless one of the following occurs:
- The consultation process between the tribes and the lead agency has occurred as provided in Public Resources Code §21080.3.1 and §21080.3.2 and concluded pursuant to Public Resources Code §21080.3.2.
 - The tribe that requested consultation failed to provide comments to the lead agency or otherwise failed to engage in the consultation process.
 - The lead agency provided notice of the project to the tribe in compliance with Public Resources Code §21080.3.1 (d) and the tribe failed to request consultation within 30 days. (Pub. Resources Code §21082.3 (d)).

The NAHC's PowerPoint presentation titled, "Tribal Consultation Under AB 52: Requirements and Best Practices" may be found online at: http://nahc.ca.gov/wp-content/uploads/2015/10/AB52TribalConsultation_CalEPAPDF.pdf

SB 18

SB 18 applies to local governments and requires local governments to contact, provide notice to, refer plans to, and consult with tribes prior to the adoption or amendment of a general plan or a specific plan, or the designation of open space. (Gov. Code §65352.3). Local governments should consult the Governor's Office of Planning and Research's "Tribal Consultation Guidelines," which can be found online at: https://www.opr.ca.gov/docs/09_14_05_Updated_Guidelines_922.pdf.

Some of SB 18's provisions include:

1. Tribal Consultation: If a local government considers a proposal to adopt or amend a general plan or a specific plan, or to designate open space it is required to contact the appropriate tribes identified by the NAHC by requesting a "Tribal Consultation List." If a tribe, once contacted, requests consultation the local government must consult with the tribe on the plan proposal. **A tribe has 90 days from the date of receipt of notification to request consultation unless a shorter timeframe has been agreed to by the tribe.** (Gov. Code §65352.3 (a)(2)).
2. No Statutory Time Limit on SB 18 Tribal Consultation. There is no statutory time limit on SB 18 tribal consultation.
3. Confidentiality: Consistent with the guidelines developed and adopted by the Office of Planning and Research pursuant to Gov. Code §65040.2, the city or county shall protect the confidentiality of the information concerning the specific identity, location, character, and use of places, features and objects described in Public Resources Code §5097.9 and §5097.993 that are within the city's or county's jurisdiction. (Gov. Code §65352.3 (b)).
4. Conclusion of SB 18 Tribal Consultation: Consultation should be concluded at the point in which:
 - a. The parties to the consultation come to a mutual agreement concerning the appropriate measures for preservation or mitigation; or
 - b. Either the local government or the tribe, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached concerning the appropriate measures of preservation or mitigation. (Tribal Consultation Guidelines, Governor's Office of Planning and Research (2005) at p. 18).

Agencies should be aware that neither AB 52 nor SB 18 precludes agencies from initiating tribal consultation with tribes that are traditionally and culturally affiliated with their jurisdictions before the timeframes provided in AB 52 and SB 18. For that reason, we urge you to continue to request Native American Tribal Contact Lists and "Sacred Lands File" searches from the NAHC. The request forms can be found online at: <http://nahc.ca.gov/resources/forms/>.

NAHC Recommendations for Cultural Resources Assessments

To adequately assess the existence and significance of tribal cultural resources and plan for avoidance, preservation in place, or barring both, mitigation of project-related impacts to tribal cultural resources, the NAHC recommends the following actions:

1. Contact the appropriate regional California Historical Research Information System (CHRIS) Center (https://ohp.parks.ca.gov/?page_id=30331) for an archaeological records search. The records search will determine:
 - a. If part or all of the APE has been previously surveyed for cultural resources.
 - b. If any known cultural resources have already been recorded on or adjacent to the APE.
 - c. If the probability is low, moderate, or high that cultural resources are located in the APE.
 - d. If a survey is required to determine whether previously unrecorded cultural resources are present.
2. If an archaeological inventory survey is required, the final stage is the preparation of a professional report detailing the findings and recommendations of the records search and field survey.
 - a. The final report containing site forms, site significance, and mitigation measures should be submitted immediately to the planning department. All information regarding site locations, Native American human remains, and associated funerary objects should be in a separate confidential addendum and not be made available for public disclosure.

b. The final written report should be submitted within 3 months after work has been completed to the appropriate regional CHRIS center.

3. Contact the NAHC for:

a. A Sacred Lands File search. Remember that tribes do not always record their sacred sites in the Sacred Lands File, nor are they required to do so. A Sacred Lands File search is not a substitute for consultation with tribes that are traditionally and culturally affiliated with the geographic area of the project's APE.

b. A Native American Tribal Consultation List of appropriate tribes for consultation concerning the project site and to assist in planning for avoidance, preservation in place, or, failing both, mitigation measures.

4. Remember that the lack of surface evidence of archaeological resources (including tribal cultural resources) does not preclude their subsurface existence.

a. Lead agencies should include in their mitigation and monitoring reporting program plan provisions for the identification and evaluation of inadvertently discovered archaeological resources per Cal. Code Regs., tit. 14, § 15064.5(f) (CEQA Guidelines § 15064.5(f)). In areas of identified archaeological sensitivity, a certified archaeologist and a culturally affiliated Native American with knowledge of cultural resources should monitor all ground-disturbing activities.

b. Lead agencies should include in their mitigation and monitoring reporting program plans provisions for the disposition of recovered cultural items that are not burial associated in consultation with culturally affiliated Native Americans.

c. Lead agencies should include in their mitigation and monitoring reporting program plans provisions for the treatment and disposition of inadvertently discovered Native American human remains. Health and Safety Code § 7050.5, Public Resources Code § 5097.98, and Cal. Code Regs., tit. 14, § 15064.5, subdivisions (d) and (e) (CEQA Guidelines § 15064.5, subds. (d) and (e)) address the processes to be followed in the event of an inadvertent discovery of any Native American human remains and associated grave goods in a location other than a dedicated cemetery.

If you have any questions or need additional information, please contact me at my email address: Pricilla.Torres-Fuentes@NAHC.ca.gov.

Sincerely,

Pricilla Torres-Fuentes

Pricilla Torres-Fuentes
Cultural Resources Analyst

cc: State Clearinghouse



SIERRA CLUB

DELTA-SIERRA GROUP
MOTHER LODE CHAPTER

Port of Stockton

11.12.2024

Jason Cashman, Director of Environmental Affairs

P.O. Box 2089 Stockton, California 95201

ceqa@stocktonport.com

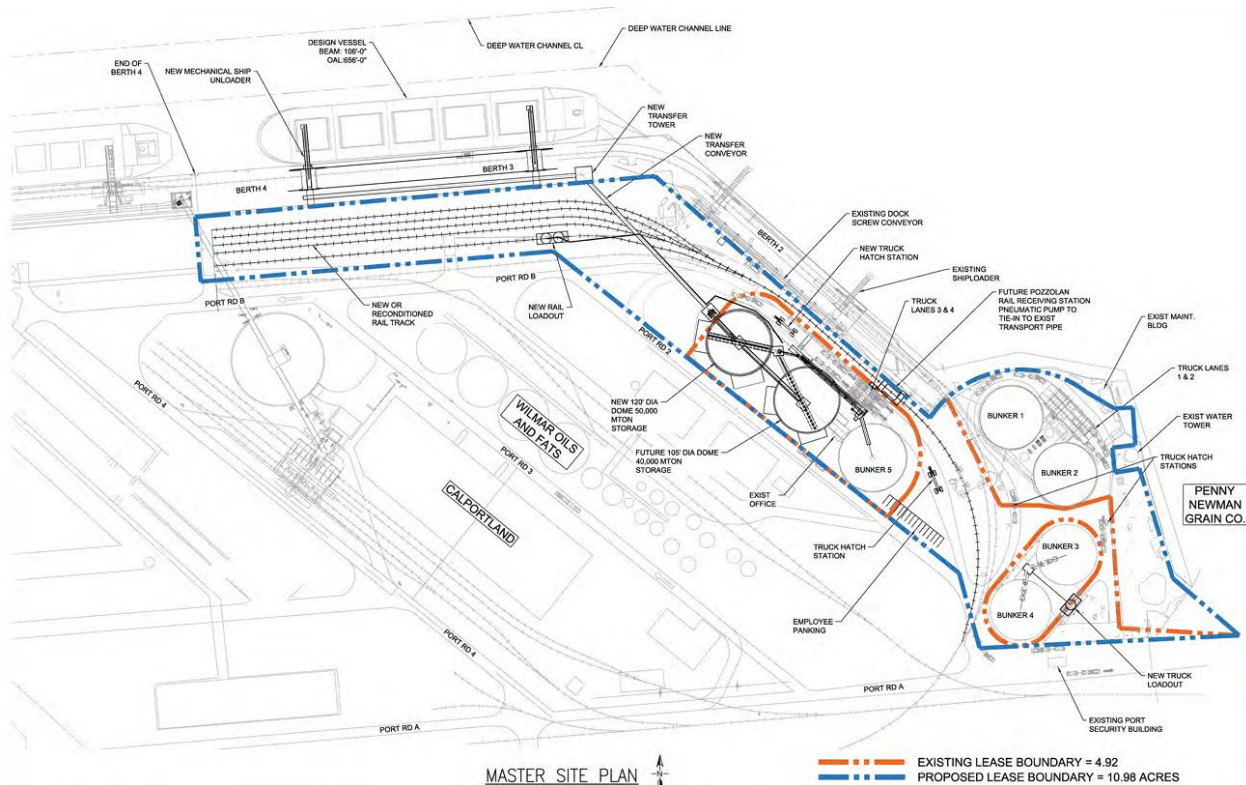
Re: Notice of Preparation of a Draft Environmental Impact Report for the proposed Nevada Cement Company LLC Stockton Terminal Modernization Project

The Delta-Sierra Group within the Mother Lode Chapter, of the Sierra Club has over 600 members throughout San Joaquin County which will be impacted by the proposed Nevada Cement Company LLC Stockton Terminal Modernization Project (NCC LLC) if impacts are not completely identified and mitigated. We have reviewed the Notice of Preparation and Initial Study (NOP/IS) for the proposed Stockton Terminal Modernization Project.

Comments were submitted during the 10.22.2024 NOP/IS scoping meeting regarding the increased truck, rail, and marine transportation impacts and the need to reduce emissions with clean energy emissions reductions. Please note that the DSG continues to assert that hydrogen produced from fossil methane gas is not clean energy as we have outlined in correspondence relating to the proposed BayoTech Hydrogen Project. The DSG submits the following additional comments for your consideration and response.

Below is a map and diagram showing the proposed project site and berths 2, 3, and 4.





Project Description

The project located at 205 Port Road, Stockton CA 95203 and at Port's Berths 2 and 3/4 in Stockton, is proposed to increase the size of the facility and throughput of cementitious materials resulting in significant impacts if not completely mitigated. The residents and workers are exposed to higher emissions in the area of the Port of Stockton because of the operations of the leaseholders. We appreciate the efforts of the Port of Stockton, the California Air Resources Board (CARB), the San Joaquin Valley Air Pollution Control District to improve air quality in Stockton but much more is needed. Business as usual, making findings of overriding significance, have harmed and continue to harm the health and welfare of residents in Stockton. The NOP/IS included the following description of existing leased area and proposed lease area:

Nevada Cement seeks to modify its lease with the Port to increase the terminal's leasehold area from 4.92 to 10.98 acres. The 4.92-acre existing leasehold area is reflective of only the areas under existing storage structures. However, current terminal operations occur within, between, and around the storage structures and *actually encompass an area of 8.18 acres*, including the area around the Berths 2 and 3 unloading operations, rail storage and loading, and truck lanes serving the various outbound operations by truck. Accordingly, the lease modification would reflect the *actual terminal operation area* as well as the proposed expanded operation area.

The NOP/IS describes terminal improvements including the rehabilitation of Berth 3/4 to support a new ship unloader to service longer and wider vessels, removing derelict equipment and dilapidated structures from the Berth 3/4 operational area, installing unloading equipment on the combined Berth 3/4, constructing tracks to increase rail loading capacity, and removing and replacing an existing terminal storage bunker with a higher capacity storage dome. The M/V Golden Arrow, a floating silo ship that has been used for cement operations at Berth 3/4 since 2003, would be discontinued from use and relocated outside of the Port to free up Berth 3/4 for increased throughput of cementitious material. The DEIR should include a description of the condition of this

ship and the disposition when moved outside of the Port. These terminal improvements will support higher volumes of cementitious product handling and additional ship, truck, and rail calls as compared to current operations. The upgraded terminal would be designed to accommodate either ship or barge operations.

Transportation/Air Quality

Huge increases in existing cementitious throughput and associated ship, rail, truck, and barge trips are associated with this proposed expansion. The NOP/IS describes the transportation related proposed 2023 baseline and expected maximum after 15 years in Table 1 and 2.

Table 1
Baseline, Permitted and Project Throughput

Transport Mode	Baseline (2023)	SJVAPCD Permit to Operate Limit	Project Year 15 (Expected Maximum)
Import			
Rail and ship calls	326,712 ¹	2,628,000	2,582,250
Export			
Trucks and rail	341,003	2,190,000	2,190,000
Barge calls	0	Not permitted	225,000

Note:

1. All values are in tons of product.

The NOP/IS describes the project as significantly expanding the existing operations. The NOP/IS states “As shown in Table 1, the proposed project would result in a net increase from current baseline volumes, which would result in additional vessel, truck, and rail calls as detailed in Table 2. The upgraded terminal would also be designed to load barges in the future, in addition to receiving ships.” Table 1 indicates that the total annual import rail and ship calls would increase from the current 326,712 tons to 2,582,250 tons, a seven fold increase. The export of cementitious materials by trucks and rail would increase from the current 341,000 tons to 2,190,000 tons, an increase of 540%.

These very significant increases over current throughput will result in 1,429 new rail cars with imports, plus 59 additional ship calls. Export traffic from the Port will quadruple the number of truck trips from 10,832 to 41,154, with the number of railcars out increasing 18 fold from 520 to 9,825. Total rail trips will explode from 52 to 437, and the number of barge ships will go from zero now to 45 per year.

Table 2
Modal Moves, Baseline and Proposed Project

Modal Moves	Baseline (2023)	Project Year 15 (Expected Maximum)
Import		
Railcars in ¹	0	1,429
Ship calls ²	10	69
Export		
Trucks ³	10,832	41,154
Railcars out ¹	520	9,825
Rail trips	52 ⁴	437 ⁵
Barge calls ⁶	0	45

Notes:

1. Rail calls are expressed in one-way moves assuming 114 tons per railcar for cement and 105 tons for supplementary cementitious materials.
2. Assumes a ship volume of 35,250 short tons per ship
3. Truck calls are expressed in one-way moves at 26 tons per truck.
4. Assumes an average of 10 cars per train for each move
5. Assumes a future railcar average of 45 cars per train arriving at and leaving the terminal. Assumes all railcars hauling in product for supplementary cementitious materials in pressure differential cars would also be reloaded with cement (1,429 cars) and leave the facility as a full (not an empty) movement, thus reducing the cars required for shipments of cement to be brought to site.
6. Assumes a barge volume of 5,000 short tons per barge

The DEIR must accurately assess the very significant increases in the throughput of cementitious materials and associated rail, truck, ship, and barge trips over current operations. We will challenge any attempt by the DEIR to argue that the massive increase in production operations is an improvement over the existing polluting status quo

The DEIR cannot only measure the increase in air pollution and other environmental impacts between the existing polluting operations but must quantify the total emission associated with the huge increase in operations assuming a baseline of zero. The current operations are antiquated and would never be permitted today. To erroneously measure the difference between the current very dirty air emissions with those that are proposed in the future would seriously underestimate the air quality and other environmental impacts of what is being proposed.

The DSG objects to the stipulation made in the NOP/IS regarding “the current physical conditions” as described in this NOP/IS that will be used in the DEIR “to determine the potential for environmental impacts” without a more complete descriptions of operations. The basis for the stipulation was not sufficiently supported with evidence regarding operations, including the types of cementitious materials that are handled at the site, and no consideration was given regarding the already overburdened census tract where the proposed increased throughput of cementitious materials is to occur.

Section 15125(a) of the CEQA Guidelines states that “the environmental setting normally constitutes the baseline physical conditions by which a lead agency determines whether an impact is significant”.¹ We request that the current physical conditions used for baseline analysis be reduced to zero. The NOP/IS includes the statement that the “highest 12-month period of shipping at the terminal occurred from 2022 to 2023, during which the terminal handled 751,432 tons of material” without referencing the period of time over which high tonnage throughput occurred. The baseline that the Port proposes to use is 667,715 tons for purposes of the DEIR level of significance analysis which is the combined import and export tonnage. The DEIR should clarify the meaning of the terms import and export related to bringing materials into or out of the Port by ship or barge or moving in and out the same material. If cementitious materials are going to be exported and brought to the Port for export by rail as the NOP/IS indicates, the source of these materials should be disclosed in the DEIR, as should the source of the imported materials.

The NOP/IS does not distinguish the material specific impacts associated with the various types of cementitious materials cited therein. The Port of Stockton lease changed from Lehigh Cement, after 2020, to Martin Marietta Materials without disclosures to those submitting comments on the previous CEQA documents relating to another proposed expansion. The NOP/IS reports a lease change from Martin Marietta Materials to Nevada Cement LLC that occurred in 2023. The public should be informed of lease changes, especially as the Port of Stockton CEQA webpage continues to state that a Final EIR is in preparation.² The DEIR should include an analysis of operational changes over the last 10 years, in addition to any rail, truck, or marine activity.

DSG submitted extensive comments beginning with the 2019 NOP/IS, 2020 DEIR and 2021 FEIR, including comments from Shute Mihaly and Weinberger on behalf of the DSG and comments from the California Department of Justice on the DEIR for the then proposed expansion.³ The baseline

¹ 2024 CEQA Statutes and Guidelines

https://www.califaep.org/docs/2024_CEQA_Statute_and_Guidelines_Handbook.pdf

² <https://www.portofstockton.com/ceqa-documents/>

³ [DSG NOP/IS 11.22.2019](#) [DSG DEIR 7.6.2020](#) [SMW on behalf of the DSG 8.31.2020](#) and [California DOJ 7.21.2020](#)

conditions of the community unfortunately have not changed as all those impacts relating to Port operations continue and must be addressed in the DEIR. The physical environment resulting from existing operations at the Port of Stockton continues to impact Stockton resident's health and welfare including those relating to transportation impacts which will increase with any increased throughput without full mitigation.

To illustrate and further substantiate the necessity to fully disclose operation variability relating to the multiple ownership and operational changes, baseline data was disclosed in 2019 when the former Lehigh Cement expansion was proposed.⁴ Both the 2024 NOP/IS and 2019 NOP/IS were prepared by Anchor QEA on behalf of the Port of Stockton.

Table 1
Expected Maximum Proposed Project Throughput Compared to Existing Levels (Annual)

	Baseline (2018)		Project Year 10 (Expected Maximum)	
	Mode (annual moves)	Tons of Product	Mode (annual moves)	Tons of Product
Truck ¹	16,730	459,484	42,000	1,100,000
Rail Cars	534	56,057	4,700	500,000
Rail Trips ²	27	--	300	--
Ships Calls	20	287,907	50	1,700,000
Barges Calls	0	0	40	200,000
Total Tons	--	803,448	--	3,500,000

Notes:

1. Truck calls are expressed in one-way moves.
2. Assumes an average of 20 cars per train
3. Current throughput permitted by the SJVAPCD is 2,628,000 tons per day receiving into and 6,000 tons per day shipping out of the terminal.

With air permits granted that allow more than double what was ever handled at the existing facility, changes that will reduce air emissions and fugitive dust are welcomed. Multiple complaints of fugitive dust related to operations have been made but by the time the air inspectors made the travel from Modesto dust complaints were not validated. Public air quality monitoring is necessary for residents to verify the monitoring data with actual visual observations. Further as barges are not currently berthed or used for cementitious products transport a full discussion in the DEIR is needed to describe how these barges may interfere with the flow of larger marine vessels, the length of the barge trips, and the advantages and disadvantages of the barge transport when considering alternatives relating to Berth 2 enhancements.

Onsite air quality monitoring, which is available to the public must be a mitigation measure monitored throughout the lease period and operations at the site.

Cumulative Impacts and Health Assessment

Cumulative impacts of all recent projects must be analyzed and recorded in addition to projects that are proposed.

The draft environmental impact report (DEIR) must include a full description of existing conditions and operations including but not limited to the facilities Wilmar Oils and Fats, CalPortland, BWC Terminals and Penny Newman Grain Co., all those operational sites adjacent to the area proposed

⁴ [Lehigh NOP/IS October 2019.PDF](#)

for the NCC LLC lease. The description should include all lease conditions affecting any of the physical and operational environments in the Port area.

The air quality and greenhouse gas analyses in the DEIR must fully substantiate the assumptions used and include air quality impacts and greenhouse gas emissions for the full length of transport trip generated by the proposed project. The cumulative impact analyses of this project must include impacts due to existing and proposed operations including TC NO. CAL. Development Warehousing and Distribution Facility Project (the Home Depot warehouse project), the Stockton Soda Ash project (Denmar Natural Soda Ash Export Terminal and Remedial Activities), and other existing projects including DTE and Penny Newman operations, as well as the proposed Golden State Natural Resources wood export project.

The DEIR must not include a faulty analysis of cumulative impacts that relies on projections that then argues the project falls within those parameters.

Utilities/Service Systems/Water Quality related to invasive species/Emergency Response Plans and Evacuation Plans

We request that Utilities/Service Systems and Fire Impacts be analyzed in the DEIR for the proposed NCC LLC project. Impacts related to fire safety in the area have been identified and were not fully characterized in the NOP/IS. A complete and thorough description of the onsite fire protection equipment must be included in the DEIR that includes Stockton specific requirements outlined in the City of Stockton Municipal Code Chapter 15.12 Fire Code.⁵ Please describe the pump house and fire pump controller, indicating whether or not the device is Underwriters Laboratories or Factory Mutual approved. If the fire pump is electric, the backup power source must be disclosed. If diesel, include the capacity of the diesel tank(s). If fuel lines to diesel fire pumps have a solenoid valve on the fuel line, indicate if they have a manual bypass around the valve. Annual performance testing schedules must be included in the DEIR for the necessary equipment.

The invasive species, golden mussel, was reported to have been identified at the Port of Stockton for the first time attached to equipment and buoys during recent routine water quality tests.⁶ The species is transported on ships' hulls and in ballast water that is drained in ports.

As the Port takes water from the San Joaquin River for most non-domestic Port development needs, these mussels could have colonized the Port's firefighting infrastructure so the DEIR must consider how the increased marine vessel trips will not further add to the invasive species threat to water quality and how firefighting abilities have not been compromised.

Additionally, the DEIR should include a characterization of fire hydrants around the perimeter of the project site and within the site to show through water flow tests that fire flow is adequate for the intended project as determined by the Stockton Fire Department. Operational requirements per NFPA 24 and California Fire Codes standards should be referenced when developing the site safety plan that should be included in the DEIR.

The California Water Service, Stockton District with facilities in the Boggs Tract neighborhood serves the Port area and whether or not the Port has potable water services that are offered to tenants was not disclosed. Potable water is purveyed by the California Water Service, Stockton

⁵ Stockton Municipal Code [Chapter 15.12](#)

⁶ [Invasive mussels could harm California Delta ecosystem and add to water costs. Ian James Los Angeles Times, 11.6.2024](#)

District in the area of the Port of Stockton. The California Water Service, Stockton District also obtains water from groundwater wells located within the Stockton District and surface supplies from Stockton East Water District which was not disclosed in the Initial Study.

Under 2.20.1 and 2.20.2 Impact Evaluation relating to wildfire: The NOP/IS states, “The proposed project would not impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan. Therefore, there would be no impact, and this issue will not be addressed further in the DEIR.” However, relating to transportation and hazardous materials and waste management the project is expected to create a significant impact by impairing implementation of or physically interfering with an adopted emergency response plan or emergency evacuation plan. The DEIR should include the Port’s emergency response plan and emergency evacuation plan, and any modifications proposed to safely manage the hazardous materials and increased transportation anticipated in the area and how that may affect the ability of residents to safely evacuate from the areas should the necessity exist.

The DEIR should include a listing and summary of existing regulatory permits as there are over 10 separate air quality permits with the SJVAPCD alone and the process by which new regulatory permits will be issued and regulatory links that residents can use to sign up to be notified when required regulatory permits are to be considered for issuance. If you would like to discuss our comments in advance of the DEIR please reach out to mebeth@outlook.com.

Sincerely,

A handwritten signature in dark ink, appearing to read 'MEBETH'.

Mary Elizabeth M.S., R.E.H.S.
Delta-Sierra Group Conservation Chair, Sierra Club

Margo Praus
Delta-Sierra Group Executive Committee Chair, Sierra Club

Central Valley Regional Water Quality Control Board

12 November 2024

Jason Cashman
Port of Stockton
2201 West Washington Street
Stockton, CA 95203
jcashman@stocktonport.com

**COMMENTS TO REQUEST FOR REVIEW FOR THE NOTICE OF PREPARATION
FOR THE DRAFT ENVIRONMENTAL IMPACT REPORT, NEVADA CEMENT
COMPANY LLC STOCKTON TERMINAL MODERNIZATION PROJECT,
SCH#2024100490, SAN JOAQUIN COUNTY**

Pursuant to the State Clearinghouse's 11 October 2024 request, the Central Valley Regional Water Quality Control Board (Central Valley Water Board) has reviewed the *Request for Review for the Notice of Preparation for the Draft Environmental Impact Report* for the Nevada Cement Company LLC Stockton Terminal Modernization Project, located in San Joaquin County.

Our agency is delegated with the responsibility of protecting the quality of surface and groundwaters of the state; therefore our comments will address concerns surrounding those issues.

I. Regulatory Setting

Basin Plan

The Central Valley Water Board is required to formulate and adopt Basin Plans for all areas within the Central Valley region under Section 13240 of the Porter-Cologne Water Quality Control Act. Each Basin Plan must contain water quality objectives to ensure the reasonable protection of beneficial uses, as well as a program of implementation for achieving water quality objectives with the Basin Plans. Federal regulations require each state to adopt water quality standards to protect the public health or welfare, enhance the quality of water and serve the purposes of the Clean Water Act. In California, the beneficial uses, water quality objectives, and the Antidegradation Policy are the State's water quality standards. Water quality standards are also contained in the National Toxics Rule, 40 CFR Section 131.36, and the California Toxics Rule, 40 CFR Section 131.38.

The Basin Plan is subject to modification as necessary, considering applicable laws, policies, technologies, water quality conditions and priorities. The original Basin Plans were adopted in 1975, and have been updated and revised periodically as

required, using Basin Plan amendments. Once the Central Valley Water Board has adopted a Basin Plan amendment in noticed public hearings, it must be approved by the State Water Resources Control Board (State Water Board), Office of Administrative Law (OAL) and in some cases, the United States Environmental Protection Agency (USEPA). Basin Plan amendments only become effective after they have been approved by the OAL and in some cases, the USEPA. Every three (3) years, a review of the Basin Plan is completed that assesses the appropriateness of existing standards and evaluates and prioritizes Basin Planning issues. For more information on the *Water Quality Control Plan for the Sacramento and San Joaquin River Basins*, please visit our website:

http://www.waterboards.ca.gov/centralvalley/water_issues/basin_plans/

Antidegradation Considerations

All wastewater discharges must comply with the Antidegradation Policy (State Water Board Resolution 68-16) and the Antidegradation Implementation Policy contained in the Basin Plan. The Antidegradation Implementation Policy is available on page 74 at:

https://www.waterboards.ca.gov/centralvalley/water_issues/basin_plans/sacsjr_201805.pdf

In part it states:

Any discharge of waste to high quality waters must apply best practicable treatment or control not only to prevent a condition of pollution or nuisance from occurring, but also to maintain the highest water quality possible consistent with the maximum benefit to the people of the State.

This information must be presented as an analysis of the impacts and potential impacts of the discharge on water quality, as measured by background concentrations and applicable water quality objectives.

The antidegradation analysis is a mandatory element in the National Pollutant Discharge Elimination System and land discharge Waste Discharge Requirements (WDRs) permitting processes. The environmental review document should evaluate potential impacts to both surface and groundwater quality.

II. Permitting Requirements

Construction Storm Water General Permit

Dischargers whose project disturb one or more acres of soil or where projects disturb less than one acre but are part of a larger common plan of development that in total disturbs one or more acres, are required to obtain coverage under the General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities (Construction General Permit), Construction General Permit Order No. 2009-0009-DWQ. Construction activity subject to this permit includes clearing, grading, grubbing, disturbances to the ground, such as stockpiling, or excavation, but does not include regular maintenance activities performed to restore the original line, grade, or capacity of the facility. The Construction General Permit requires the development and implementation of a Storm Water Pollution Prevention

Plan (SWPPP). For more information on the Construction General Permit, visit the State Water Resources Control Board website at:
http://www.waterboards.ca.gov/water_issues/programs/stormwater/constpermits.shtml

Clean Water Act Section 404 Permit

If the project will involve the discharge of dredged or fill material in navigable waters or wetlands, a permit pursuant to Section 404 of the Clean Water Act may be needed from the United States Army Corps of Engineers (USACE). If a Section 404 permit is required by the USACE, the Central Valley Water Board will review the permit application to ensure that discharge will not violate water quality standards. If the project requires surface water drainage realignment, the applicant is advised to contact the Department of Fish and Game for information on Streambed Alteration Permit requirements. If you have any questions regarding the Clean Water Act Section 404 permits, please contact the Regulatory Division of the Sacramento District of USACE at (916) 557-5250.

Clean Water Act Section 401 Permit – Water Quality Certification

If an USACE permit (e.g., Non-Reporting Nationwide Permit, Nationwide Permit, Letter of Permission, Individual Permit, Regional General Permit, Programmatic General Permit), or any other federal permit (e.g., Section 10 of the Rivers and Harbors Act or Section 9 from the United States Coast Guard), is required for this project due to the disturbance of waters of the United States (such as streams and wetlands), then a Water Quality Certification must be obtained from the Central Valley Water Board prior to initiation of project activities. There are no waivers for 401 Water Quality Certifications. For more information on the Water Quality Certification, visit the Central Valley Water Board website at:
https://www.waterboards.ca.gov/centralvalley/water_issues/water_quality_certification/

Waste Discharge Requirements – Discharges to Waters of the State

If USACE determines that only non-jurisdictional waters of the State (i.e., “non-federal” waters of the State) are present in the proposed project area, the proposed project may require a Waste Discharge Requirement (WDR) permit to be issued by Central Valley Water Board. Under the California Porter-Cologne Water Quality Control Act, discharges to all waters of the State, including all wetlands and other waters of the State including, but not limited to, isolated wetlands, are subject to State regulation. For more information on the Waste Discharges to Surface Water NPDES Program and WDR processes, visit the Central Valley Water Board website at:
https://www.waterboards.ca.gov/centralvalley/water_issues/waste_to_surface_water/

Projects involving excavation or fill activities impacting less than 0.2 acre or 400 linear feet of non-jurisdictional waters of the state and projects involving dredging activities impacting less than 50 cubic yards of non-jurisdictional waters of the state may be eligible for coverage under the State Water Resources Control Board Water Quality Order No. 2004-0004-DWQ (General Order 2004-0004). For more

information on the General Order 2004-0004, visit the State Water Resources Control Board website at:

https://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2004/wqo/wqo2004-0004.pdf

Dewatering Permit

If the proposed project includes construction or groundwater dewatering to be discharged to land, the proponent may apply for coverage under State Water Board General Water Quality Order (Low Threat General Order) 2003-0003 or the Central Valley Water Board's Waiver of Report of Waste Discharge and Waste Discharge Requirements (Low Threat Waiver) R5-2018-0085. Small temporary construction dewatering projects are projects that discharge groundwater to land from excavation activities or dewatering of underground utility vaults. Dischargers seeking coverage under the General Order or Waiver must file a Notice of Intent with the Central Valley Water Board prior to beginning discharge.

For more information regarding the Low Threat General Order and the application process, visit the Central Valley Water Board website at:

http://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2003/wqo/wqo2003-0003.pdf

For more information regarding the Low Threat Waiver and the application process, visit the Central Valley Water Board website at:

https://www.waterboards.ca.gov/centralvalley/board_decisions/adopted_orders/waivers/r5-2018-0085.pdf

Limited Threat General NPDES Permit

If the proposed project includes construction dewatering and it is necessary to discharge the groundwater to waters of the United States, the proposed project will require coverage under a National Pollutant Discharge Elimination System (NPDES) permit. Dewatering discharges are typically considered a low or limited threat to water quality and may be covered under the General Order for *Limited Threat Discharges to Surface Water* (Limited Threat General Order). A complete Notice of Intent must be submitted to the Central Valley Water Board to obtain coverage under the Limited Threat General Order. For more information regarding the Limited Threat General Order and the application process, visit the Central Valley Water Board website at:

https://www.waterboards.ca.gov/centralvalley/board_decisions/adopted_orders/general_orders/r5-2016-0076-01.pdf

NPDES Permit

If the proposed project discharges waste that could affect the quality of surface waters of the State, other than into a community sewer system, the proposed project will require coverage under a National Pollutant Discharge Elimination System (NPDES) permit. A complete Report of Waste Discharge must be submitted with the Central Valley Water Board to obtain a NPDES Permit. For more information regarding the NPDES Permit and the application process, visit the Central Valley Water Board website at: <https://www.waterboards.ca.gov/centralvalley/help/permit/>

Nevada Cement Company LLC Stockton - 5 -
Terminal Modernization Project
San Joaquin County

12 November 2024

If you have questions regarding these comments, please contact me at (916) 464-4684
or Peter.Minkel2@waterboards.ca.gov.

A handwritten signature in blue ink that reads "Peter G. Minkel".

Peter G. Minkel
Engineering Geologist

cc: State Clearinghouse unit, Governor's Office of Planning and Research,
Sacramento



November 12, 2024

Jason Cashman
Port of Stockton
Environmental Affairs Director
P.O. Box 2089
Stockton, CA 95201

**Project: Notice of Preparation for a Draft Environmental Impact Report to the
Nevada Cement Company LLC Stockton Terminal Modernization Project**

District CEQA Reference No: 20241182

Dear Mr. Cashman:

The San Joaquin Valley Air Pollution Control District (District) has reviewed the Notice of Preparation (NOP) of a Draft Environmental Impact Report (DEIR) from the Port of Stockton (Port) for the Nevada Cement Company LLC Stockton Terminal Modernization project. Per the NOP, the project consists of upgrading the existing marine terminal for Nevada Cement Company LLC to improve its capacity and operational efficiency (Project). The Project would include refurbishing Berths 3 and 4 to support a larger, more modern ship unloader, adding new unloading equipment, and enhancing storage with a high-capacity dome to replace an older bunker which would allow the terminal to handle a higher volume of cementitious materials. The Project is located at 205 Port Road 1 in the Port of Stockton. The Project lies within one of the communities in the state selected by the California Air Resources Board (CARB) for investment of additional air quality resources and attention under Assembly Bill (AB) 617 (Garcia) in an effort to reduce air pollution exposure in impacted disadvantaged communities.

The District offers the following comments at this time regarding the Project:

1) Assembly Bill 617

AB 617 requires CARB and air districts to develop and implement Community Emission Reduction Programs (CERPs) in an effort to reduce air pollution exposure in impacted disadvantaged communities, like those in which the Project is located. The Stockton AB 617 community is one of the statewide communities selected by CARB for development and implementation of a CERP.

Samir Sheikh
Executive Director/Air Pollution Control Officer

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Modesto, CA 95356-8718
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Southern Region
34946 Flyover Court
Bakersfield, CA 93308-9725
Tel: (661) 392-5500 FAX: (661) 392-5585

Following extensive community engagement and collaboration with the Community Steering Committee, the CERP for the Stockton Community was adopted by the District's Governing Board in March 2021 and by CARB in July 2021.

During the development of the CERP, the Community Steering Committee expressed concerns regarding the proximity of emission sources to nearby sensitive receptors like schools, homes, day care centers, and hospitals, and the potential future industrial development within the community that may exacerbate the cumulative exposure burden for community residents. The Community Steering Committee also expressed the desire for more meaningful avenues of engagement surrounding the land-use decisions in the area. As these issues can most effectively be addressed through strong partnerships between community members and local land-use agencies. Furthermore, the District recommends the Port assess the emission reductions measures and strategies included in the CERP and address them in the DEIR, as appropriate, to align the Port work with the air pollution and exposure reduction strategies and measures outlined in the CERP.

For more information regarding the CERP approved for Stockton, please visit the District's website at:
<http://community.valleyair.org/selected-communities/stockton/>

2) Project Related Emissions

At the federal level under the National Ambient Air Quality Standards (NAAQS), the District is designated as extreme nonattainment for the 8-hour ozone standards and serious nonattainment for the particulate matter less than 2.5 microns in size (PM_{2.5}) standards. At the state level under California Ambient Air Quality Standards (CAAQS), the District is designated as nonattainment for the 8-hour ozone, PM₁₀, and PM_{2.5} standards.

The District's initial review of the Project concludes that emissions resulting from construction and/or operation of the Project may exceed any of the following significance thresholds as identified in the District's Guidance for Assessing and Mitigating Air Quality Impacts: <https://ww2.valleyair.org/media/g4nl3p0g/gamaqi.pdf>. The District recommends that a more detailed preliminary review of the Project be conducted for the Project's construction and operational emissions.

2a) Construction Emissions

The District recommends, to reduce impacts from construction-related diesel exhaust emissions, the Project should utilize the cleanest available off-road construction equipment.

2b) Operational Emissions

Operational (ongoing) air emissions from mobile sources and stationary sources should be analyzed separately. For reference, the District's significance thresholds are identified in the District's Guidance for Assessing and Mitigating Air Quality Impacts:

<https://www2.valleyair.org/media/q4nl3p0q/gamaqi.pdf>.

Recommended Mitigation Measure: At a minimum, project related impacts on air quality should be reduced to levels below the District's significance thresholds through incorporation of design elements such as the use of cleaner Heavy Heavy-Duty (HHD) trucks and vehicles, measures that reduce Vehicle Miles Traveled (VMTs), and measures that increase energy efficiency. More information on transportation mitigation measures can be found at:

<https://www2.valleyair.org/media/ob0pweru/clean-air-measures.pdf>

2c) Project Trip Length for HHD Truck Travel

The Port's environmental review should adequately characterize and justify an appropriate trip length distance for off-site HHD truck travel to and from the Project site. Based on the following factors: 1) the Project consists of a receiving, storing, and exporting cementitious materials, that is expected to generate a high volume of HHD truck trips, and 2) HHD trucks generally travel further distances for distribution. The District recommends the environmental review include a discussion characterizing an appropriate trip length distance for HHD truck travel, and reflect such appropriate distance supported by project-specific factors.

2d) Recommended Model for Quantifying Air Emissions

Project-related criteria pollutant emissions from construction and operational sources should be identified and quantified. Emissions analysis should be performed using the California Emission Estimator Model (CalEEMod), which uses the most recent CARB-approved version of relevant emissions models and emission factors. CalEEMod is available to the public and can be downloaded from the CalEEMod website at: www.caleemod.com.

3) Health Risk Screening/Assessment

The Port should evaluate the risk associated with the Project for sensitive receptors (residences, businesses, hospitals, day-care facilities, health care facilities, etc.) in the area and mitigate any potentially significant risk to help limit exposure of sensitive receptors to emissions.

To determine potential health impacts on surrounding receptors (residences, businesses, hospitals, day-care facilities, health care facilities, etc.) a Prioritization and/or a Health Risk Assessment (HRA) should be performed for the Project. These health risk determinations should quantify and characterize potential Toxic Air Contaminants (TACs) identified by the Office of Environmental Health Hazard Assessment/California Air Resources Board (OEHHA/CARB) that pose a present or potential hazard to human health.

Health risk analyses should include all potential air emissions from the project, which include emissions from construction of the project, including multi-year construction, as well as ongoing operational activities of the project. Note, two common sources of TACs can be attributed to diesel exhaust emitted from heavy-duty off-road earth moving equipment during construction, and from ongoing operation of heavy-duty on-road trucks.

Prioritization (Screening Health Risk Assessment):

A "Prioritization" is the recommended method for a conservative screening-level health risk assessment. The Prioritization should be performed using the California Air Pollution Control Officers Association's (CAPCOA) methodology. Please contact the District for assistance with performing a Prioritization analysis.

The District recommends that a more refined analysis, in the form of an HRA, be performed for any project resulting in a Prioritization score of 10 or greater. This is because the prioritization results are a conservative health risk representation, while the detailed HRA provides a more accurate health risk evaluation.

Health Risk Assessment:

Prior to performing an HRA, it is strongly recommended that land use agencies/project proponents develop and submit for District review a health risk modeling protocol that outlines the sources and methodologies that will be used to perform the HRA.

A development project would be considered to have a potentially significant health risk if the HRA demonstrates that the health impacts would exceed the District's established risk thresholds, which can be found here:
<https://ww2.valleyair.org/permitting/ceqa/>.

A project with a significant health risk would trigger all feasible mitigation measures. The District strongly recommends that development projects that result in a significant health risk not be approved by the land use agency.

The District is available to review HRA protocols and analyses. For HRA submittals please provide the following information electronically to the District for review:

- HRA (AERMOD) modeling files
- HARP2 files
- Summary of emissions source locations, emissions rates, and emission factor calculations and methodologies.

For assistance, please contact the District's Technical Services Department by:

- E-Mailing inquiries to: hramodeler@valleyair.org
- Calling (559) 230-5900

Recommended Measure: Development projects resulting in TAC emissions should be located an adequate distance from residential areas and other sensitive receptors to prevent the creation of a significant health risk in accordance to CARB's Air Quality and Land Use Handbook: A Community Health Perspective located at <https://ww2.arb.ca.gov/our-work/programs/resource-center/strategy-development/land-use-resources>.

4) Ambient Air Quality Analysis

An Ambient Air Quality Analysis (AAQA) uses air dispersion modeling to determine if emissions increases from a project will cause or contribute to a violation of State or National Ambient Air Quality Standards. The District recommends an AAQA be performed for the Project if emissions exceed 100 pounds per day of any pollutant.

An AAQA uses air dispersion modeling to determine if emission increase from a project will cause or contribute to a violation of State or National Ambient Air Quality Standards. An acceptable analysis would include emissions from both project-specific permitted and non-permitted equipment and activities. The District recommends consultation with District staff to determine the appropriate model and input data to use in the analysis.

Specific information for assessing significance, including screening tools and modeling guidance, is available online at the District's website: <https://ww2.valleyair.org/permitting/ceqa/>.

5) Voluntary Emission Reduction Agreement

Criteria pollutant emissions may result in emissions exceeding the District's significance thresholds, potentially resulting in a significant impact on air quality. When a project is expected to have a significant impact, the District recommends the DEIR also include a discussion on the feasibility of implementing a Voluntary Emission Reduction Agreement (VERA) for this Project.

A VERA is a mitigation measure by which the project proponent provides pound-for-pound mitigation of emissions increases through a process that develops, funds, and implements emission reduction projects, with the District serving a role of administrator of the emissions reduction projects and verifier of the successful mitigation effort. To implement a VERA, the project proponent and the District enter into a contractual agreement in which the project proponent agrees to mitigate project specific emissions by providing funds for the District's incentives programs. The funds are disbursed by the District in the form of grants for projects that achieve emission reductions. Thus, project-related impacts on air quality can be mitigated. Types of emission reduction projects that have been funded in the past include electrification of stationary internal combustion engines (such as agricultural irrigation pumps), replacing old heavy-duty trucks with new, cleaner, more efficient heavy-duty trucks, and replacement of agricultural equipment with the latest generation technologies.

In implementing a VERA, the District verifies the actual emission reductions that have been achieved as a result of completed grant contracts, monitors the emission reduction projects, and ensures the enforceability of achieved reductions. After the project is mitigated, the District certifies to the Lead Agency that the mitigation is completed, providing the Lead Agency with an enforceable mitigation measure demonstrating that project-related emissions have been mitigated. To assist the Lead Agency and project proponent in ensuring that the environmental document is compliant with CEQA, the District recommends the environmental document includes an assessment of the feasibility of implementing a VERA.

6) Truck Routing

Truck routing involves the assessment of which roads Heavy Heavy-Duty (HHD) trucks take to and from their destination, and the emissions impact that the HHD trucks may have on residential communities and sensitive receptors.

Since the Project would allow the terminal to handle a higher volume of cementitious materials and would result in an increase in HHD truck trips, the District recommends the Port evaluate HHD truck routing patterns for the Project with the aim of limiting exposure of residential communities and sensitive receptors to emissions. This evaluation would consider the current truck routes, the quantity and type of each truck (e.g., Medium Heavy-Duty, HHD, etc.), the destination and origin of each trip, traffic volume correlation with the time of day or the day of the week, overall Vehicle Miles Traveled (VMT), and associated exhaust emissions. The truck routing evaluation would also identify alternative truck routes and their impacts on VMT and air quality.

7) Cleanest Available Heavy-Duty Trucks

The San Joaquin Valley will not be able to attain stringent health-based federal air quality standards without significant reductions in emissions from HHD trucks, the single largest source of NO_x emissions in the San Joaquin Valley. Accordingly, to meet federal air quality attainment standards, the District's ozone and particulate matter attainment plans rely on a significant and rapid transition of HHD fleets to zero or near-zero emissions technologies.

Since the Project would allow the terminal to handle a higher volume of cementitious materials and would result in an increase in HHD truck trips, the Project may exceed the District significance thresholds, the District recommends that the following measures be considered by the Port to reduce Project-related operational emissions:

- *Recommended Measure:* Fleets associated with operational activities utilize the cleanest available HHD trucks, including zero and near-zero technologies.
- *Recommended Measure:* All on-site service equipment (cargo handling, yard hostlers, forklifts, pallet jacks, etc.) utilize zero-emissions technologies.

8) Reduce Idling of Heavy-Duty Trucks

The goal of this strategy is to limit the potential for localized PM_{2.5} and toxic air contaminant impacts associated with the idling of Heavy-Duty trucks. The diesel exhaust from idling has the potential to impose significant adverse health and environmental impacts.

Since the Project would allow the terminal to handle a higher volume of cementitious materials and would result in an increase in HHD truck trips, the District recommends the DEIR include measures to ensure compliance of the state anti-idling regulation (13 CCR § 2485 and 13 CCR § 2480) and discuss the importance of limiting the amount of idling, especially near sensitive receptors.

9) Electric On-Site Off-Road and On-Road Equipment

Since the Project would allow the terminal to handle a higher volume of cementitious materials and would result in an increase in HHD truck trips, the Project may have the potential to result in increased use of off-road equipment (e.g., forklifts) and on-road equipment (e.g., mobile yard trucks with the ability to move materials). The District recommends that the DEIR include requirements for project proponents to utilize electric or zero emission off-road and on-road equipment.

10)Electric Infrastructure

The District recommends that the Port require all nonresidential buildings/facilities be designed to provide electric infrastructure to support the use of on-road zero emissions vehicles, such as HHD trucks associated with importing and exporting cementitious materials.

To support and accelerate the installation of electric vehicle charging equipment and development of required infrastructure, the District offers incentives to public agencies, businesses, and property owners of multi-unit dwellings to install electric charging infrastructure (Level 2 and 3 chargers). The purpose of the District's Charge Up! Incentive program is to promote clean air alternative-fuel technologies and the use of low or zero-emission vehicles. The District recommends that the Port and project proponents install electric vehicle chargers at project sites, and at strategic locations.

Please visit <https://ww2.valleyair.org/grants/charge-up> for more information.

11)Locomotives, and Railcar Movers/Switchers

To reduce air quality emission impacts from the Project, the District recommends that the Port advise freight and passenger train operators to utilize newer, and cleaner technology. Replacing older locomotives is important to reduce the public's exposure to diesel emissions, including PM2.5 in the form of diesel particulate and NOx. These pollutants negatively impact human health, especially for sensitive populations such as children and the elderly. New, clean-technology locomotives generate significantly lower emissions than older, uncontrolled diesel locomotives.

The District offers the following incentive program for locomotive fleets interested in transitioning to newer, clean technology:

- Heavy-Duty Program – <https://ww2.valleyair.org/grants/locomotive-program/> Locomotive replacements, including switcher locomotives and railcar movers can be funded as an eligible project category under the District's utilizing funding provided to support AB 617. These projects are administered according to the Carl Moyer Program guidelines.

12)Nuisance Odors

While offensive odors rarely cause any physical harm, they can be unpleasant, leading to considerable distress among the public and often resulting in citizen complaints.

The Port should consider all available pertinent information to determine if the Project could have a significant impact related to nuisance odors. Nuisance odors

may be assessed qualitatively taking into consideration the proposed business or industry type and its potential to create odors, as well as proximity to off-site receptors that potentially would be exposed to objectionable odors. The intensity of an odor source's operations and its proximity to receptors influences the potential significance of malodorous emissions. Any project with the potential to frequently expose members of the public to objectionable odors should be deemed to have a significant impact.

According to the District Guidance for Assessing and Mitigating air Quality Impacts (GAMAQI), a significant odor impact is defined as more than one confirmed complaint per year averaged over a three-year period, or three unconfirmed complaints per year averaged over a three-year period. An unconfirmed complaint means that either the odor or air contaminant release could not be detected, or the source of the odor could not be determined.

The District is available to assist the Port with information regarding specific facilities and categories of facilities, and associated odor complaint records.

13) District Rules and Regulations

The District issues permits for many types of air pollution sources, and regulates some activities that do not require permits. A project subject to District rules and regulations would reduce its impacts on air quality through compliance with the District's regulatory framework. In general, a regulation is a collection of individual rules, each of which deals with a specific topic. As an example, Regulation II (Permits) includes District Rule 2010 (Permits Required), Rule 2201 (New and Modified Stationary Source Review), Rule 2520 (Federally Mandated Operating Permits), and several other rules pertaining to District permitting requirements and processes.

The list of rules below is neither exhaustive nor exclusive. Current District rules can be found online at: <https://ww2.valleyair.org/rules-and-planning/current-district-rules-and-regulations>. To identify other District rules or regulations that apply to future projects, or to obtain information about District permit requirements, the project proponents are strongly encouraged to contact the District's Small Business Assistance (SBA) Office at (209) 557-6446.

13a) District Rules 2010 and 2201 - Air Quality Permitting for Stationary Sources

Stationary Source emissions include any building, structure, facility, or installation which emits or may emit any affected pollutant directly or as a fugitive emission. District Rule 2010 (Permits Required) requires operators of emission sources to obtain an Authority to Construct (ATC) and Permit to Operate (PTO) from the District. District Rule 2201 (New and Modified

Stationary Source Review) requires that new and modified stationary sources of emissions mitigate their emissions using Best Available Control Technology (BACT).

This Project will be subject to District Rule 2010 (Permits Required) and Rule 2201 (New and Modified Stationary Source Review) and will require District permits. Prior to construction, the Project proponent should submit to the District an application for an ATC. For further information or assistance, the project proponent may contact the District's SBA Office at (209) 557-6446.

13b) District Rule 9510 - Indirect Source Review (ISR)

Per District Rule 9510 section 4.4.3, a development project on a facility whose primary functions are subject to District Rule 2201 or District Rule 2010 are exempt from the requirements of the rule. The District has reviewed the information provided and has determined that the primary functions of this Project are subject to District Rule 2201 (New and Modified Stationary Source Review Rule) or District Rule 2010 (Permits Required). As a result, District Rule 9510 requirements and related fees do not apply to the Project referenced above.

13c) District Rule 9410 (Employer Based Trip Reduction)

The Project may be subject to District Rule 9410 (Employer Based Trip Reduction) if the project would result in employment of 100 or more "eligible" employees. District Rule 9410 requires employers with 100 or more "eligible" employees at a worksite to establish an Employer Trip Reduction Implementation Plan (eTRIP) that encourages employees to reduce single-occupancy vehicle trips, thus reducing pollutant emissions associated with work commutes. Under an eTRIP plan, employers have the flexibility to select the options that work best for their worksites and their employees.

Information about District Rule 9410 can be found online at:
<https://ww2.valleyair.org/compliance/rule-9410-employer-based-trip-reduction/>.

For additional information, you can contact the District by phone at 559-230-6000 or by e-mail at etrip@valleyair.org

13d) District Rule 4002 (National Emissions Standards for Hazardous Air Pollutants)

The Project will be subject to District Rule 4002 since the Project will include demolition, renovation, and removal of existing structures. To protect the public from uncontrolled emissions of asbestos, this rule requires a thorough inspection for asbestos to be conducted before any regulated facility is demolished or renovated. Any asbestos present must be handled in

accordance with established work practice standards and disposal requirements.

Information on how to comply with District Rule 4002 can be found online at: <https://ww2.valleyair.org/compliance/demolition-renovation/>.

13e) District Rule 4601 (Architectural Coatings)

The Project may be subject to District Rule 4601 since it may utilize architectural coatings. Architectural coatings are paints, varnishes, sealers, or stains that are applied to structures, portable buildings, pavements or curbs. The purpose of this rule is to limit VOC emissions from architectural coatings. In addition, this rule specifies architectural coatings storage, cleanup and labeling requirements. Additional information on how to comply with District Rule 4601 requirements can be found online at:

<https://ww2.valleyair.org/media/tkgjeusd/rule-4601.pdf>

13f) District Regulation VIII (Fugitive PM10 Prohibitions)

The project proponent may be required to submit a Construction Notification Form or submit and receive approval of a Dust Control Plan prior to commencing any earthmoving activities as described in Regulation VIII, specifically Rule 8021 – *Construction, Demolition, Excavation, Extraction, and Other Earthmoving Activities*.

Should the project result in at least 1-acre in size, the project proponent shall provide written notification to the District at least 48 hours prior to the project proponents intent to commence any earthmoving activities pursuant to District Rule 8021 (Construction, Demolition, Excavation, Extraction, and Other Earthmoving Activities). Also, should the project result in the disturbance of 5-acres or more, or will include moving, depositing, or relocating more than 2,500 cubic yards per day of bulk materials, the project proponent shall submit to the District a Dust Control Plan pursuant to District Rule 8021 (Construction, Demolition, Excavation, Extraction, and Other Earthmoving Activities). For additional information regarding the written notification or Dust Control Plan requirements, please contact District Compliance staff at (559) 230-5950.

The application for both the Construction Notification and Dust Control Plan can be found online at: <https://ww2.valleyair.org/media/fm3jrbsq/dcp-form.docx>

Information about District Regulation VIII can be found online at: <https://ww2.valleyair.org/dustcontrol>

13g) Other District Rules and Regulations

The Project may also be subject to the following District rules: Rule 4102 (Nuisance) and Rule 4641 (Cutback, Slow Cure, and Emulsified Asphalt, Paving and Maintenance Operations).

14) District Comment Letter

The District recommends that a copy of the District's comments be provided to the Project proponent.

If you have any questions or require further information, please contact Michael Corder by e-mail at Michael.Corder1@valleyair.org or by phone at (559) 230-5818.

Sincerely,

Tom Jordan
Director of Policy and Government Affairs



For: Mark Montelongo
Program Manager



I.A.M. & A.W.

MACHINISTS AND MECHANICS LODGE NO. 2182

AFFILIATED WITH MACHINISTS AUTOMOTIVE TRADES DISTRICT LODGE NO. 190

INTERNATIONAL ASSOCIATION OF MACHINISTS AND AEROSPACE WORKERS

967 VENTURE COURT, SACRAMENTO, CA 95825

Email - machinists2182@gmail.com

November 14, 2024

RECEIVED

NOV 18 2024

STOCKTON PORT DISTRICT

Jason Cashman
Director of Environmental Affairs
Port of Stockton
P.O. Box 2089
Stockton, California 95201
ceqa@stocktonport.com

Subject: Scoping Comments for the Nevada Cement Company Import Facility Project – Port of Stockton

Dear Mr. Cashman,

On behalf of Machinists and Mechanics Lodge No. 2182, International Association of Machinists and Aerospace Workers (IAMAW), we appreciate the opportunity to provide comments on the Notice of Preparation (NOP) for the Nevada Cement Company Import Facility Project at the Port of Stockton. Our lodge represents a dedicated workforce skilled in the maintenance and operation of this essential import facility, which helps the state of California to meet its wildland fire resilient construction material, clean energy and infrastructure needs. As stakeholders, we are keenly interested in ensuring that this project considers the positive impacts that modernization will have on its current IAM workforce.

The proposed modernization of the cement import facility represents a critical opportunity to integrate advanced technologies and operational enhancements that would not only streamline cement importation processes but also sustain local IAM jobs. We urge the Port of Stockton to consider an Environmental Impact Report (EIR) that includes modernization measures aligned with long-term regional economic and environmental goals. Such improvements would position the facility to meet evolving industrial standards, reduce emissions, and create durable, high-quality jobs for Stockton.

We look forward to working with the Port of Stockton to support this critical project that aligns with both local economic and environmental objectives. It is our shared goal to build a resilient, future-oriented Port of Stockton that honors the skilled labor of the IAM and other trades essential to its success.

Thank you for considering these comments. Please do not hesitate to contact us at [contact information] if we can be of further assistance in this process.

Sincerely,

Paul Abarca

Business Representative

Machinists and Mechanics Lodge No. 2182

International Association of Machinists and Aerospace Workers



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Bay Delta Region
2825 Cordelia Road, Suite 100
Fairfield, CA 94534
(707) 428-2002
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



November 26, 2024

Jason Cashman, Director of Environmental Affairs
Port of Stockton
2201 West Washington Street
Stockton, CA 95203
JCashman@stocktonport.com

Subject: Nevada Cement Company LLC Stockton Terminal Modernization Project,
Notice of Preparation (NOP); SCH No. 2024100490; San Joaquin County

Dear Mr. Cashman:

The California Department of Fish and Wildlife (CDFW) reviewed the Notice of Preparation (NOP) of a draft Environmental Impact Report (EIR) from Port of Stockton provided for the Nevada Cement Company LLC Stockton Terminal Modernization Project (Project) located in San Joaquin County.

CDFW ROLE

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

CDFW is also submitting comments as a **Responsible Agency** under CEQA. (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381.) CDFW expects that it may need to exercise regulatory authority over the Project pursuant to the Fish and Game Code. For example, the Project may be subject to CDFW's Lake and Streambed Alteration (LSA) regulatory authority, if the Project impacts the bed, channel or bank of any river, stream or lake within the State (Fish & G. Code, § 1600 et seq.). Likewise, to the extent the Project may result in "take" as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), the project proponent may seek related take authorization as provided by the Fish and Game Code.

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REGULATORY REQUIREMENTS

California Endangered Species Act

A CESA Incidental Take Permit (ITP) must be obtained from CDFW if the Project has the potential to result in “take” of plants or animals listed under CESA, either during construction or over the life of the Project. Under CESA, “take” means “hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill.” (Fish & G. Code, § 86.) CDFW’s issuance of an ITP is subject to CEQA and to facilitate permit issuance, any project modifications and mitigation measures must be incorporated into the CEQA document analysis, discussion, and mitigation monitoring and reporting program. If the Project will impact CESA listed species, early consultation is encouraged, as significant modification to the Project and mitigation measures may be required in order to obtain a CESA permit.

CEQA requires a mandatory finding of significance if a project is likely to substantially impact threatened or endangered species. Pub. Resources Code, §§ 21001, subd. (c) & 21083; CEQA Guidelines, §§ 15380, 15064 & 15065.) In addition, pursuant to CEQA, the Lead Agency cannot approve a project unless all impacts to the environment are avoided or mitigated to less-than-significant levels, or the Lead Agency makes and supports findings of overriding consideration for impacts that remain significant despite the implementation of all feasible mitigation. Findings of consideration under CEQA, however, do not eliminate the Project proponent’s obligation to comply with the Fish and Game Code.

Lake and Streambed Alteration

CDFW requires an LSA Notification, pursuant to Fish and Game Code section 1600 et seq., for Project activities affecting river, lakes or streams and associated riparian habitat. Notification is required for any activity that may substantially divert or obstruct the natural flow; change or use material from the bed, channel, or bank (including associated riparian or wetland resources); or deposit or dispose of material where it may pass into a river, lake, or stream. Work within ephemeral streams, drainage ditches, washes, watercourses with a subsurface flow, and floodplains is generally subject to notification requirements. In addition, infrastructure installed beneath such aquatic features, such as through horizontal directional drilling, is also generally subject to notification requirements. Therefore, any impact to the mainstems, tributaries, or floodplains or associated riparian habitat caused by the proposed Project will likely require an LSA Notification. CDFW may not execute a final LSA Agreement until it has considered the final EIR and complied with its responsibilities as a responsible agency under CEQA.

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Migratory Birds and Raptors

CDFW has authority over actions that may result in the disturbance or destruction of active bird nest sites or the unauthorized take of birds. Fish and Game Code sections protecting birds, their eggs, and nests include section 3503 (regarding unlawful take, possession, or needless destruction of the nests or eggs of any bird), section 3503.5 (regarding the take, possession, or destruction of any birds-of-prey or their nests or eggs), and section 3513 (regarding unlawful take of any migratory nongame bird). Migratory birds are also protected under the federal Migratory Bird Treaty Act.

PROJECT DESCRIPTION AND LOCATION SUMMARY

Project Location: The Port is located south of the San Joaquin River and is an industrial port served by rail, trucks, and vessels. The existing Nevada Cement terminal is located in the northeast corner of the Port's East Complex. The terminal gate is located at 205 Port Road 1. The 4.92-acre terminal is generally bound by the San Joaquin River, Harbor Street/Port Road A, Port Road 1, and Port Road 2. The surrounding area is characterized by industrial uses including the presence of storage tanks, maritime terminals, cementitious materials storage structures, grain silos, railroad facilities, large storage buildings, and stockpiles of various commodities.

This Project consists of construction and operation of a new, larger ship unloader, rehabilitation of Berth 3/4 (requiring 130-150 new piles, new concrete support beams, and new gantry rails), rail improvements south of and adjacent to Berth 3/4, replacement of two existing storage bunkers via dome construction, renovation of the truck and rail loading station, construction of piping interconnections to existing pipelines, and barge loading equipment installation at Berth 2.

The CEQA Guidelines (§§15124 & 15378) require that the draft EIR incorporate a full Project description, including reasonably foreseeable future phases of the Project, and that contains sufficient information to evaluate and review the Project's environmental impact. The Project description should include appropriate detailed exhibits disclosing the Project area including temporary and permanently impacted areas such as the equipment staging area, adjacent infrastructure development, staging areas, and access and haul roads.

Please include a complete description of the following project components in the Project description, as applicable:

- Footprints of proposed permanent Project features and temporarily impacted areas, such as staging areas and access routes;
- Area and plans for any proposed buildings/structures, ground-disturbing activities, fencing, paving, and stationary machinery;

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- Operational features of the Project, including level of anticipated human presence (describe seasonal or daily peaks in activity, if relevant), artificial lighting/light reflection, noise, traffic generation (both marine, vehicle, and rail), and other features; and
- Construction schedule, activities, equipment, and crew sizes.

As required by §15126.6 of the CEQA Guidelines, the EIR should include an appropriate range of reasonable and feasible alternatives that would attain most of the basic Project objectives and avoid or minimize significant impacts to the environment.

ENVIRONMENTAL SETTING

Sufficient information regarding the environmental setting is necessary to understand any potentially significant impacts on the environment of the proposed Project and any alternatives identified in the draft EIR (CEQA Guidelines, §§15125 & 15360). CDFW recommends the draft EIR provide baseline habitat assessments for special-status plant, fish and wildlife species located and potentially located within the Project area and surrounding lands, including all rare, threatened, and endangered species (CEQA Guidelines, §15380). The draft EIR should describe aquatic habitats, such as wetlands or waters of the U.S. or State, and any sensitive natural communities or riparian habitat occurring on or adjacent to the Project site (for sensitive natural communities see: <https://wildlife.ca.gov/Data/VegCAMP/NaturalCommunities#sensitive%20natural%20communities>), and any stream or wetland set back distances the City or County may require. Fully protected, threatened or endangered, candidate, and other special-status species or sensitive natural communities that are known to occur, or have the potential to occur in or near the Project site, include, but are not limited to:

Common Name	Scientific Name	Status
Cooper’s hawk	<i>Accipiter cooperii</i>	CDFW Watchlist
Swainson’s hawk	<i>Buteo swainsoni</i>	CESA listed as threatened
White-tailed kite	<i>Elanus leucurus</i>	California Fully Protected Species
Loggerhead shrike	<i>Lanius ludovicianus</i>	Species of Special Concern (SSC)
Purple martin	<i>Progne subis</i>	SSC
Tricolored blackbird	<i>Agelaius tricolor</i>	CESA listed as threatened
Yellow-breasted chat	<i>Icteria virens</i>	SSC

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Common Name	Scientific Name	Status
Yellow warbler	<i>Setophaga petechia</i>	SSC
Least Bells vireo	<i>Vireo bellii pusillus</i>	CESA listed as endangered
Green sturgeon	<i>Acipenser medirostris pop. 1</i>	SSC
White sturgeon	<i>Acipenser transmontanus</i>	SSC, Candidate threatened species
Sacramento hitch	<i>Lavinia exilicauda exilicauda</i>	SSC
Sacramento splittail	<i>Pogonichthys macrolepidotus</i>	SSC
Western pond turtle	<i>Emys marmorata</i>	SSC
Winter-run Chinook salmon	<i>Oncorhynchus tshawytscha</i>	CESA listed as endangered
Loggerhead shrike		
Spring-run Chinook salmon	<i>Oncorhynchus tshawytscha</i>	CESA listed as threatened
Fall run/late fall run Chinook salmon	<i>Oncorhynchus tshawytscha</i>	SSC
Delta smelt	<i>Hypomesus transpacificus</i>	CESA listed as endangered
Longfin smelt	<i>Spirinchus thaleichthys</i>	CESA listed as threatened
Giant garter snake	<i>Thamnophis gigas</i>	CESA listed as threatened

Habitat descriptions and species profiles included in the draft EIR should include robust information from multiple sources: aerial imagery; historical and recent survey data; field reconnaissance; scientific literature and reports; U.S. Fish and Wildlife Service's (USFWS) Information, Planning, and Consultation System; California Aquatic Resources Inventory; and findings from "positive occurrence" databases such as California Natural Diversity Database (CNDDB). Only with sufficient data and information can the Port adequately assess which special-status species are likely to occur in the Project vicinity.

CDFW recommends surveys be conducted for special-status species with potential to occur, following recommended survey protocols if available. Survey and monitoring protocols and guidelines are available at:

<https://www.wildlife.ca.gov/Conservation/Survey-Protocol>.

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Botanical surveys for special-status plant species, including those listed by the California Native Plant Society (<http://www.cnps.org/cnps/rareplants/inventory/>), should also be conducted during the blooming period for all sensitive plant species potentially occurring within the Project area and include the identification of reference populations. Please refer to CDFW botanical field surveyor qualifications and protocols for surveying and evaluating impacts to rare plants and required elements to include in a Botanical Survey Report that should be incorporated into the draft EIR available at: <https://www.wildlife.ca.gov/Conservation/Plants>.

IMPACT ANALYSIS AND MITIGATION MEASURES

The CEQA Guidelines (§§ 15126, 15126.2, & 15358) necessitate that the draft EIR discuss all direct and indirect impacts (temporary and permanent), including reasonably foreseeable impacts and cumulative impacts, that may occur on biological resources with implementation of the Project. This includes evaluating and describing impacts such as:

1. Potential for “take” of CESA-listed species;
2. Loss or modification of breeding, spawning, nesting, dispersal, and foraging habitat, including vegetation removal, alteration of soils and hydrology, soil erosion, and removal of habitat structural features (e.g., snags, roosts, breeding ponds, burrows, channel substrate piling footprint, hydroacoustic impacts);
3. Obstruction of movement corridors or access to water sources and other core habitat features;
4. Shipping traffic increase and marine mammal ship strikes, underwater noise pollution, fuel spills, and invasive species introductions via ballast water release from San Francisco Bay to the Port of Stockton. For example, the recent introduction of golden mussels detected at the Port of Stockton is currently posing a threat poses a significant immediate threat to the ecological health of the Delta and all waters of the state, water conveyance systems, infrastructure and water quality;
5. An evaluation of lighting and noise impacts from project construction and ongoing operations and maintenance.; and
6. Indirect Impacts. A discussion of potential indirect Project impacts on biological resources, including resources in areas adjacent to the Project footprint, such as adjacent natural habitats, riparian ecosystems, and wildlife corridors.

The CEQA document also should identify existing and reasonably foreseeable future projects in the Project vicinity, disclose any cumulative impacts associated with these

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projects, determine the significance of each cumulative impact, and assess the significance of the Project's contribution to each impact (CEQA Guidelines, §15355). Although a project's impacts may be insignificant individually, its contributions to a cumulative impact may be considerable; a contribution to a significant cumulative impact (e.g., reduction of available habitat for a listed species) should be considered cumulatively considerable without mitigation to minimize or avoid the impact.

The CEQA Guidelines direct the lead agency name, as the lead agency, to consider and describe in the draft EIR all feasible mitigation measures to avoid and/or mitigate potentially significant impacts of the Project on the environment based on comprehensive analysis of the potential direct, indirect, and cumulative impacts of the Project. (CEQA Guidelines, §§ 15021, 15063, 15071, 15126.2, 15126.4 & 15370.) This should include a discussion of take avoidance and minimization measures for special-status species, which are recommended to be developed in early consultation with the USFWS, National Marine Fisheries Service and CDFW. These measures can then be incorporated as enforceable Project conditions to reduce potential impacts to biological resources to less-than-significant levels.

Fully protected species such as white-tailed kite may not be taken or possessed at any time except in limited circumstances (Fish & G. Code, §§ 3511, 4700, 5050, & 5515). Therefore, the draft EIR should include measures to completely avoid take of fully protected species.

RECOMMENDATIONS

Based on the information provided in the NOP, CDFW offers the comment and recommendation below to assist the Port in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and/or indirect impacts on fish and wildlife (biological) resources. **Note that CDFW may provide additional recommendations as more Project specific information is disclosed. The draft EIR must include a full Project Description, Environmental Setting, and Impact Analysis and Mitigation Measures as outlined above.** Editorial comments or other suggestions may also be included to improve the document.

COMMENT 1: Enforceable Mitigation and Avoidance of Deferred Mitigation: The EIR should incorporate mitigation performance standards that would ensure that impacts are reduced to a less-than-significant level. Mitigation measures proposed in the EIR should be made a condition of approval of the Project. Please note that obtaining a permit from CDFW by itself with no other mitigation proposal may constitute mitigation deferral. CEQA Guidelines section 15126.4, subdivision (a)(1)(B) states that formulation of mitigation measures should not be deferred until some future time. To avoid deferring mitigation in this way, the EIR should describe avoidance, minimization and mitigation measures that would be implemented should the impact occur.

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ENVIRONMENTAL DATA

CEQA requires that information developed in EIRs and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations (Pub. Resources Code, § 21003, subd. (e)). Accordingly, please report any special-status species and natural communities detected during Project surveys to CNDDDB. The CNDDDB online field survey form and other methods for submitting data can be found at: <https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The types of information reported to CNDDDB can be found at: <https://wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

CONCLUSION

CDFW appreciates the opportunity to comment on the NOP in order to assist the Lead Agency in identifying and mitigating Project impacts on biological resources. CNDDDB can be found at: <https://wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

If you have any questions, please contact Andrea Boertien, Environmental Scientist, at (707) 317-0388 or Andrea.Boertien@wildlife.ca.gov; or Sara Kern, Senior Environmental Scientist (Supervisory) at (916) 531-4465 or Sara.Kern@wildlife.ca.gov.

Sincerely,

DocuSigned by:
Erin Chappell
B77F9A6211EF486
Erin Chappell
Regional Manager
Bay Delta Region

ec: Office of Planning and Research, State Clearinghouse, Sacramento
Andrea Boertien, CDFW Bay Delta Region - Andrea.Boertien@wildlife.ca.gov
Katie Chamberlin, Anchor QEA - KChamberlin@anchoragea.com

From: CEQA
To: "Lisjan Nation"
Subject: RE: Port of Stockton Notice of Preparation of Environmental Impact Report
Date: Monday, October 21, 2024 5:21:45 PM
Attachments: [image003.png](#)
[image004.png](#)

CAUTION: This Message Is from an External Sender

This email originated from outside of Anchor QEA. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Thank you for your email regarding in the Nevada Cement Company LLC Stockton Terminal Modernization Project (Project).

The Project scoping period ends November 12, 2024. Then, the Port will begin preparing the Draft Environmental Impact Report (Draft EIR), which will include an assessment of potential impacts on Tribal cultural resources. The Draft EIR will be provided to you as soon as it is finalized and ready for review.

We value the opportunity to engage with your Tribe. Should you prefer to hold a discussion, need any further information, or have additional questions on the Project before the Draft EIR is prepared, please feel free to reach out.

Sincerely,
Jason

Jason Cashman | Director of Environmental Affairs | Port of Stockton
PO Box 2089 | Stockton, CA 95201
jcashman@stocktonport.com
www.portofstockton.com



From: Lisjan Nation <cvltribe@gmail.com>
Sent: Friday, October 18, 2024 11:29 AM
To: CEQA <ceqa@stocktonport.com>
Subject: Re: Port of Stockton Notice of Preparation of Environmental Impact Report

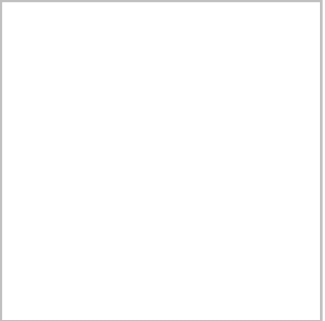
CAUTION: This email originated from outside the Port. Please exercise caution.

Hello,

Thank you for your email. The Tribe is requesting a copy of the final CHRIS and EIR for this project, along with the SLF from Native American Heritage Commission and any additional archeological reports. Our physical address is: PO BOX 6487 Oakland CA 94603 or if you would prefer to send them electronically, please send them to this email address.

'Uni (Respectfully),

Cheyenne Zepeda, Cultural Resource Manager I
Confederated Villages of Lisjan Nation



On Fri, Oct 11, 2024 at 2:35 PM CEQA <ceqa@stocktonport.com> wrote:

The Port of Stockton (Port) has issued a Notice of Preparation (NOP) of an Environmental Impact Report (EIR) for the *Nevada Cement Company LLC Stockton Terminal Modernization Project* (State Clearinghouse Number 2024100490). The NOP and an Initial Study for the project are available for review on the Port's website at <https://www.portofstockton.com/ceqa-documents/>. Nevada Cement Company LLC (Nevada Cement) currently operates a cementitious materials receiving and distribution marine terminal at the Port. Cementitious construction materials are received via ship at the terminal, unloaded, and then stored at the terminal before being shipped to the local and regional Northern California building construction industry by truck and rail. The project includes a lease modification and terminal improvements to modernize the existing terminal to improve and expand operational efficiency. The Port initiated consultation with the Tribe for this project in accordance with Assembly Bill 52 in August-September 2024.

Please submit your comments, concerns, or suggestions for mitigation measures and alternatives, and any other pertinent information that may enable the Port to prepare a comprehensive and meaningful EIR for the project. You may submit this feedback via postal mail or email as follows:

Mail: Jason Cashman, Director of Environmental Affairs
Port of Stockton
P.O. Box 2089
Stockton, California 95201

Email: ceqa@stocktonport.com

Letters must be postmarked by Tuesday, November 12, 2024, and emails must be received by midnight on Tuesday, November 12, 2024.

The Port is hosting a hybrid in-person and virtual public scoping meeting on Tuesday, October 22, 2024, from 4:00 p.m. to 5:00 p.m. For information on how to attend this meeting in-person at the Port or online, please go to <https://www.portofstockton.com/ceqa-documents/>.

If you have any questions, please contact me by email (ceqa@stocktonport.com) or phone at (209) 946-0246.

Sincerely,

Jason Cashman
Director of Environmental Affairs

Jason Cashman | Director of Environmental Affairs | Port of Stockton
PO Box 2089 | Stockton, CA 95201
jcashman@stocktonport.com
www.portofstockton.com



From: [CEQA](#)
To: ["Richard Massiatt"](#)
Cc: [Alan Leventhal](#)
Subject: RE: Port of Stockton Notice of Preparation of Environmental Impact Report
Date: Monday, October 21, 2024 4:15:06 PM
Attachments: [image006.png](#)
[image002.png](#)
[image007.jpg](#)

CAUTION: This Message Is from an External Sender

This email originated from outside of Anchor QEA. Do not click links or open attachments unless you recognize the sender and know the content is safe.

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Sincerely,
Jason

Jason Cashman | Director of Environmental Affairs | Port of Stockton
PO Box 2089 | Stockton, CA 95201
jcashman@stocktonport.com
www.portofstockton.com



From: Richard Massiatt <rmassiatt@muwekma.org>
Sent: Friday, October 11, 2024 3:15 PM
To: CEQA <ceqa@stocktonport.com>
Cc: Alan Leventhal <aleventh@muwekma.org>
Subject: Re: Port of Stockton Notice of Preparation of Environmental Impact Report

CAUTION: This email originated from outside the Port. Please exercise caution.

Hello CEQA,

Thank you for reaching out to Muwekma Ohlone Tribe, Inc., we are interested in your project and would like to have further discussions in assisting you with our services if needed. We offer Tribal Consultations as defined under Section 106, CEQA, Assembly Bill (AB) 52, Senate Bill (SB) 18 Consultation, and California Public Resources Code §

21080.3.1.

Should your agency and/or project developers choose to work with our Tribe for monitoring and, if necessary, burial recovery services after our Senior Tribal Archeologist and Ethnohistorian Alan Leventhal have reviewed all documents, he will have further discussions with you.

At your request we can email you our services and our Muwekma Rate sheet for your review. Any other future concerns please contact us.

Please update new mailing address 1169 S. Main St. Ste. 336 Manteca CA. 95337

Best regards,

Richard Massiatt
Executive Director
Muwekma Ohlone Tribe of the San Francisco Bay Area
(209) 321-0372
Rmassiatt@muwekma.org



From: CEQA <ceqa@stocktonport.com>

Sent: Friday, October 11, 2024 2:35 PM

To: CEQA <ceqa@stocktonport.com>

Subject: Port of Stockton Notice of Preparation of Environmental Impact Report

The Port of Stockton (Port) has issued a Notice of Preparation (NOP) of an Environmental Impact Report (EIR) for the *Nevada Cement Company LLC Stockton Terminal Modernization Project* (State Clearinghouse Number 2024100490). The NOP and an Initial Study for the project are available for review on the Port's website at <https://www.portofstockton.com/ceqa-documents/>. Nevada Cement Company LLC (Nevada Cement) currently operates a cementitious materials receiving and distribution marine terminal at the Port. Cementitious construction materials are received via ship at the terminal, unloaded, and then stored at the terminal before being shipped to the local and regional Northern California building construction industry by truck and rail. The project includes a lease modification and terminal improvements to modernize the existing terminal to improve and expand operational efficiency. The Port initiated consultation with the Tribe for this project in accordance with Assembly Bill 52 in August-September 2024.

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Director of Environmental Affairs

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