



# **STATE MINING AND GEOLOGY BOARD**

## **EXECUTIVE OFFICER'S REPORT**

For Meeting Date: November 14, 2013

**Agenda Item No. 2: Approval of Revised 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) serves as the lead agency for the County of El Dorado 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 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."*



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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 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. Serpentine 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 September 26, 2012. No violations or corrective measures were noted at time of inspection, although the inspector recommended that the operator provide a revised financial assurance cost estimate as required by Title 14, California Code of Regulations, Section 3804. On November 22, 2013, SMGB staff received documentation from the operator supporting revisions to the financial assurance cost estimate. After further review and discussions with the operator SMGB staff completed a revised financial assurance cost estimate for the Bear Creek Quarry, dated August 8, 2013.

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. On May 12, 2011, the SMGB approved an adjusted financial assurance cost estimate amount of \$170,772.00. 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 \$164,157.00 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	\$ 94,200
II.	Revegetation	\$ 7,920
III.	Plant Structures and Equipment Removal	\$ -0-
IV.	Miscellaneous Costs	\$ 1,584
V.	Monitoring	\$ 4,100
	<b>Total Direct Cost</b>	<b>\$ 107,804</b>
VI.	Supervision/Overhead/Contingencies	
	a. Supervision (5.7%)	\$ 6,145
	b. Profit/Overhead (11.8%)	\$ 12,721
	c. Contingencies (10%)	\$ 10,780
	d. Mobilization (2.5%)	\$ 2,695
	<b>Total Indirect Cost</b>	<b>\$ 32,341</b>
	<b>Total Direct and Indirect Costs</b>	<b>\$ 140,145</b>
	Lead Agency administrative cost (15%)	\$ 21,022
	<b>Total Estimated Cost for Reclamation</b>	<b>\$ 161,167*</b>

\*You will note that this total differs from the total estimate calculated by SMGB staff on August 8, 2013 by \$3,000.00. This difference is due to mathematical errors in the SMGB staff estimate that were not noticed until preparation of this report. As the total amount of \$164,157.00 was reviewed and concurred with by Department of Conservation (DOC) staff, it is recommended by SMGB staff that the reviewed amount of \$164,157.00 be utilized at this time.

**CONSIDERATIONS BEFORE THE SMGB:** The SMGB may take 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 adjusted financial assurance cost estimate for the Bear Creek Quarry has been reviewed for its consistency and completeness in meeting the minimum requirements of SMARA, and the SMGB's regulations and guidelines by SMGB and OMR staff. SMGB staff consider the adjusted financial assurance cost estimate adequate to reclaim the site in accordance with 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 of \$164,157.00 for the Bear Creek Quarry surface mining operation, CA Mine ID #91-09-0001, located in the County of El Dorado, as adequate to reclaim the site in accordance with the approved reclamation plan, and as adequate in meeting the minimum requirements of SMARA and the SMGB's regulations.*

Respectfully submitted:



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Stephen M. Testa  
Executive Officer