



STATE MINING AND GEOLOGY BOARD

EXECUTIVE OFFICER'S REPORT



ARNOLD
SCHWARZENEGGER
GOVERNOR

For Meeting Date: July 9, 2009

Agenda Item No. 3: Approval of Adjusted Financial Assurance Cost Estimate for Bear Creek Quarry (CA Mine ID #91-09-0001), Butte Equipment Rentals (Operator), Mr. Boyd Sears (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 Bear Creek Quarry is located approximately 2.5 miles south-southeast of Georgetown in El Dorado County. The quarry property encompasses about 38 acres, of which about 27.5 acres are permitted. Serpentinite is extracted for aggregate material which is utilized for drain rock, base rock and decorative stone. Specific products also include landscape rock, and ½”, ¾” and 1½” materials.



An inspection of the Bear Creek Quarry surface mining operation was performed on December 12, 2008. One violation was noted at time of inspection regarding the lack of a current financial assurance cost estimate for the site. On January 16, 2009, a Notice of Violation was issued to the operator for failure to provide a current financial assurance cost estimate as required by Title 14, California Code of Regulations, Section 3804. On February 18, 2009, SMGB staff received a revised financial assurance cost estimate and supporting documentation from the operator. However, the revised estimate was not presented in an acceptable format. After further discussions with the operator, and after receipt of additional supporting documentation on May 20, 2009, SMGB staff completed a revised financial assurance cost estimate for the Bear Creek Quarry, dated May 21, 2009.

Currently approximately 18 acres of the Bear Creek Quarry site are deemed disturbed. The existing financial assurance on file for the site is in the amount of \$230,000.00. 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 \$167,794.00 to be adequate to conduct and complete reclamation of the mined lands in accordance with the approved reclamation plan.

The revised financial assurance cost estimate shows a significant reduction in the total estimated cost of reclamation compared to the last estimate from 2006. This reduction is due primarily to a much lower estimate for importation and placement of clean fill across the site, which is supported by a proposal provided to the operator by a local general engineering contractor. Additional reductions were realized by revising the equipment required to complete primary grading and recontouring of the site, and by a revision of estimated revegetation costs as supported by a price quote provided by the operator. The following table summarizes the recently adjusted financial assurance cost estimate:



FINANCIAL ASSURANCE COST ESTIMATE (FACE) ADJUSTMENT:

I.	Primary Reclamation Activities	\$ 101,190
II.	Revegetation	\$ 7,920
III.	Plant Structures and Equipment Removal	\$ -0-
IV.	Miscellaneous Costs	\$ 1,584
V.	Monitoring	\$ 1,500
	Total Direct Cost	\$ 112,194
VI.	Supervision/Overhead/Contingencies	
a.	Supervision (5.7%)	\$ 6,451
b.	Profit/Overhead (11.8%)	\$ 13,239
c.	Contingencies (10%)	\$ 11,219
d.	Mobilization (2.5%)	\$ 2,805
	Total Indirect Cost	\$ 33,714
	Total Direct and Indirect Costs	\$ 145,908
	Lead Agency administrative cost (15%)	\$ 21,886
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	Total Estimated Cost for Reclamation	\$ 167,794

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 for the Bear Creek Quarry. The adjusted financial assurance cost estimate 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 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 \$167,794.00 for the Bear Creek Quarry, CA Mine ID #91-09-0001, 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:

Stephen M. Testa
Executive Officer