STATE MINING AND GEOLOGY BOARD

EXECUTIVE OFFICER'S REPORT

For Meeting Date: July 13, 2006

Agenda Item No. 9: Approval of Adjusted Financial Assurance Amount, Bear Creek Aggregates (California Mine ID #91-09-0001), for Boyd Sears (Agent/Operator), El Dorado County.

INTRODUCTION: The State Ming and Geology Board (SMGB) is the lead agency for all surface mining sites in El Dorado County. The Surface Mining and Reclamation Act (SMARA, Public Resources Code Section 2710 et seq.) requires that all surface mining operations maintain a financial assurance adequate to reclaim mined lands affected by the mining activities. Bear Creek Aggregates Quarry is situated in an area of ultramafic rock, consisting primarily of Serpentinite. Upon conduct of the 2005 SMARA mine inspection, the operator was subsequently requested to re-evaluate the financial assurance amount to address the potential presence of naturally occurring asbestos (NOA).

BACKGROUND: The 2005 SMARA mine inspection for the Bear Creek Aggregates site located in El Dorado County was performed on August 11, 2005. The inspection report was subsequently accepted by the SMGB at its regular business meeting conducted on September 22, 2005. On January 9, 2006, SMGB staff requested via certified mail that a re-evaluation of the financial assurance amount to reflect the 1.) presence of potential NOA, and 2.) adequacy of overburden and topsoil stockpiles to be utilized for reclamation purposes. In correspondence dated March 2, 2006, Ms. Freda Pechner, Esq., on behalf of the operator, provided laboratory reports for several tests that were performed in 2002; however, no additional information regarding site location, sampling method, etc. accompanied the lab reports.

Upon review of the documents provided by Ms. Pechner by the Office of Mine Reclamation (OMR) and SMGB staff, the operator was informed in correspondence dated May 8, 2006, that several options were available for post-construction stabilization of the site. In light of the public health and safety concerns associated with NOA, combined with a current lack of risk assessment protocols, it was recommended that a conservative approach be taken when evaluating the adequacy of the financial assurance amount for the site. Thus, the financial assurance must be adequate to reflect for a third party to come in and cover the disturbed 19 acres with at least three (3) inches of clean fill (non-asbestos containing material). Should this be deemed necessary, the estimated financial assurance amount required to reclaim the NOA-impacted site was determined to be $130,000.

Therefore, in correspondence dated May 9, 2006, SMGB staff requested from the operator that 1) verification demonstrating that the samples tested were obtained in accordance with a sampling plan approved by the California Air Resources Board (CARB), and/or 2) a revised financial assurance cost estimate reflecting the importation of soil for cover material during reclamation.

In response, the operator decided to adjust the financial assurance amount from $105,000 (established on July 26, 2004) to $230,000. In addition, the operator would consider developing an adequate sampling program should he wish for the SMGB to consider a lower financial amount than what was recommended by SMGB and OMR staff. On May 20, 2006, the SMGB received an adjusted financial assurance instrument for the Bear Creek Aggregate Quarry in the form of an Irrevocable Letter of Credit No. 200707388 (expires May 20, 2007), from Butte Community Bank, in the amount of $230,000.

DISCUSSION: Using the clean cover depth requirements pursuant to CARB regulations, the following calculations are offered:

- Volume calculations reflect placing of NOA material on disturbed areas at least three (3.0) inches deep over 19 acres, for an overall volume of approximately 7,665 cubic yards of material.
- An estimated minimum cost of $130,000 was determined to import 7,665 cubic yards of material (i.e., a clean cover that could support revegetation, with or without soil amendments). The total direct costs (shipping, material and on-site placement of material) were estimated at $100,000. This included 22 hours of work using a Caterpillar 923 scraper and nine hours of work using a 5,000-gallon water truck. The total indirect costs (supervision, profit & overhead, contingencies, and mobilization) were estimated at $30,000.

EXECUTIVE OFFICER'S RECOMMENDATION: The Executive Officer recommends that the SMGB approve the adjusted financial assurance amount of $230,000, which adequately addresses reclamation of potential asbestos-containing materials at the Bear Creek Aggregates Quarry site, El Dorado County. The financial assurance amount can be re-visited following conduct of the 2006 SMARA mine inspection.

SUGGESTED MOTION LANGUAGE:

To approve the adjusted financial assurance amount:

Mr. Chairman, in light of the information before the Board today, I move that the Board approve the adjusted financial assurance amount of $230,000 to reflect reclamation requirements for potential naturally-occurring asbestos material at the Bear Creek Aggregates Quarry site, California Mine ID #91-09-0001, El Dorado County.