



# **STATE MINING AND GEOLOGY BOARD**

## **EXECUTIVE OFFICER'S REPORT**

**For Meeting Date: October 11, 2012**

**Agenda Item No. 4: Approval of a Revised Financial Assurance Cost Estimate for the Simpson Lane Project (CA Mine ID #91-58-0025), Orchard Growers, LLC (Operator), Dean Cameron (Agent), County of Yuba.**

**INTRODUCTION:** The State Mining and Geology Board (SMGB) is the lead agency for the County of Yuba, 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 according to the reclamation plan requirements (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*



*Executive Officer's Report*

*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, state:

*“(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 Simpson Lane Project is located on a 105-acre parcel of agricultural land located at 1638 Simpson Lane adjacent to the north side of the Yuba River South Levee. The site is immediately north of the community of Linda, and approximately one mile southeast of Marysville. The site is relatively flat and was formerly completely occupied by peach orchards. The project involves mining of alluvial sand and replacement of the



excavated volume with fill material and soil suitable for agricultural purposes. The approved reclamation plan indicates that excavation and backfilling will occur in phases and will eventually entail removal and subsequent replacement of soil over approximately 73 acres of the subject parcel. The total volume of sand to be removed during the course of all surface mining activities is estimated to exceed 3 million cubic yards.

The Simpson Lane site is currently idle under an Interim Management Plan that was approved by the SMGB on October 14, 2010. Extraction and soil backfilling operations occurred in the central portion of the site (northeastern Phase 1 area) during 2008. During this time the operator removed a significant volume of sand from the site, and imported an approximately equal amount of topsoil backfill material. Backfilling to original grade and site grading activities were noted to have been completed in mid 2009. Also during 2009 the landowner planted young peach trees on approximately 22 acres on the northeastern portion of the site. The remainder of the property is occupied by grasses and small shrubs that have established themselves following removal of the peach orchard which formerly occupied the site.

Currently none of the permitted acreage at the Simpson Lane site is deemed disturbed, as reclamation of the approximately 11 acres disturbed during 2008 has been completed. The existing financial assurance on file for the site is in the amount of \$268,212.00. An inspection of the Simpson Lane Project site was performed on December 2, 2011. No violations or corrective measures were noted at time of inspection, and no acreage was deemed disturbed. 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 \$0.00 to be adequate as no areas are currently deemed disturbed. The following table summarizes the recently submitted adjusted financial assurance cost estimate:



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

I.	Primary Reclamation Activities	\$	0.00
II.	Revegetation	\$	0.00
III.	Plant Structures and Equipment Removal	\$	0.00
IV.	Miscellaneous Costs	\$	0.00
V.	Monitoring	\$	0.00
	<b>Total Direct Costs</b>	<b>\$</b>	<b>0.00</b>
VI.	Supervision/Overhead/Contingencies		
	a. Supervision (0%)	\$	0.00
	b. Profit/Overhead (0%)	\$	0.00
	c. Contingencies (0%)	\$	0.00
	d. Mobilization (0%)	\$	0.00
	<b>Total Indirect Cost</b>	<b>\$</b>	<b>0.00</b>
	<b>Total Direct plus Indirect Costs</b>	<b>\$</b>	<b>0.00</b>
	Lead Agency administrative cost (15%)	\$	0.00
	<b>Total Estimated Cost for Reclamation</b>	<b>\$</b>	<b>0.00</b>

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

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

[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 adjusted financial assurance cost estimate for the Simpson Lane Project has been reviewed for its consistency and completeness in meeting the minimum requirements of SMARA, and the SMGB's regulations and guidelines. SMGB and OMR staff have reviewed the adjusted financial assurance cost estimate and consider it adequate as no acreage is currently disturbed under the approved reclamation plan. The Executive Officer recommends that the SMGB approve the adjusted financial assurance cost estimate.

**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 SMGB approve the adjusted financial assurance cost estimate in the amount of \$0.00 for the Simpson Lane Project, CA Mine ID #91-58-0025, located in Yuba County, as adequate in meeting the minimum requirements of SMARA and SMGB's regulations.*

Respectfully submitted:



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Stephen M. Testa  
Executive Officer