



# STATE MINING AND GEOLOGY BOARD

## EXECUTIVE OFFICER'S REPORT



ARNOLD  
SCHWARZENEGGER  
GOVERNOR

For Meeting Date: April 10, 2008

### **Agenda Item No. 7: Report on Public Complaint Pertaining to the Timberhitch Pits (CA Mine ID #91-47-0055), Larry Manley (Agent), C. H. McMillan Sand and Gravel (Operator), Siskiyou County.**

**INTRODUCTION:** When the State Mining and Geology Board (SMGB) receives a public complaint pertaining to the overall performance of a lead agency under the Surface Mining and Reclamation Act of 1975 (SMARA), pursuant to the SMGB's Administrative Procedure No. PP96-02, a determination is quickly made as to whether immediate action is required. Immediate action is defined as a "situation where a lead agency does not act to assure SMARA compliance and irreparable environmental damage or substantial endangerment to the public health appears imminent". When immediate action is not considered necessary, a technical review by the Department of Conservation, Office of Mine Reclamation (OMR) or discussion of the violation(s) at the SMGB's next regular business meeting may be undertaken.

### **BACKGROUND:**

**Receipt of Public Complaints:** The SMGB received a written public complaint dated June 12, 2007, from an adjacent land owner for a surface mining operation known as Timberhitch Pits (CA Mine ID #91-47-0055) located in Siskiyou County. It was alleged that the operation has been in a state of non-compliance with SMARA, and the County acting as lead agency has failed to adequately enforcement SMARA and bring this site into compliance.

**OMR's Findings:** At its March 13, 2008, regular business meeting, Mr. Mike Luksic, geologist with OMR's Compliance Unit, provided a presentation summarizing actions taken by OMR in regards to the Timberhitch Pits site. Mr. Luksic noted that between January and June of 2007, the County worked with the operator to obtain an adjusted financial assurance cost estimate and an adequate Interim Management Plan (IMP). OMR, in concert with the County, visited the site in July 2007 and noted several violations. These violations reflected post-1975 disturbance, no Interim Management Plan in place, and the presence of miscellaneous debris. OMR issued a 15-day notice to the County in August 2007, and the County issued a second Order to Comply in August 2007. The Order to Comply was upheld by the Planning Commission in November 2007. In response to an appeal by the operator, the Board of Supervisors denied the appeal in February 2008 with a deadline of 30 days for the operator to comply.



Executive Officer's Report

Chairman Jones inquired as to whether the County has taken the appropriate steps. Mr. Luksic indicated that the County had procedural problems, could be further addressed when a representative from the County is available. Thus, a synopsis of the County's overall performance as a SMARA lead agency was not provided.

OMR has since provided a summary and chronology of compliance and enforcement actions taken to date, and a snapshot of statistical information pertaining to the County, as summarized below:

Summary and Chronology of Compliance and Enforcement Actions for Timberhitch Pits Mine: The Timberhitch Pits is partially vested and has been issued a Use Permit UP-79-31) by the County. The operator has not mined materials since 2002, and is currently storing equipment, scrap materials, stockpiles of mined materials, topsoil, and waste oil. The site has been reported as idle as of 2002, and there is no approved Interim Management Plan (IMP) on file.

1979	Reclamation Plan approved by County.
1992	Financial assurance cost estimate for the amount of \$2,600 approved by the County, with no annual adjustment.
2002	Site deemed idle.
August 10, 2006	Notice of Violation is issued requiring an Interim Management Plan (IMP) and Financial Assurance Cost Estimate. Site is considered abandoned pursuant to Public Resources Code Section 2770(h)(6).
October 2006	Draft IMP submitted by operator. Order to Comply is issued on October 10, 2006.
November 17, 2006	County notifies operator of IMP deficiencies.
December 6, 2007	County Planning Commission (Commission) postpones action.
July 12, 2007	SMGB receives public complaint from adjacent land owner.
July 27, 2007	OMR receives public complaint from SMGB.
July 2007	Site inspected by OMR and County staff. Large amounts of waste oil (twelve 55-gallon barrels) were improperly stored, without a Hazardous Materials Business Plan as required pursuant to the use permit and SMARA.
	No official map or legal description that defines the boundaries of the mining area, and reclamation plan, has been provided by the operator, and the operator had not maintained the \$500,000 liability insurance in accordance with the requirements of its use permit.
August 13, 2007	OMR issued a 150day Notice to County.
August 21, 2007	County issues second Order to Comply with operator.



October 3, 2007	The County Commission received verbal and written testimony; the public hearing was continued to November 7, 2007, due to lack of quorum...
November 7, 2007	The County Commission received verbal and written testimony during a public hearing and upheld the Order to Comply.
November 19, 2007	The operator appealed the Commission's decision to the County's Board of Supervisors.
January 22, 2008	The Board of Supervisors heard the appeal and continued the public hearing to February 2008.
February 13, 2007	The Board of Supervisors denied the appeal and upheld the Order to Comply with a date for compliance of March 13, 2008.
April 1, 2008	The operator has been non-responsive. OMR is currently working with the County and assisting in the preparation of an administrative penalty based on the Order to Comply.

Siskiyou County SMARA Program: Siskiyou County is one of the larger mining counties in California. In review of the Office of Mine Reclamation (OMR) SMARA database, it currently produces sand and gravel, rocks, cinders, bituminous rock, pumice, dimension stone and gold (placer and lode). The County has about 59 mines within its jurisdiction, of which 33 are currently active, 3 closed with no intent to resume, 17 reclaimed, and six noted as idle. As of 2005, about 75 percent of the surface mines within the County's jurisdiction were inspected, and about 29 percent of the financial assurances reviewed, as reported in the SMGB's Information Report 2007-01. As of 2006, about 98 percent of the surface mines have been inspected, with 19 percent of the sites having had their financial assurances updated.

**EXECUTIVE OFFICER'S RECOMMENDATION**: The information provided is for the SMGB's consideration, and no recommendations are offered by the Executive Officer's at this time.

Respectfully submitted:

---

Stephen M. Testa  
Executive Officer

