



STATE MINING AND GEOLOGY BOARD

EXECUTIVE OFFICER'S REPORT

For Meeting Date: December 13, 2012

Agenda Item No. 12: Further Consideration in the State Mining and Geology Board's Issuance of a 45-Day Notice to Correct Deficiencies to the County of Mono Pursuant to the Surface Mining and Reclamation Act (SMARA).

INTRODUCTION: At its regular business meeting held on June 9, 2011, the State Mining and Geology Board (SMGB) received a report from the Office of Mine Reclamation (OMR) Lead Agency Review Team (LART) on the overall status and performance status of the County of Mono (County) Surface Mining and Reclamation Act (SMARA) program. Deficiencies were reported and the SMGB directed its Executive Officer to schedule a progress report from the County in the fall of 2011. At its October 13, 2012, regular business meeting, the SMGB based on the October 28, 2010 LART report for Mono County issued to the County a 45-Day Notice to Correct Deficiencies. The County has subsequently requested that the SMGB reconsider issuance of the Notice.

STATUTORY AUTHORITY: Public Resources Code (PRC) Sections 2774.4(a) and (b) provide criteria to the SMGB when considering assumption, or restoration, of certain SMARA powers of a lead agency. Specifically, PRC Section 2774.4(a) states that if certain deficiencies exist, the SMGB can assume certain SMARA lead agency responsibilities as follows:

"If the board finds that a lead agency either has (1) approved reclamation plans or financial assurances which are not consistent with this chapter, (2) failed to inspect or cause the inspection of surface mining operations as required by this chapter, (3) failed to seek forfeiture of financial assurances and to carry out reclamation of surface mining operations as required by this chapter, (4) failed to take appropriate enforcement actions as required by this chapter, (5) intentionally misrepresented the results of inspections required under this chapter, or (6) failed to submit information to the department as required by this chapter, the board shall exercise any of the powers of that lead agency under this chapter, except for permitting authority."

Public Resources Code Sections 2774.4(c) provides criteria the SMGB considers should it determine to issue a 45-Day Notice to Correct Deficiencies, and states:

"(c) Before taking any action pursuant to subdivision (a), the board shall first notify the lead agency of the identified deficiencies, and allow the



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lead agency 45 days to correct the deficiencies to the satisfaction of the board. If the lead agency has not corrected the deficiencies to the satisfaction of the board within the 45-day period, the board shall hold a public hearing within the lead agency's area of jurisdiction, upon a 45-day written notice given to the public in at least one newspaper of general circulation within the city or county, and directly mailed to the lead agency and to all surface mining operators within the lead agency's jurisdiction who have submitted reports as required by Section 2207."

BACKGROUND: California is the only state in the conterminous United States where surface mine reclamation is not regulated at the state level. Most states also maintain permitting authority when it comes to mining regulation; whereas, in California permitting authority is decided at the local level. SMARA pursuant to PRC Section 2728 defines a lead agency as a city, county, San Francisco Bay Conservation and Development Commission (BCDC), or the SMGB which has the principal responsibility for approving a surface mining operation or reclamation plan. Under the California Surface Mining and Reclamation Act of 1975 (SMARA), there are currently 113 lead agencies: 52 counties, 50 cities, and the SMGB.

In 2007, the SMGB published Information Report IR 2006-07 titled "*Report on SMARA Lead Agency Performance Regarding Mine Reclamation.*" This evaluation assessed the lead agency's status and performance of periodic mine inspections, adjustment of annual financial assurances and enforcement of the preparation of Interim Management Plans should a surface mine site be characterized as idle for a period exceeding one year. Based on this review, the overall performance of SMARA lead agencies was found to significantly vary throughout the state. For the most part, overall performance was found to be poor, reflecting a number of factors including primarily financial constraints, limited or lack of internal technical expertise, and overall low priority. As of December 2012, LART has commenced review of 24 SMARA lead agencies.

The review of the County's SMARA program was performed in 2010, with the LART report completed and forwarded to the County on October 28, 2010. The County responded to the LART report in correspondence dated May 27, 2011. At the time this Executive Officer's report was prepared, no additional information has been provided to the SMGB.

County of Mono SMARA Program: Nineteen surface mining operations are reported to exist within the jurisdiction of the County (Table 1). Eleven of the operations are operated by Caltrans. Eight operations are characterized as active, with the remainder being closed. Commodities produced include primarily sand and gravel, with subordinate amounts of cinder, clay, decomposed granite, fill dirt, sericite and pumice.

In review of the LART report for the County, several deficiencies are reported. Notably, deficiencies noted by LART reported (Table 1), albeit, not limited, included:

- Failure to update and adjust financial assurances cost estimates on an annual basis for two operations,
- Failure to notify OMR of reclamation plan approval for six operations (including failure to respond to OMR’s comments for five of these operations);
- Failure to inspect one operation since 2003;
- Failure to conduct adequate inspections;
- Failure to adequately close certain operations that have no intent to resume mining; and
- Failure to request an Interim Management Plan for one idle operation, among other issues.

**Table 1
 Summary of Surface Mining Operations Situated in the County of Mono**

Surface Mine Name	CA Mine Identification Number	Operator	Surface Mine Status	Last Inspection Report on File (year)	Approved Acreage	Disturbed Acreage (2008 Annual Report/ Aerial Photo)	Produced Product	Deficiencies Noted
Black Point Cinder, Inc.	#91-26-0001	Sierra Aggregate Company	Active	08/10/11	31	10/34.3	Cinder	1, 2,4
Holt Creek Kaolin Mine	#91-26-0002	Standard Industrial Minerals	Active (Abandoned)	08/24/11	34	20/58	Clay	1,2,4
Pacific Sericite Mine	#91-26-0003	Standard Industrial Minerals	Active (Idle)	09/19/11	5	5/11.6	Sericite	1,2,4
Frank Sam Mine	#91-26-0004	U. S. Pumice Company	Active (Idle)		219	0.90/380	Pumice	1,2,4
#24A North Benton	#91-26-0007	Caltrans	Closed		4.2	0/NA ^(a)	Sand and gravel	
#116-12 Baseline	#91-26-0010	Caltrans	Closed		4.5	0/NA	Sand and Gravel	
#117 Pole Line Sites	#91-26-0011	Caltrans	Closed		29	0/NA	Sand and Gravel	
#135 Convict Creek	#91-26-0013	Caltrans	Closed		21	0/21	Sand and Gravel	
#189 Sweetwater	#91-26-0015	Caltrans	Closed		2.3	0/2.3	Sand and Gravel	
#190 Baseline	#91-26-0016	Caltrans	Closed		39.6	0/39.6	Sand and Gravel	
#205 Green Lakes	#91-26-0017	Caltrans	Closed		5.2	0/5.2	Sand and Gravel	
#210 Milner Fan	#91-26-0018	Caltrans	Closed		47	2/47	Sand and Gravel	
#213 Benton Hill	#91-26-0021	Caltrans	Closed		7.7	0/7.7	Sand and Gravel	

Surface Mine Name	Mine Identification Number	Operator	Surface Mine Status	Last Inspection Report on File (year)	Approved Acreage	Disturbed Acreage (2008 Annual Report/ Aerial Photo)	Produced Product	Deficiencies Noted
#250 Rickey Ditch	#91-26-0024	Caltrans	Active		40	1.7/NA	Sand and Gravel	1, 2, 4
#273 Burcham Flats	#91-26-0026	Caltrans	Closed		2.0	0/2	Sand and Gravel	
Desert Aggregates	#91-26-0029	Caltrans	Active		75	64/79.8	Sand and Gravel	1, 2, 4
Cain Ranch	#91-26-0035	Marzano & Sons General Engineering Contractor	Active		35.3	30/44	Uncertain	1, 2, 4
Sonora Pit	#91-26-0037	Mono County Department of Public Works	Active		3	4/4	Decomposed Granite	1, 2, 4
Harris Flat	#91-26-0044	Kiewit Pacific Company	Closed		25	0/25	Fill Dirt	

(a) NA = Not available.

The County has expressed several concerns and raised several issues in regards to the LART report, and the Notice issued by the SMGB. At the time this Executive Report was prepared several deficiencies have been addressed or resolved, to the satisfaction of OMR; whereas, others remain outstanding.

SMGB CONSIDERATION: The SMGB is being requested by the County to reconsider and rescind its Notice to the County. The County has been aware of deficiencies with its SMARA program since issuance of the October 2010 LART report. Although the County has resolved some of the deficiencies, not all deficiencies identified by either LART or the SMGB have been adequately addressed at the time the Notice was issued.

It is the recommendation of the Executive Officer that the Notice remains in effect, and the County adequately addresses all outstanding deficiencies.

Respectfully submitted:

Stephen M. Testa
 Executive Officer