



2021 ADVOCACY HIGHLIGHTS

CalcIMA's workgroups, committees, leadership, and professional staff worked together to achieve a great deal for the industry in 2021 despite the challenges of the impact of COVID-19 on the economy and the legislative and regulatory processes.

STATE LEGISLATIVE

*AB 783 (Gray) - CalcIMA sponsored legislation addressing issues with mine safety and Cal/OSHA:

- 1) Require more timely notice of hazards (similar to MSHA).
- 2) Allow mines entered in the Voluntary Protection Program to be exempt from programmed inspections (like all other industries in the VPP).

CalcIMA members participated in 15 meetings with legislative offices and committees. The bill passed the Legislature with near unanimous support but was vetoed due to opposition from Cal/OSHA who felt it was duplicative. We are now meeting with CalOSHA, working to ensure early notifications.

*AB 1035 (Salas/Skinner) - CalcIMA sponsored legislation to increase recycling by local governments. Specifically, the bill would have required local governments to have specifications to allow recycling at least at the levels allowed by Caltrans. It addressed base materials, asphalt pavements, and concrete mixes. It passed the Legislature unanimously but was vetoed. The Governor's office has indicated their support, in concept, and efforts continue with the Governor's office on how to move forward with this initiative. (Local Government Sac County committed 25%).

*SB 778 (Becker) - Worked closely with Senator Becker's staff and placed the association in leadership positions on climate discussions with the Senator's office.

*SB 596 (Becker) - Created a timetable for cement manufacture to reach zero-emissions by 2045. It was negotiated between the cement industry, the author, and the Natural Resources Defense Council. CalcIMA worked to support their efforts and wrote a letter of support when it reached the Governor's office. CalcIMA also worked to keep SB 778 (Becker) as separate legislation and on a different timetable.

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*Developed a relationship with Alex Jackson (NRDC) because of ongoing legislative debates on concrete.

*Engaged with Allies and Coalition Partners to prevent passage of AB 377, a legislative effort by Coastkeepers to modify stormwater regulation to require demonstration of “cause or contribute” at the receiving water and limits Water Board discretion when adopting orders and issuing permits.

*Engaged with Allies and Coalition Partners to prevent passage of SB 260, a bill that would require billion-dollar companies to disclose scope 1 to 3 emissions annually. Scope 3 emissions were those of suppliers (including small businesses) who would then have become forced to develop quantification systems for the large corporations to comply.

Opposed SB 520: Targets the water rights of the CEMEX project outside Santa Clarita. Legislative recognition of the materials would be developed elsewhere if not there; helped with committee.

FEDERAL LEGISLATIVE

Actively engaged our California Congressional Delegation, in partnership with our National Associations to successfully develop and execute a strategy to:

- 1) *Pass a bipartisan “hard” infrastructure bill at the federal level in the US Senate
- 2) *Successfully change the dialogue on the need for more domestic construction material production in California and secure concessions on statutory limitations to the much-needed imports our state depends on in the construction supply chain.

*Got amendments to exempt construction materials from legislation to expand the Buy America Act.

REGULATORY

CARB (CTR) Annual reporting rules incorporated phase-in scheduling across air districts as well as clarifications obligations to report toxics were limited to permitted processes.

*Successfully secured modifications to South Coast Air Quality Management District’s Rule 1147.1 ‘Aggregate Dryers’ ASPHALT that helps maximize the continuity of most operations and plants while achieving environmental and health improvements as required by law.

*Achieved an important relationship between NOx and CO monoxide Emissions which facilitates meeting the low NOx levels in the BARCT standard and will support similar arguments for higher CO to enable lower NOx in other districts.

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Actively engaged with County of San Diego to further the Building Better Roads working *group to identify innovative, cost-effective, and sustainable pavement preservation treatments for road resurfacing.

Successfully opposed selected proposed modifications to San Diego Air Pollution Control District's proposed modifications to Rule 1210 'Toxic Air Contaminant Health Risks – Public Notification and Risk Reduction' to retain more reasonable timelines related to public notification process and risk reduction audits and plans, and to remove new language that would have created two cost standard approaches and inequity among facility stakeholders.

*Successfully secured CalcIMA member a 3-year appointment to the U.S. Department of Interior's California Desert District Resource Advisory Council to represent the interests of energy and mineral development.

Actively engaged with County of San Bernardino's Community College District to participate in the California *Workforce Development Board's 'High Road Construction Careers – SB 1 Technical Assistance' partnership, and to develop a curriculum to implement CalcIMA's 'Construction Materials Entry-Level Worker Training Program.'

Actively engaged with *Women in Mining – California Chapter to educate students, teachers, and the general public about the importance of minerals by performing hands-on curriculum exercises at the County of San Bernardino's Summer Science Fair and San Bernardino Superintendent Leadership meeting.

Formed CalcIMA/California *Geological Survey Aggregate and Mineral Resource workgroup to coordinate with State Mineral Resource Conservation Activities.

Engaged California Natural Resources Agency Natural and Working Lands Climate Smart Strategy.

Secured a *slight improvement in state guidance regarding AB 219, which requires payment of prevailing wage for concrete delivery. After meetings with CalcIMA members, the Department of Industrial Relations amended their Frequently Asked Questions document to include a statement that the "Non-Performance" form is not required for submission by concrete producers.

LITIGATION

CalcIMA, et al. v. FGC (Western Joshua Tree): *California Construction and Industrial Materials Association, et al. v. California Fish and Game Commission*: In 2020, CalcIMA filed a lawsuit against the California Fish and Game Commission challenging the Commission's acceptance of

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a CBD-sponsored petition for approval of the western Joshua tree (“WJT”) as a “candidate” species (“candidacy determination”) under the California Endangered Species Act (“CESA”). This candidacy determination immediately imposed full CESA protections to the WJT, prohibiting “take” of the species absent authorization from the California Department of Fish and Wildlife (“CDFW”). The candidacy determination also triggered a formal scientific review process, during which time CDFW will prepare a peer-review scientific study that evaluates whether the WJT should be “permanently” listed as a “threatened” species under CESA. Following completion of that report and a public hearing, the Commission will make a final listing determination. CalCIMA’s lawsuit challenges the validity of the Commission’s decision to accept the candidacy petition, despite the lack of statutorily required information on population, including total population and range-wide population trends, as well as inadequate findings that fail to articulate the Commission’s rationale for making the candidacy determination without the statutorily require data. The case has been fully briefed, and oral argument is scheduled for early February 2022.

CalCIMA v. County of Ventura (Mineral Resource Classification/Designation) California Construction and Industrial Materials Association v. County of Ventura: In 2019, CalCIMA filed a lawsuit against Ventura County challenging the County's approval of the Habitat Connectivity and Wildlife Corridor Project ("Wildlife Corridor Project"), which imposed rezoning overlays on approximately 13,000 acres of mineral resources previously classified and designated as regionally significant construction aggregate resource areas by the State Mining and Geology Board. This case was brought in parallel with a related case brought by local stakeholders Ventura Coalition of Labor, Agriculture and Business (“CoLAB”) challenging the same Wildlife Corridor Project. Neither lawsuit opposed the Wildlife Corridor Project per se, but rather challenged the County’s decision to approve the Project absent any environmental review under CEQA. CalCIMA also sued because Ventura approved the Project without preparing and submitting to the State Geologist and SMGB a statement of reasons under SMARA justifying an action that could threaten development of important mineral resources. At bottom, CalCIMA argued mineral resources warrant protection under state law equal in kind with other protected resources. The case has been fully briefed and argued before the Superior Court. The parties are awaiting a decision.

Mendoza v. Fonseca McElroy Grinding Co., Inc. (Prevailing Wage) Mendoza vs. Fonseca McElroy Grinding Co.: Labor unions had brought claims on behalf of construction workers arguing that off-site mobilization work, which involved transporting heavy machinery to and from a public works site that otherwise was subject to prevailing wages, should also be subject to prevailing wages. CalCIMA submitted an amicus brief in support of a member who’s subsidiary was the subject of the suit, arguing that off-site mobilization work was never intended for prevailing wage application. The California Supreme Court agreed - echoing

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much of the argument in CalcIMA's brief— and opined that “a connection to the contractor cannot be the basis for a prevailing wage application. It must be based on the type of work as defined in the Labor Code, not whether there is a connection to a contractor on a public works project.” This victory for CalcIMA members is a significant ruling because it overturns many of the State's administrative rulings by DIR, and lower court judicial decisions, that previously applied and/or expanded application of prevailing wage based on the now-rejected argument that the connection to the contractor is key. Importantly, too, the ruling helped solidify the applicability of the material supplier exemption in California.

OPERATIONAL

Continued to develop the Complete CalcIMA

Convened a “deep dive” dialogue about the services we provide to our ready-mix concrete members through a *Concrete Task Force which resulted in the development of a *Concrete Steering Committee.

Successfully added *asphalt producer class of members with robust membership from the state's asphalt producers. Convened a “deep dive” dialogue into the services our asphalt producer members are looking for through an *Asphalt Task Force which resulted in the development of a standing *Asphalt Steering Committee.

TECHNICAL - CONCRETE

*CalcIMA members participating in the Pavement and Materials Partnering Committee with Caltrans completed several significant projects.

Specifications to allow *Portland Limestone Cement in Concrete.

Use of maturity meters to estimate compressive strength for opening concrete pavement to traffic.

Lowered the acceptance for concrete pavement from 42-day compressive to 28-day flexural strength.

Scheduled Webinar for members on *Caltrans' Concrete Aggregate Prequalification Program

*Beginning a project to address prescriptive alkali silica reactivity requirements in concrete specifications.

*Beginning a project to allow blended supplementary cementitious materials (SCM) in concrete.

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TECHNICAL - ASPHALT

Initiated efforts, including fact sheets, *to advocate with local agencies on the need to increase recycling of reclaimed asphalt pavement (RAP) in pavement mixes.

*Expanded the approval period for asphalt job-mix formula (JMF) from 1 to 2 years, saving producers thousands of dollars on plant verification hot drops and testing while reducing project delays.

*Significantly reduced the usage requirements for trichloroethylene (TCE) solvent used to test reclaimed asphalt pavement saving asphalt producers time and money health and safety, cost and project delays.

Forthcoming - Brought to Caltrans attention *deficiencies in organization structure that were preventing the initiation of pilot projects (Engagement with our contractor partners - big ships turn slowly) to achieve high-priority sustainability initiatives, particularly for 40% reclaimed asphalt pavement (RAP) and recycled asphalt shingles (RAS). While the organizational bottlenecks have not been completely removed, a comprehensive internal campaign by Caltrans has resulted in better understanding by districts of the need to undertake pilot projects and some success in agreeing to do them. It has also resulted in more funding being available for smaller projects. Finally, Caltrans has been to develop better procedures to track and obtain data from pilot projects.

Asphalt producers have been successful in jointly developing a partnered “decision document” to resolve narrow issues more expeditiously, such as the two-year JMF and the reduction of TCE usage.

TECHNICAL - SAFETY

Conducted a virtual Spring Thaw Safety Conference, with expanded topics for concrete and asphalt.

Conducted annual Excellence in Safety Awards.

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