



STATE MINING AND GEOLOGY BOARD

EXECUTIVE OFFICER'S REPORT



ARNOLD
SCHWARZENEGGER
GOVERNOR

For Meeting Date: April 10, 2008

Agenda Item No. 8: Report on Public Complaint Pertaining to the Pacific Aggregates Nichols Canyon Mine (CA Mine ID #91-33-0098), Dan Lincoln (Agent), Pacific Aggregates (Operator), City of Lake Elsinore, Riverside County.

INTRODUCTION: In December of 2007 the State Mining and Geology Board (SMGB) received a public complaint from a surface mining operator pertaining to the appropriate entitlement of another surface mining operation located within the jurisdiction of the City of Lake Elsinore (City). The SMGB subsequently sought assistance from the Department of Conservation, Office of Mine Reclamation (OMR) to review that particular aspect of the allegation.

BACKGROUND: When the 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 OMR and/or discussion of the violation(s) at the SMGB's next regular business meeting may be undertaken.

Receipt of Public Complaints: The SMGB received correspondence dated December 28, 2007, from Mr. Robert W. Snodgrass with Wyroc Materials, Inc. (Wyroc), alleging that the SMARA lead agency, the City, 1) has "*inappropriately entitled*" a surface mining operation to operate without a surface mining permit, and 2) such action by the City generated an "*unfair competitive advantage*" over his company's two surface mining sites located approximately two miles from said operation, and 3) placed Wyroc "*in jeopardy*" and generated a "*real risk of being forced to discontinue*" its operations. It was also made clear in the complaint that "*although the City acted in good faith, the project was approved due to the misrepresentation of the true facts (and/or law) involved by the applicant and their consultants and/or a misunderstanding by the City of the appropriate standards under SMARA.*"

City of Lake Elsinore SMARA Program: In review of the OMR SMARA database, surface mines within the City's jurisdiction currently produce rock, sand and gravel, and clay. The City has five surface mines within its jurisdiction.



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OMR's Findings: Per the request of the SMGB, OMR reviewed pertinent documents contained in their mine files, documents provided by Wyroc, and documents provided by the City. In summary, OMR accepted the City's determination that Pacific Clay Products, and its subsidiary Pacific Aggregates, were not required to obtain a permit based on a vested right to operate the Nichols Canyon Mine. Furthermore, the appropriate recourse for Wyroc in this matter, or for any interested individual, would be 1) to exhaust all administrative remedies with the City, and 2) seek redress through the courts, if appropriate.

OMR is recommending continued review of issues associated with the August 1978 reclamation plan for the Nichols Canyon Mine remain, and indicates that they are working with the City to address these issues.

EXECUTIVE OFFICER'S RECOMMENDATION: The information being provided by OMR is for the SMGB's information, and no findings or recommendations are offered at this time.

Respectfully submitted:

Stephen M. Testa
Executive Officer



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