



STATE MINING AND GEOLOGY BOARD

EXECUTIVE OFFICER'S REPORT

For Meeting Date: December 13, 2012

Agenda Item No. 19A: Office of Mine Reclamation, Lead Agency Review Team (LART) Report for the City of Bakersfield.

INTRODUCTION:

Under the Surface Mining and Reclamation Act (SMARA), lead agencies are required to fulfill certain responsibilities including conduct of site inspections, annual review and adjustment of financial assurances, review and approve new and amended reclamation plans, and take enforcement actions as appropriate, among other obligations. In 2007, the Department of Conservation, Office of Mine Reclamation (OMR) established the Lead Agency Review Team (LART). LART has completed its review of the City of Bakersfield's (City) SMARA program dated November 21, 2012.

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 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



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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 completed review of 24 SMARA lead agencies.

The review of the City’s SMARA program was performed in 2011, with the LART report completed and forwarded to the City on May 21, 2012. The City responded to the LART report on June 18, 2012. At the time this Executive Officer’s report was prepared, no additional information has been provided to the SMGB.

City of Bakersfield SMARA Program: One surface mining operation is reported to exist within the jurisdiction of the City (Table 1). The operation, referred to as The Sand Pit (CA Mine ID 91-15-0101) is an abandoned sand and gravel mine. The deficiencies noted included, albeit not limited to, the following:

- Failure to conduct an inspection since 2001;
- Failure to approve a reclamation plan;
- Failure to submit a financial assurance cost estimate;
- Failure to obtain an Interim Management Plan (IMP); and
- Failure to submit information to the DOC as required under SMARA.

**Table 1
 Summary of Surface Mining Operations Situated in the City of Bakersfield**

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
The Sand Pit	#91-15-0101	Land Lot 1, LLC	Abandoned	2001	38	35/38	Sand and gravel	1, 2,3,4,6

(a) NA = Not available.

EXECUTIVE OFFICER'S RECOMMENDATION: The information being provided by OMR is for the SMGB's information. However, based on the current status of the City's SMARA program, the Executive Officer recommends that a 45-Day Notice to Correct Deficiencies (Notice) be issued to the City of Bakersfield. Should the City not correct the deficiencies to the satisfaction of the SMGB within the 45-day period, a public hearing will be scheduled at such time pursuant to PRC Section 2774.4(c).

Respectfully submitted:



Stephen M. Testa
 Executive Officer