



STATE MINING AND GEOLOGY BOARD

EXECUTIVE OFFICER'S REPORT



ARNOLD
SCHWARZENEGGER
GOVERNOR

For Meeting Date: July 9, 2009

Agenda Item No. 2: Approval of Revised Financial Assurance Cost Estimate for the CEMEX Lapis Sand Plant (CA Mine ID #91-27-0006), CEMEX (Operator), Mr. Ronald Wilson (Agent), City of Marina.

INTRODUCTION: The State Mining and Geology Board (SMGB) acts as the lead agency for the City of Marina, 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 CEMEX Lapis Plant is located adjacent to the Pacific Ocean in the city of Marina, Monterey County, California. Highway 1 is located east of the site and access is via Lapis Road. The site is situated among agricultural, private, and public lands along the coastline of Monterey Bay.



The approved Reclamation Plan area includes about 104 acres, and is characterized by beach sands and eolian sand dunes of the Flandrian complex overlying Pre-Flandrian dune deposits. The Lapis Sand Plant site includes a truck scale and administrative offices, equipment maintenance and staging areas, former residential structures, wet and dry processing plants, product stockpiles, and bagged product storage areas.

Sand extraction currently occurs adjacent to the Monterey Bay at the western edge of the site on the beach backshore, which is defined as the upper zone of the beach, lying between the high-water line of mean spring tides and the upper limit of shore-zone processes. A suction dredge works within an extraction pond established in this location. Northeastern and north central portions of the site are occupied by an east-west oriented feed-pipe connecting the dredge to the wet processing plant, a redwood lined canal which returns process water to sediment settling ponds, and product stockpile areas. The product stockpiles are fed from both the wet and dry processing plants which sort sand by grain size through use of screens and/or a series of sieves. Two small boneyard areas are located in the central and eastern portions of the site. Blowing sand constantly affects ongoing revegetation efforts in the northern and northeastern portions of the site.

An inspection of the surfacing mining operation was performed on December 23, 2008. One violation was noted regarding lack of a current financial assurance cost estimate for reclamation of the site, as required per CCR 3804(c). At time of inspection, the entire 104 acres of the CEMEX Lapis site were deemed disturbed. However, slopes in the southern portion of the site were observed to be in their final configuration, and revegetation efforts on these slopes appear to be complete. The existing financial assurance on file for the site is in the amount of \$462,160.00. The site remains subject to a financial assurance, and based on our recent analysis and review of site conditions and submitted documents, SMGB staff considers the revised financial assurance cost estimate in the amount of \$1,037,784.00 to be adequate to conduct and complete reclamation of the mined lands in accordance with the approved reclamation plan. The following table summarizes the recently adjusted financial assurance cost estimate:



FINANCIAL ASSURANCE COST ESTIMATE (FACE) ADJUSTMENT:

I.	Primary Reclamation Activities	\$	102,068
II.	Revegetation	\$	27,500
III.	Plant Structure and Equipment Removal	\$	622,000
IV.	Miscellaneous Costs	\$	5,000
V.	Monitoring	\$	5,500
	Total Direct Cost	\$	762,068
VI.	Supervision/Profit & Overhead/Contingencies/Mobilization		
a.	Supervision (4.6%)	\$	35,055
b.	Profit/Overhead (9.2%)	\$	70,110
c.	Contingencies (7%)	\$	53,345
d.	Mobilization (3%)	\$	22,862
	Total Indirect Cost	\$	181,372
	Total of Direct and Indirect Costs	\$	943,440
	Lead Agency administrative cost (10%)	\$	94,344
	Total Estimated Cost for Reclamation	\$	1,037,784

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 FACE has been reviewed by OMR and SMGB staff for its consistency and completeness in meeting the minimum requirements of SMARA, and the SMGB's regulations and guidelines. Based on an annual inspection conducted in 2008, and on documents more recently submitted and reviewed, the subject revised FACE amount for the CEMEX Lapis Sand Plant 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 \$1,037,784.00 for the CEMEX Lapis Sand Plant surface mining operation, CA Mine ID #91-27-0006, located in the City of Marina, 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:

Stephen M. Testa
Executive Officer