



# **STATE MINING AND GEOLOGY BOARD**

## **EXECUTIVE OFFICER'S REPORT**

For Meeting Date: June 9, 2011

**Agenda Item No. 7: Acceptance of Mine Closure Inspection Report and Approval of Site Closure for Ella and Platter Borrow Sites (CA Mine ID #91-58-0026), Three Rivers Levee Improvement Authority (Operator), Paul Brunner (Agent), County of Yuba.**

**INTRODUCTION:** The State Mining and Geology Board (SMGB) serves as the lead agency under SMARA for forty-two (42) individual surface mining operations, including all operations located within Yuba County. A Mine Closure Inspection Reports for the Ella and Platter Borrow Site is being presented for acceptance consideration. In addition, the SMGB is considering approval of site closure for the subject site.

**STATUTORY AND REGULATORY REQUIREMENTS:** Article 5 Public Resources Code (PRC) Section 2773.1(c) states:

*“Financial assurances shall no longer be required of a surface mining operation, and shall be released, upon written notification by the lead agency, which shall be forwarded to the operator and the director, that reclamation has been completed in accordance with the approved reclamation plan...”*

The SMGB's regulations, Article 11 California Code of Regulations (CCR) Section 3805, provide requirements for the modification or release of a financial assurance, and states:

*“(a) Prior to the modification of a financial assurance amount, or to the release of the financial assurance instrument to which both the lead agency and the Department of Conservation are co-beneficiaries under Public Resources Code section 2773.1, the lead agency shall provide to the director of the department the following documents at one time:*

*(1) An inspection report, prepared by a qualified person as provided for in Public Resources Code section 2774, indicating that there are aspects of the surface mining operation that require modification of the existing financial assurance amount, or stating that the mined land has been reclaimed in accordance with the approved reclamation plan, and that there are no aspects of the reclaimed surface mining operation that are inconsistent with the meaning of reclamation as defined in Public Resources Code section 2733, and the Surface Mining and Reclamation Act of 1975, Chapter 9, commencing with section 2710.*

*(2) A revised financial assurance cost estimate prepared by the operator and accepted by the lead agency, or prepared by the lead agency, in accordance with Public Resources Code section 2773.1, with supporting documentation, indicating the specific cost changes to the existing financial assurance amount, or indicating that there are no further outstanding reclamation liabilities to be included in the financial assurance.*



*Executive Officer's Report*

*(3) A statement by the lead agency, with supporting documentation that may include the most recent inspection report and any geological and engineering reports prepared as part of the inspection report, that the mined land remains subject to a financial assurance as modified, or that the mined land has been reclaimed in accordance with the approved reclamation plan, that there are no outstanding reclamation liabilities, and recommending to the director that the financial assurance be released.*

*(b) The director shall have 45 days from the date of receipt of the documents to review and comment on them as provided for in Public Resources Code section 2774, and to conduct the director's own inspection of the surface mining operation if the director determines it necessary under Public Resources Code section 2774.1, and do one of the following:*

*(1) Notify the lead agency of the director's concurrence that the modified financial assurance amount is adequate, or that there are no outstanding reclamation liabilities on the mined land and that the original financial assurance should be released pursuant to Public Resources Code section 2773.1, at which time the financial assurance shall be released; or,*

*(2) Notify the lead agency that the director has found, based upon an inspection, aspects of the surface mining operation that require additional modifications to the financial assurance amount, or aspects that are not in compliance with the approved reclamation plan and the Surface Mining and Reclamation Act of 1975; or,*

*(3) Commence the financial assurance forfeiture process under Public Resources Code section 2773.1."*

**BACKGROUND:** The Ella and Platter Borrow Sites are soil borrow pits that were utilized to provide clay materials suitable for levee construction as part of the Three Rivers Levee Improvement Authority's (TRLIA) Feather River Levee Improvement Project. The Ella and Platter borrow sites are two of five local soil borrow locations that were selected to provide levee construction material for the Feather River Levee Improvement Project. The remaining three soil borrow sites were determined by the SMGB to be exempt from the requirements of SMARA.

Due to the nature of the mining at these sites, extraction activities were relatively simplified and short lived compared to a typical surface mining operation. No processing of the excavated material was required, and therefore site mining activities consisted simply of excavation of soil using hydraulic excavators, loading onto off-road haul trucks, and transport via designated temporary haul routes to the new Feather River Setback Levee located west of the borrow sites. During the December 16, 2010 closure inspection all excavation, soil export, backfilling, re-soiling, and equipment and structure removal activities were noted to have been completed.

The Feather River Levee Repair Project is one component of an ongoing, multi-year regional levee improvement project along the Feather, Yuba, and Bear rivers, and the Western Pacific Interceptor Canal. For this particular project, TRLIA completed construction of a new 5.7-mile long setback levee approximately 0.5 miles east of the former left (east) bank Feather River levee in South Yuba County to enhance flood protection.



As discussed above, the Feather River Levee Repair Project Segment 2 utilized five soil borrow sites. The borrow excavations were estimated to encompass approximately 177 acres within the levee setback area and 106 acres outside (east of) the levee setback area. It was estimated that 3.6 million cubic yards of compacted borrow material, or approximately 4.2 million “bank” cubic yards, would be needed for levee construction. To the west of the new levee construction site, the borrow sites were proposed to be reclaimed to conditions suitable for riparian and wildlife habitat, and to agricultural uses. On the landward, or eastern side, final end uses of the borrow sites were proposed to include an enhanced water detention basin, agricultural operations, and/or possible future residential development.

On September 23, 2008, the SMGB received a proposed Reclamation Plan pertaining to the Feather River Levee Improvement Project. This reclamation plan addressed activities relating to construction of the new setback levee, deconstruction of the former levee, extraction of soil materials from several borrow pits within parcels immediately adjacent to the new setback levee footprint, and extraction of soil materials within the Platter/JTS borrow site. Soil extraction activities within the Ella borrow site were not addressed.

Upon review by OMR and SMGB staff, it was determined that only the soil extraction activities proposed at the Ella and Platter/JTS borrow sites needed to be included in a reclamation plan in order to meet the requirements of SMARA. After deliberation by the Surface Mining Standards Committee on March 25, 2009, and subsequent consideration by the whole SMGB on April 9, 2009, TRLIA was ordered to submit a reclamation plan and financial assurance cost estimate covering the surface mining activities at the Ella and Platter Borrow sites.

In response to the SMGB’s Order to Comply, on May 13, 2009, the SMGB received the *Ella and Platter Borrow Sites Reclamation Plan*, prepared by Resource Design Technology, Inc., and dated May 2009. Several issues were identified following review by OMR and SMGB staff that required revisions to the subject reclamation plan. On July 1, 2009, a revised Reclamation Plan, dated June 2009, was received at the SMGB office. On July 2, 2009, following a preliminary review by SMGB staff, the revised Reclamation Plan was deemed adequate.

A chronology of pertinent events and actions pertaining to recent activities is as follows:

- |                    |   |
|--------------------|---|
| August 8, 2008     | Operator commenced soil extraction activities from subject sites.   |
| September 23, 2008 | SMGB received proposed Reclamation Plan for portion of Feather River Levee Improvement Project, excluding Ella Borrow site. |
| November 14, 2008  | SMGB conducted initial site visit to Ella and Platter Borrow Sites.   |
| December 2008      | SMGB and OMR staff determined that Ella and Platter Borrow Sites are subject to requirements of SMARA.                      |



- December 23, 2008 SMGB issued Notice of Violation to TRLIA for conducting surface mining operations without an approved Reclamation Plan and Financial Assurance
- March 25, 2009 Surface Mining Standards Committee determined that proposed mining activities at Ella and Platter Borrow Sites are subject to requirements of SMARA.
- April 9, 2009 SMGB issued Order to Comply to Operator to provide a reclamation plan and financial assurance for surface mining activities being conducted at Ella and Platter Borrow Sites.
- May 13, 2009 SMGB received proposed Reclamation Plan for Ella and Platter Borrow Sites, and subsequently forwards review comments to Operator.
- July 1, 2009 SMGB received Interim financial assurance from the Operator in the amount of \$157,775.00. SMGB also received revised Reclamation Plan and Financial Assurance Cost Estimate for Ella and Platter Borrow Sites, both dated June 2009.
- July 9, 2009 SMGB conditionally approved Reclamation Plan and Financial Assurance Cost Estimate for Ella and Platter Borrow Sites (both dated June 2009), and approved the EIR and EIR Addendums for the Feather River Levee Repair Project.
- August 10, 2009 SMGB received revised final June 2009 Reclamation Plan and Financial Assurance Cost Estimate for Ella and Platter Borrow Sites, and subsequently deemed them adequate.
- August 17, 2009 SMGB received increased financial assurance in the amount of \$166,789.08 for the Ella and Platter Borrow Sites.
- December 16, 2010 SMGB staff conducted Mine Closure Inspection.
- February 24, 2011 SMGB received agricultural consultant's letter stating that reclamation of Platter Borrow Site is adequate.

**MINE CLOSURE INSPECTION REPORT:** No new or outstanding violations or corrective measures were noted during the December 16, 2011 inspection of the Ella and Platter Borrow Sites. Based on field observations made at time of inspection, the SMGB's inspector considered all areas previously disturbed by surface mining operations at the Ella and Platter Borrow Sites to be adequately reclaimed in accordance with the approved reclamation plan. The inspector determined that there are no aspects of the reclaimed surface mining operation that are inconsistent with the meaning of reclamation as defined in PRC Section 2733, and the Surface Mining and Reclamation Act of 1975, Chapter 9, commencing with Section 2710. Finally, the SMGB's inspector has determined that no

further outstanding reclamation liabilities are required to be included in the financial assurance for the Ella and Platter Borrow Sites.

**EXECUTIVE OFFICER'S RECOMMENDATION:** The Executive Officer recommends that the SMGB accept the Ella and Platter Borrow Sites Mine Closure Inspection Report as complete, and transmit the findings contained therein to the mine operator, the Department of Conservation and the County of Yuba.

Additionally, the Executive Officer recommends that the SMGB find that the Ella and Platter Borrow Sites surface mining operation has been reclaimed and developed for alternate end uses in accordance with the approved reclamation plan, and, pending concurrence by the Department of Conservation, find that it is no longer subject to the requirements of SMARA.

**SUGGESTED MOTION LANGUAGE:**

Motion No. 1 - To accept the Mine Closure Inspection Report:

*Mr. Chairman, in light of the information before the State Mining and Geology Board today, I move that the SMGB accept the Mine Closure Inspection Report for the Ella and Platter Borrow Sites (CA Mine ID #91-58-0026) as complete, and transmit the findings to the mine operator, the Department of Conservation and the County of Yuba.*

Motion No. 2 - To approve site closure:

*Mr. Chairman, in light of the information before the State Mining and Geology Board today, I move that the SMGB determine that the Ella and Platter Borrow Sites surface mining operation has been reclaimed and developed for alternate uses in accordance with the approved reclamation plan, and, pending concurrence by the Department of Conservation, find that it is no longer subject to the requirements of SMARA.*

Respectfully submitted:

---

Stephen M. Testa  
Executive Officer