



STATE MINING AND GEOLOGY BOARD

EXECUTIVE OFFICER'S REPORT

For Meeting Date: November 14, 2013

Agenda Item No. 16: Discussion of Compliance Status with the Surface Mining and Reclamation Act (SMARA) Pertaining to the Princeton Pit (CA Mine ID #91-24-0037), Chuck Falkenstein (Agent), Central Valley Concrete, Inc. (Operator), County of Merced.

INTRODUCTION: The State Mining and Geology Board (SMGB) and Office of Mine Reclamation (OMR) on November 15, 2012, received correspondence from the Merced County Farm Bureau (Bureau) expressing concerns pertaining to reclamation efforts for the Princeton Pit (CA Mine ID #91-24-0037), located in the County of Merced (County). At its March 14, 2013, regular business meeting, the SMGB directed its Executive Officer to further investigate this matter since it was unclear following discussions, whether the subject site has been reclaimed in accordance with the permit conditions and approved reclamation plan.

SMGB GUIDELINES: In accordance with the SMGB's Administrative Procedure PP96-02, the following guidelines were developed to aid the SMGB in actions which may be taken to enforce the Surface Mining and Reclamation Act (SMARA). These guidelines reflect situations that may arise where a lead agency cannot or will not act because it has not adopted a surface mining ordinance, is unaware of a violation, or for some other reason. In such cases the SMGB will assume enforcement responsibility to prevent circumvention of SMARA and irreparable environmental damage or substantial endangerment to the public health. These guidelines are divided into two sections: SMGB initiated actions and action in response to complaint to the SMGB.

SMGB Initiated Action: In situations where a lead agency does not act to insure SMARA compliance, and where irreparable environmental damage or substantial endangerment to the public health is not imminent, the SMGB will meet in open session at a regular business meeting to decide upon a course of action. The SMGB's initial actions may consider the following:

- 1) Request a technical review by the Department of Conservation (DOC), or
- 2) Designate the Executive Officer to monitor and investigate the situation, or
- 3) Request, by resolution, that the Attorney General or the Director of the DOC take appropriate legal action.

Action in Response to Complaint to the SMGB: In situations where a lead agency does not act to assure SMARA compliance and where irreparable environmental damage or substantial endangerment to the public health appear imminent, the SMGB's Chairman, the Director, and the Executive Officer will be notified. To assure the expeditious review of the situation, the SMGB's Executive Officer will act as its investigative officer, and may request an initial review of the situation by the Department or take such steps as necessary to obtain information pertaining to the situation.



Executive Officer's Report

Based on information developed by the Executive Officer and the DOC, a determination of urgency will be made by the SMGB's Chairman, the Director and the Executive Officer. If necessary, this determination may be made by telephone conference. The following actions may be taken:

- 1.) If immediate action is required, the Attorney General's Office would be requested through the Director's office to take appropriate action; or
- 2.) If immediate action is not required, further action may await:
 - a. A technical review by the DOC, or
 - b. Discussion of the violation at the next regular business meeting.

BACKGROUND: The Princeton Pit incorporates 38 acres and is characterized as a streambed or gravel bar skimming and pitting operation. The primary product is material for fill. The reclamation plan for the subject site was approved on August 12, 1998, and the site is currently closed with no intent to resume. The end use is described as "*viable agriculture*." As of the end of 2011, one acre remained disturbed. A financial assurance amount of \$12,500 existed as of July 21, 2000. The financial assurance cost estimate was last reviewed on November 15, 2012, and based on review of the Office of Mine Reclamation (OMR) SMARA database, the financial assurance was noted to expire as of July 21, 2011.

Originally designated as Prime Farmland and Farmland of State-Wide Importance, the site is alleged to be "a veritable dustbowl, devoid of any practical value and unsuitable for any meaningful agricultural activities." Furthermore, "*The Mining Operator stripped away all of the topsoil and removed the irrigation system,*" resulting in significant soil erosion concerns. Amanda Carvajal, Executive Director of the Merced County Farm Bureau, identified three tasks required in order for the operator to fulfill its reclamation obligations. These three tasks are to "*(1) provide permanent irrigation, (2) replace topsoil and/or increase the fertility of the site to match pre-project conditions and/or adjacent lands, and (3) provide for the long term stability/erosion control of side slopes.*"

At its March 14, 2013, regular business meeting, the SMGB directed its Executive Officer to further investigate this matter since it was unclear following discussions, whether the subject site has been reclaimed in accordance with the permit conditions and approved reclamation plan.

PRELIMINARY REVIEW OF RECLAMATION PLAN AND PERMIT REQUIREMENTS: The approved reclamation plan notes the following:

Item 11: "*The soils in this area run deep. If for some reason, it is found that the soil at the bottom of the excavation is less than adequate for plant growth, appropriate measures will be taken, at that time, to apply necessary nutrients, fertilization soil builder etc. to make it as productive as the surrounding ground. We anticipate no re-soiling but rather, only soil building, if necessary.*"

Item 16: "*The sole reason for no phasing is the re-planting on this land must be done all at the same time to insure uniform plant growth as well as a new irrigation system will be installed to serve the entire newly planted area...*"

Item 17: “*The land will be returned to an agricultural use (minimum use would be permanent irrigated pasture).*”

Item 18: “*There will be a short term lost of minimal agricultural production during soil removal. The economics of future production will be greatly enhanced by having this area virtually level. Greater efficiency will be realized in cultivation, Irrigation, Crop care etc. The owner has signed an agent letter attached.*”

Item 24: “*The end use will be viable agriculture. No other mining should occur in the vicinity since the number one reason for this mining request is to level the area and make it much better for farming. All slopes will be stabilized by appropriate methods.*”

Relevant conditions pursuant to Conditional Use Permit No. 98008 are:

Condition No. 9: Surface runoff from adjacent lands shall be intercepted and controlled with best available control technology to prevent erosion and slope instability be planted to prevent wind or water erosion.

Condition No. 10: Periodic slope maintenance shall be performed to ensure preservation and stability of the slopes. Erosion damage shall be regraded and properly back fielded to design a slope grade. Reconstruction areas must be replanted to reduce future erosion.

CURRENT STATUS: The operator in March completed spot grading and reseeding along the east (west-facing) slope, with some success in limiting soil erosion and revegetation at such time. The status of soil quality/suitability testing remains uncertain. Upon completion, and demonstrated success, it is anticipated that the County will consider closure pursuant to California Code of Regulations (CCR) Section 3805.5.

EXECUTIVE OFFICER’S RECOMMENDATION: No additional information, analysis or recommendations were provided by the County or OMR at the time this Executive Officer’s report was prepared. It is the recommendation of the Executive Officer that either the SMGB designate the Executive Officer to continue monitoring the progress, and bring this matter back to the SMGB should circumstances warrant such action.

SUGGESTED MOTION LANGUAGE: The SMGB may consider the following motion language:

Mr. Chairman, I move that the SMGB, in light of the evidence presented before the Board today and contained in the Executive Officer’s Report, move to designate the Executive Officer to continue monitoring the progress, and bring this matter back to the SMGB should circumstances warrant such action.

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Respectfully submitted:



Stephen M. Testa
Executive Officer