



# STATE MINING AND GEOLOGY BOARD

## EXECUTIVE OFFICER'S REPORT



ARNOLD  
SCHWARZENEGGER  
GOVERNOR

For Meeting Date: May 14, 2009

**Agenda Item No. 3: Approval of Adjusted Financial Assurance Cost Estimate for Lawyer Pit (CA Mine ID #91-09-0010), Archie's Trucking & Backhoe (Operator), Archie Lawyer (Agent), County of El Dorado.**

**INTRODUCTION:** The State Mining and Geology Board (SMGB) acts as the lead agency for El Dorado County, pursuant to the Surface Mining and Reclamation Act of 1975 (SMARA, Public Resources Code (PRC) Section 2710, et seq.). SMARA requires that each surface mining operation maintain a financial assurance in an amount adequate to reclaim, in accordance with the requirements of an approved reclamation plan, the land disturbed by the mining operation at the conclusion of mining activities. SMARA lead agencies are required to annually review the financial assurance amounts for each surface mining operation, and adjust the amount, as necessary, to account for new land disturbed, inflation, or land reclaimed. In any event, the lead agency must ensure that the approved amount is adequate to reclaim the mine site in accordance with the approved reclamation plan (PRC Sections 2770 and 2773.1, and California Code of Regulations (CCR) Section 3804).

**STATUTORY AND REGULATORY AUTHORITY:** Financial assurance cost estimate adjustment requirements are discussed under SMARA, and within the SMGB's regulations and guidelines. Lead agencies are required to assure that financial assurances for reclamation are sufficient pursuant to Division 2, Chapter 9, Article 5 of PRC Section 2770(d) which states:

*"The lead agency's review of reclamation plans submitted pursuant to subdivision (b) or of financial assurances pursuant to subdivision (c) is limited to whether the plan or the financial assurances substantially meet the applicable requirements of Sections 2772, 2773, and 2773.1, and the lead agency surface mining ordinance adopted pursuant to subdivision (a) of Section 2774, but, in any event, the lead agency shall require that financial assurances for reclamation be sufficient to perform reclamation of lands remaining disturbed. Reclamation plans or financial assurances determined to substantially meet these requirements shall be approved by the lead agency for purposes of this chapter. Reclamation plans or financial assurances determined not to substantially meet these requirements shall be returned to the operator within 60 days. Reclamation plans or financial assurances determined not to substantially meet these requirements shall be returned to the operator within 60 days. The*



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*operator has 60 days to revise the plan or financial assurances to address identified deficiencies, at which time the revised plan or financial assurances shall be returned to the lead agency for review and approval.”*

In addition, PRC Section 2773.1(a) states:

*“...Lead agencies shall require financial assurances of each surface mining operation to ensure reclamation is performed in accordance with the surface mining operation's approved reclamation plan, as follows:*

*(3) The amount of financial assurances required of a surface mining operation for any one year shall be adjusted annually to account for new lands disturbed by surface mining operations, inflation, and reclamation of lands accomplished in accordance with the approved reclamation plan.”*

Furthermore, the SMGB's regulations, pursuant to Article 11 of the CCR Section 3804, Calculation of Financial Assurance Amount, states:

*“(a) The Financial Assurance Amount shall be calculated as prescribed in Public Resources Code Section 2773.1 and based on:*

- (1) an analysis of the physical activities and materials necessary to implement the approved reclamation plan;*
- (2) the lead agency's unit costs, or costs for third party contracting, for each of these activities, if applicable;*
- (3) the number of units of each of these activities, if applicable;*
- (4) a contingency amount not to exceed 10% of the reclamation costs.*

*(b) The calculated amount should not include the cost of completing mining of the site.*

*(c) In order for the lead agency or the Department of Conservation to determine what annual adjustments, if any, are appropriate to the Financial Assurance Amount, the operator shall annually submit to the lead agency a revision of the written calculation required under Section 3804(a).”*

**BACKGROUND:** The Lawyer Pit is located immediately west of Marshall Grade Road and immediately north of State Highway 49 approximately one mile to the northwest of the community of Coloma, California. The approved reclamation plan encompasses about 10.4 acres. The pit measures approximately 1,200 feet long by 450 feet wide, with the longer axis



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oriented north-south. The quarry floor is situated at an elevation of about 785 to 790 feet above mean sea level (msl). A small boneyard area is situated in the northeast corner of the quarry floor.

Processing of granitic rock products, and stockpiling of processed materials and topsoil occurs in the central portion of the pit. An inspection of the Lawyer Pit surface mining operation was performed on December 17, 2008. At time of inspection, permitted material extraction was nearly complete, and quarry cut slopes were approaching their final configuration. Finished cut slope gradients were observed to be at or below 2H:1V at time of inspection. In December of 2007, the operator installed straw waddles and applied hydroseed to recently graded cut slopes in portions of the site. Such measures appeared to have performed generally well during 2008.

On August 4, 2008, the previously approved financial assurance in the amount of \$14,799 expired and was not renewed by the issuing bank. On November 17, 2008, the SMGB received a replacement financial assurance in the form of a certificate of deposit in the amount of \$15,757.48. However, this financial assurance was deemed inadequate.

On December 17, 2008, the SMGB received a modified financial assurance cost estimate (FACE) for the Lawyer Pit totaling \$48,078. SMGB staff conducted a preliminary review of the modified FACE and subsequently transmitted comments and suggested revisions to the operator's consultant on January 12, 2009. On March 9, 2009, a revised modified FACE was provided to the SMGB in the total amount of \$54,842.

As of the December 17, 2008 inspection, one violation was noted for lack of an adequate financial assurance for the site. Currently, approximately 9.6 acres out of a total of about 10.6 acres are deemed disturbed. The financial assurance cost estimate was adjusted to reflect current site conditions, current equipment, labor and fuel rates, and anticipated disturbance over the next calendar year. As noted above, the financial assurance currently on file is in the amount of \$15,757.48. Based on observations made during the 2008 mine inspection, the adjusted financial assurance cost estimate in the amount of \$54,842 is deemed adequate.



**FINANCIAL ASSURANCE COST ESTIMATE (FACE) ADJUSTMENT:**

I.	Primary Reclamation Activities	\$11,568
II.	Revegetation	\$16,459
III.	Plant Structures and Equipment Removal	\$ -0-
IV.	Miscellaneous Costs	\$ 2,469
V.	Monitoring	\$ 5,550

**Total Direct Cost** **\$36,046**

I.	Supervision/Overhead/Contingencies	
a.	Supervision (6.3%)	\$ 2,271
b.	Profit/Overhead (13.5%)	\$ 4,866
c.	Contingencies (10%)	\$ 3,605
d.	Mobilization (2.5%)	\$ 901

**Total Indirect Cost** **\$11,643**

**Total Direct and Indirect Costs** **\$47,689**

Lead Agency administrative cost (15%) \$ 7,153

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**Total Estimated Cost for Reclamation** **\$54,842**

**CONSIDERATION BEFORE THE SMGB:** The SMGB may consider the following actions:

1. Approve as adequate the adjusted financial assurance cost estimate, without additions;

[or]

2. Modify the adjusted financial assurance cost estimate, and then accept it as adequate;

[or]

3. Reject the adjusted financial assurance cost estimate as inadequate and order it to be redone.

**EXECUTIVE OFFICER'S RECOMMENDATION:** The Executive Officer recommends that the SMGB approve the adjusted FACE. The adjusted financial assurance cost estimate has been reviewed for its consistency and completeness in meeting the minimum requirements of SMARA, and the SMGB's regulations and guidelines. Based on the annual inspection conducted in 2008, the recently revised FACE amount is deemed to be adequate.

**SUGGESTED MOTION LANGUAGE:**

To approve the Adjusted Financial Assurance Cost Estimate:

*Mr. Chairman, in light of the information before the State Mining and Geology Board today, I move that the Board approve the adjusted financial assurance cost estimate of \$54,842 for the Lawyer Pit, CA Mine ID #91-09-0010, located in El Dorado County, as being adequate to reclaim the site in accordance with the approved reclamation plan, and meeting the minimum requirements of SMARA and the Board's regulations.*

Respectfully submitted:

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Stephen M. Testa  
Executive Officer