

California Department of Conservation  
Division of Mine Reclamation

# **Lead Agency Review and Assistance (LARA) Program**

## **Final Report**

Prepared for:

### **City of Paso Robles**

(lead agency under the  
Surface Mining and Reclamation Act of 1975)

December 2020



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**LIST OF ABBREVIATIONS AND ACRONYMS USED IN THIS REPORT**

<b>Acronym</b>	<b>Term</b>	<b>Description</b>
AB	Assembly Bill	Proposed law, introduced by a Member of the Assembly of the California Legislature during a session for consideration by the Legislature, and identified numerically in order of presentation
AR	Annual Report	Document from a surface mine operator to the Division of Mine Reclamation noting mining activity for the previous calendar year due on July 1 of each year with the required fee
CCR	California Code of Regulations	Regulations adopted, amended, or repealed by state agencies pursuant to the Administrative Procedure Act
CEQA	California Environmental Quality Act	California statute that requires state and local agencies to identify the significant environmental impacts of their actions and to avoid or mitigate those impacts, if feasible
City	City of Paso Robles	SMARA lead agency for this Lead Agency Review and Assistance Program review
CUP	Conditional Use Permit	Development permit issued by the lead agency to mine operators
DMR	Division of Mine Reclamation	Division within the California Department of Conservation established in 2017 under Senate Bill 209 (Pavley)
DOC	California Department of Conservation	A State of California department comprised of five divisions: Land Resources Protection; Mine Reclamation; California Geological Survey; California Geologic Energy Management Division, and State Mining and Geology Board
FACE	Financial Assurance Cost Estimate	Estimate of the financial cost to reclaim a mining operation pursuant to the requirements of the mine's approved reclamation plan
FAM	Financial Assurance Mechanism	Financial instrument established by the mine operator that is subject to forfeiture under certain conditions
IN	Inspection Notice	See NOCI
IR	Inspection Report	Regulatory form MRRC-1 to be used by the lead agency to document site inspections as required by PRC Section 2774(b)
LARA	Lead Agency Review and Assistance	Program designed as both a review of each lead agency's SMARA program and an extension of the Division of Mine Reclamation's education and outreach efforts
NA	Not Available	The data/information for this field were/was not available

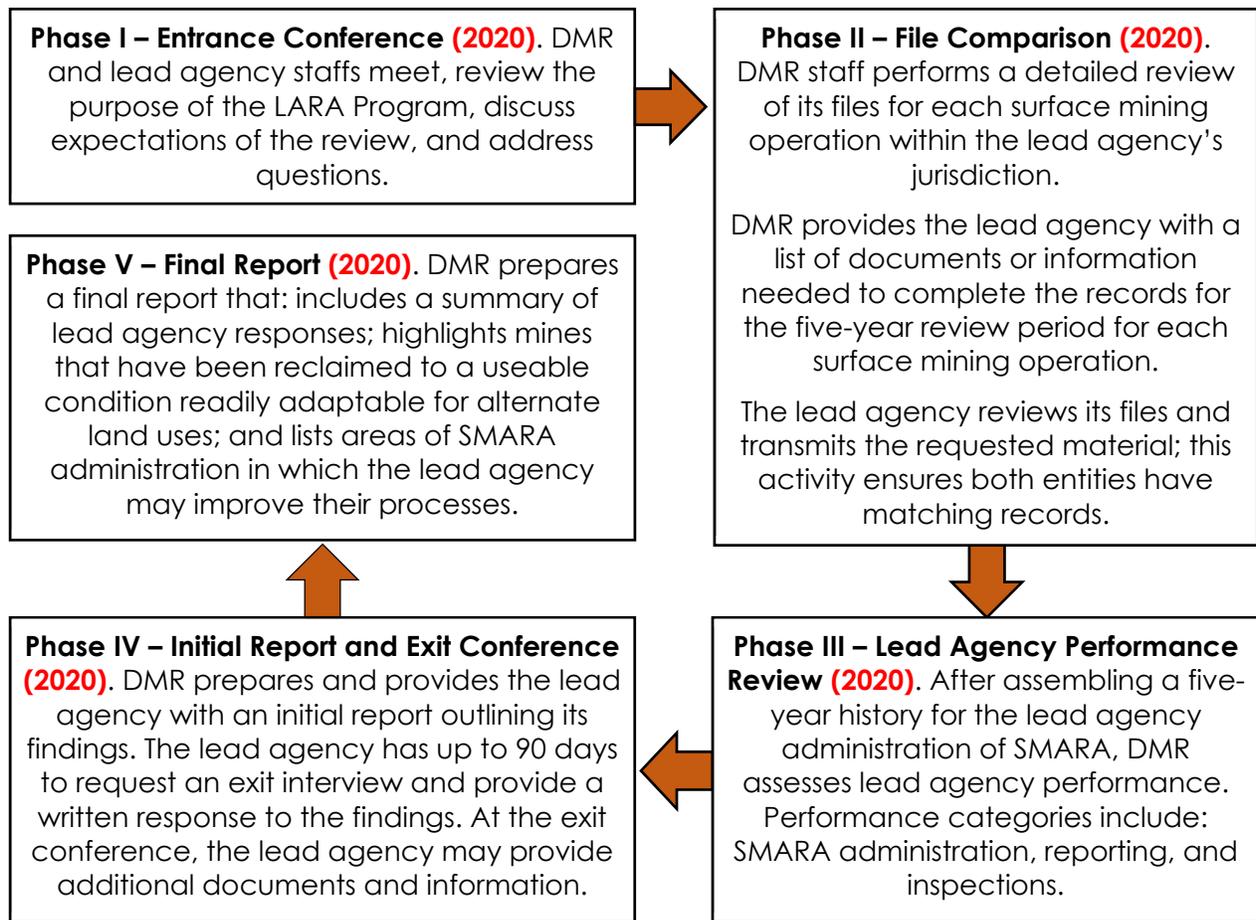
<b>Acronym</b>	<b>Term</b>	<b>Description</b>
NOCI	Notice of Completion of Inspection	Notice that accompanies the annual inspection report submitted by a lead agency to the Division of Mine Reclamation that includes prescribed information as required under PRC Section 2774(b)
OMR	Office of Mine Reclamation	Former name of the DMR (prior to 2017)
PRC	Public Resources Code	Those provisions of current statutory laws relating to the conservation, utilization, and supervision of natural resources, including mines and mining, oil and gas, and forestry
RP	Reclamation Plan	Plan describing how mined lands will be reclaimed to a usable condition that is readily adaptable for alternate land uses and create no danger to public health or safety
SB	Senate Bill	Proposed law, introduced by a Member of the Senate of the California Legislature during a session for consideration by the Legislature, and identified numerically in order of presentation
SMARA	Surface Mining and Reclamation Act of 1975	Statute enacted in 1975 and effective in 1976 that governs surface mine operations in California; it is codified in PRC Sections 2710 through 2796.5
SMGB	State Mining and Geology Board	Regulatory, policy, and hearing body that represents the State's interests in geology, geologic, and seismologic hazards, conservation of mineral resources, and reclamation of mining lands
SOA	Statement of Adequacy	Statement by the lead agency that it finds the Financial Assurance Cost Estimate adequate; the lead agency submits the SOA when the Financial Assurance Cost Estimate is sent to the Division of Mine Reclamation for review and comment

## EXECUTIVE SUMMARY

This Final Report provides recommendations from the Department of Conservation's Division of Mine Reclamation (DMR), pursuant to DMR's Lead Agency Review and Assistance (LARA) Program, to the City of Paso Robles (City), as lead agency under the Surface Mining and Reclamation Act of 1975 (SMARA; Public Resources Code [PRC] Section 2710 et seq.). The goal of the LARA Program is to ensure effective local administration of SMARA through vetted reclamation plans (RPs), comprehensive annual mine inspections, and rigorously reviewed cost estimates, in addition to uniform application of mining laws and regulations throughout California.

This Final Report reviews the City's administration of the core requirements of SMARA during the five years from 2014 through 2018 (hereafter referred to as the review period) for the two (2) existing surface mines within the City's jurisdiction. The first three years of the review period (i.e., 2014, 2015, and 2016) preceded the substantial changes to SMARA that took effect in 2017 (see Attachment D). Figure ES-1 identifies the steps in the LARA Program review process, which are described in detail in the body of the Final Report.

**Figure ES-1. LARA Program Review Process Flowchart with Phase Completion Date**



Based on its LARA Program review, DMR staff presents the following recommendations to the City. (For details, see Section III of this Final Report.)

## **A. Processing of Reclamation Plans, Reclamation Plan Amendments, Interim Management Plans, and Compliance Issues**

1. **Recommendation #1.** The City must ensure that mine operators implement an Interim Management Plan (IMP) once a surface mining operation becomes idle; SMARA (PRC Section 2727.1) defines "idle" as having "curtailed production at the surface mining operation, with the intent to resume the surface mining operation at a future date, for a period of one year or more by more than 90 percent of its maximum annual mineral production within any of the last five years during which an interim management plan has not been approved." Furthermore, per PRC Section 2770(h)(2), the IMP "may remain in effect for a period not to exceed five years, at which time the lead agency shall do one of the following:
  - (A) Renew the interim management plan for an additional period not to exceed five years, which may be renewed for one additional five-year renewal period at the expiration of the first five-year renewal period, if the lead agency finds that the surface mining operator has complied fully with the interim management plan.
  - (B) Require the operator to commence reclamation in accordance with its approved reclamation plan."
2. **Recommendation #2.** The City must establish and maintain in-house measures and procedures to ensure organized record-keeping and monitoring of surface mining reclamation under its jurisdiction. SMARA states, "... [T]he lead agency shall forward a copy of each permit and approved reclamation plan and financial assurance instrument to the director of the Department of Conservation" (Title 14, California Code of Regulations [14 CCR] Section 3504(a)). Additional documents that must be submitted to DMR include:
  - Approved RPs or plan amendments within 60 days of their approval
  - IMPs at the time of approval
  - FACEs within 30 days of their approval
  - FAMs at the time of approval
  - Notices of Violation at the time of issuance
  - Stipulated Orders to Comply at the time of issuance
  - Orders imposing an administrative penalty at the time of issuance
  - Notices of completion of inspection including the completed inspection form at the time of issuance
  - Permits at the time of approval

Additional documents that should be submitted to DMR include:

- Administrative decision at the time of issuance following an appeal of an Order to Comply
- Notices to an operator of a violation or failure to comply with an Order to Comply or Stipulated Order to Comply
- Vested rights determinations

## **B. Financial Assurances**

3. **Recommendation #3.** Operator submittal and Lead Agency approval of FACEs must comply with PRC Sections 2773.1 and 2773.4. Specific to the City and focused on post-2017 SMARA requirements:

- a. The City shall ensure that each surface mining operator submits a FACE annually for review, either:
  - within 30 days of an annual inspection being conducted pursuant to PRC Section 2774, an operator shall provide an annual FACE to the lead agency for review (PRC Section 2773.4(d)(1)(A))
  - within 30 days of the applicable inspection date (i.e., a date requested by the operator pursuant to PRC Section 2207 or a date set by the lead agency pursuant to PRC Section 2774(c)) should the lead agency fail to cause the inspection of the surface mining operation (PRC Section 2773.4(d)(1)(B))
- b. For FACE submittals to DMR and per PRC Section 2773.4(a)(2), the City's review process must include a statement that the FACE is "adequate, complete, and consistent with Section 2773.1, Article 11 (commencing with Section 3800) of Subchapter 1 of Chapter 8 of Division 2 of 14 CCR and the State Mining and Geology Board (SMGB) guidelines adopted pursuant to PRC Section 2773.1."
- c. Following approval, the City must provide a copy of the approved FACE to DMR.

## **C. Annual Inspections, Inspection Reports, and Inspection Notices**

4. **Recommendation #4.** In compliance with SMARA (PRC Section 2774(b)(1)), the City must:

- Cause surface mining operations to be inspected in intervals of no more than 12 months
- Provide a notice of completion of inspection to the supervisor [of DMR] within 90 days of conducting the inspection
- Ensure that the notice contains a statement regarding the surface mining operation's compliance with SMARA and a copy of the completed inspection form

- Specify, as applicable, all the following:
  - (A) Aspects of the surface mining operation, if any, that were found to be inconsistent with this chapter but were corrected before the submission of the inspection form to the supervisor
  - (B) Aspects of the surface mining operation, if any, that were found to be inconsistent with this chapter but were not corrected before the submission of the inspection form to the supervisor
  - (C) A statement describing the lead agency's intended response to any aspects of the surface mining operation found to be inconsistent with this chapter but were not corrected before the submission of the inspection form to the supervisor
  - (D) A statement as to whether the surface mining operation is out of compliance with an order to comply or stipulated order to comply issued by the lead agency

#### **D. General Findings and Recommendations**

5. **Recommendation #5.** Per statute (PRC Section 2774(a)), the City must update its existing surface mining ordinance and submit the updated ordinance to the SMGB for certification to comply with SMARA. This would ensure that the ordinance is consistent with changes to the SMARA statutes effective 2017 (see Attachment D).

## I. INTRODUCTION

### A. Purpose and Scope

The Department of Conservation's Division of Mine Reclamation (DMR) presents this Final Report on the City of Paso Robles (City) as part of DMR's Lead Agency Review and Assistance (LARA) Program. This Final Report provides the results of a review of the City's administration of the core requirements of the Surface Mining and Reclamation Act of 1975 (SMARA; Public Resources Code [PRC] Section 2710 et seq.).<sup>1</sup> The review:

- Is based on the records of two existing (and not yet reclaimed) surface mining operations within the City's jurisdiction (see Table 1 and Figure 1)
- Covers the period from 2014 through 2018 (hereafter the review period)

**Table 1. City of Paso Robles Surface Mines for the LARA Program Review**

Mine ID #	Mine Name	Commodity	Area Excavated (acres) <sup>1</sup>
40-0023	North River Borrow Pit	Sand & Gravel	2
40-0040	Lone Oak Mine	Sand & Gravel	5

Notes:

<sup>1</sup> Approximate value (rounded to whole acres) averaged over the 5-year review period (2014-2018) from data presented in operator's annual reports

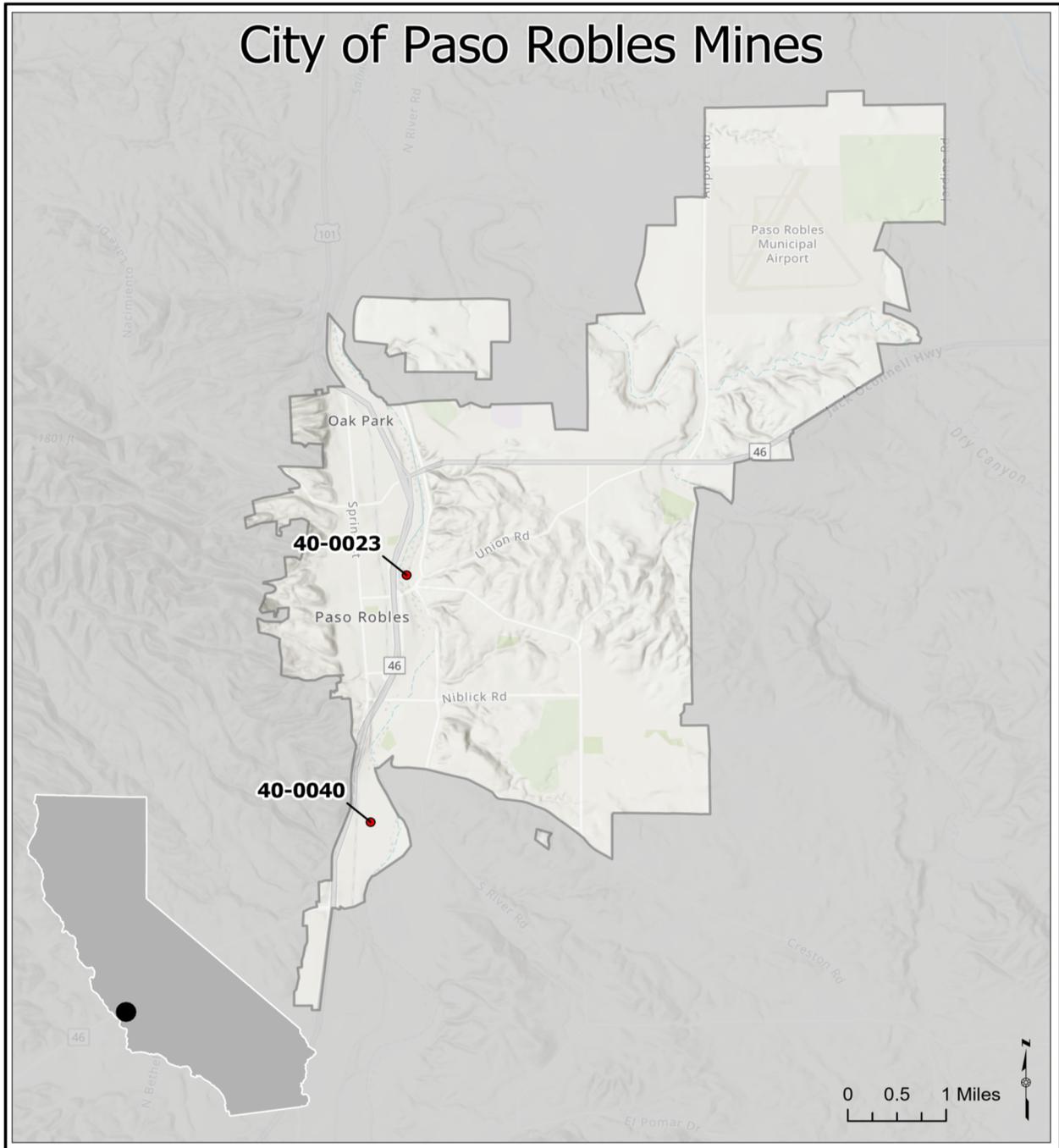
During the review period, which included substantial changes to SMARA that took effect in 2017 (see Attachment D), SMARA lead agencies core requirements included:

- Review and approval of reclamation plans (RPs), RP amendments, and interim management plans
- Issuance of permits or other mining authorizations
- Review and approval of financial assurances
- Enforcement of mine operator's annual reporting requirements
- Conducting and completion of annual inspection requirements for all mining operations within the lead agency's jurisdiction

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<sup>1</sup> This report does not include a review of the City's mining ordinance or its administration of the California Environmental Quality Act (CEQA).

**Figure 1. Existing Surface Mines in the City of Paso Robles Jurisdiction during Review Period (2014-2018) \***



\*See Mine identification legend in Table 1.

## B. Regulation of Surface Mines in California

### 1. Overview

SMARA recognizes both the need for mined materials and the need to manage surface mining operations as reflected in the Legislature's statement of intent described under PRC Section 2712, which states:

*It is the intent of the Legislature to create and maintain an effective and comprehensive surface mining and reclamation policy with regulation of surface mining operations so as to assure that:*

- a) Adverse environmental effects are prevented or minimized and that mined lands are reclaimed to a usable condition which is readily adaptable for alternative land uses.*
- b) The production and conservation of minerals are encouraged, while giving consideration to values relating to recreation, watershed, wildlife, range and forage, and aesthetic enjoyment.*
- c) Residual hazards to the public health and safety are eliminated.*

### 2. Lead Agency's Role

Lead agencies have the primary responsibility for the administration and enforcement of SMARA. Lead agency responsibilities include:

- Establishing mineral resource management policies and mining ordinances to be incorporated in their general plan
- Issuing a mining permit or other authorization to mine, including determining the nature and scope of vested mining rights where appropriate
- Reviewing and approving RPs and financial assurances that meet minimum SMARA requirements
- Conducting inspections of surface mines in their jurisdiction to ensure compliance with SMARA
- Taking appropriate actions to ensure compliance under SMARA including the enforcement of reporting requirements under PRC Section 2207
- Submitting information to DMR pursuant to SMARA requirements
- Seizing financial assurances and completing reclamation after determining an operator's financial incapacity or abandonment of the operation

#### Surface Mining Operation Permits

California is unique among states in that the permitting of surface mines occurs through local governments acting as the lead agency. PRC Section 2774 requires that every lead agency shall adopt ordinances in accordance with state policy that establish procedures for the issuance of a permit to conduct surface mining operations. PRC Section 2732.5 defines a permit as any authorization from, or approval by, a lead

agency, the absence of which would preclude surface mining operations. Surface mining operations means all, or any part of, the process involved in the mining of minerals on mined lands by removing overburden and mining directly from the mineral deposits, open-pit mining or minerals naturally exposed, mining by the auger method, dredging and quarrying, or surface work incident to an underground mine. The lead agency issues permits for surface mining operations.

### Vested Right to Mine

At the heart of SMARA is the requirement that every surface mining operation has a permit (or vested right to mine), a reclamation plan, and financial assurances to implement the planned reclamation (PRC Section 2770(a)). For operators of surface mines in California with a vested right to mine, SMARA states:

*No person who has obtained a vested right to conduct surface mining operations prior to January 1, 1976, shall be required to secure a permit pursuant to [SMARA] as long as the vested right continues and as long as no substantial changes are made in the operation except in accordance with [SMARA]. A person shall be deemed to have vested rights if, prior to January 1, 1976, the person has, in good faith and in reliance upon a permit or other authorization, if the permit or other authorization was required, diligently commenced surface mining operations and incurred substantial liabilities for work and materials necessary for the surface mining operations... (PRC Section 2776(a)).*

*A person with an existing surface mining operation who has vested rights pursuant to Section 2776 and who does not have an approved reclamation plan shall submit a reclamation plan to the lead agency not later than March 31, 1988. If a reclamation plan application is not on file by March 31, 1988, the continuation of the surface mining operation is prohibited until a reclamation plan is submitted to the lead agency... (PRC Section 2770(b)).*

As shown in Table 2 (see Section II.C.1), one or more surface mines within the lead agency's jurisdiction has been noted to have a vested right to mine, which allows that area of the mine to operate as provided below:

- The issuance of a mining permit or the recognition of a vested mining right lies with the local land-use decision making authority (the City).
- A determination of a vested right removes the requirement for a use permit and evaluation under the CEQA for existing operations.
- A reclamation plan, annual inspections, and financial assurances are required for all operations conducted after January 1, 1976, vested or not. The reclamation plan shall apply to operations conducted after January 1, 1976.
- In some circumstances, an expansion of the mining operation requires a permit and a CEQA review for the area outside of the existing vested right.

### Reclamation Plan (RP)

RPs and RP amendments that meet minimum SMARA requirements provide a foundation for the lead agency's regulation of ongoing mining operations. Lead agencies are required to:

- Review, analyze, and certify RPs as complete and in compliance with SMARA
- Submit RPs and RP amendments to DMR for review prior to approval
- Respond to any DMR comments
- Provide a 30-day notice of the approval hearing
- Provide a final response to DMR comments after the approval
- File the approval of the RP with the County Recorder

### Interim Management Plan (IMP)

IMPs shall be considered an amendment to the surface mining operation's approved RP and shall only provide for necessary measures the operator will implement during its idle status to maintain the site in compliance with SMARA PRC Section 2770(h). The IMP may remain in effect for a period not to exceed five years, at which time the lead agency shall do one of the following:

- A. Renew the IMP for an additional period not to exceed five years, which may be renewed for one additional five-year period at the expiration of the first five-year renewal period, if the lead agency finds that the surface mining operation has complied fully with the IMP.
- B. Require the operator to commend reclamation in accordance with the approved RP.

The lead agency review process for the IMP and subsequent submittal to DMR is detailed in PRC Section 2770(h). When the lead agency owns and operates the surface mining operation (e.g., a borrow pit) and that operation is solely for use by that lead agency, the lead agency shall include in its RP maintenance measures that become effective when the borrow surface mining operation is idle. The maintenance measures shall maintain the site in compliance with SMARA while the borrow pit is idle (PRC Section 2770.1(a)(1)).

### Financial Assurance

RPs also provide a basis for the calculation of the Financial Assurance Cost Estimate (FACE). Any adjustments to the cost estimate for reclamation must be reflected in the Financial Assurance Mechanism (FAM) for the surface mining operation. The FAM must always remain at least equal to the annually approved FACE. The lead agency must:

- Review on an annual basis the FACE, based on the RP and site conditions to ensure that it is adequate to complete reclamation to reduce potential liability to local or state government
- Adjust the FACE if necessary, to reflect, among other things, the expansion or a decrease in mining disturbances

- Submit to DMR a determination that the FACE submitted for comment is adequate, complete, and consistent with PRC Section 2773.1, Title 14 of the California Code of Regulations (14 CCR) Section 3800, and the State Mining and Geology Board (SMGB) Financial Assurance Guidelines
- Respond to any comments from DMR
- Approve the FACE following receipt of DMR input as adequate to complete reclamation between each inspection (see below) and FACE review/approval cycle

The requirements for responding to DMR comments, notices of public hearings, and final responses to comments are generally the same as for RPs, described above, except there is no requirement to file the approved FACE with the County Recorder. The requirements for the FACE review process are found in PRC Section 2773.4.

#### Annual Inspection, Inspection Notice, and Notice of Completion of Inspection

Annual inspections help to ensure SMARA compliance and that specific deviations from the approved RP are identified and handled timely and appropriately. Lead agencies must:

- Conduct annual inspections to ensure compliance with SMARA and the mining operation's RP
- Document mine conditions in Inspection Reports (IR) and Inspection Notices (IN; now referred to as a Notice of Completion of Inspection or "NOCI" under PRC Section 2774(b)(1))
- Submit both the IR and the IN/NOCI to DMR

### **3. Surface Mine Operator's Role**

Under SMARA, surface mine operators must:

- Prepare RPs and RP amendments, including interim management plans, that meet minimum SMARA requirements
- Maintain their surface mining operation in compliance with SMARA, the approved RP, permit conditions related to reclamation condition, conditions of approval, and minimal acceptable practices for reclamation pursuant to 14 CCR Section 3503
- Comply with annual reporting and reporting fee provisions pursuant to PRC Section 2207. This includes the submission of an Annual Report (AR) to DMR noting specific operational aspects for the previous calendar year with the report due on July 1 of each year along with the required fee
- Prepare and submit to the lead agency, annually, a FACE that meets minimum SMARA requirements pursuant to PRC Section 2773.1
- Maintain a FAM in an amount equal to or greater than the approved FACE

#### **4. Division of Mine Reclamation's Role**

DMR was created to provide backstop to enforcement, provide oversight of operators, and assist and provide document review for local governments that administer SMARA within their respective jurisdictions. The primary focus of DMR is on existing surface mining operations and the return of those mined lands to a usable and safe condition. Among other responsibilities, DMR reviews and comments on proposed RPs, RP amendments, and FACEs received from the lead agency after the lead agency certifies these documents are complete and compliant with SMARA. DMR also processes mining operators' ARs and fees as required in PRC Section 2207. If necessary, DMR initiates compliance actions that encourage SMARA compliance. Legacy abandoned mines (prior to 1976) are addressed through DMR's Abandoned Mine Lands Unit.

### **C. Lead Agency Review and Assistance Program**

#### **1. Background**

The LARA Program was developed following extensive input from lead agencies and other stakeholders. In December 2015 and January 2016, DMR held stakeholder workshops in four cities—Redding, San Luis Obispo, Santa Ana, and Sacramento—that provided an overview of the proposed LARA Program. Comments received during the workshops influenced final development of the LARA Program and the LARA Guidelines.

#### **2. Program Goal**

The goal of the LARA Program is to assist local agencies in effective administration of SMARA through vetted reclamation plans, comprehensive annual mine inspections, and rigorously reviewed cost estimates in addition to uniform application of mining laws and regulations throughout California.

#### **3. Legislative Amendments Since 2016**

Amendments to SMARA effective in 2017 are reflected in LARA Program implementation where applicable (see Attachment D for summary of legislative changes). The LARA Program review period for this Report covers the City's administration of SMARA between 2014 and 2018; therefore, any statutory amendments that occurred in 2016, went into effect in 2017, and do not apply to review years 2014 through 2016.

## D. City of Paso Robles

### 1. General Plan and Surface Mining Ordinance

#### **General Plan**

The City's General Plan is intended to fulfill State requirements for comprehensive, long-term planning for the physical development of the City. The General Plan (available at <https://www.prcity.com/317/General-Plan-Final>) contains city-wide goals, policies, and programs within eight general plan elements, six appendices, and several Area Plans. Most relevant to the LARA Program review and SMARA implementation is the Conservation Element document, which presents a general discussion of the mineral resources located within the City and lists the goals, policies, and programs that apply:

**GOAL C-4:** Mineral Resources. Oversee/Manage mineral resources.

**POLICY C-4 A:** Manage the extraction of mineral resources in order:

- a. To protect and conserve those Portland cement concrete aggregate mineral resources classified by the State Geologist as being important mineral deposits (i.e., designated "MRZ-2");
- b. To protect other properties and natural resources from any adverse impacts associated with mining operations.

**Action Item 1.** Continue to permit surface mining of sand and gravel as a conditional use within the Salinas River and Huerhuero Creek.

**Action Item 2.** As part of the review of new development projects involving areas within or adjacent to areas designated as MRZ-2, ensure that measures are adopted to protect the capability for future extraction of sand and gravel if such extraction activities would not conflict with surrounding land uses and other applicable plans and policies.

#### **Surface Mining Ordinance**

Chapter 21.17 of the City's Surface Mining and Reclamation Ordinance outlines the surface mining administrative review procedures for SMARA. It is posted available at: [https://library.municode.com/ca/el\\_paso\\_de\\_robles/codes/code\\_of\\_ordinances?nodeId=TIT21ZO\\_ARTIIIIDEST\\_CH21.17SUMIRE](https://library.municode.com/ca/el_paso_de_robles/codes/code_of_ordinances?nodeId=TIT21ZO_ARTIIIIDEST_CH21.17SUMIRE)

On November 10, 1999, the SMGB certified the City's mining ordinance under Resolution number 99-36, Ordinance number 767 N.S.

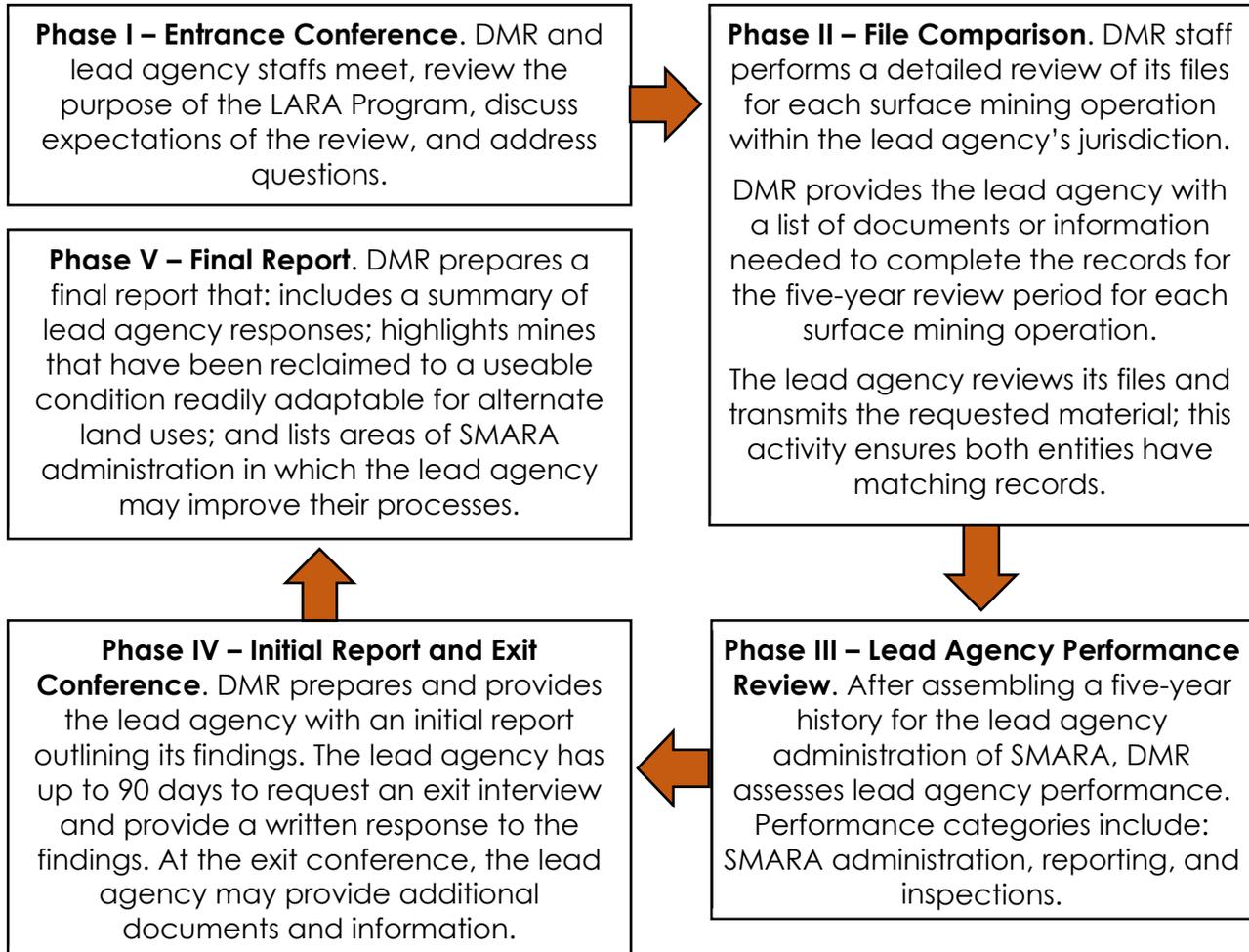
### 2. Surface Mining Administrative Review Procedures

While additional written administrative procedures are not required, the City has not developed any written documentation of its surface mining administrative review procedures for SMARA for the LARA Program review.

## II. LEAD AGENCY REVIEW AND ASSISTANCE PROGRAM REVIEW ACTIVITIES

The LARA Program review process consists of the five phases identified in Figure 2.

**Figure 2. LARA Program Review Process Flowchart**



### A. Phase I: Entrance Conference

On June 9, 2020, DMR and City staffs held an introductory meeting (Entrance Conference). The purpose of the meeting was to introduce staffs of the City and DMR, provide an overview of the LARA Program, discuss LARA Program review and mutual expectations, and answer any questions. Meeting participants were:

#### City of Paso Robles

- Warren Frace, Community Development Director
- Darren Nash, City Planner

**Division of Mine Reclamation**

- Carol E. Atkins, Manager, Environmental Services Unit
- Cy R. Oggins, Manager, Reclamation and Remediation Unit
- Amy Gomes, Environmental Scientist
- Carina Grove, Environmental Scientist
- Paul Fry, Manager, Engineering and Geology Unit
- Anji Amachree, Engineering Geologist
- April Balestreri, Manager, Reporting Unit
- Christopher Slaughter, Reporting Unit Analyst

Current DMR and City contacts for the LARA Program review are listed in Attachment F.

**B. Phase II: File Comparison**

DMR staff inventoried the contents of its mine files for the two existing surface mining operations subject to SMARA within the City's jurisdiction and within the review period (Table 1 and Figure 1 above identify the existing surface mining operations in City). To ensure that both the City's and DMR files contained the same operative documents as well as routine and non-routine submittals for each mining operation, (1) on June 10, 2020, DMR staff requested a meeting with City staff (per their request) to discuss the documents for the LARA Program review period; and (2) on July 17, 2010, following no response from the City to previous emails, DMR staff sent the list of missing documents to the City and requested that the City forward these documents so that information could be included in the review. DMR received no response from the City.

Examples of non-routine submittals and supporting documents include:

- Current approved RP (as amended, if applicable)
- Current approved Conditional Use Permit (CUP) and Conditions of Approval
- Comment letters from DMR regarding a RP or RP amendment
- Documents certifying RPs and RP amendments as complete and ready for review
- Response letters from the City (if DMR commented on a document)
- City hearing notices
- Final responses to comments (if DMR commented on a document)
- Any documents related to compliance actions during the review period

Examples of annual routine submittals include:

- Operator's AR and fee payment
- FACE with the associated Statement of Adequacy (SOA) and responses to any DMR comment letters
- FAM
- IRs with the associated IN or NOCI

## C. Phase III: Performance Review

### 1. Reclamation Plans and Amendments, Permits, Interim Management Plans, and Compliance Actions

SMARA Section 2770 requires that a person shall not conduct surface mining operations unless a permit is obtained from, a RP has been submitted to and approved by, and financial assurances for reclamation have been approved by the lead agency for operation (unless exempted by SMARA). The City oversees two mines. Table 2 details the permits and RPs for the surface mining operations with the jurisdiction of this lead agency. Attachment A provides a detailed chronology for the LARA Program review period for each mine's SMARA-related activities. No RP amendments or permit modifications were submitted during the review period. Also, during the review period, no compliance actions were taken. An Interim Management Plan was submitted for the North River Borrow Pit (40-0023) in 2014. Mining resumed at this site in 2015.

**Table 2. Surface Mining Operations' Permits, Reclamation Plans, Interim Management Plan<sup>1</sup>**

Mine ID # / Name	Initial CUP	Current CUP	Expires	Initial RP	Current RP	Expires	Mine Idled	IMP Issued	Mining Resumed
40-0023 / North River Borrow Pit	1967	NA; vested <sup>2</sup>	NA	1990	6/12/1990	NA	2002	2014	2015
40-0040 / Lone Oak Mine	1988	CUP #88011; 1988	NP	1988	9/12/1995	NP	NA	NA	NA

Abbreviations: CUP = Conditional Use Permit; IMP = Interim Management Plan; NA = Not Applicable; NP = Not Provided; RP = Reclamation Plan

Notes:

<sup>1</sup> Table prepared using multiple sources of information including CUPs, RPs, Inspection Reports, and environmental documents

<sup>2</sup> City of El Paso de Robles/City of Paso Robles Planning Commission refers to mine as a vested mine in the May 25, 1990, Staff Report on Reclamation Plans for Vested Mining Operations.

### 2. Financial Assurances

Financial assurances under SMARA consist of the initial and annual FACE and FAM. Operators must submit their annual FACE no later than 30 days after the annual inspection (SMARA Section 2773.4(d)(1)(a)). SMARA requires the lead agency to submit the FACE to DMR for review and comment together with a SOA. The FAM is required to be equal to or greater than the FACE. Prior to the 2016 changes to SMARA (effective January 1, 2017), lead agencies were required to: (1) respond if the DMR commented on a given FACE; (2) submit a notice of hearing on the FACE; and (3) provide a final response regarding approval of the FACE. Beginning in 2017, DMR under appropriate circumstances may appeal a lead agency's approval of a FACE to the SMGB.

Table 3 presents the SMARA annual FACE statutory requirements and associated timelines.

**Table 3. Annual FACE Statutory Requirements<sup>1</sup>**

<b>Activity</b>	<b>Applicable Time Period</b>
FACE submitted to LA on appropriate form <sup>2</sup>	Within 30 days of annual Inspection
Adequacy determination by LA	Within 90 days of annual Inspection
DMR to receive FACE certified by LA	Within 90 days of annual Inspection
DMR comments, if incomplete	Within 15 days of receipt of FACE
DMR comments on FACE that is complete, adequate, and consistent with SMARA <sup>3</sup>	Within 45 days of receipt of FACE
DMR receives final RTC from LA	30 days prior to LA FACE approval
DMR receives NOPH from LA	30 days prior to LA FACE approval
DMR receives appropriate FAM after FACE approval by LA	Within 30 days of approval
LA & DMR review FAM for adequacy	Within 15 days of receipt

Abbreviations: DMR = Division of Mine Reclamation; FACE = Financial Assurance Cost Estimate; FAM = Financial Assurance Mechanism; LA = Lead Agency; NOPH = Notice of Public Hearing; RTC = Response to Comment

Notes:

<sup>1</sup> Statutory requirements pursuant to PRC Section 2773.4(d)(1-6)

<sup>2</sup> Pursuant to PRC Section 2773.1(a)(4), effective January 2017

<sup>3</sup> PRC Section 2773.4(d)(2)(B) requires that the FACE submitted to DMR be adequate, complete, and consistent with Section 2773.1, Article 11 (commencing with Section 3800) of Subchapter 1 of Chapter 8 of Division 2 of 14 CCR, and the SMGB's financial assurance guidelines.

Table 4 presents and compares FACE and FAM values for the active surface mining operations within the City during the LARA Program review period (2014-2018). The FACE information came from FACE documents provided by the City staff either during the annual review process. FAM values for this exercise were obtained after DMR requested updated FAM information from City.

**Table 4. Financial Assurances (2014-2018): Lone Oak Mine (40-0040)<sup>1</sup>**

Calendar Year	FACE Document Date	FACE Amount	FAM Document Date <sup>2</sup>	FAM Amount	FAM/FACE Relationship
2014	P: 10/14/2014 R: 11/13/2014	\$11,350.00	12/14/2014	\$11,350.00	=
2015	NR	NR	NR	NR	NC <sup>3</sup>
2016	P: 11/9/2015 R: 8/31/2016	\$11,320.00	4/19/2016	\$11,320.00	=
2017	NR	NR	2/15/2017	\$10,260.00	NC <sup>3</sup>
2018	NR	NR	6/27/2018	\$10,000.00	NC <sup>3</sup>

Abbreviations: FACE = Financial Assurance Cost Estimate; FAM = Financial Assurance Mechanism; NC = Not Calculated; NR = Not Received; P = Date Prepared; R = Date DMR Received

Notes:

<sup>1</sup> North River Borrow Pit (40-0023) is not included in this table. The City submitted a letter dated October 17, 1994, stating that on June 12, 1990, the Paso Robles Planning Commission approved a RP for the vested mine. Information contained in the letter stated that financial assurances were not required as the in-stream mining site is naturally reclaiming. However, changes to statutes from passage of Assembly Bill 1142 make clear the requirement for financial assurances. These changes became effective in 2017.

<sup>2</sup> FAM dates are given for the dates the mechanism became effective or was notarized.

<sup>3</sup> No FACE documents were submitted, so value was not calculated.

Attachment B presents how the City performed in meeting statutory timelines associated with processing FACE Reviews. It further illustrates how the City performed with the statutory timelines associated with the IR, starting with date of the inspection and concluding with transmittal of the document to the operator and DMR.

### 3. Annual Inspection, Inspection Report (IR), Inspection Notice (IN or NOCI)

The City is required to inspect all mines annually (PRC Section 2774(b)). Typically, the City inspects mines in its jurisdiction during July-September of each year. Table 5 below contains a Performance Summary for each of the two mines within this jurisdiction. The City conducted nine out of an expected 10 annual inspections (90 percent). The City transmitted to DMR nine out of 10 IN/NOCI during the review period (90 percent).

**Table 5. Lead Agency Document Submittal Performance Summary (2014-2018)**

Mine ID # / Name	IR <sup>1</sup> (annual)	IN or NOCI	FACE	SOA	FACE Approval	FAM
40-0023 / North River Borrow Pit	4/5	4/5	0/5 <sup>2</sup>	0/5 <sup>2</sup>	0/5 <sup>2</sup>	0/5 <sup>2, 3</sup>
40-0040 / Lone Oak Mine	5/5	5/5	2/5	1/5	0/5	5/5
<b>Summary: Records Submitted</b>	9/10	9/10	2/10	1/10	0/10	5/10
<b>Summary: % Submitted</b>	<b>90%</b>	<b>90%</b>	<b>20%</b>	<b>10%</b>	<b>0%</b>	<b>50%</b>

Abbreviations: FACE = Financial Assurance Cost Estimate; FAM = Financial Assurance Mechanism; IN = Inspection Notice; IR = Inspection Report; N/A = Not Applicable; NOCI = Notice of Completion of Inspection; SOA = FACE Statement of Adequacy

Notes:

- <sup>1</sup> To evaluate this field, DMR staff first looked for presence of a submitted IR; if that was not available, then DMR staff looked to the annual report to determine if it was appended to this document to confirm the inspection occurred and the report was submitted.
- <sup>2</sup> The City submitted a letter dated October 17, 1994, stating that on June 12, 1990, the Paso Robles Planning Commission approved a RP for the vested mine. Information contained in the letter stated that financial assurances are not required as the in-stream mining site is naturally reclaiming. However, amendments to SMARA from passage of Assembly Bill 1142 make clear that operators must submit an annual FACE to the lead agency within 30 days of the annual inspection.
- <sup>3</sup> For this evaluation, DMR staff assumes an adjustment to the FACE would have been required annually.

The LARA Program review period is 2014-2018. During 2014-2016, SMARA required lead agencies to provide an IN, along with the IR within 30 days of the completion of the inspection.<sup>2</sup> In 2017 this requirement was amended to be 90 days. While DMR provided a form for the IN and NOCI, lead agencies were not required to use them. On some occasions, lead agency wrote transmittal letters for the IR that included the requirements of the IN or NOCI. Table 6 below presents the statutory requirements for completing the annual IR. Attachment B illustrates how the City performed in meeting statutory timelines associated with processing IRs.

**Table 6. Annual Inspection Statutory Requirements<sup>1</sup>**

<ul style="list-style-type: none"> <li>• Inspection completed in intervals of no more than 12 months</li> <li>• Inspection conducted by qualified individual</li> <li>• Appropriate form/with inspectors professional licensing and discipline information</li> <li>• Inspection Notice (IN)/Notice of Completion of Inspection (NOCI) along with Inspection Report transmitted to Operator and Division of Mine Reclamation within 30 or 90 days<sup>2</sup></li> <li>• IN/NOCI contains appropriate statements</li> </ul>
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Notes:

- <sup>1</sup> Pursuant to PRC Section 2774(b)(1)
- <sup>2</sup> Within 30 days applied prior to 2017; within 90 days applied beginning in 2017

<sup>2</sup> Post-2016 amendments to SMARA (Assembly Bill [AB]1142) resulted in changing the name of the IN, expanding its function, and increasing the amount of time that the lead agency must provide the document to DMR from 30 to 90 days (see Attachment D).

#### **4. Annual Report (AR)<sup>3</sup>**

Pursuant to PRC Section 2207, surface mine operators are required to submit ARs and pay a reporting fee to DMR. Mine operators also are required to send a copy of their AR to the lead agency. Annual reports include information about the mine's reporting status (active, idle, under reclamation or reclaimed), disturbed and reclaimed acreage amounts, and production during the previous year. The operators submitted 100 percent of their ARs during the review period and fees were paid.

#### **D. Phase IV: Initial Report**

The Initial Report was provided to the City for review on September 9, 2020. The City provided written comments to DMR to consider in preparation of the Final Report on December 9, 2020.

#### **E. Phase V: Final Report**

The Final Report was released and posted to the Department of Conservation website in December 2020.

### **1. Summary of Lead Agency Responses to the Initial Report**

City staff expressed appreciation for the work done in preparing the LARA report. City staff also indicated that one of the two operating mines will be taking steps to close and that moving forward, the City will take the recommendations provided in the LARA report to improve on yearly reporting and documentation.

### **2. Reclamation During Review Period**

During the review period, no surface mining operations were reclaimed to a useable condition readily adaptable for alternate land uses pursuant to 14 CCR Section 3805.5.

### **3. Review of the Lead Agency's SMARA Administration**

Section III presents the DMR staff's findings and recommendations to the lead agency.

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<sup>3</sup> An AR is submitted by the mining operator, not the lead agency, and is, therefore, not directly covered in the LARA review. Information on ARs is presented here as it is part of SMARA implementation.

### III. FINDINGS AND RECOMMENDATIONS TO LEAD AGENCY

Presented below are DMR staff's findings and recommendations to the lead agency following staff's review of the City's administration of the core requirements of SMARA during the LARA Program review period (2014–2018).

#### A. Processing of Reclamation Plans, Reclamation Plan Amendments, Interim Management Plans; and Compliance Issues

1. **Finding #1.** Both surface mines active at the beginning of 2014 and under the City's jurisdiction had appropriate lead agency approval for the surface mining operations (40-0023 under permit; 40-0040 has vested rights). One of the two mines had an IMP approved in 2014 that is applicable to the idling of the mine that started in 2002; an IMP should have been submitted in 2002.

**Recommendation #1.** The City must ensure that mine operators implement an IMP once a surface mining operation becomes idle; SMARA (PRC Section 2727.1) defines "idle" as having "curtailed production at the surface mining operation, with the intent to resume the surface mining operation at a future date, for a period of one year or more by more than 90 percent of its maximum annual mineral production within any of the last five years during which an interim management plan has not been approved." Furthermore, per PRC Section 2770(h)(2), the IMP "may remain in effect for a period not to exceed five years, at which time the lead agency shall do one of the following:

- (A) Renew the interim management plan for an additional period not to exceed five years, which may be renewed for one additional five-year renewal period at the expiration of the first five-year renewal period, if the lead agency finds that the surface mining operator has complied fully with the interim management plan.
- (B) Require the operator to commence reclamation in accordance with its approved reclamation plan."

2. **Finding #2.** The lead agency did not provide to DMR the records requested during the LARA review period.

**Recommendation #2.** The City must establish and maintain in-house measures and procedures to ensure organized record-keeping and monitoring of surface mining reclamation under its jurisdiction. SMARA states, "...[T]he lead agency shall forward a copy of each permit and approved reclamation plan and financial assurance instrument to the director of the Department of Conservation" (14 CCR Section 3504(a)). Additional documents that must be submitted to DMR include:

- Approved reclamation plans or plan amendments within 60 days of their approval
- Interim Management Plans at the time of approval
- FACEs within 30 days of their approval

- FAMs at the time of approval
- Notices of Violation at the time of issuance
- Stipulated Orders to Comply at the time of issuance
- Orders imposing an administrative penalty at the time of issuance
- Notices of completion of inspection including the completed inspection form at the time of issuance
- Permits at the time of approval

Additional documents that should be submitted to DMR include:

- Administrative decision at the time of issuance following an appeal of an Order to Comply
- Notices to an operator of a violation or failure to comply with an Order to Comply or Stipulated Order to Comply
- Vested rights determinations

## **B. Processing of Financial Assurances**

3. **Finding #3.** Lead agencies shall require financial assurance of each surface mining operation to ensure reclamation is performed in accordance with the surface mining operation's approved RP (PRC Section 2773.1(a)). As shown in Table 4, Table 5, and Attachment B, the City's review and submittal process for annual FACEs to DMR along with appropriate statement of adequacy did not meet statutory requirements. For example:

- During the review period (2014-2018):
  - The City did not require annual FACEs from the North River Borrow Pit (40-0023). Changes in SMARA resulting from passage of AB 1142 and effective in 2017 make clear that lead agencies shall require financial assurances of each surface mining operation.
  - The City had an overall 20 percent submittal rate for annual FACE documents.
- One FACE document was transmitted to DMR with the required statement of adequacy as per 14 CCR Section 3805 (pre-2017) and PRC Section 2773.4(a)(2)(post-2017) (i.e., "... the lead agency shall provide ... a determination that the financial assurance cost estimated submitted is adequate, complete, and consistent with PRC Section 2773.1, Article 11... and the boards financial assurance guidelines...").
- During the review period (2014-2018), the City did not provide notification of any approved FACEs to DMR.
- Based on documents provided, the City did not follow the time requirements within SMARA. FACE submittal should follow annual inspection and should occur within the time period per PRC Section 2773.4(d).

**Recommendation #3.** Operator submittal and Lead Agency approval of FACEs must comply with PRC Sections 2773.1 and 2773.4. Specific to the City and focused on post-2017 SMARA requirements:

- a. The City shall ensure that each surface mining operator submits a FACE annually for review, either:
  - o within 30 days of an annual inspection being conducted pursuant to PRC Section 2774, an operator shall provide an annual FACE to the lead agency for review (PRC Section 2773.4(d)(1)(A))
  - o within 30 days of the applicable inspection date (i.e., a date requested by the operator pursuant to PRC Section 2207 or a date set by the lead agency pursuant to Section 2774(c)) should the lead agency fail to cause the inspection of the surface mining operation (PRC Section 2773.4(d)(1)(B))
- b. For FACE submittals to DMR and per PRC Section 2773.4(a)(2), the City's process must include a statement that the FACE is "adequate, complete, and consistent with Section 2773.1, Article 11 (commencing with Section 3800) of Subchapter 1 of Chapter 8 of Division 2 of 14 CCR and the SMGB Guidelines adopted pursuant to PRC Section 2773.1."
- c. Following approval, the City must provide copies of the approved FACE to DMR.

### C. Annual Inspections, Inspection Reports, and Inspection Notices

4. **Finding #4.** The City conducted nine out of 10 required annual inspections (90 percent) as determined by submittal of the IR (see Table 5). The City was unable to comply with the established timelines within SMARA for processing annual inspections (see Attachment B). For example:
  - Mine inspections were not conducted annually.
  - The City transmitted to DMR six out of an expected 10 (60 percent) Inspection Reports within statutory timelines (namely, 90 days after the conducting the inspection prior to 2017 and 30 days after conducting the inspection prior to 2017).

**Recommendation #4.** In compliance with SMARA (PRC Section 2774(b)(1)), the City must:

- Cause surface mining operations to be inspected in intervals of no more than 12 months
- Provide a notice of completion of inspection to the supervisor [of DMR] within 90 days of conducting the inspection
- Ensure that the notice contains a statement regarding the surface mining operation's compliance with SMARA and a copy of the completed inspection form
- Specify, as applicable, all the following:

- (A) Aspects of the surface mining operation, if any, that were found to be inconsistent with this chapter but were corrected before the submission of the inspection form to the supervisor
- (B) Aspects of the surface mining operation, if any, that were found to be inconsistent with this chapter but were not corrected before the submission of the inspection form to the supervisor
- (C) A statement describing the lead agency's intended response to any aspects of the surface mining operation found to be inconsistent with this chapter but were not corrected before the submission of the inspection form to the supervisor
- (D) A statement as to whether the surface mining operation is out of compliance with an order to comply or stipulated order to comply issued by the lead agency

#### **D. General Findings and Requirements**

5. **Finding #5.** The City has a mining ordinance certified by the SMGB per PRC Section 2774.5. It was last certified by the SMGB on November 10, 1999.

**Recommendation #5.** Per statute (PRC Section 2774(a)), the City must update its existing surface mining ordinance and submit the updated ordinance to the SMGB for certification to comply with SMARA. This would ensure that the ordinance is consistent with changes to the SMARA statutes effective 2017 (see Attachment D).

#### **IV. RESOURCES USED IN REPORT PREPARATION**

##### **A. City of Paso Robles**

1. City of Paso Robles General Plan: <https://www.prcity.com/317/General-Plan-Final>
2. City of Paso Robles City Council Agenda: Ordinance 21.17 and amendments: [https://library.municode.com/ca/el\\_paso\\_de\\_robles/codes/code\\_of\\_ordinances?nodelid=TIT21ZO\\_ARTIIIDEST\\_CH21.17SUMIRE](https://library.municode.com/ca/el_paso_de_robles/codes/code_of_ordinances?nodelid=TIT21ZO_ARTIIIDEST_CH21.17SUMIRE)
3. City of Paso Robles General Plan 2003 Conservation Element: <https://www.prcity.com/DocumentCenter/View/14343/Conservation-Element-PDF>

##### **B. State of California**

See Attachment C

## ATTACHMENT A

### SMARA-related Chronologies for each Mine

A1 — NORTH RIVER BORROW PIT (40-0023) MINE CHRONOLOGY

A2 — LONE OAK MINE (40-0040) MINE CHRONOLOGY

#### **Abbreviations used in Attachment A:**

AR = Mining Operation Annual Report

CUP = Conditional Use Permit

DMR = Division of Mine Reclamation

FACE = Financial Assurance Cost Estimate

FAM = Financial Assurance Mechanism

IMP = Interim Management Plan

IN = Inspection Notice

IR = Inspection Report

NOCI = Notice of Completion of Inspection

RP = Reclamation Plan

RPA = Reclamation Plan Amendment

SOA = FACE Statement of Adequacy

SOR = Statement of Responsibility

X = Applicable

**A1 — NORTH RIVER BORROW PIT (40-0023) MINE CHRONOLOGY**

<b>DATE</b>	<b>Administrative Activity</b>	<b>RP/RPA/IMP</b>	<b>Permit</b>	<b>FACE</b>	<b>FAM</b>	<b>IR</b>	<b>IN or NOCI</b>	<b>Enforcement</b>
<b>Background Administrative Approvals</b>								
1967	Mining began at site							
6/12/1990	Planning Commission approved RP for vested mine operation	X						
10/17/1994	Letter from Lead Agency to DMR explaining why "City does not require that financial assurances are required for his mining operation" because site is naturally reclaiming itself; Reference to May 25, 1990 Planning Commission Staff Report			X	X			
<b>Current Permit Status/RP Status</b>								
11/15/2002	No mining since 2002; IMP Form prepared on 8/25/2014 and submitted later lists this as the date the mine became idle	IMP						
<b>LARA Review Period (2014-2018)</b>								
8/25/2014	Letter from Operator to Lead Agency regarding mine's IMP status; DMR received on 8/28/2014	IMP						
9/18/2014	Lead Agency submitted IMP to DMR for comments; no DMR-received date stamp	IMP						
8/17/2015	Inspection conducted; IR signed 9/8/2015; no violations (next inspection by 8/17/2016); no mining occurred since 2002; DMR received on 9/14/2015					X		
9/8/2015	IN transmitted IR (8/17/2015) to DMR; DMR received on 9/14/2015						X	
8/25/2016	Inspection conducted; IR signed 11/7/2016; no violations (next inspection by 8/25/2017); mining has resumed; IR reports site was mined for 10 short tons of sand and gravel; DMR received on 11/7/2016					X		
11/7/2016	IN transmitted IR (8/25/2016) to DMR; incorrect year on IN document (should be 2016, not 2015)						X	
9/18/2017	Inspection conducted; IR signed 10/10/2017; no violations (next inspection by 9/8/2018); site was mined for 150 short tons of sand and gravel; DMR received on 10/12/2017					X		
10/10/2017	IN transmitted IR (9/18/2017) to DMR; DMR received on 10/12/2017						X	
7/13/2018	Inspection conducted; IR not signed					X		
7/19/2018	IN transmitted IR (7/19/2018); DMR received on 7/19/2018						X	

**A2 — LONE OAK MINE (40-0040) MINE CHRONOLOGY**

<b>Date</b>	<b>Administrative Activity</b>	<b>RP/RPA</b>	<b>Permit</b>	<b>FACE</b>	<b>FAM</b>	<b>IR</b>	<b>IN or NOCI</b>	<b>Enforcement</b>
<b>Background Administrative Approvals</b>								
1988	CUP #88011 adopted		X					
7/5/1988	Reclamation Plan for CUP #88011 including statement accepting responsibility for reclamation of mined lands; DMR received on 8/20/1992	X						
8/1/1994	Lead Agency submitted NOPH for permit modification and amendment to RP and request for DMR comments within 14 days; Public Hearing scheduled for 8/22/1994; DMR received on 8/5/1994	X	X					
<b>Current Permit Status/RP Status</b>								
9/12/1994	Amendment to CUP#88011 (Resolution No. 94-042)	X	X					
2/24/1995	Planning Commission approved RP amendment and permit modification; submitted final documents including Resolution No. 94-042 and Stream Alteration Agreement; DMR received on 2/28/1995	X	X					
<b>LARA Review Period (2014-2018)</b>								
3/26/2014	FAM notification in amount of \$10,900.00; DMR received in bulk submission after DMR requested missing FAM from Lead Agency in email dated 11/8/2016				X			
7/7/2014	Inspection conducted; IR signed 7/8/2014; no violations (next inspection by 7/7/2015); DMR received on 7/10/2014					X		
7/8/2014	IN transmitted IR (7/7/2014) to DMR; DMR received on 7/10/2014						X	
10/14/2014	FACE prepared 10/14/2014; amount to reclaim estimated to be \$11,350.00; DMR received on 11/13/2014			X				
3/24/2015	FAM notification in amount of \$11,350.00				X			
7/21/2015	Inspection conducted; IR signed 8/21/2015; no violations (next inspection by 7/21/2016); DMR received on 8/27/2015					X		
8/21/2015	IN transmitted IR (7/21/2015) to DMR; DMR received on 8/27/2015						X	
4/20/2016	FAM notification in amount of \$11,320.00 (date on FAM appears to be in error; date reads				X			

**A2 — LONE OAK MINE (40-0040) MINE CHRONOLOGY**

<b>Date</b>	<b>Administrative Activity</b>	<b>RP/RPA</b>	<b>Permit</b>	<b>FACE</b>	<b>FAM</b>	<b>IR</b>	<b>IN or NOCI</b>	<b>Enforcement</b>
	4/20/2015; however, notary stamped on 4/19/2016)							
8/25/2016	Inspection conducted; IR signed 11/7/2016; no violations (next inspection by 08/25/2017); DMR received on 11/7/2016					X		
8/25/2016	IN transmitted IR (8/25/2016) to DMR (typo on IN showed inspection as 7/21/2015 - should be 8/25/2016); DMR received on 11/7/2016						X	
8/30/2016	FACE Statement of Adequacy from Lead Agency; DMR received on 8/31/2016			SOA				
8/31/2016	FACE prepared on 11/9/2015; amount to reclaim estimated to be \$11,320.00; DMR received on 8/31/2016			X				
11/7/2016	DMR provided comments (by email) to Lead Agency on financial assurance documents				X			
11/7/2016	Lead Agency responded (by email) to DMR; provided FAMs from 2012 -2016				X			
2/16/2017	FAM notification in amount of \$10,260.00				X			
9/18/2017	Inspection conducted; IR signed 10/10/2017; no violations (next inspection by 9/18/2018); DMR received on 10/12/2017					X		
10/10/2017	IN/NOCI transmitted IR (9/18/2017) to DMR; DMR received on 10/12/2017						X	
6/28/2018	FAM notification in amount of \$10,000.00; DMR received on 7/2/2018				X			
7/12/2018	Inspection conducted; Lead Agency signed IR on 7/20/2018; DMR received on 7/23/2018					X		
7/XX/2018	IN transmitted IR to DMR; date on IN and date of inspection are incorrect – from previous year; DMR received on 7/23/2018						X	

Note: XX = date unknown as the date on the document submitted was incorrect.

## **ATTACHMENT B**

### **SMARA-Related IR and FACE**

### **Statutory Timelines for each Mine**

- B1 — NORTH RIVER BORROW PIT (40-0023)
  - B1a - NORTH RIVER BORROW PIT (40-0023) IR STATUTORY TIMELINES
  - B1b - NORTH RIVER BORROW PIT (40-0023) FACE STATUTORY TIMELINES
  
- B2 — LONE OAK MINE (40-0040)
  - B2a - LONE OAK MINE (40-0040) IR STATUTORY TIMELINES
  - B2b - LONE OAK MINE (40-0040) FACE STATUTORY TIMELINES

#### **Abbreviations used in Attachment B:**

- DMR – Division of Mine Reclamation
- FACE – Financial Assurance Cost Estimate
- FAM = Financial Assurance Mechanism
- IN = Inspection Notice
- IR = Inspection Report
- LA = Lead Agency
- NOCI = Notice of Completion of Inspection
- NOPH = Notice of Public Hearing
- NR = No Record
- NS = Not Signed
- RTC = Response to Comments
- X = Completed

**B1a – NORTH RIVER BORROW PIT (40-0023) INSPECTION REPORT STATUTORY TIMELINES**

Activity	Applicable Time Period / Requirements	2014	2015	2016	2017	2018
Inspection Conducted	Annually	NR	8/17/15	8/25/16	9/18/17	7/13/18
Inspection Conducted	By qualified individual	NR	X	X	X	X
Inspection Conducted	On appropriate form	NR	X	X	X	X
Inspection form	Form signed	NR	9/8/15	11/7/16	10/10/17	NS
Inspection Notice transmitted Inspection Report to DMR	30 days prior to 2017 OR 90 days after 2017	NR	9/14/15	11/7/15	10/12/17	7/19/18
Inspection Notice	Contains appropriate statements	NR	X	X	X	X

Abbreviations: DMR = Division of Mine Reclamation; NR = No Record; NS = Not Signed

Notes:

Shaded boxes indicate time period exceeded.

X = completed

**B1b – NORTH RIVER BORROW PIT (40-0023) FINANCIAL ASSURANCE COST ESTIMATE STATUTORY TIMELINES (PRC Section 2773.4(d))**

Activity	Applicable Time Period / Requirements	2014 through 2018
Submit FACE to LA	Within 30 days of annual IR	May 25, 1990 Staff Report, Planning Commission meeting, indicates that financial assurances are not required as in-stream mine site is naturally reclaiming. However, amendments to SMARA (effective in 2017) require each surface mining operation to submit an annual FACE.
LA determined adequate	Within 90 days of annual inspection	
DMR comment	If incomplete, within 15 days of receipt	
DMR comment	If complete, within 45 days of receipt	
LA Response to Comments	Within 30 days of receipt	
DMR received NOPH	30 days prior to approval	
DMR received appropriate FAM	30 days after approved FACE	

Abbreviations: DMR = Division of Mine Reclamation; FACE = Financial Assurance Cost Estimate; FAM = Financial Assurance Mechanism; IR = Inspection Report; LA = Lead Agency; NOPH = Notice of Public Hearing

**B2a – LONE OAK MINE (40-0040) INSPECTION REPORT STATUTORY TIMELINES**

Activity	Applicable Time Period / Requirements	2014	2015	2016	2017	2018
Inspection Conducted	Annually	7/7/14	7/21/15	8/25/16	9/18/17	7/12/18
Inspection Conducted	By qualified individual	X	X	X	X	X
Inspection Conducted	On appropriate form	X	X	X	X	X
Inspection form	Form signed	7/8/14	8/21/15	11/7/16	10/10/17	7/20/18
Inspection Notice transmitted Inspection Report to DMR	30 days prior to 2017 OR 90 days after 2017	7/10/14	8/27/15	11/7/16	10/12/17	7/23/18
Inspection Notice	Contains appropriate statements	X	X	X	X	X

Abbreviations: DMR = Division of Mine Reclamation

Notes:

Shaded boxes indicate time period exceeded.

X = completed

**B2b – LONE OAK MINE (40-0040) FINANCIAL ASSURANCE COST ESTIMATE  
STATUTORY TIMELINES (PRC Section 2773.4(d))**

<b>Activity</b>	<b>Applicable Time Period / Requirements</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018<sup>1</sup></b>
Submit FACE to LA	Within 30 days of annual IR	10/14/14	NR	11/9/15	NR	NR
LA determined adequate	Within 90 days of annual inspection	10/31/14	NR	8/30/16	NR	NR
DMR comment	If incomplete, within 15 days of receipt	11/13/14	NR	8/31/16	NR	NR
DMR comment	If complete, within 45 days of receipt	NR	NR	NR	NR	NR
LA Response to Comments	Within 30 days of receipt	NR	NA	NA	NR	NA
DMR received NOPH	30 days prior to approval	NR	NR	NR	NR	NR
DMR received appropriate FAM	30 days after approved FACE	11/18/16	3/6/2015	11/8/17	2/16/17	7/2/18

Abbreviations: DMR = Division of Mine Reclamation; FACE = Financial Assurance Cost Estimate; FAM = Financial Assurance Mechanism; IR = Inspection Report; LA = Lead Agency; NA = Not applicable; NOPH = Notice of Public Hearing; NR = No Record

Notes:

<sup>1</sup> Indicates that the responsibility for submitting the FAM shifted to the operator  
Shaded boxes indicate time period exceeded.

## **ATTACHMENT C**

### **Resources Available to Lead Agencies (as of September 2020)**

#### **LEAD AGENCY REVIEW AND ASSISTANCE (LARA) PROGRAM WEB FILES**

- California Department of Conservation Division of Mine Reclamation webpage:  
<https://www.conservation.ca.gov/dmr>
- Information on the LARA Program, including final LARA reports:  
<https://www.conservation.ca.gov/dmr/SMARA%20Mines/Pages/LeadAgencyReview.aspx>
- Access to the LARA Program Review Process Guidelines:  
<https://www.conservation.ca.gov/dmr/SMARA%20Mines/Documents/LARA%20Guidelines-%20ADA%20Compliant.pdf>
- California Department of Conservation State Mining and Geology Board Financial Assurances Guidelines Appendices:  
<http://www.conservation.ca.gov/smgb/Guidelines/Pages/Appendices.aspx>

#### **SURFACE MINING AND RECLAMATION ACT OF 1975 (SMARA)**

##### **Statute**

- California Public Resources Code and California Code of Regulations for SMARA:  
<https://www.conservation.ca.gov/index/Documents/DMR-SR-1%20Web%20Copy.pdf>

##### **Rulemaking Updates**

- To be alerted to proposed regulatory changes to SMARA, sign up through the Department's website at:  
<https://www.conservation.ca.gov/smgb/Pages/Rulemaking/Overview.aspx>

##### **SMARA Inspection Workshops**

- The Division's SMARA Inspector Training Workshops and the Inspection Guidance Document, as required under PRC Section 2774(e):  
<https://www.conservation.ca.gov/dmr>

##### **Division Points of Contact**

- The Division has staff available to assist lead agencies in the Reporting Unit, Engineering Geology Unit, and Environmental Services Unit. An organization chart can be found on the DMR website at: <https://www.conservation.ca.gov/dmr>

### **Reclamation Plan Review and Approval**

- Additional resources can be found on the Division's website, including:
  - Checklist of Reclamation Plan Requirements  
The checklist is organized by topic (i.e., geologic requirements, revegetation requirements, etc.
  - New online Annual Reporting System (including online Annual Report fee payment)
  - Annual Report form and instructions
  - Financial Assurance forms and instructions (FACE and FAMs)
  - Inspection Form and Notice of Completion of Inspection form

## ATTACHMENT D

### Lead Agency Review and Assistance (LARA) Program Changes in Legislation Since 2016 (as of December 2020)

**Senate Bill No. 854, Summary:** *Published on June 27, 2018.*

- Establishes electric submittal of official copies of mining operational documents including reclamation plans, reclamation plan amendments, interim management plans, finance assurance documents, notices of violation, orders to comply, stipulated orders, orders imposing an administrative penalty, notices of completion of inspection, permits, vested rights determination and instructs DMR to post these documents on their website.

[https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=201720180SB854](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201720180SB854)

**Senate Bill No. 809, Summary:** *Published on October 5, 2017.*

- Transfers various duties assigned to the Director of Conservation to the Supervisor of Mine Reclamation, as specified, and transfers various duties assigned to the Department of Conservation to the Division of Mine Reclamation (DMR), as specified.
- Requires an operator to provide the lead agency and Mine Supervisor an updated Financial Assurance Mechanism (FAM) on approved forms, which includes updated requirements, and within 30 days of the lead agency Financial Assurance Cost Estimate (FACE) approval.
- Requires the lead agency and the Supervisor of DMR to notify the operator within 15 days of receipt of the FAM if it does not meet requirements.

[https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=201720180SB809](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201720180SB809)

**Senate Bill No. 209, Summary:** *Published April 18, 2016.*

- Establishes the DMR within the Department of Conservation under the direction of the Supervisor of Mine Reclamation.
- Raises the amount of the annual reporting fee to \$10,000 per mining operation and raises the maximum amount of the total revenue generated from the reporting fee to \$8,000,000.
- Provides for an operator (after the State Mining and Geology Board (SMGB) has adopted specified regulation) to include a corporate financial test in a Financial Assurance Mechanism.

[https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201520160SB209](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160SB209)

**Assembly Bill No. 1142, Summary:** *Published on April 18, 2016.*

- Requires reclamation plans filed by an operator of a mining operation with a lead agency include specified reclamation maps; requires a lead agency when

submitting a proposed reclamation plan to DMR to incorporate specified items of information and documents in the submitted reclamation plan within certain timeframes; requires certain actions be taken by DMR upon receiving a proposed reclamation plan.

- Requires operator to replace an approved financial assurance only if the financial assurance cost estimate (FACE) identifies a need to increase the amount of the financial assurance; requires a lead agency to submit the FACE for a surface mining operation to DMR for review as specified and requires DMR to take certain actions upon receiving a FACE.
- Requires a lead agency or the SMGB to conduct a specified public hearing if the lead agency has evidence that an operator maybe financially incapable of performing reclamation in accordance with its approved reclamation plan or that the operator has abandoned a surface mining operation without completing reclamation and to take appropriate actions to forfeit the operator's financial assurances.
- Authorizes a lead agency employee conducting mine inspections to have met specified criteria, including having completed mine inspection workshop (by January 1, 2020).
- Imposes new requirements on the lead agency related to the timing of mine inspections.
- Authorizes DMR to establish a training program for lead agency employees who inspect surface mining operations no later than December 31, 2017.
- Lays out process for enforcement actions.

[https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=201520160AB1142](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201520160AB1142)

## **ATTACHMENT E**

### **Lead Agency Staff Comments on Initial Report and Division of Mine Reclamation Staff Responses**

E1 — City of Paso Robles Staff Comments on Initial Report

E2 — Division of Mine Reclamation Staff Responses to the City of Paso Robles Staff Letter

## ATTACHMENT E1

### City of Paso Robles Staff Comments on Initial Report



#### CITY OF EL PASO DE ROBLES

*"The Pass of the Oaks"*

December 9, 2020

Amy M. Gomes  
Environmental Specialist, Environmental Services Unit  
Division of Mine Reclamation  
California Department of Conservation  
801 K Street, MS 09-06  
Sacramento, CA 95814

RE: City of Paso Robles 2020 LARA Review

Dear Ms. Gomes:

The City appreciates the work your office has done in preparing the 2020 Draft LARA report. The LARA report outlines areas of City's annual reporting process for the two sand mining operations in City Limits and provides for recommendations for improving on the annual reporting and documentation process.

As outlined in the Report, the City has two operating mines that mine sand from the Salinas River. The mines have relatively small footprints and naturally reclaim when the Salinas River flows. It is anticipated that the North River Road Borrow site (Mine 40-0023) will be taking the steps to close the mine, which would leave one mine, the Lone Oak Mine (40-0030) in operation.

Moving forward, the City will take the recommendations provide in the LARA report to improve on the yearly reporting and documentation process. Over the past 5 years that City has taken steps to improve on the Community Development Department's permitting systems by using Acella permit tracking for building, planning, and engineering permit tracking and issuance. I plan to work with our Acella administrators to see if their may be an opportunity to input the City mine information into Acella which would then provide for electronic tracking and more efficient annual report processing and archiving

In regard to the Missing Document list, I have not been able to retrieve the documents listed, however as I continue to evaluate the process and input information into the Acella system, when I get to those documents I will provide them to you.

I look forward to seeing the Final Report. Again, thank you for your work on this program.

If you have questions, please contact me at (805) 237-3970 or [dnash@prcity.com](mailto:dnash@prcity.com).

Sincerely,

Darren Nash  
City Planner

CC: Warren Frace, Community Development Director

## **ATTACHMENT E2**

### **Division of Mine Reclamation Staff Responses To the City of Paso Robles Staff Letter**

The Division of Mine Reclamation (DMR) staff appreciates the time that City of Paso Robles staff was able to provide to discuss and comment on this LARA Program review and on the Initial Report. The City did not provide specific comments on the contents of Initial Report; therefore, DMR staff has no detailed response to comments.

## **ATTACHMENT F**

### **Lead Agency Review and Assistance Program Contacts (as of September 2020)**

#### **DIVISION OF MINE RECLAMATION**

Main Phone Number: (916) 323-9198

Amy M. Gomes  
Environmental Scientist  
[Amy.Gomes@conservation.ca.gov](mailto:Amy.Gomes@conservation.ca.gov)

Carol E. Atkins  
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Cy R. Oggins  
Manager, Remediation and Reclamation Unit  
[Cy.Oggins@conservation.ca.gov](mailto:Cy.Oggins@conservation.ca.gov)

#### **CITY OF PASO ROBLES**

Main Phone Number: (805) 237-3970

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[CD@prcity.com](mailto:CD@prcity.com)

Darren Nash  
Community Development Department  
Associate Planner  
[dnash@prcity.com](mailto:dnash@prcity.com)