

**IS/ND Response to Comments  
State Clearinghouse No. 2026020789  
June 2026**

# **CEMEX AIR DISTRICT PERMIT APPLICATION NUMBER 28001**

Bay Area Air Quality Management District

*Prepared for:*

**Bay Area Air Quality Management District**  
Contact: Simrun Dhoot, Supervising Air Quality Engineer  
375 Beale Street, Suite 600  
San Francisco, California 94105  
415.749.8692

*Prepared by:*

**PlaceWorks**  
Contact: Nicole Vermilion, Principal  
Dina El Chammas-Gass, Senior Associate  
3 MacArthur Place, Suite 1100  
Santa Ana, California 92707  
714.966.9220  
info@placeworks.com  
www.placeworks.com





**TABLE OF CONTENTS**

<b>Section</b>	<b>Page</b>
<b>1. INTRODUCTION .....</b>	<b>1-1</b>
1.1 PROJECT LOCATION .....	1-1
1.2 PROPOSED PROJECT.....	1-1
1.3 INITIAL STUDY/ NEGATIVE DECLARATION .....	1-1
1.4 DOCUMENT FORMAT .....	1-2
1.5 CEQA REQUIREMENTS REGARDING COMMENTS AND RESPONSES .....	1-2
1.6 PUBLIC ENGAGEMENT .....	1-3
<b>2. RESPONSE TO COMMENTS .....</b>	<b>2-1</b>
2.1 RESPONSE TO COMMENTS FROM ORGANIZATIONS .....	2-1
<b>3. REVISIONS TO THE IS/ND.....</b>	<b>3-1</b>

**APPENDICES**

Appendix A Comment Letters Received

**TABLE OF CONTENTS**

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# 1. INTRODUCTION

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This document includes a compilation of all public comments received on the CEMEX Air Permit Application Number 28001 Initial Study/Negative Declaration (IS/ND) (State Clearinghouse No. 2026020789) during the public circulation period. CEMEX Construction Materials Pacific LLC (project applicant) is seeking approval from the Bay Area Air Quality Management District (Air District) for Application # 28001.

## 1.1 PROJECT LOCATION

The project site encompasses 3.1 acres of the 4.3 leased acres within San Francisco Port Pier 92, at 500 Amador Street, San Francisco, California. The project site is on Assessor's Parcel Number (APN) 4502A002. The project site is on the San Francisco Bay side of the San Francisco Peninsula. The project site is in an industrial area of the Bayview/Hunters Point (BVHP) neighborhood at the southeastern edge of the City of San Francisco.

## 1.2 PROPOSED PROJECT

CEMEX submitted Application #28001 (also referred to as the "permit revision") to increase the permitted sand throughput and allow aggregate throughput at the site's barge conveyor (S-14). Specifically, Application # 28001 requests the following revisions at the barge conveyor (S-14):

- **Sand by Barge (S-14).** Increase in sand throughput at S-14 from 60,000 tons per year (TPY) to 235,572 TPY. Maximum daily sand throughput would be limited to 818 tons per day. Maximum hourly sand throughput will be limited to 69 tons per hour.
- **Aggregate by Barge (S-14).** Allow up to 153,803 TPY of aggregate at S-14. Maximum daily aggregate throughput would be limited to 535 tons per day. Maximum hourly aggregate throughput would be limited to 45 tons per hour.

## 1.3 INITIAL STUDY/ NEGATIVE DECLARATION

An Initial Study (IS) was prepared for the permit revision and concluded that there will be less-than-significant impacts on the environment; therefore, a negative declaration (ND) was prepared for the permit revision. Based on the information in the IS/ND, the Air District determined that the permit revision would not result in any potentially significant environmental impacts.

## 1. INTRODUCTION

Under the California Environmental Quality Act (CEQA), a lead agency is not required to prepare formal responses to comments on an ND. However, CEQA requires the lead agency to have adequate information on the record explaining why the comments do not affect the conclusion of the ND that there are no potentially significant environmental effects. In the spirit of public disclosure and engagement, the Air District, as the lead agency, has responded to all comments submitted on the ND during the public review period, which began February 19, 2026, and ended March 23, 2026.

### 1.4 DOCUMENT FORMAT

This document is organized as follows:

**Chapter 1, Introduction.** This section describes CEQA requirements and content of this document. Additionally, this section describes the public engagement that was conducted for the permit revision.

**Chapter 2, Response to Comments.** This section provides a list of commenters on the IS/ND, the comments received, and responses to those comments.

**Chapter 3, Revisions to the IS/ND.** This section contains minor revisions and/or clarifications to the IS/ND.

### 1.5 CEQA REQUIREMENTS REGARDING COMMENTS AND RESPONSES

CEQA Guidelines Section 15204(b) outlines parameters for submitting comments on negative declarations and mitigated negative declarations (MNDs), and it reminds persons and public agencies that the focus of review and comment of NDs and MNDs should be on the proposed findings that the project will not have a significant effect on the environment. If the commenter believes that the project may have a significant effect, they should: (1) identify the specific effect, (2) explain why they believe the effect would occur, and (3) explain why they believe the effect would be significant.

CEQA Guidelines Section 15204(c) further advises, “Reviewers should explain the basis for their comments, and should submit data or references offering facts, reasonable assumptions based on facts, or expert opinion supported by facts in support of the comments. Pursuant to Section 15064, an effect shall not be considered significant in the absence of substantial evidence.”

CEQA Guidelines Section 15204(d) states, “Each responsible agency and trustee agency shall focus its comments on environmental information germane to that agency’s statutory responsibility.” CEQA Guidelines Section 15204(e) states, “This section shall not be used to restrict the ability of reviewers to comment on the general adequacy of a document or of the lead agency to reject comments not focused as recommended by this section.”

## 1. INTRODUCTION

Finally, CEQA does not require a lead agency to conduct every test or perform all research, study, and experimentation recommended or requested by commenters. When responding to comments, lead agencies need only respond to potentially significant environmental issues and do not need to provide all information requested by reviewers, as long as a good-faith effort at full disclosure is made in the environmental document.

### 1.6 PUBLIC ENGAGEMENT

Pursuant to CEQA Guidelines Sections 15072 and 15073, after preparation of an IS, the Air District determined that an ND would be appropriate for the permit revision and circulated a Notice of Intent (NOI) to Adopt an ND. The NOI was publicly available in five languages (English, Chinese, Spanish, Tagalog, and Vietnamese). The public review period for the IS/ND began February 19, 2026, and ended March 23, 2026, pursuant to CEQA Guidelines Section 15073(a). Public notification of the IS/ND was satisfied by sending the NOI to State and local agencies.

Additionally, copies of the IS/ND and NOI were made available for review at the following locations:

- Bay Area Air Quality Management District: 375 Beale Street, Suite 600, San Francisco, California 94105

The documents can also be accessed online at the following link:

<https://www.baaqmd.gov/en/Permits/Public-Notices/Page-Resources/Table-Data/2026/021926-28001/CEMEX-Construction-Materials-Pacific-LLC>.

**1. INTRODUCTION**

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## 2. RESPONSE TO COMMENTS

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This section provides all written comments received on the circulated ND and the Air District’s responses to each comment. Comment letters and specific comments within those letters are assigned a number for reference purposes, and can be found in Appendix A. The following is a list of all comment letters received on the circulated ND during the 30-day public review period, which began February 19, 2026, and ended March 23, 2026.

<b>Number Reference</b>	<b>Commenter</b>	<b>Date of Comment</b>
<b>Organizations</b>		
O1	Golden Gate University School of Law	March 23, 2026
O2	All Things Bayview for Equitable Communities	February 24, 2026

### 2.1 RESPONSE TO COMMENTS FROM ORGANIZATIONS

The below comments have been reproduced verbatim including any spelling or other errors.

#### **01. GOLDEN GATE UNIVERSITY SCHOOL OF LAW, MARCH 23, 2026**

##### **Comment O1-1**

The Environmental Law and Justice Clinic submits this comment letter on behalf of Greenaction for Health and Environmental Justice and Bayview Hunters Point Mother and Fathers Committee to oppose the Negative Declaration for CEMEX’s Air District Permit, Number 28001. The Bay Area Air Quality Management District (“Air District”) is repeating its dangerous pattern of allowing permit violations to lead to permit modifications rather than enforcement and consequences for the polluting facility. Instead, the Air District continues to allow additional pollution in an overburdened community based on an environmental review that does not comply with CEQA. The Air District prepared an Initial Study and Negative Declaration for the project.<sup>1</sup> However, there is a fair argument that the emissions from the facility may cause a significant adverse impact to residents in Bayview Hunters Point and the Air District should prepare an Environmental Impact Report for the entire facility rather than a singular stationary source.

##### **Project History and Description**

The Air District issued the first permit for CEMEX in 2005 (2005 Permit). (IS/ND p. 10). The plant includes receiving and unloading facilities for trucks and ships; storage bins for aggregate; a batching plant that

## 2. RESPONSES TO COMMENTS

includes cement, fly-ash, and cement supplement storage silos, a mixer, weigh hoppers, an office, and a dust containment system; and a series of conveyors to move material through the plant. (IS/ND p. 10). There are several stationary sources subject to Air District permitting in the facility labeled on maps S1-S15. (IS/ND p. 10). The 2005 Permit covered sources 1 through 14 and limited total production to 700,000 tons/year. S-14 was permitted for a maximum throughput of 60,000 tons/year of sand and no aggregate. (IS/ND p 20).

In 2015, the Air District issued two revised permits for CEMEX (Applications # 26846 and # 27409) (“2015 Permits”). The 2015 Permits increased concrete production to 934,055 tons/year. The 2015 Permits also authorized an increase in throughput limits for eleven of the fourteen sources for both sand and aggregate. The 2015 Permits did not request to increase sand throughput brought by barge (S-14), nor did they request authorization to bring in aggregate by barge. Therefore, the S-14 permit limit continued to be restricted to a maximum of 60,000 TPY of sand. Both the 2005 Permit and 2015 Permits were ministerial actions which would not undergo environmental review. (IS/ND pp. 20-21).

The Project subject to this permit revision increases the amount of sand CEMEX could bring into the facility by barge and allow CEMEX to bring in aggregate by barge for the first time. Under the 2005 permit, Cemex is limited to bring in 60,000 tons/year of sand and no aggregate by barge. The application increases this amount to 235,572 tons/year of sand and 153,803 tons/year of aggregate. There is no request to increase the overall annual production limit for concrete which is 934,055 tons/year of concrete. (IS/ND p. 1). This increase in amount of sand and aggregate increases emissions from the barge conveyor system (S14), increases hours of use for three diesel front-end loaders (from four hours per day per loader to twelve hours per day per loader), increases number of tugboat trips per year, and the days where wind-blown dust from the barge stockpile (S15) is a risk (from 35 days to 260 days).

While these a increases are the subject of this application, it should be noted that CEMEX has been operating at this increased capacity for over a decade. (IS/ND p. 2). In 2016, the community discovered that CEMEX was accepting more sand than allowed and accepting aggregate by barge. (IS/ND p. 21). The Air District issued an Notice of Violation in 2016 and CEMEX paid a \$7,500 fine in 2021.<sup>2</sup> (IS/ND p. 21). The Air District has “allowed the exceedance to continue while the application is processed and California Environmental Quality Act (CEQA) review is completed” rationalizing that prohibiting the exceedance would increase truck trips to the area and facility. (IS/ND p. 2). However, there is no evidence in the record that truck trips would increase because other production limits and throughput limits remain unchanged. This permit application is a result of the Notice of Violation.

<sup>1</sup> Bay Area Air Quality Management District, CEMEX AIR DISTRICT PERMIT APPLICATION NUMBER 28001 INITIAL STUDY (Feb. 2026). (“IS/ND”).

## 2. RESPONSES TO COMMENTS

- <sup>2</sup> According to an email from Anne Baptiste, Assistant Counsel of the Air District to Bradley Angel of Greenaction for Health and Environmental Justice, the Air District issued a Notice of Violation on May 1, 2016, and CEMEX paid a \$7,500 fine on 10/5/2021.

### **Response O1-1**

The commentor notes that there is a fair argument that the emissions from the facility may cause a significant adverse impact to residents in Bayview/Hunters Point (BVHP) neighborhood and the Air District should prepare an Environmental Impact Report (EIR) for the entire facility rather than a single stationary source. The commentor describes the impacts of concern in comments O1-6 through O1-8. Responses to these comments are provided below.

The IS/ND fully discloses potential environmental impacts, and all impacts are less than significant. As noted in the responses to Comments O1-6 through O1-8, there is no substantial evidence in the record that supports a fair argument that the proposed project may result in significant adverse impacts. Therefore, an EIR is not required.

In addition, the commentor states that permit violations lead to permit modifications rather than enforcement action. The Air District evaluates all permit applications for compliance with applicable rules and regulations. When a permit application satisfies applicable regulatory requirements, the Air District is required to act on the application. The permitting process is separate from any enforcement actions that may be taken regarding permit violations.

### **Comment O1-2**

This permit modification repeats a dangerous pattern of allowing a permit violation to continue for years without environmental review or mitigation. Then the Air District works with the violator to retroactively cure the violation with minimal environmental review, inconsequential penalties, but increased capacity for the violator. The Air District did this with Martin Murrietta's Consent Decree and now with CEMEX. This pattern undermines the Air District's own authority.

In fact, the letter from CEMEX to the Air District in response to Anne Baptiste's, Assistant Counsel for the Air District, request for additional information to process the permit application demonstrates the lack of respect the regulated entities have for the Air District. "Please refrain from sending additional information requests before checking previous response submittals. BAAQMD staff should be able to provide any previously submitted information to their consultants working on this CEQA process. These data requests are time consuming on our part to retrieve and candidly keep holding up the permitting process from BAAQMD's side." (IS/ND p. C-2125). Here, a facility that is not in compliance with this its permit is chastising the Air District seeking to help that facility remedy their violation. The Air District's reluctant enforcement does not ensure future cooperation or compliance, nor does it protect the environment and health of overburdened residents in the Bayview Hunters Point community. This pattern of excusing

## 2. RESPONSES TO COMMENTS

violations rather than enforcing permit limits is further institutionalizes a bad precedent and contradicts its own and the state's goals to reduce pollution in Bayview Hunters Point.

### **Response O1-2**

This comment provides additional history on CEMEX's permit process and expresses discontent with the Air District's practice of ensuring the CEMEX facility is in compliance. The Air District will consider comments as part of its decision-making for this project.

The Air District's evaluation of permit applications is based on the information necessary to complete its technical and environmental review. The manner in which correspondence is communicated by an applicant does not alter the Air District's obligation to obtain sufficient information to evaluate a project and determine compliance with applicable requirements.

This comment does not raise issues with the CEQA process or address the adequacy of the analysis in the IS/ND, and no further response is necessary.

### **Comment O1-3**

The Air District has designated Southeast San Francisco, including the Bayview Hunters Point neighborhoods, as a CARE Community. The goals of the CARE Program are to:

- Identify areas where air pollution contributes most to health impacts and where populations are most vulnerable to air pollution.
- Apply sound scientific methods and strategies to reduce health impacts in these areas.
- Engage community groups and other agencies to develop additional actions to reduce local health impacts.<sup>3</sup>

The significant cumulative pollution and health burdens already impacting the people of Bayview Hunters Point are confirmed by CalEPA's CalEnviroScreen 4.0 screening tool. The community currently experiences significant impacts from toxins emitted into Bayview Hunters Point—including those from CEMEX. For example, CEMEX's production of cement currently releases sand particles known as crystallized silica (Silica) into the air. Silica can cause life changing respiratory infection, silicosis, emphysema, lung carcinoma, pulmonary tuberculosis, small vessel vasculitis, rheumatoid arthritis, systemic lupus erythematosus, scleroderma, and death.<sup>4</sup>

<sup>3</sup> Bay Area Air Quality Management District, *Community Air Risk Evaluation Program*, <https://www.baaqmd.gov/community-health/community-health-protection-program/community-air-risk-evaluation-care-program>

## 2. RESPONSES TO COMMENTS

- <sup>4</sup> Ahmad R, Akhter QS, Haque M. *Occupational Cement Dust Exposure and Inflammatory Nemesis: Bangladesh Relevance*. J Inflamm Res. 2021 Jun 9;14:2425-2444. doi: 10.2147/JIR.S312960. PMID: 34135615; PMCID: PMC8200167, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8200167/>.

### **Response O1-3**

Chapter 1, *Introduction*, “Environmental Justice Considerations in the Project Area” outlined the environmental justice considerations in the project area considered in the IS/ND, which include the BVHP neighborhood and the CalEPA CalEnviroScreen 4.0 score. Section 3.3, *Air Quality*, evaluated air quality impacts to the BVHP, including impacts from sand and crystallized silica as PM<sub>2.5</sub>. As identified on page 51 of the IS/ND, cancer risk and PM<sub>2.5</sub> impacts were evaluated based on the more stringent San Francisco Area of Pollutant Exposure Zone (APEZ) risk thresholds to account for cumulative risks associated with the existing conditions and the permit revision. As identified in this section, impacts associated with the permit revision were less than significant. Also see Response O2-5.

### **Comment O1-4**

Making matters worse, construction sites surrounding Pier 92 consist of Martin Marietta, and Central Concrete, all of which are operating without proper permits while contributing to the overall poor air quality condition in Bayview Hunters Point. Martin Marietta is the subject of a consent decree with the Air District that required environmental review of the facility by September 2025 as part of the Port of San Francisco’s CEQA process. However, that review is indefinitely delayed and Martin Marietta is allowed to continue to operate without any additional review or conditions.

### **Response O1-4**

See Response O1-3. This comment does not identify a deficiency in the IS/ND analysis, and no further response is required. The permit revision does not include any improvements or alterations to the Martin Marietta and Central Concrete facilities. The analysis followed the most stringent protocols for evaluating cumulative air quality impacts in accordance with the Air District’s CEQA Guidelines and San Francisco’s Air Quality and Greenhouse Gas Analysis Guidelines. Impact 3.3(b) identified that localized health risks and PM<sub>2.5</sub> impacts from the permit revision are less than significant.

Additionally, with respect to Martin Marietta, its Pier 92 sand processing plant is required to comply with operating conditions issued by the Air District’s Hearing Board via a conditional order for abatement until it comes back into compliance. The City and County of San Francisco recently released the Draft Environmental Impact Report for the Pier 92 Modernization and Plant Replacement Project.

## **2. RESPONSES TO COMMENTS**

### **Comment O1-5**

In addition to local policies, the California Air Resources Board has designated Bayview Hunters Point an AB 617 community. As an AB 617, the Air District, CARB, and the local community steering committee collaborate to identify opportunities to reduce local pollution in an already well documented overburdened community. Approving the permit to expand barge sand and aggregate capacity directly undermines the AB 617 goals of reducing exposures and improving public health in communities most impacted by air pollution.

### **Response O1-5**

Chapter 1, *Introduction*, “Environmental Justice Considerations in the Project Area,” describes the environmental justice considerations considered as part of the environmental analysis and identified the BVHP as an AB 617 community. As identified in Section 3.3, *Air Quality*, the Air District based the air quality impact analysis on the most health-protective significance thresholds for localized impacts. Impact 3.3(b) determined that localized health risk impacts from the permit revision are less than significant.

In addition, the permit revision would allow the facility to receive more material by barge. Since the permit revision does not increase overall facility production capacity, material imported via barge would replace material otherwise delivered by truck thus would reduce truck trips associated with material delivery through the surrounding community.

### **Comment O1-6**

#### **The Air District Must Prepare an Environmental Impact Report for the CEMEX Permit.**

The Air District prepared an Initial Study and Negative Declaration for the proposed permit application to increase the amount of sand and aggregate that CEMEX could accept by barge. This will increase the amount of sand and aggregate to be stockpiled more days of the year, the hours of operation for three diesel powered front loaders, and the use of barge conveyor system. This will increase PM10 and PM2.5 emissions as well as the emissions of crystallized silica and diesel particulate matter. However, the Air District does not disclose total unmitigated emissions from the changes to the permit, piecemeals its environmental review, and fails to mitigate diesel particulate matter emissions.

As the California Supreme Court held, “[i]f no EIR has been prepared for a nonexempt project, but substantial evidence in the record supports a fair argument that the project may result in significant adverse impacts, the proper remedy is to order preparation of an EIR.” (*Communities for a Better Env’t v. South Coast Air Quality Mgmt. Dist.* (2010) 48 Cal.4th 310, 319-20.) “Significant environmental effect” is defined very broadly as “a substantial or potentially substantial adverse change in the environment.” (Pub. Res. Code [“PRC”] § 21068; see also 14 California Code of Regulations [“CCR”] § 15382.) An effect on the environment need not be “momentous” to meet the CEQA test for significance; it is enough that the

## 2. RESPONSES TO COMMENTS

impacts are “not trivial.” (*No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 83.) “The ‘foremost principle’ in interpreting CEQA is that the Legislature intended the act to be read so as to afford the fullest possible protection to the environment within the reasonable scope of the statutory language.” (*Communities for a Better Env’t v. Cal. Res. Agency* (2002) 103 Cal.App.4th 98, 109.)

The EIR is the very heart of CEQA. (*Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184, 1214; *Pocket Protectors v. City of Sacramento* (2004) 124 Cal.App.4th 903, 927.) The EIR is an “environmental ‘alarm bell’ whose purpose is to alert the public and its responsible officials to environmental changes before they have reached the ecological points of no return.” (*Bakersfield Citizens, supra*, 124 Cal.App.4th at 1220.) The EIR also functions as a “document of accountability,” intended to “demonstrate to an apprehensive citizenry that the agency has, in fact, analyzed and considered the ecological implications of its action.” (*Laurel Heights Improvements Assn. v. Regents of Univ. of Cal.* (1988) 47 Cal.3d 376, 392.) The EIR process “protects not only the environment but also informed self-government.” (*Pocket Protectors*, 124 Cal.App.4th 903, 927.)

An EIR is required if “there is substantial evidence, in light of the whole record before the lead agency, that the project may have a significant effect on the environment.” (PRC § 21080(d); see also *Pocket Protectors, supra*, 124 Cal.App.4th at 927.) In that context, “may” means a reasonable possibility of a significant effect on the environment. (PRC §§ 21082.2(a), 21100, 21151(a); *Pocket Protectors, supra*, 124 Cal.App.4th at 927; *League for Protection of Oakland's etc. Historic Res. v. City of Oakland* (1997) 52 Cal.App.4th 896, 904-05.)

An EIR must be prepared “whenever it can be fairly argued on the basis of substantial evidence that the project may have a significant environmental impact.” (*No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 75.) Under this “fair argument” standard, an EIR is required if any substantial evidence in the record indicates that a project may have an adverse environmental effect—even if contrary evidence exists to support the agency’s decision. (14 CCR § 15064(f)(1); *Pocket Protectors, supra*, 124 Cal.App.4th at 931; *Stanislaus Audubon Society v. County of Stanislaus* (1995) 33 Cal.App.4th 144, 150-51; *Quail Botanical Gardens Found., Inc. v. City of Encinitas* (1994) 29 Cal.App.4th 1597, 1602.) The “fair argument” standard creates a “low threshold” favoring environmental review through an EIR rather than through issuance of negative declarations or notices of exemption from CEQA. (*Pocket Protectors, supra*, 124 Cal.App.4th at 928.)

The “fair argument” standard is virtually the opposite of the typical deferential standard accorded to agencies. As a leading CEQA treatise explains:

This ‘fair argument’ standard is very different from the standard normally followed by public agencies in making administrative determinations. Ordinarily, public agencies weigh the evidence in the record before them and reach a decision based on a preponderance of the evidence. [Citations]. The fair argument standard, by contrast,

## 2. RESPONSES TO COMMENTS

prevents the lead agency from weighing competing evidence to determine who has a better argument concerning the likelihood or extent of a potential environmental impact. The lead agency's decision is thus largely legal rather than factual; it does not resolve conflicts in the evidence but determines only whether substantial evidence exists in the record to support the prescribed fair argument.

(Kostka & Zishcke, *Practice Under CEQA*, § 6.29, pp. 273-74.) The Courts have explained that "it is a question of law, not fact, whether a fair argument exists, and the courts owe no deference to the lead agency's determination. Review is de novo, with a preference for resolving doubts in favor of environmental review." (*Pocket Protectors*, supra, 124 Cal.App.4th at 928.)

The Air District's CEQA Guidelines regarding Environmental Justice recognize the importance of CEQA for agencies and community groups have to reduce pollution from discretionary projects. As a result, the Air District notes CEQA's "information disclosure and mitigation process offers a singular and important opportunity to address both long-standing and emerging environmental injustices."<sup>5</sup> However, the Air District does not comply with CEQA because it fails to disclose unmitigated air emissions from the project, it improperly piecemeals emissions by focusing on singular emission sources rather than emissions from the entire facility in violation of CEQA, and it does not require mitigation for diesel particulate matter in an overburdened community.

<sup>5</sup> Bay Area Air Quality Management District, CEQA Guidelines, Chpt. 2, Best Practices for Centering Environmental Justice, Health, and Equity (2022) p. 2-1, [https://www.baaqmd.gov/~media/files/planning-and-research/ceqa/ceqa-guidelines-2022/ceqa-guidelines-chapter-2-environmental-justicefinal-pdf.pdf?rev=724445e52f394fe1ab3d3b1636b6d023&sc\\_lang=en](https://www.baaqmd.gov/~media/files/planning-and-research/ceqa/ceqa-guidelines-2022/ceqa-guidelines-chapter-2-environmental-justicefinal-pdf.pdf?rev=724445e52f394fe1ab3d3b1636b6d023&sc_lang=en)

### Response O1-6

The commentor describes the legal background related to the preparation of an EIR versus an IS/ND and notes that if no EIR has been prepared for a nonexempt project, but substantial evidence in the record supports a fair argument that the project may result in significant adverse impacts, the proper remedy is to order the preparation of an EIR. The commenter alleges that the IS/ND fails to analyze total unmitigated emissions from the changes to the permit, piecemeals its environmental review, and fails to mitigate diesel particulate matter emissions. The Air District provides detailed responses to these comments in Responses O1-7, O1-8, and O1-9, respectively. Further responses are as follows:

- A health risk assessment (HRA) was prepared for the permit revision scenario to determine the potential health risks to off-site sensitive receptors from the proposed increased throughput at S-14. Table 4, *Health Risk Summary: Maximally Exposed Individual Resident (MEIR)*, of the IS/ND, identifies that the net increase in health risks for the MEIR are well below the San Francisco APEZ thresholds, which address both project-level and cumulative health risk impacts. Based on the analysis provided

## 2. RESPONSES TO COMMENTS

in Section 3.3, *Air Quality*, and Appendix C, a determination of less than significant was made per CEQA Guidelines 15064 and 15382 based on the CEQA Guidelines Appendix G. Therefore, the IS/ND does disclose the total unmitigated emissions resulting from the permit revision, and since no significant impact was found, mitigation is not warranted.

- Section 1.3.3, *Environmental Considerations and Baseline*, defines the permit baseline for S-14 as the appropriate baseline to evaluate impacts associated with the increase in throughput at the barge conveyor system (S-14), as it provides a more conservative, health-protective basis for analysis under the proposed permit revision. This baseline is considered conservative because the Air District could have exercised its discretion to select existing conditions (the exceedance of the permit limits) as the baseline, which would have yielded a determination of no significant impact under CEQA for all applicable thresholds. The Air District acknowledges the environmental justice concerns raised and provided such information in Chapter 1, *Introduction*. CEQA considers the physical changes to the environment as a result of the permit revision, and in accordance with CEQA the IS/ND evaluated the permit revision's impacts against existing environmental conditions. Furthermore, analysis of the entire existing facility's operational impacts on sensitive receptors is not required because existing operations are part of the environmental baseline and are not subject to reanalysis as part of the IS/ND.
- The air quality analysis in Section 3.3 evaluates the permit revision, including changes in material throughput, operational duration, equipment use, and barge unloading activities. Emissions of PM<sub>10</sub>, PM<sub>2.5</sub>, crystalline silica, and diesel particulate matter were quantified using established methodologies and emissions factors consistent with the Air District's CEQA Guidelines. Appendix C of the IS/ND outlines in detail all unmitigated emissions associated with the permit revision. As discussed in Impact 3.3(c) of the IS/ND, the permit revision would not result in health risk impacts.
- Pursuant to a permit condition, the size of the sand and aggregate stockpiles will not be allowed to exceed the size of the existing stockpiles.

The IS/ND fully disclosed potential environmental impacts and provides substantial evidence that the permit revision would not result in a significant impact on the environment. Section 3.3, *Air Quality*, and Appendix C demonstrated that the permit revision would not impact sensitive receptors because impacts are well below significance thresholds and impacts were determined to be less than significant. Accordingly, the comment has not identified a fair argument for the preparation of an EIR; therefore, the preparation of an EIR is not warranted.

## 2. RESPONSES TO COMMENTS

### **Comment O1-7**

**The Air District does not disclose unmitigated direct emissions from the project.**

The Air District does not disclose the direct emissions from the project without mitigation or abatement. The Air District's CEQA Guidelines recognize that the information disclosure and mitigation measures in the CEQA analysis for discretionary projects is of key importance to addressing environmental justice. Further, the Guidelines encourage CEQA lead agencies to "use their discretion to make analytical, technical, and legal choices that serve environmental justice in lieu of automatically defaulting to historical practice or the status quo."<sup>6</sup> Instead, the Air District makes the analytical and technical choice to minimize direct emissions estimates from Project.

The Air District estimates emissions from increased sand and aggregate limits at S14 and S15. The Air District bases these emission estimates on emissions factors per lb/ton. It then reduces the emissions factor by the efficiency of abatement measure applied to that source- in this case by 70% for PM10 and 40% for PM2.5. (IS/ND pp. B4-B6). The Air District then calculates emissions. However, this underreports emissions. Failing to calculate the direct actual emissions without mitigation does not accurately disclose information about the emissions from the source to the public and decision-makers. It also does not reflect the reality that abatement is not always effective, efficiency estimates may not be accurate, and facilities may not always comply with abatement conditions. With CEMEX's history of permit non-compliance and the Air District's history of acquiescence, there is a fair argument that there will be a significant impact on the environment and the Air District does not have substantial evidence to support that relying on expected abatement efficiencies to calculate emissions is appropriate for this permit. The Air District should prepare an Environmental Impact Report to disclose, analyze, and fully mitigate the impacts from the project.

<sup>6</sup> *Id.*

### **Response O1-7**

The commenter states that the IS/ND does not disclose the direct emissions from the project without mitigation or abatement. Because no impacts exceeded any threshold of significance (see Chapter 3 of the IS/ND), no mitigation was required, and all emissions reported are unmitigated emissions. Thus, the IS/ND does not underreport emissions but reflects the actual expected emissions from the permit revision.

Further, the comment conflates abatement with mitigation. The abatement has long been part of the project and thus is not mitigation. The abatement factors for the permit revision are the same as those used when the permit was evaluated in 2021, and the permit conditions are substantively the same as those proposed in 2021. They are required pursuant to the Air District's permitting process—i.e., the permit revision cannot be approved without the required abatement. Additionally, the required water spray system (A-4) is existing equipment already installed, operational, and required by the facility's

## 2. RESPONSES TO COMMENTS

operating permit. Thus, the abatement is part of the project and was not added as mitigation for CEQA purposes. There is no requirement to provide emissions without abatement in the IS/ND since it is not mitigation. Finally, there is no reason to believe the facility will fail to comply with the abatement conditions. As stated, the water spray is already installed and operational. Further, CEQA does not require analysis of scenarios the commenter claims may arise—rather impacts must be based on the project as approved. (See *Berkeley Hillside Preservation v. City of Berkeley* (2015) 60 Cal.4th 1086, 1119.)

Also see Responses O1-1 and O1-6. Because no significant impacts were identified, an EIR is not required.

### **Comment O1-8**

**The Air District must prepare an Environmental Impact Report for the entire CEMEX facility.**

CEMEX has not undertaken a facility-wide environmental review. CEQA defines a project as the “whole of an action, which has the potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.” (Title 14, California Code of Regulations Sec. 15378(a)) (“CEQA Guidelines”). CEQA prohibits piecemealing a project, breaking a common undertaking into several smaller projects to minimize impacts or avoid cumulative impacts. (CEQA Guidelines Sec. 15165). There are fifteen air pollution sources at the facility. The Air District approved CEMEX’s permits in 2005 and 2015 as a ministerial project which do not undertake environmental review. For this permit application, the Air District narrowed its review to the changes to the barge conveyor belt (S14), stockpile (S15), the three front-loaders associated with moving materials, increased in tugboat emissions. The Air District should review the entire impacts of the facility. There are thirteen other pieces of equipment that have not ever been analyzed collectively. The Air District should prepare an Environmental Impact Report for the entire facility to disclose, analyze, and mitigate project level and cumulative impacts from the project.

### **Response O1-8**

Refer to Responses O1-1 and O1-6, which discussed that the IS/ND analyzes the full scope of permit revision. The commenter requests that the CEMEX facility as a whole be subject to CEQA review. However, this would be improper under CEQA. As the commenter recognizes, the facility’s operations were permitted in 2005 and increased throughputs were permitted in 2015. The Air District determined those approvals were ministerial. Due to CEQA’s interest in finality and predictability in land use decisions, CEQA provides short statutes of limitations. Thus, those CEQA determinations are no longer subject to challenge. As explained in Response O1-6, the operations permitted in 2005 and 2015 are now considered part of the environmental baseline and are not subject to reanalysis. Thus, preparation of an EIR is not warranted.

## **2. RESPONSES TO COMMENTS**

### **Comment O1-9**

**The Air District does not require additional air quality mitigation to reduce pollution from diesel particulate matter.**

If approved, the permit would allow the increased operation of three diesel powered front-end loaders. The front-end loaders under the current permit operate four hours per day per loader, but under the revised permit would operate twelve hours per day per loader. (IS/ND p. C-26). The front-end loaders in operation at CEMEX are model year 2006, 2013, and 2017. (IS/ND p. C-26). This equipment will need to be replaced and the Air District should require CEMEX to modernize to meet more efficient standards or electrify the equipment. This is particularly important to meet the Air District's and community's goals in reducing air pollution in the Bayview Hunters Point Area.

### **Response O1-9**

The commenter incorrectly states that the front-end loaders would operate 12 hours per day per loader under the permit revision. As described in Impact 3.3(b), Mobile Equipment (Area Source), the loaders are assumed to operate 0.6 hour per loader per day under the permit baseline conditions. The four hours per loader per day scenario represents the loader operations for the permit revision.

Based on the analysis provided in Section 3.3, *Air Quality*, impacts resulting from the permit revision would be below the significance thresholds. More specifically, the permit revision would not result in a cumulatively considerable net increase in any criteria pollutant, including PM<sub>2.5</sub>, of which diesel particulate matter is a subset. Additionally, diesel particulate matter emissions would not result in a significant impact, nor cumulatively contribute to a significant impact, with respect to cancer risk, PM<sub>2.5</sub> concentrations, or chronic hazard risk.<sup>1</sup>

### **Comment O1-10**

#### **Conclusion**

For the reasons stated above, the Air District should deny the permit and prepare an Environmental Impact Report for the project.

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<sup>1</sup> The Air District evaluates chronic and acute hazard risk based on reference exposure levels (RELs) set by the California Office of Environmental Health Hazard Assessment (OEHHA). OEHHA has not established an acute REL for diesel particulate matter, so the Air District's HRA cannot calculate acute hazard risk.

## 2. RESPONSES TO COMMENTS

### Response O1-10

Refer to Responses O1-10, which discuss why the preparation of an environmental impact report for this project is not warranted.

## O2. ALL THINGS BAYVIEW FOR EQUITABLE COMMUNITIES FEBRUARY 24, 2026

### Comment O2-1

On behalf of All Things Bayview for Equitable Communities, I submit this public comment on the Draft Initial Study/Negative Declaration (IS/ND) for CEMEX Air District Permit Application #28001 (Pier 92 concrete batch plant, San Francisco). As a community owned social and environmental justice organization in the frontlines of serving our community, it is imperative that we demand transparency, effective regulation and enforcement. We understand the proposed permit revision would not increase the facility's total production cap (934,055 TPY), but would increase allowable deliveries by barge up to 235,572 TPY of sand and 153,803 TPY of aggregate—with no change to truck-based limits. The Fact Sheet describes this as increased operational flexibility that may reduce truck trips and related diesel pollution on community streets. We note the Draft IS/ND applies more health-protective thresholds because the facility is within San Francisco's APEZ, and the Fact Sheet indicates the revision remains below Air District CEQA significance thresholds for criteria pollutants and health risk. We also understand the Air District's permit review finds the modified barge conveyor's PM emissions do not trigger BACT, a toxics HRA is not required under Air District stationary-source rules, and NOx offsets are required and would be supplied through the Air District's Small Facility Banking Account.

While the Fact Sheet summarizes findings of less-than-significant impacts under CEQA, it also identifies issues that warrant enforceable permit conditions and transparent accountability, particularly given the APEZ designation and existing pollution burden:

### Response O2-1

The comment provides a summary of the Air District Fact Sheet on the Air District's website and the findings of the IS/ND. The comments on the Fact Sheet do not address the adequacy of the analysis in the IS/MND, and no further response is necessary. Responses to comments on the environmental impacts evaluated in the IS/ND are provided below.

### Comment O2-2

- **CEQA baseline versus real-world operations:** The Fact Sheet acknowledges CEMEX has been importing more sand and aggregate by barge than currently permitted and that this has been allowed

## **2. RESPONSES TO COMMENTS**

during the review period. However, the CEQA baseline reflects the currently permitted barge limits (60,000 TPY sand; 0 TPY aggregate), not recent operating practice. This mismatch complicates public understanding of what will change in practice and underscores the need for clear, enforceable requirements going forward.

### **Response O2-2**

Section 15125 of the CEQA Guidelines states that the existing environmental setting will normally constitute the baseline physical conditions by which a lead agency determines whether an impact is significant. However, lead agencies have substantial discretion in establishing the baseline conditions so long as they are based on substantial evidence. Here, the Air District used the existing permit limits as the baseline to ensure that the changes due to the permit revision—the increases in throughput at the barge conveyor system (S-14)—would be fully analyzed in the IS/ND.

### **Comment O2-3**

- “Conservative” CEQA framing depends on truck displacement that is not automatically ensured: The Fact Sheet explains the CEQA analysis focuses on the barge conveyor system and does not account for potential increases in truck trips if barge deliveries were constrained. That may be conservative in the sense that truck-related impacts could be worse under different operating choices. However, because truck limits remain unchanged, the stated public benefit—reduced trucking—will only be realized if it is verified through reporting and accountability. Without enforceable requirements, reduced truck activity remains an assumption rather than a measurable outcome.

### **Response O2-3**

A reduction in truck trips is not a requirement of the permit revision though on-site VMT is limited and CEMEX must keep records of the number of trucks entering the facility. The Fact Sheet and IS/ND explain that allowing more material to be transported by barge has the result of decreasing truck trips. Because CEMEX is already legally permitted to bring in sufficient sand and aggregate by truck to reach its production limit, if barge deliveries were constrained, CEMEX would import the material by truck instead, increasing the number of truck trips. But due to the overall production limit and downstream constraints, any material brought in by barge necessarily decreases the amount of material that CEMEX may bring in by truck.

### **Comment O2-4**

- **Equity and near-source impacts require transparency, not only threshold comparisons:** The Draft IS/ND applies more health-protective APEZ thresholds and reports results below significance thresholds. Even so, the Fact Sheet shows notable changes, including a NO<sub>x</sub> increase large enough to

## 2. RESPONSES TO COMMENTS

trigger offsets (26.803 tons/year). While offsets can satisfy regulatory requirements, they do not necessarily ensure a local, near-source benefit unless implementation and compliance are transparent and enforceable. In addition, the reported MEIW PM<sub>2.5</sub> net change remains below the 0.2 µg/m<sup>3</sup> threshold but close enough to warrant strong operational controls and verification to ensure real-world emissions remain consistent with modeled assumptions.

### **Response O2-4**

The required offsets for NO<sub>x</sub> are pursuant to Air District permitting requirements under Air District Regulation 2-2-302, which is a regulatory requirement separate from CEQA. Per the CEQA analysis provided, and as shown in Table 2 and Table 3 of the IS/ND (see pages 48 and 49), the proposed permit revision would not result in a net increase of NO<sub>x</sub> that would exceed the Air District annual and daily CEQA significance thresholds for regional operation-phase emissions. Thus, no mitigation measures would be required. Regarding potential cancer risk and PM<sub>2.5</sub> impacts, as identified on page 51 of the IS/ND, these were evaluated based on the more stringent APEZ risk thresholds to account for cumulative risks associated with the existing conditions and the permit revision. As provided in Table 5 of the IS/ND, the net change in annual PM<sub>2.5</sub> concentrations for the maximum exposed individual worker (MEIW) is 0.161 µg/m<sup>3</sup>, which is below the stringent San Francisco APEZ threshold of 0.2 µg/m<sup>3</sup> for PM<sub>2.5</sub>. Additionally, the facility has existing fugitive dust abatement systems in place (i.e., water sprayers and baghouses), which are regulated by the Air District under the current permits for the facility. Therefore, the current facility permitting would ensure fugitive dust emissions from the facility would remain consistent with the modeled assumptions.

### **Comment O2-5**

**Crystalline silica risk communication should be paired with enforceable dust protections:** The Fact Sheet notes that cancer risk from respirable crystalline silica cannot be quantified due to the absence of an OEHHA cancer potency factor. Regardless of quantification limits, the final permit record should clearly reflect enforceable dust-control practices that minimize silica-containing fugitive dust exposures, particularly in an APEZ context

### **Response O2-5**

The IS/ND identifies crystalline silica as a constituent of fugitive dust that may be generated from sand deliveries during operational activities. As noted in the referenced Fact Sheet, cancer risk calculation is not currently feasible because the California Office of Environmental Health Hazard Assessment (OEHHA) has not established a cancer potency factor for crystalline silica. However, a chronic health hazards assessment of crystalline silica's impact to the respiratory system was included in the HRA, and the results are provided in Tables 4 and 5 of the IS/ND. As provided in these tables, the chronic hazards for both the maximum exposed individual resident and maximum exposed individual worker were below the threshold of

## 2. RESPONSES TO COMMENTS

significance. Additionally, the existing abatement equipment and the regulations outlined in the IS/ND would minimize exposure to crystalline silica risk, because the use of a water spray system (abatement device A-4) provides a PM<sub>10</sub> fugitive dust control efficiency of 70 percent and a PM<sub>2.5</sub> fugitive dust control efficiency of 40 percent. In summary, the IS/ND did not identify any potentially significant impacts for health risk or fugitive dust associated with the permit revision (see Section 3.3, *Air Quality*), and CEMEX already has dust abatement devices incorporated into existing operation that reduce potential impacts of crystalline silica below the threshold of significance.

In addition, the permit conditions include enforceable fugitive dust control requirements applicable to sand and aggregate handling operations. These include operation of water spray systems at conveyor drop points and stockpile areas, requirements that stockpile surfaces remain wet, compliance with the facility's Dust Control Plan, opacity and visible emissions limits, trackout control requirements, and routine monitoring and recordkeeping obligations for fugitive dust emissions. The Air District verifies compliance through area patrols plus facility and record inspections.

### **Comment O2-6**

#### **All Things Bayview's Position and Requested Permit Conditions**

As we continue to see health decline and lives shortened throughout the Bayview Hunters Point Community, All Things Bayview Demands the Air District adopts enforceable conditions that protect community health, control fugitive dust, and make outcomes transparent— especially where the stated public benefit relies on verifiable reductions in truck-related impacts. In February 2026 alone we have lost the lives of eight Bayview community residents due to heart and respiratory failure. We respectfully request the Air District include the following conditions and clarifications in the final permit and/or monitoring framework:

- **Enforceable barge throughput limits and inspection-ready records:** Include explicit, enforceable throughput limits consistent with the approved permit and require records that distinguish barge-imported sand and aggregate by date and tonnage. Records should be retained for a defined period and be readily available for inspection and audit/verification.
- **Truck activity reporting to confirm actual displacement:** Require periodic reporting (e.g., quarterly or semi-annually) of truck trip counts and delivery totals sufficient to demonstrate whether increased barge deliveries are actually displacing truck deliveries on community streets.
- **Fugitive dust and materials-handling controls with clear triggers and corrective action:** Require robust, best-practice dust controls for conveyors, hoppers, transfer points, and stockpiles, including enclosures/covers where feasible, targeted suppression at transfer points, prompt spill cleanup, and

## 2. RESPONSES TO COMMENTS

high-wind operating protocols. Establish clear operational triggers, documentation requirements, and timely corrective action for visible emissions or substantiated dust complaints.

- **APEZ-appropriate public transparency and complaint response:** Require a public-facing annual summary of key compliance and operational information (barge/truck totals, dust control measures implemented, complaints received, and corrective actions taken). Identify a clear community point of contact and maintain a documented complaint intake and response process with timely follow-up.
- **Clear explanation of how CEQA assumptions will be verified and enforced going forward:** Given that imports above currently permitted barge limits have been allowed during review, the final determination should clearly describe how compliance will be ensured moving forward, how the Air District will verify that operating conditions remain consistent with the assumptions used in the IS/ND, and what enforcement steps will apply if approved limits are exceeded.

### Response O2-6

Refer to Responses O2-2, O2-3, O2-4, and O2-5.

*Enforceable barge throughput limits and inspection-ready records:* The Air District has a compliance and enforcement department authorized to conduct routine inspections and a review of records at the CEMEX facility to verify barge-throughput limits remain consistent with the conditions established in the permit revision.

*Truck activity reporting to confirm actual displacement:* See Response O2-3.

*Fugitive dust and materials-handling controls with clear triggers and corrective action:* The permit conditions include enforceable operational and recordkeeping requirements related to fugitive dust controls, material throughput, barge deliveries, vehicle miles traveled, opacity limits, spill cleanup, trackout prevention, monitoring, and record retention. The fugitive dust controls include water sprays at each drop point and water sprays on the entire surface area of the stockpiles, such that the area remains wet at all times. The permit conditions are enforceable by the Air District through inspections, review of facility records, and applicable compliance and enforcement authorities.

*APEZ-appropriate public transparency and complaint response:* The Air District is developing a platform to improve access to permitting and compliance information. Currently, the Air District has a public complaint history portal, available at <https://www.baaqmd.gov/en/Online-Services/Air-Pollution-Complaints/Air-Quality-Complaint-History>. The Air District is also planning to collect community recommendations regarding its Air Quality Complaint Program to improve the program.

*Clear explanation of how CEQA assumptions will be verified and enforced going forward:* The Air District enforces its permit review process and requirements prior to permit issuance and, following issuance,

## **2. RESPONSES TO COMMENTS**

enforces the conditions established in the permit revision. Facilities are subject to inspections to ensure they are complying with their permit conditions and applicable Air District Regulations; the Air District is focusing inspection resources in overburdened communities such as BVHP and on facilities with a history of noncompliance. If noncompliance is discovered, the facility will be subject to appropriate enforcement action.

### **Comment O2-7**

All Things Bayview appreciates the Air District’s review and the opportunity to comment. The Draft IS/ND’s conclusions may be achievable in practice, but only if enforceable permit conditions and transparent reporting are in place—particularly where the project is within an APEZ and the stated public benefit hinges on measurable reductions in truck-related impacts. Please include this letter in the administrative record for the Draft IS/ND and Permit Application #28001.

### **Response O2-7**

This comment provides a summary of the letter; see Responses O2-1 through O2-6. The Air District will consider comments as part of its decision-making for this project.

### **3. REVISIONS TO THE IS/ND**

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No changes to the IS/ND have been identified. Therefore, this section is not applicable.

**3. REVISIONS TO THE IS/ND**

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