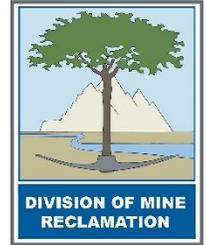




Department of Conservation



Division of Mine Reclamation

**City of Rialto
Lead Agency Review and
Assistance Report**

July 19, 2018

Revised February 2021

Addendum

This document has been revised from its original format.

The link for the FTP site that was on page 7 has been removed. An alternative link has been put in its place. Mine file documents can be requested from the Division of Mine Reclamation using this new link.

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I. Introduction

A. Report Purpose and Scope

The Department of Conservation's Division of Mine Reclamation (DMR) has prepared this report as part of its Lead Agency Review and Assistance (LARA) Program. The purpose of this report is to provide the results of the review of the City of Rialto's (City) administration of the Surface Mining and Reclamation Act of 1975 (SMARA). The period of review is 2012 through 2016.

This review is limited to the administration of particular core requirements of SMARA consisting of: (1) the review and approval of reclamation plans and associated financial assurances; (2) the submittal of mine operator's annual reports; (3) the inspection of mining operations within the City's jurisdiction; and (4) the issuance of permits or other mining authorizations. This report does not include a review of the City's administration of the California Environmental Quality Act or the City's mining ordinance.

This report lists the tasks completed during the review process and DMR's findings. A critical step in this process is a review of a lead agency's administrative record. The administrative record for a mining operation includes documents such as reclamation plans, conditional use permits, environmental documents, financial assurance documents, annual reports as well as communications between the City and DMR. The administrative record is a compilation of these documents that reflect the lead agency's administration of its SMARA responsibilities.

B. The Surface Mining and Reclamation Act

1. Overview

To accomplish the reduction of adverse environmental effects and return mined lands to a usable condition, SMARA requires operators to obtain from their respective local governments authorizing permits, approved reclamation plans and financial assurances.

The core of SMARA's intent is that the extraction of minerals is essential to the continued well-being of the State and the needs of society while recognizing that the reclamation of mined lands is necessary to prevent or minimize adverse effects on the environment and to protect public health and safety.

This intent is found in the Public Resources Code (PRC), section 2712, which provides that the "production and conservation of minerals are encouraged, while giving consideration to values relating to recreation, watershed, wildlife, range and forage, and aesthetic enjoyments," while requiring that "[a]dverse environmental effects are prevented or minimized and that mined lands are reclaimed to a usable condition which is readily adaptable for alternative land uses," and that "[r]esidual hazards to the public health and safety are eliminated."

2. Lead Agency's Role

California is unique among states in that the permitting of surface mines is accomplished by local governments acting as the lead agency. Lead agencies have the primary responsibility for the administration and enforcement of SMARA.

The essential lead agency responsibilities include:

- Issuance of mining permit or other mining authorization.
- Review and approve reclamation plans and financial assurances that meet minimum SMARA requirements.

- Conduct an annual inspection of surface mines in their jurisdiction to ensure that mines in their jurisdiction are compliant with SMARA.
- Establish mineral resource management policies and Mining Ordinances to be incorporated in general plan.
- Enforcement of Reporting requirements under PRC section 2207.

Reclamation plans that meet minimum SMARA requirements provide a foundation for a lead agency's regulation of ongoing mining operations. Reclamation plans also provide a basis for calculation of Financial Assurance Cost Estimates (FACEs).

Lead agencies must conduct annual inspections to ensure compliance with SMARA and the operation's reclamation plan. Annual inspections ensure that deviations from the approved reclamation plan are recognized and handled timely and appropriately. These inspections must be documented in Inspection Reports and Inspection Notices that are submitted to DMR.

Associated with the annual inspection, the City must also annually review the operation's FACE for reclamation to ensure that the cost estimate matches the operations' site conditions and to reduce liability. The FACE is adjusted to reflect expansion of mined lands or a decrease in mined lands due to phased reclamation. The FACE must be certified as adequate and submitted annually to DMR for review. Any adjustments to the cost estimate for reclamation must then be reflected in the operator's posting of a Financial Assurance Mechanism (FAM), which must always remain at least equal to the annually approved FACE.

3. Division of Mine Reclamation's Role

In 1991, the Office of Mine Reclamation (OMR) was created to work with local governments as they administer SMARA within their respective jurisdictions. DMR provides comments to lead agencies on mining operations, reclamation plans, and financial assurances which include the FACE and the financial mechanism, and if necessary, initiating compliance actions that encourage SMARA compliance. DMR accepts and processes operator's annual reports as required in PRC section 2207 that became effective in 1991.

In 2017, OMR was reorganized into the Division of Mine Reclamation as part of the provisions of Senate Bill 209 (Pavely) which was signed by Governor Brown on April 18, 2016. This law, along with Assembly Bill 1142 (Gray) made numerous changes to SMARA.

Pursuant to AB 1142, the Division has established an Inspector Training Program for all surface mine inspectors. Inspector Training workshops will be offered by the Division in different regions of the state and the first workshop was held in March 2018. All SMARA inspectors must have a certificate of completion of an Inspector Training workshop on file with the Division and the lead agency on or before July 1, 2020.

The Inspector Training Program provides skills and knowledge so that mine inspectors conduct comprehensive mine inspections that promote the following:

- Ensure surface mining operations are conducted in accordance with their approved reclamation plans, identify potential issues before they become violations and confirm reclamation is complete.
- Establish the connection between the inspection and the operator's calculation of the operation's FACE, thereby ensuring a sufficient amount of a Financial Assurance Mechanism, reducing the lead agency's potential liability for completing reclamation should the operator default on its reclamation responsibilities.
- Ensure a "level playing field" amongst mine operators through consistent regulation.

4. Surface Mine Operator's Role

- Prepare reclamation plans and reclamation plan amendments (including interim management plans) that meet minimum SMARA requirements.
- Maintain their surface mining operation in compliance with SMARA and their approved reclamation plan and permit conditions.
- Comply with annual report and reporting fee provisions pursuant to PRC section 2207.
- Annually prepare and submit to the lead agency FACEs that meet minimum SMARA requirements.
- Revise and submit to the lead agency the Financial Assurance Mechanism when the annual FACE indicates an increase in reclamation cost.
- Meet minimal acceptable practices for reclamation pursuant to the approved reclamation plan.

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 offered stakeholder workshops in four cities; Redding, San Luis Obispo, Santa Ana, and Sacramento. The workshops provided an overview of the proposed LARA Program, and the comments received during the workshops greatly influenced final development of the LARA Program.

Many changes to SMARA PRC section 2774 have caused DMR to reconsider two aspects of the LARA Program, primarily in the area of inspections and financial assurance cost estimates.

- Inspections - Under PRC section 2774 DMR was required to establish a mine inspector training program by December 31, 2017 and develop a guidance document for inspectors as part of the Inspector Training Program. The guidance document was developed and the first inspection training workshop was held on March of 2018 with at least five more workshops scheduled for 2018.

As a result of this change to SMARA, the LARA Program will not include a comprehensive qualitative review of lead agency inspector performance. A review of administrative procedures and an overall review of a lead agency's inspection program will continue.

- DMR has gained additional authorities under SMARA regarding financial assurance cost estimates. Under PRC section 2773.4 DMR can request a consultation with the lead agency and the operator when DMR determines the FACE to be inadequate. The lead agency cannot approve the FACE until after consulting with the DMR. DMR can also appeal an approved FACE to the State Mining and Geology Board (SMGB).

A review of internal administrative procedures and an overall review of a lead agency's FACE approval process will continue.

And finally, the LARA Program is focused on a lead agency's administration of SMARA, not on finding and initiating enforcement actions against individual mining operations.

2. Program Purpose and Objectives

The purpose of the LARA Program is to help ensure effective local administration of SMARA and uniform application of mining laws and regulations throughout the State by providing an administrative review of a lead agency's implementation of SMARA along with assistance and support to lead agencies.

LARA Program Objectives:

- Establish positive relations between DMR and lead agencies
- Provide training, assistance, and support to lead agencies
- Assist lead agencies in meeting SMARA compliance
- Review each lead agency's administration of their SMARA program for the last five years
- Increase lead agency's awareness to their SMARA program and the quality/adequacy of future reclamation plans and associated financial assurances to reduce liability to lead agencies, the State, the public, and the environment
- Establish a complete and accurate administrative record for each mine for both the lead agency and DMR
- Solicit early lead agency input and responses to the Initial Report prior to developing a Final Report
- Issue a Final Report summarizing the lead agency's administration and implementation of mining laws and regulations

D. The City of Rialto

The LARA review began with a meeting between DMR and the City on May 11, 2017. DMR presented a LARA Program overview, responded to questions, discussed all aspects of the LARA Program and emphasized DMR's interest in providing support to the City.

1. City's Surface Mining Ordinance

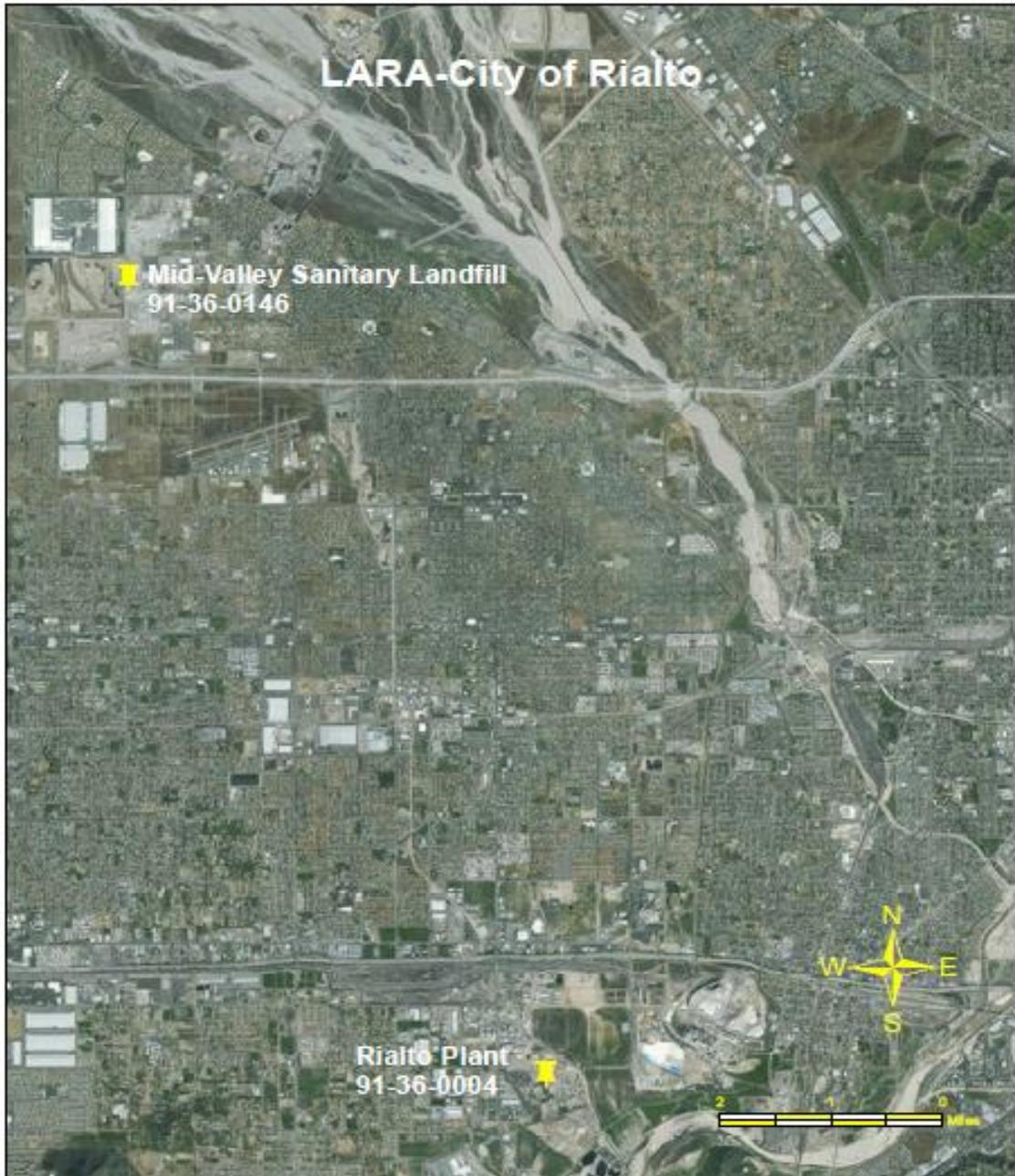
The City's Surface Mining and Reclamation Ordinance is included in the City of Rialto's Municipal Code, Chapter 18.76. This Code is the primary tool for implementing the goals, objectives, and policies of the City of Rialto's General Plan, pursuant to the mandated provisions of the State Planning and Zoning Law (Government Code section 65000 et seq.), California Environmental Quality Act (Public Resources Code 21000 et seq.), SMARA and other applicable State and local requirements. The State Mining and Geology Board certified the City of Rialto mining ordinance on March 11, 1999 under Resolution number 99-07.

2. Surface Mining Operations Considered

The review of the City's SMARA administration is based on the records of the two surface mining operations listed below.

| Mine ID # | Mine Name | Operator |
|------------------|------------------------------|--|
| 91-36-0004 | Rialto Mine | Holliday Trucking, Inc. |
| 91-36-0146 | Mid-Valley Sanitary Landfill | County of San Bernardino Solid Waste Management Division |

Location of the Two City Mine Operations



Rialto Plant, 91-36-0004

The Rialto Plant mine operation has an approved reclamation plan and conditional development permit (CDP # 354/Reclamation Plan) approved in 1990. The Rialto Plant is owned by Holliday Trucking, Inc. and operated by Holliday Rock Co., Inc. and the mined product is rock and sand.

Mid-Valley Sanitary Landfill, 91-36-0146

The Mid-Valley Sanitary Landfill mine operation has an approved reclamation plan and conditional development permit (CDP #395/Reclamation Plan) approved in 1998. The site is owned and operated by the County of San Bernardino Solid Waste Management Division.

The use permit allowed the extraction of sand and gravel from the 498-acre site. The CDP approved in 1998 indicates that the material excavated would be used as landfill cover (40 percent) while the remaining material would be sold off-site or used in cement and asphalt production on site.

E. Lead Agency Review and Assistance Program Activities Completed

1. Mine File Review

In order for DMR to establish a complete and accurate administrative record for each mining operation, a review of DMR’s files for all mining operations within the City’s jurisdiction was undertaken. A list of documents that could not be located in DMR’s administrative record was provided to the City to ensure that DMR files and the City’s files contain the same operative documents for each surface mine operation.

The list below includes the types of documents that are collected as part of the file review. Not all documents listed below apply to all surface mine operations and therefore may not be discussed or included as part of this review.

- Development permits and conditions of approval
- Environmental documents and mitigation measures
- Reclamation plans
- Reclamation plan certification from lead agency
- Reclamation plan amendments (including interim management plans)
- Comment and response letters between the lead agency and DMR
- Operator’s Annual Reports and fee payment
- FACEs
- Statements of adequacy from lead agency for FACEs
- FAMs
- Lead agency Inspection Reports and accompanying Notices of Completion of Inspection

The mine file review identified documents that could not be located in DMR’s administrative record. “A list of these documents was sent to the City on November 22, 2017, requesting a response and receipt of the documents before December 6, 2017, if possible.” The City did not respond to this request.

The documents requested by DMR are listed below:

| Mine | Document | Years Needed |
|------------------------------|--|---------------------|
| Rialto Plant | City’s Inspection Reports | 2012-2016 |
| | Inspection Report - Notice of Completion of Inspection | 2012-2016 |
| | Financial Assurance Cost Estimate (FACE) | 2012-2014 and 2016 |
| Mid-Valley Sanitary Landfill | City’s Inspection Reports | 2012-2016 |
| | Inspection Report - Notice of Completion of Inspection | 2012-2016 |
| | Financial Assurance Cost Estimates (FACE) | 2012-2016 |
| | Environmental Impact Report | 1998 |

Documents for mining operations within the City of Rialto can be requested by emailing DMR-Submittals@conservation.ca.gov.

2. Introductory Meeting

The introductory meeting between DMR and the City occurred on May 11, 2017. The purpose of the meeting was to allow personal introductions between staff of the two agencies; to provide an overview of the Program; to discuss mutual expectations; and for DMR to respond to questions from the City. The following persons attended:

City of Rialto

Gina Gibson-Williams, Planning Manager

DMR

Pat Perez, Supervisor, Division of Mine Reclamation

Bret Koehler, Engineering Geologist

Connie Spade, Associate Environmental Planner

II. City of Rialto's Administration of SMARA

A. Reclamation Plans

- All permits, reclamation plans, and other entitlements for the two operations were issued prior to the review period.
- Rialto Plant mine operation was approved in 1990.
- Mid-Valley Sanitary Landfill mine operation was approved in 1998. OMR provided a comment letter to the City dated June 24, 1998 indicating the reclamation plan appears to comply with SMARA.
- The City's internal processing procedures for Reclamation Plans at the time of their approval (1990 and 1998) are unknown.

B. Inspections

According to DMR records, the City did not conduct annual inspections for the two surface mining operations in their jurisdiction during the review period.

C. Financial Assurance Documents

1. City's Processing of Financial Assurance Cost Estimates

The City's internal procedures for processing FACEs are unknown.

2. Financial Assurance Cost Estimates

The operator was required to submit a FACE to the City each calendar year. Lead agencies must submit the document to DMR for review. DMR may choose to provide written comment. DMR only comments on FACE documents sent by the lead agency.

Rialto Plant

The City submitted the 2015 FACE to DMR for review.

Mid-Valley Sanitary Landfill

The latest FACE received from the lead agency was in 2011.

Based on email communications, the operator requested inspections from the lead agency during the five-year review period. DMR's administrative record indicates no mine inspections were conducted.

The County of San Bernardino Solid Waste Management Division submitted their FACEs to DMR with their Annual Reports. DMR's record do not include any documents that indicate the City certified the FACEs.

3. Financial Assurance Mechanisms

The table below provides information on the FACE documents received and not received.

| City of Rialto Mine Information | | 2012-2016 Financial Assurances | |
|------------------------------------|------------------------------|--|--------------------------------|
| Mine ID # | Mine Name | FACE Submittals | FAM |
| 91-36-0004 | Rialto Plant | The 2015 FACE \$23,259 | 2015 FAM was \$79,851 |
| 91-36-0146 | Mid-Valley Sanitary Landfill | No submittals (The latest FACE received was in 2011 at \$612,589) | FAM in 2012-2016 was \$408,586 |

D. Operator's Annual Reports

Pursuant to PRC section 2207, surface mine operators are required to submit annual reports and pay a reporting fee to DMR. They are also required to send a copy of their annual report to the lead agency. Annual reports were submitted and fees were paid during the five-year review period for both mines.

III. Review Conclusions

A. Observations

Annual Reports

Operators submitted 100 percent of their annual reports during the five-year review period and the fees were paid.

Inspections

The City completed zero required annual inspections during the five-year review period. Currently, the two mines have not been inspected for over seven years. The City has not indicated when they intend to do the next inspections. At the introductory meeting in May 2017 the Planning Manager indicated that efforts would be made to acquire funds and hire a consultant to handle the City's administration of SMARA. The Planning Manager noted the request for these funds would be included in the 2017/2018 fiscal year budget to be reviewed and approved by the City Council in June 2017.

Following the introductory meeting, DMR initiated several attempts to communicate with the Planning Manager as indicated below.

To date, DMR has received no response to these communications.

May 24, 2017

A letter from the DMR Supervisor thanking the City Planning Manager for hosting the introductory meeting, and to please forward documents and notify us when they get a SMARA consultant in the summer so we can assist them as needed.

November 22, 2017

A list of documents DMR could not locate in the administrative record. The email included the DOC web link for the City to view the documents.

January 24, 2018

“You will be receiving the initial report for your review and comment in the next few weeks. Please send any documents on our list of missing documents.”

FACES

Rialto Plant

The City submitted 20 percent of the required FACES during the five-year review period. DMR did not provide comments to the City on the FACES received.

Mid-Valley Sanitary Landfill

The City submitted no FACES during the review period.

B. City’s Response to Initial Report

The City did not provide a response to the initial report.

C. Summary

The key findings of this report are listed below.

1. The City staff only engaged with DMR for the introductory meeting.
2. The City did not perform inspections of the two mines in its jurisdiction during the review period.
3. FACE’s have not been approved annually pursuant to SMARA during the review period.

It is unknown what the City’s plans are for their SMARA program going forward.

IV. Resources Available to the City

DMR has staff available to answer lead agency questions in the Reporting Unit, Engineering Geology Unit, and Environmental Services Unit. An organization chart can be found on the Department of Conservation’s DMR webpage.

Attachment A of this report provides additional resources available to lead agencies including:

- Rulemaking Updates information and notification
- SMARA Inspection Workshops
- DMR webpage resources including a Reclamation Plan Checklist to assist lead agencies in reclamation plan reviews

The City should attend an upcoming DMR Mine Inspection Training Workshop to further understand SMARA inspection requirements for staff and to become a certified mine inspector. Beginning July 1, 2020, mine inspections must be done by a certified inspector (City staff or consultant) that has completed the DMR Mine Inspection Training Workshop.

The workshops allow for attendees to interact and share experiences with other jurisdictions and ask specific questions of DMR staff. SMARA inspection training would likely result in the lead agency being better equipped to review and evaluate mine site conditions, document annual inspection findings, and review and approve FACE's and establish sufficient Financial Assurance Mechanisms.

For more information on the workshops see <http://www.conservation.ca.gov/dmr> and review tab "What's New". For a list of the current workshop schedule click [here](#). For upcoming 2018 workshops, including three in southern California, see the DMR website for registration and more information.

DMR encourages the City to utilize DMR staff as a resource now and in the future.

V. Sources for Report Preparation

1. City of Rialto, City of Rialto Municipal Code, Chapter 18.76 Surface Mining and Land Reclamation.
2. Surface Mining and Reclamation Act, as outlined in California Public Resources Code and the California Code of Regulations for Surface Mining and Reclamation Act of 1975.
<https://www.conservation.ca.gov/index/Documents/DMR-SR-1%20Web%20Copy.pdf>
3. Division of Mine Reclamation, electronic and paper mine files.
4. California Department of Conservation Division of Mine Reclamation webpage:
<http://www.conservation.ca.gov/dmr>.
5. California Department of Conservation State Mining and Geology Board FA guidelines:
https://www.conservation.ca.gov/smgb/Guidelines/Documents/Fincl-Assurances/FA_GUIDELINES.pdf
<http://www.conservation.ca.gov/smgb/Guidelines/Pages/Appendices.aspx>

Attachment A

City of Rialto
Lead Agency Review and Assistance Report

Resources Available to Lead Agencies

Attachment A
City of Rialto
Lead Agency Review and Assistance Report

Surface Mining and Reclamation Act (SMARA) Compliance
Resources Available to Lead Agencies

Rulemaking Updates

The Division of Mine Reclamation (Division) is undertaking rulemaking efforts related to the passage of Senate Bill 209 (Pavely) and Assembly Bill 1142 (Gray) that can be accessed at <https://www.conservation.ca.gov/smgb/Pages/Rulemaking/Overview.aspx>

To be alerted to proposed regulatory changes to SMARA, sign up 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 SMARA 2774(e). The first workshop was held in March 2018.

Division Point 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 Division website.

Reclamation Plan Review and Approval

Additional resources can be found on the Division's website, including a helpful "Checklist of Reclamation Plan Requirements" at:

http://www.conservation.ca.gov/dmr/SMARA%20Mines/Pages/quarterly_reports.aspx

The checklist is organized by topic (i.e. geologic requirements, revegetation requirements, etc.).