



US Army Corps  
of Engineers®  
San Francisco District

Regulatory Division  
450 Golden Gate Ave., 4<sup>th</sup> Floor  
San Francisco, CA 94102-3406

SAN FRANCISCO DISTRICT

# PUBLIC NOTICE

PROJECT: Cemex Eliot Facility Maintenance, Lake B Bank Stabilization Project

PUBLIC NOTICE NUMBER: SPN-2015-00216

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COMMENTS DUE DATE: December 23, 2024

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## 1. INTRODUCTION:

Cemex Construction Materials Pacific, LLC (POC: Christine Jones, 1-909-732-4569), 4120 Jurupa St, Suite 202, Ontario, California 91761, has applied to the U.S. Army Corps of Engineers (USACE), San Francisco District, for a Department of the Army Permit to implement the Lake B Long-Term Bank Stabilization Project (Project), located in Alameda County, California. This Department of the Army permit application is being processed pursuant to the provisions of Section 404 of the Clean Water Act of 1972, as amended (33 U.S.C. § 1344 *et seq.*).

## 2. PROPOSED PROJECT:

**Project Site Location:** The Lake B Long-Term Bank Stabilization Project is located adjacent to and immediately south of the Cemex Eliot Quarry Lake B mine pit in the reach of the Arroyo del Valle stream (Arroyo) downstream of the Isabel Avenue Bridge. The Eliot Quarry is located at 1544 Stanley Boulevard between the cities of Livermore and Pleasanton, in an unincorporated portion of Alameda County. The Project site is situated within Section 24 of Township 3 South, Range 1 East on the Alameda, California 7.5-minute USGS quadrangle, and is centered at 37.6560° Latitude and -121.8119° Longitude.

**Project Site Description:** The project site consists of 4,000 linear feet of the right (north) bank of the Arroyo. The river channel consists of a low flow channel bordered by gravel bars and patchy riparian vegetation. Riparian habitat includes instream shrub wetland dominated by *Baccharis salicifolia* and non-wetland dominated by *Baccharis pilularis*. Vegetation outside of the riparian habitat is mainly ruderal (e.g., *Brassica nigra*, *Carduus pycnocephalus*, and *Avena* sp.). The bank of the Arroyo is a levee that separates it from an active quarry (known as Eliot Aggregates Plant or Eliot Quarry), and an unpaved quarry road runs along the top of the levee.

**Project Description:** As shown in the attached drawings, the applicant proposes to

1. Clear and grub existing ruderal vegetation on the banks, if necessary.
2. Construct temporary access ramp(s) as needed from the levee road to the channel bed through the bank repair areas.
3. If necessary, install an appropriately sized temporary flow bypass system to create a dry work zone at the toe of the slope at each location. A temporary flow bypass system could involve a range of options, including creation of a "V" shaped ditch in the channel to temporarily divert flows away from the work zone, installation of a rock-filled supersack

dam wrapped in visqueen upstream of the work zone with a diversion pipe and two or three water pumps, or an equivalent diversion method. If using water pumps, the anticipated maximum pump rate would be approximately 4,000 gallons per minute.

4. Remove temporary bank stabilization material placed during the prior emergency bank repairs (approximately 2,600 cubic yards). Permanently remove the concrete eco-blocks at location B4, and remove and salvage the riprap at locations B2, B3 and B4.

5. Prepare the subgrade for fill placement, including ripping and proof-rolling the surface.

6. Place and grade fill material to a 2.5:1 (H:V) slope.

7. Excavate a toe-down below the channel bed for placement of riprap. Salvage the native channel fill ("alluvium") in a temporary stockpile in the channel or on the upland bank. Place the alluvium over the buried riprap following construction of the toe-down, and regrade the channel bed to nature contours.

8. Install Class B or better RSP filter fabric. Optionally install a crushed rock bed on top of the filter fabric to protect it from ripping during rock placement.

9. Install soil filled Sonotubes® (or similar cardboard tube product) within the riprap revetment area, as directed by a qualified restoration professional, for willow stake planting following riprap placement.

10. Place ¼ or ½ ton riprap on the filter fabric and in the toe-down, building from the toe of the slope to the crest of the slope. Larger riprap will be prioritized at the toe of the slope and within the toe-down.

11. Re-establish a Mine Safety and Health Administration (MSHA)-compliant safety berm along the outer edge of the access road. The berm would be constructed between the existing access road and the channel bank.

12. Place willow stakes within the soil-filled tubes in the riprap revetment and revegetate disturbed upland areas using the revegetation seed mix approved as part of the Eliot Quarry Reclamation Plan.

The Project would be constructed using conventional construction equipment (e.g., excavator, front-end loader, haul trucks) staged primarily on the upland access road adjacent to the Project area. Any temporary access ramps would be removed concurrent with re-establishment and stabilization of the bank.

**Basic Project Purpose:** The basic project purpose comprises the fundamental, essential, or irreducible purpose of the project, and is used by USACE to determine whether the project is water dependent. The basic project purpose is to protect the Lake B quarry pit from flooding.

**Overall Project Purpose:** The overall project purpose serves as the basis for the Section 404(b)(1) alternatives analysis and is determined by further defining the basic project purpose in a manner that more specifically describes the applicant's goals for the project while allowing a reasonable range of alternatives to be analyzed. The overall project purpose is to stabilize the levee between the Arroyo Del Valle and Lake B.

#### **Project Impacts:**

1. The excavation, temporary staging, and discharge of approximately 1,443 cubic yards of alluvium from the bed of Arroyo Del Valle to cover the toe-down below the channel bed;
2. The discharge of up to 26 cubic yards of temporary fill within 234 square feet to temporarily dewater the work zone;
3. The discharge of approximately 6,530 cubic yards of soil and 9,000 cubic yards of rock riprap within 1,644 linear feet (1.48 acres) of the Arroyo Del Valle (locations B2, B3, and B4);
4. The retention of approximately 733 cubic yards of rock riprap within 224 linear feet (0.12 acre) of the Arroyo Del Valle (location B1); and
5. Removal of up to five coast live oak, two Fremont's cottonwood, 13 willows, and one western sycamore sapling within the riparian area of the Arroyo Del Valle.

When compared to the conditions of the project site prior to the start of erosion in 2021, there would be no loss of waters of the U.S.; however, up to 2,000 linear feet of the bank of the Arroyo Del Valle would be armored, reducing habitat functions such as the support of plant and animal diversity.

**Proposed Mitigation:** The Project has been designed so that the contours of the bank would

match the contours mapped in 2021. There would be no loss of waters of the U.S. beyond what was gained during storm events in 2022 and 2023. Therefore, the applicant has not proposed mitigation.

**Project Alternatives:** The applicant has provided an analysis of three on-site alternatives, in addition to the applicant's preferred alternative. Alternative 1 involves a riprap toe-down less than five feet deep (the preferred alternative has a five-foot-deep toe-down). Alternative 2 involves reducing the linear feet of bank stabilization at location B3, and Alternative 3 involves the installation of biotechnical bank stabilization instead of riprap. USACE has not endorsed the submitted alternatives analysis at this time. USACE will conduct an independent review of the project alternatives prior to reaching a final permit decision.

### 3. STATE AND LOCAL APPROVALS:

**Water Quality Certification:** State water quality certification or a waiver thereof is a prerequisite for the issuance of a Department of the Army Permit to conduct any activity which may result in a fill or pollutant discharge into waters of the United States, pursuant to Section 401 of the Clean Water Act of 1972, as amended (33 U.S.C. § 1341 *et seq.*). The applicant has recently submitted an application to the California Regional Water Quality Control Board (RWQCB) to obtain water quality certification for the project. The application was withdrawn. No Department of the Army Permit will be issued until the applicant obtains the required certification or a waiver of certification. A waiver can be explicit, or it may be presumed if the RWQCB fails or refuses to act on a complete application for water quality certification within 60 days of receipt, unless the District Engineer determines a shorter or longer period is a reasonable time for the RWQCB to act.

Water quality issues should be directed to the Executive Officer, California Regional Water Quality Control Board, San Francisco Bay Region, 1515 Clay Street, Suite 1400, Oakland, California 94612, by the close of the comment period.

**Coastal Zone Management:** Section 307(c) of the Coastal Zone Management Act of 1972, as amended (16 U.S.C. § 1456(c) *et seq.*), requires a non-Federal applicant seeking a federal license or permit to

conduct any activity occurring in or affecting the coastal zone to obtain a Consistency Certification that indicates the activity conforms with the state's coastal zone management program that indicates the activity conforms with the state's coastal zone management program. Generally, no federal license or permit will be granted until the appropriate state agency has issued a Consistency Certification or has waived its right to do so. The project does not occur in the coastal zone, and a *preliminary* review by USACE indicates the project is not likely to affect coastal zone resources. This presumption of effect, however, remains subject to a final determination by the San Francisco Bay Conservation and Development Commission.

**Other Local Approvals:** The applicant has applied for the following additional governmental authorizations for the project: a Lake and Streambed Alteration Agreement to be issued by the California Department of Fish and Wildlife.

### 4. COMPLIANCE WITH VARIOUS FEDERAL LAWS:

**National Environmental Policy Act (NEPA):** Upon review of the Department of the Army permit application and other supporting documentation, USACE has made a *preliminary* determination that the project neither qualifies for a Categorical Exclusion nor requires the preparation of an Environmental Impact Statement for the purposes of NEPA. At the conclusion of the public comment period, USACE will assess the environmental impacts of the project in accordance with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. § 4321-4347), the Council on Environmental Quality's regulations at 40 C.F.R. § 1500-1508, and USACE regulations at 33 C.F.R. § 325. The final NEPA analysis will normally address the direct, indirect, and cumulative impacts that result from regulated activities within the jurisdiction of USACE and other non-regulated activities USACE determines to be within its purview of Federal control and responsibility to justify an expanded scope of analysis for NEPA purposes. The final NEPA analysis will be incorporated in the decision documentation that provides the rationale for issuing or denying a Department of the Army Permit for the project. The final NEPA analysis and supporting

documentation will be on file with the San Francisco District, Regulatory Division.

**Endangered Species Act (ESA):** Section 7(a)(2) of the ESA of 1973, as amended (16 U.S.C. § 1531 *et seq.*), requires Federal agencies to consult with either the U.S. Fish and Wildlife Service (USFWS) or the National Marine Fisheries Service (NMFS) to ensure actions authorized, funded, or undertaken by the agency are not likely to jeopardize the continued existence of any Federally-listed species or result in the adverse modification of designated critical habitat. As the Federal lead agency for this project, USACE has conducted a review of the California Natural Diversity Data Base, digital maps prepared by USFWS and NMFS depicting critical habitat, and other information provided by the applicant to determine the presence or absence of such species and critical habitat in the project area. Based on this review, USACE has made a preliminary determination that the following Federally-listed species are present at the project location or in its vicinity and may be affected by project implementation. Marginal migration habitat for California tiger salamander (*Ambystoma californiense*) and Central California Coast steelhead (*Oncorhynchus mykiss*) occurs within the project area; however, it is unlikely that these species would be impacted by the project. To address project related impacts to Federally-listed species, USACE will initiate informal consultation with USFWS and NMFS, pursuant to Section 7(a) of the Act. Any required consultation must be concluded prior to the issuance of a Department of the Army Permit for the project.

**Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA):** Section 305(b)(2) of the MSFCMA of 1966, as amended (16 U.S.C. § 1801 *et seq.*), requires Federal agencies to consult with the NMFS on all proposed actions authorized, funded, or undertaken by the agency that may adversely affect essential fish habitat (EFH). EFH is defined as those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity. EFH is designated only for those species managed under a Federal Fisheries Management Plan (FMP), such as the *Pacific Groundfish FMP*, the *Coastal Pelagics FMP*, or the *Pacific Coast Salmon FMP*. As the Federal lead agency for this project,

USACE has conducted a review of digital maps prepared by NMFS depicting EFH to determine the presence or absence of EFH in the project area. Based on this review, USACE has made a *preliminary* determination that EFH is present at the project location or in its vicinity and that the critical elements of EFH may be adversely affected by project implementation. Installation of hardscape within up to 2,000 linear feet of suitable prey habitat upstream of suitable habitat for species managed under *Pacific Coast Salmon FMP* has the potential to impact downstream fisheries by reducing the availability of prey. To address project related impacts to EFH, USACE will initiate consultation with NMFS, pursuant to Section 305(5)(b)(2) of the Act. Any required consultation must be concluded prior to the issuance of a Department of the Army Permit for the project.

**Marine Protection, Research, and Sanctuaries Act (MPRSA):** Section 302 of the MPRSA of 1972, as amended (16 U.S.C. § 1432 *et seq.*), authorizes the Secretary of Commerce, in part, to designate areas of ocean waters, such as the Cordell Bank, Gulf of the Farallones, and Monterey Bay, as National Marine Sanctuaries for the purpose of preserving or restoring such areas for their conservation, recreational, ecological, or aesthetic values. After such designation, activities in sanctuary waters authorized under other authorities are valid only if the Secretary of Commerce certifies that the activities are consistent with Title III of the Act. No Department of the Army Permit will be issued until the applicant obtains any required certification or permit. The project does not occur in sanctuary waters, and a *preliminary* review by USACE indicates the project is not likely to affect sanctuary resources. This presumption of effect, however, remains subject to a final determination by the Secretary of Commerce or his designee.

**National Historic Preservation Act (NHPA):** Section 106 of the NHPA of 1966, as amended (16 U.S.C. § 470 *et seq.*), requires Federal agencies to consult with the appropriate State Historic Preservation Officer to take into account the effects of their undertakings on historic properties listed in or eligible for listing in the *National Register of Historic Places*. Section 106 of the Act further requires Federal agencies to consult with the appropriate

Tribal Historic Preservation Officer or any Indian tribe to take into account the effects of their undertakings on historic properties, including traditional cultural properties, trust resources, and sacred sites, to which Indian tribes attach historic, religious, and cultural significance. As the Federal lead agency for this undertaking, USACE has conducted a review of the latest published version of the *National Register of Historic Places*, survey information on file with various city and county municipalities, and other information provided by the applicant to determine the presence or absence of historic and archaeological resources within the permit area. Based on this review, USACE has made a *preliminary* determination that historic or archaeological resources are not likely to be present in the permit area and that the project either has no potential to cause effects to these resources or has no effect to these resources. USACE will render a final determination on the need for consultation at the close of the comment period, taking into account any comments provided by the State Historic Preservation Officer, the Tribal Historic Preservation Officer, the Advisory Council on Historic Preservation, and Native American Nations or other tribal governments.

**5. COMPLIANCE WITH THE SECTION 404(b)(1) GUIDELINES:**

Projects resulting in discharges of dredged or fill material into waters of the United States must comply with the Guidelines promulgated by the Administrator of the Environmental Protection Agency under Section 404(b) of the Clean Water Act (33 U.S.C. § 1344(b)). An evaluation pursuant to the Guidelines indicates the project is not dependent on location in or proximity to waters of the United States to achieve the basic project purpose. This conclusion raises the (rebuttable) presumption of the availability of a less environmentally damaging practicable alternative to the project that does not require the discharge of dredged or fill material into special aquatic sites. The applicant has submitted an analysis of project alternatives which is being reviewed by USACE.

**6. PUBLIC INTEREST EVALUATION:**

The decision on whether to issue a Department of the Army Permit will be based on an evaluation of the probable impacts, including cumulative impacts,

of the project and its intended use on the public interest. Evaluation of the probable impacts requires a careful weighing of the public interest factors relevant in each particular case. The benefits that may accrue from the project must be balanced against any reasonably foreseeable detriments of project implementation. The decision on permit issuance will, therefore, reflect the national concern for both protection and utilization of important resources. Public interest factors which may be relevant to the decision process include conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people.

**7. CONSIDERATION OF COMMENTS:**

USACE is soliciting comments from the public; Federal, State, and local agencies and officials; Native American Nations or other tribal governments; and other interested parties in order to consider and evaluate the impacts of the project. All comments received by USACE will be considered in the decision on whether to issue, modify, condition, or deny a Department of the Army Permit for the project. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, and other environmental or public interest factors addressed in a final environmental assessment or environmental impact statement. Comments are also used to determine the need for a public hearing and to determine the overall public interest in the project.

**8. SUBMITTING COMMENTS:**

During the specified comment period, interested parties may submit written comments to:

Sarah Firestone  
San Francisco District, Regulatory Division  
450 Golden Gate Avenue, 4<sup>th</sup> Floor  
San Francisco, California 94102-3404  
[Sarah.M.Firestone@usace.army.mil](mailto:Sarah.M.Firestone@usace.army.mil)

Comment letters should cite the project name, applicant name, and public notice number to facilitate review by the Regulatory Permit Manager. Comments may include a request for a public hearing on the project prior to a determination on the Department of the Army permit application; such requests shall state, with particularity, the reasons for holding a public hearing. All substantive comments will be forwarded to the applicant for resolution or rebuttal. Additional project information or details on any subsequent project modifications of a minor nature may be obtained from the applicant and/or agent or by contacting the Regulatory Permit Manager by telephone or e-mail (cited in the public notice letterhead). An electronic version of this public notice may be viewed under the *Public Notices* tab on the USACE website: <https://www.spn.usace.army.mil/Missions/Regulatory>