

CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE AND TDD (415) 904-5200
FAX (415) 904-5400



Coastal Commission Staff and Cemex reach proposed settlement to close sand mining operations

Date: June 27, 2017

Contact: Noaki Schwartz, public information officer, at (562) 833-5487

Staff report available here: <https://www.coastal.ca.gov/meetings/agenda/#/2017/7>

Notice of Intent letter available upon request

SAN FRANCISCO, Calif. _ The California Coastal Commission staff and Cemex have reached a proposed settlement to end its sand mining operations in Monterey County, pending approval by the 12-member commission board at its July meeting.

Cemex has agreed to stop extracting sand from the last beach sand mining operation in California, resolve its financial liabilities under the Coastal Act and withdraw any claims they have to a vested right for continued sand mining on the property. The historic agreement, which also includes the State Lands Commission and the city of Marina, provides a December 31, 2020 date for ending the sand extraction operations and interim operating conditions to protect coastal resources while the unpermitted development is phased out.

The proposed settlement is the result of more than a year of negotiations between Cemex and commission staff, and forecloses any possible litigation. This settlement recommended by staff is scheduled to go before the commissioners at a hearing in Monterey County on July 13 for a final decision.

“We have spent countless hours in confidential talks forging a solution to stop the truly regrettable loss of sand and to protect the beaches in the Monterey Bay,” said the commission’s Chief of Enforcement Lisa Haage. “We are gratified that we have been able to reach a proposed solution here with Cemex, one that will truly benefit the public. Around the world, beaches are treasured and protected to support public recreation and protect against sea level rise, and finally we will be able to do that here as well.”

The 400-acre site in the city of Marina has been used for sand mining since the early 1900s. The company continued to mine and sell sand in the Monterey Bay area, which has one of the highest erosion rates in the state, despite growing concerns about beach loss and the need to protect communities from sea level rise. Such activities have harmed the shoreline sand supply, environmentally sensitive habitat areas and public access.

The proposed settlement establishes a maximum amount of sand that may be removed during the three year cessation period, which is 240,000 tons or approximately 177,000 cubic yards per year. The agreement also provides another three years without any additional sand extraction, in order to wind down all operations and allow for employee transitions. It also provides for restoration and reclamation activities to encourage the recovery of the habitat values.

In addition, the proposed settlement provides for a deed restriction to be placed on the property at sale to protect it perpetuity and provide for public access and conservation at the site, and provides for a transfer of the site at a reduced price to a non-profit or governmental agency approved by the Commission. It also provides for regular monitoring and significant penalties for any breach of the agreement.

"Through this agreement, we are protecting the coast and the state's public trust resources," said California State Lands Commission Executive Officer Jennifer Lucchesi. "We are proud of the cooperation and intensive effort by all the parties that helped to make it happen."

The commission's enforcement staff has been investigating the factual and legal status of the facility for some time. Actions conducted at the site included dredging and extraction of sand that resulted in ponds, grading and the placement of anchors and mooring cables, pipes and a pump station. Multiple allegations were leveled over the years, including that the property owner was using bulldozers to push sand into the dredge pond.

In March 2016, the agency sent a lengthy notice of intent letter outlining the gravity of the matter and the steps it would take to enforce Coastal Act compliance, including potential financial penalties. Executive Director Jack Ainsworth put the company on notice calling it a step towards a cease-and-desist and restoration order and possible financial penalties if the violations were not resolved. Commission staff began a series of confidential discussions with the representatives of the property owner about its operations

Pressure to end the sand mining operations grew when the State Lands Commission sent a letter to Cemex in May 2017 concluding that the extraction of sand by the dredge pond did not have a required lease and that continuing with this activity without providing compensation to the state constituted expropriation of public property in violation of the California constitution.

In June 2017, the Marina city council also adopted a resolution finding the dredge pond extraction operation constituted a public nuisance.

"If the settlement is approved, we look forward to working with the community on designing future uses of the property that provide for public access, conservation, habitat protection and public education," Haage said. "This has been a true partnership between the commission and State Lands Commission, and the city of Marina and the community working to find a solution here."