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STATE OF CALIFORNIA
DEPARTMENT OF FISH AND WILDLIFE

GAVIN NEWSOM, Governor
MEGHAN HERTEL, Director

Bay Delta Region
2825 Cordelia Road, Suite 100
Fairfield, CA 94534
wildlife.ca.gov

November 3, 2026

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, Draft Environmental Impact Report; SCH No. 2024100490; City of Stockton, San Joaquin County

Dear Jason Cashman:

The California Department of Fish and Wildlife (CDFW) received a Notice of Availability of a Draft Environmental Impact Report (EIR) from Port of Stockton provided for the Nevada Cement Company LLC Stockton Terminal Modernization Project (Project) pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.[1]

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

CDFW ROLE

CDFW is California's **Trustee Agency** for fish and wildlife resources and holds those resources in trust by statute for all the people of the State. (Fish & 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.) Similarly, for purposes of CEQA, CDFW is charged by law to provide, as available, biological expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect fish and wildlife resources.

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 as provided by the Fish and Game Code. As proposed, for example, to the extent implementation of the Project as proposed may result in "take" as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), the Project proponent may seek related take authorization as provided by the Fish and Game Code.

REGULATORY REQUIREMENTS

California Endangered Species Act and Native Plant Protection Act

Please be advised that "take" of plants or animals listed under CESA or the Native Plant Protection Act (NPPA) during construction or over the life of the Project without authorization from CDFW would be a violation of Fish and Game Code section 2080. Under CESA, take is

[1] CEQA is codified in the California Public Resources Code in section 21000 et seq. The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with section 15000.

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defined as "to hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture or kill." If the Project has the potential to impact CESA or NPPA listed species, early consultation with CDFW is highly encouraged, as modification to the Project may be required to minimize and fully mitigate impacts of the project. Issuance of an Incidental Take Permit (ITP) is subject to CEQA documentation; the CEQA document must specify impacts, mitigation measures, and a mitigation monitoring and reporting program.

CDFW's issuance of an ITP is considered a discretionary action as defined in Title 14 of the California Code of Regulations, section 15357, under CEQA. Therefore, before CDFW can issue the permit the applicant must have completed the necessary steps under CEQA. Compliance with CEQA is further described in Title 14 of the California Code of Regulations, section 783.3.

CEQA requires a Mandatory Finding of Significance if a Project is likely to substantially impact threatened or endangered species. (Pub. Resources Code, § 21083; CEQA Guidelines §§ 15380, 15064, & 15065.) Impacts must be avoided or mitigated to less-than-significant levels unless the CEQA Lead Agency makes and supports a Statement of Overriding Consideration. The CEQA Lead Agency's Statement of Overriding Considerations does not eliminate the Project proponent's obligation to comply with Fish and Game Code, § 2080 et seq.

Lake and Streambed Alteration

CDFW requires a Lake and Streambed Alteration (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.

Fully Protected Species

Fully protected species, such as white-tailed kite (*Elanus leucurus*), may not be taken or possessed at any time and no licenses or permits may be issued for their take except as follows:

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

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

PROJECT DESCRIPTION SUMMARY

Proponent: Nevada Cement, LLC.

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Objective: The Project objective is to replace and upgrade aging upland and marine infrastructure to improve the efficiency of cementitious material receiving and distribution. The proposed improvements would allow the terminal to accommodate larger vessels, improve operational efficiency, and modernize existing infrastructure to support continued supply to the Northern California construction market. Key improvements include installation of a new ship unloader with extended horizontal and vertical reach; installation of associated material handling equipment at Berth 3/4; installation of a fully enclosed inbound conveyor system to a new storage dome; addition of a new rail loading station; upgrades to existing truck loading stations; and addition of barge loading capability.

The amount of material that can be handled annually by the terminal (throughput) is currently limited by the existing Permit to Operate. The proposed project would increase the terminal's operational capacity, total throughout would remain within existing San Joaquin Valley Air Pollution Control District permit limits. The proposed improvements would allow the terminal to operate more efficiently and better meet regional demand for cement and supplementary cementitious materials while enhancing dust control through modernized equipment.

Location: The Project site is located along the San Joaquin River, at the intersection of Harbor Street and Port Road 1 in the City of Stockton in San Joaquin County, California, 95203; APN: 145-020-04.

Timeframe: Project activities are expected to begin in 2027 and potentially extend until 2031. Construction is anticipated to occur in phases over an approximate 2-5-year period.

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist the Port of Stockton in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. Editorial comments or other suggestions may also be included to improve the document.

COMMENT 1: San Joaquin Multi-Species Habitat Conservation Plan Coverage

The draft EIR states that the Project proponents plan to seek take coverage under the San Joaquin Multi-species Habitat Conservation Plan (SJMSCP). If the Project is not ultimately covered under the SJMSCP for any reason, separate take authorization(s) for special-status species should be considered. Also, fish species are not covered under the SJMSCP, so risk of CESA take should be assessed separately for these species.

CDFW recommends that the EIR clearly describe how the Project will compensate for all Project-related permanent and temporary impacts and identify and describe alternative compensatory mitigation options should participation in the SJMSCP not be possible. The following comments outline specific recommendations for addressing species impacts in the draft EIR in the event that the Project is not covered under the SJMSCP.

COMMENT 2: Fish Species Impacts

Issue: The in-water work period described in the draft EIR is July 1 through November 30. If work occurs in shallow water habitat between July and July 31, the work may cause adverse impacts to fish species with potential to occur on or near the Project site including but not limited to; Delta smelt (*Hypomesus transpacificus*), longfin smelt *(Spirinchus thaleichthys)*, green sturgeon (*Acipenser medirostris pop. 1)*, white sturgeon (*Acipenser transmontanus)*, and winter-, spring-, and fall-run Chinook salmon (*Oncorhynchus tshawytscha)*.

Additionally, as stated on page 126 of the draft EIR, pile installation would be conducted using a vibratory hammer or single impact hammer mounted to a crawler crane or by a floating derrick barge crane if the existing dock cannot support the crawler crane. Using

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vibratory methods are less impactful. Single impact hammer introduces significantly more noise impact than solely using vibratory methods. Due to both the proposed work window and pile installation methods, the Project has the potential to cause impacts to fish.

Recommendations: CDFW recommends incorporating the following measures into the EIR, addressing potential impacts to fish:

Limit Work Window. The In-Water Work Window shall be limited to August 1 through November 30. If work must be conducted outside of this work window, the following measures shall be followed:

- *Underwater Sound Reduction: Underwater sound reduction measures shall be used as needed to ensure that sound levels do not exceed threshold levels. Use of vibratory pile driving methods shall be used to the greatest extent possible. If use of impact hammer is necessary for any reason, the impact hammering shall be used during daylight hours only and sound reduction measures shall be implemented including at least one of the following: 1). Use of an impact hammer cushion block, 2). Use of the 'ramping up' technique where pile strikes gradually increase energy and frequency of impacts until full force and frequency are achieved; 3). Use of pipe caissons installed with a vibratory hammer to isolate the piles from the water; and the use of a bubble curtain surrounding the pile to be driven.*

- *Barotrauma Monitoring During Pile-driving: A Qualified Biologist or Biological Monitor shall conduct visual monitoring of the water surface during pile driving activities to ensure that the Project activities do not adversely affect fish motor functions and cause fish die-off and predation. The Qualified Biologist or Biological Monitor shall stop work and then notify CDFW immediately if fish are observed to be in distress during the pile driving activities.*

- *Species Take: Take of fish species listed under CESA cannot be avoided either during Project activities or over the life of the Project, a CESA Permit should be obtained (pursuant to Fish and Game Code Section 2080 et seq.).*

COMMENT 3: Giant Garter Snake

Issue: The draft EIR does not discuss and evaluate Project impacts to giant garter snake (*Thamnophis gigas*, GGS). Ground-disturbing activities may result in take of GGS if present. The Project proposes in-water work, including pile foundation installation, pile installation, concrete rail support beams, and concrete deck formwork. There is an extant observation of GGS with a buffer range that intercepts the in-water portion of the site (CNDDB Accessed October 2026).

GGS is a highly aquatic snake endemic to the Central Valley of California. The species became threatened several decades ago primarily due to habitat loss from agriculture (Hansen et al, 2015). The species relies on wetland habitats that have been destroyed, fragmented, or degraded by urbanization and agricultural development. Only 5 percent of the species' historic wetland habitat acreage remains. Additionally, GGS are threatened by invasive predatory fish and bullfrogs as well as pesticides, herbicides, fertilizers, and heavy metals, which not only impact GGS directly, but also cause declines in their native prey (e.g., Sierran treefrogs and Sacramento blackfish). Water diversions, dams, canal and levee maintenance, and rodent abatement also threaten the species. Plastic erosion control or bird netting can entangle and kill snakes as well (Kapfer and Paloski 2011).

Currently, GGS are isolated to only nine disjunct populations. At the time of the species listing in 1993 under the federal Endangered Species Act (ESA), the U.S. Fish and Wildlife Service (USFWS 2017) recognized 13 populations. Since then, two populations have been determined extirpated (USFWS 2017). In addition, GGS are also susceptible to roads, vehicular traffic, and non-native species impacts (USFWS 2017). Road use can result in snake

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mortality as they congregate on roads due to the increased temperature that create a heat island on and near the road for thermoregulation (Trombulak and Frissell 2000). Reptile diversity has been shown to decline relative to the density of roads (Findlay and Houlahan 1997).

The species has specific seasonal habitat requirements. During summer months, GGS require aquatic habitat for foraging and adjacent upland areas with emergent vegetation for basking (USFWS 2017). During periods of inactivity, GGS require burrows in upland habitat as refugia for summer shelter and cracks and burrows in uplands for winter estivation (Hansen et al. 2015).

Recommendations: To avoid "take" or adverse impacts to GGS, CDFW recommends incorporation of the following mitigation measures into the draft EIR or be required as conditions of approval in permits the Port of Stockton issues for the Project:

Recommendation #1: Giant Garter Snake Habitat Assessment

CDFW recommends that a qualified biologist conduct a habitat assessment of Project areas in advance of Project activities, to determine if the Project area or its vicinity contains usable habitat for GGS.

Due to the presence of suitable GGS habitat on the Project site, CDFW recommends, a Qualified Biologist with GGS experience, survey the work area and a minimum 50-foot radius of the work area for burrows and crevices in which GGS could be present. The survey shall be conducted no more than 30 days prior to ground-disturbing activities. It is advised that all potentially suitable burrows and crevices be flagged and avoided by a minimum 50-foot no-disturbance buffer. If a 50-foot radius buffer isn't feasible, consultation with CDFW is warranted to discuss how to implement the Project and avoid take of the species.

Recommendation #2: Giant Garter Snake Habitat Buffer

If potential aquatic habitat for GGS has been identified in or within 200 feet of the Project area by the Qualified Biologist, a qualified biologist should be present on-site to monitor all project activities.

Recommendation #3: Giant Garter Snake Observation

If a snake species of any kind is observed within the Project site, then all Project activities shall halt and work shall not continue until the snake species is identified by a qualified biologist. If GGS is discovered at any time within the Project site and staging areas, then all Project activities shall halt until CDFW has been notified and the Project proponent can demonstrate compliance with CESA to CDFW's satisfaction. CDFW reserves the right to provide additional GGS protection measures in the event of a GGS detection.

Recommendation #4: Giant Garter Snake Take Prohibition

If the Project is not covered under the SJMSCP and "take" of GGS or any other species listed under CESA cannot be avoided either during Project activities or over the life of the Project, a CESA Permit should be obtained (pursuant to Fish and Game Code Section 2080 et seq.).

COMMENT 4: Nesting Birds, Buffers and Survey Requirements

Issues: The Project has the potential to disturb nesting bird species and impact associated nesting habitat. Impacts to nesting birds could occur through increased stress, nest abandonment, mortality to birds or direct damage to nests. Take of nesting birds, birds in the orders Falconiformes or Strigiformes, and migratory nongame bird as designated in the federal Migratory Bird Treaty Act (MBTA) is a violation of Fish and Game Code § 3503, 3503.5,

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3513, respectively. While MM-BIO-1 reduces potential impacts to nesting birds, CDFW recommends revising to avoid all potential impacts.

Recommendation: If not covered by SJMSCP, CDFW recommends the EIR incorporate the following edits to language in MM-BIO-1 to ensure that significant impacts to bird species resulting from the Project are avoided, minimized, and mitigated to the extent possible.

Construction work shall take place outside of the February 15 to September 15 bird nesting seasonal window to the maximum extent practicable. If construction is to be conducted during the nesting season, the Project Applicant is responsible for ensuring that the Project does not result in any violation of Fish and Game Code. A qualified biologist shall conduct a minimum of two focused pre-construction nesting bird surveys throughout the Project area no more than five days prior to the initiation of on-site Project-related activities. Surveys shall be conducted in all potential habitat located at, and adjacent to, Project work sites and in staging and storage areas. The minimum survey radii surrounding the work area will be the following: (1) 250 feet for non-raptors; (2) and 1,000 feet for raptors. In the event that there is a lapse in construction activities for seven days or more, a qualified biologist will conduct additional focused pre-construction nesting bird surveys in areas of potential habitat again before Project activities can be reinitiated. If an active nest is found, the qualified biologist may consult with CDFW if needed regarding appropriate action to comply with Fish and Game Code.

- *Active Nest Buffers. Active nest sites and protective buffer zones shall be designated as "ecologically sensitive areas" where no Project-related activities or personnel may enter (while occupied or in use for the season in the case of multi-clutch bearing species) during the course of nesting bird season with the establishment of a fence barrier or flagging surrounding the nest site. The qualified biologist shall determine the necessary buffer, to protect nesting birds based on existing site conditions, such as construction activity, topography, and line of sight, and shall increase buffers as needed to provide sufficient protection of nesting birds and their natural behaviors.*

- *Active Nests. A qualified biologist shall observe any identified active nests prior to the start of any Project-related activities to establish a behavioral baseline of the adults and any nestlings. Once Project activities commence, all active nests shall be continuously monitored by a qualified biologist to detect any signs of disturbance and behavioral changes as a result of the Project. In addition to direct impacts, such as nest destruction, nesting birds might be affected by noise, vibration, odors and movement of workers or equipment. If signs of disturbance and behavioral changes are observed, the qualified biologist shall halt Project activities causing that change until the nestlings have fledged, and the nest is determined to be inactive.*

COMMENT 5: Swainson's Hawk Additional Mitigation Measure

Issue: Swainson's hawk (*Buteo swainsoni*, SWHA) is listed as State Threatened under the CESA, and as indicated in the draft EIR, is likely to occur within the Project area within mature trees along the San Joaquin River. However, The draft EIR does not discuss SWHA in detail and doesn't require following protocol survey methodology or sufficient buffer distances to avoid impacts to nesting Swainson's hawks in the event the Project is not covered under the SJMSCP.

Recommendation: If the Project is not covered under the SJMSCP, the following should be incorporated into the draft EIR as an alternative option to plan participation:

If Project activities will occur during the Swainson's hawk (SWHA) nesting season (March 15 to September 15), a qualified biologist shall conduct multiple SWHA surveys within a minimum 0.25-mile radius around the Project area prior to beginning Project activities. The surveys shall be conducted according to the Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley (Swainson's Hawk Tech. Advis. Comm.,

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5/2000; available online at https://www.wildlife.ca.gov/Conservation/Survey-Protocols#377281284-birds):

If an occupied SWHA nest is found, CDFW recommends establishment of a minimum 0.25-mile buffer and consulting with CDFW to develop a SWHA take avoidance and monitoring plan. If SWHA cannot be completely avoided as a result of Project-related activities and take coverage through the SJMSCP is not feasible, then the Project proponent should consult with CDFW to obtain an Incidental Take Permit (ITP).

ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations. (Pub. Resources Code, § 21003, subd. (e).) Accordingly, please report any special-status species and natural communities detected during Project surveys to the CNDDB. The CNDDB field survey form can be filled out and submitted online at the following link: https://wildlife.ca.gov/Data/CNDDB/Submitting-Data. The types of information reported to CNDDB can be found at the following link: https://www.wildlife.ca.gov/Data/CNDDB/Plants-and-Animals.

ENVIRONMENTAL DOCUMENT FILING FEES

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

CONCLUSION

CDFW appreciates the opportunity to comment on the draft EIR to assist the Port of Stockton in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Mia Bianchi, Senior Environmental Scientist (Specialist), at (707) 815-8722; or Sara Kern, Senior Environmental Scientist (Supervisory), at (916) 531-4465 or R3DeltaHabCon@wildlife.ca.gov.

Sincerely,

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

ec: Office of Land Use and Climate Innovation, State Clearinghouse (SCH No. 2024100490)
Melissa Farinha, CDFW Bay Delta Region - Melissa.Farinha@wildlife.ca.gov

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