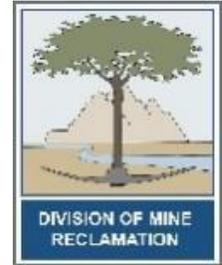




California Department of Conservation  
Division of Mine Reclamation



**City of San Bernardino**

# **Lead Agency Review and Assistance Final Report**

**May 2018**

**Revised February 2021**

# **Addendum**

This document has been revised from its original format.

The link for the FTP site that was on page 8 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 (Division) 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 San Bernardino's (City) administration of the Surface Mining and Reclamation Act of 1975 (SMARA). The period of review is 2011 through 2015.

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 (CEQA) or the City's mining ordinance.

This report lists the tasks completed during the review process, the Division's findings, and the City's response. The City contributed to the preparation of this report by participating in mine file reviews and document exchanges with the Division to ensure that the administrative record for both agencies was consistent and as complete as possible; by attending meetings with the Division; and by providing comments on the initial report.

The administrative record for a mining operation includes documents such as reclamation plans, conditional use permits, environmental documents, financial assurance documents as well as communications between the City and the Division. 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**

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 and approval of their reclamation plans are 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 under SMARA 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.
- Ensure that mines in their jurisdiction are compliant with SMARA, including operator submittal of annual reports and fees to the Division.
- Establish mineral resource management policies and Mining Ordinances to be incorporated in general plan.

Successful implementation of SMARA begins with approving compliant reclamation plans (plans that meet minimum SMARA requirements). Compliant reclamation plans provide a solid foundation for a lead agency's management of ongoing mining operations. Compliant reclamation plans also ensure that lead agencies can calculate and approve sufficient financial assurances. Following approval of reclamation plans and financial assurances, lead agencies must then conduct annual inspections to ensure compliance with SMARA and the operation's reclamation plan. Comprehensive annual inspections help to 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 the Division for its review and recordkeeping.

Associated with the annual inspection, the lead agency must also annually review the operation's financial assurance cost estimate (FACE) for reclamation to ensure that the cost estimate matches the operations' site conditions as the operation expands its disturbance of mined lands. The FACE must be certified as adequate and submitted annually to the Division for review. Any adjustments to the cost estimate for reclamation must then be reflected in the operator's posting of a financial assurance mechanism, which must always remain at least equal to the annually approved FACE. A FACE is subject to forfeiture by the lead agency or the state in case the operator is financially incapable of reclaiming the site or has abandoned the mining operation.

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

In 1991, the Office of Mine Reclamation (OMR) was created to provide a measure of oversight for local governments as they administer SMARA within their respective jurisdictions. This oversight includes providing comments to lead agencies on mining operation reclamation plans and financial assurance cost estimate, and if necessary, initiating compliance actions that encourage SMARA compliance.

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.

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

- 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 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.
- 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 the Division 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 following passage of AB 1142 have caused the Division to reconsider two aspects of the LARA Program, primarily in the area of inspections and financial assurance cost estimates. Under AB 1142, the Division is 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 has been developed and the first inspection training workshop was held in March of 2018, with at least 8 more workshops scheduled for 2018. Under AB 1142, after July 1, 2020, all mine inspectors are required to attend an inspection training workshop and obtain certification of proof of attendance.

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 still be conducted.

In the area of financial assurance cost estimates under AB 1142, the Division has gained additional authorities under SMARA. This includes the ability to suspend lead agencies from approving a FACE pending a two-party consultation on the FACE's adequacy, and to appeal an approved FACE to the State Mining and Geology Board (SMGB) where the Division determines the FACE to be inadequate. As a result of this change to SMARA and the Division's new authorities, the Division will not be conducting a comprehensive review of those FACES approved during the review period. A review of internal administrative procedures and an overall review of a lead agency's FACE approval process will still be conducted.

And finally, the LARA Program is focused on a lead agency's administration of SMARA and is not for the purpose of 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.

#### **Objectives**

- Establish positive relations between the Division and lead agencies.
- Provide training, technical assistance, and support to lead agencies.
- Assist lead agencies with meeting SMARA compliance goals.
- Establish a complete and accurate administrative record for each mine for both the lead agency and the Division.

- Review each lead agency’s administration of their SMARA program for the last 5 years.
- Improve quality/adequacy of future reclamation plans and associated financial assurances to reduce liability to lead agencies, the State, the public, and the environment.
- 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 San Bernardino**

The LARA review began with a meeting between the Division and the City on January 18, 2017. The Division presented a LARA Program overview, answered questions, discussed all aspects of the LARA Program and emphasized the Division’s interest in providing support to the City.

**1. Background**

It must be noted that the review period of 2011 through 2015 occurred during a unique situation for the City. In July of 2012, the City passed resolution number 2012-206 finding that the City was in “dire financial condition,” authorizing it to file for bankruptcy protection under Chapter 9 on August 1, 2012. The City reached a major milestone on June 15, 2017, after a U.S. Bankruptcy Court filed a Confirmation Order allowing the City to finalize the implementation of their Amended Plan of Adjustment of Debts. On June 19, 2017, the City issued a public statement titled, “San Bernardino Emerges from Bankruptcy; Focus to the Future.” The City has adopted restructuring and improvement plans for their future operations and governance.

**2. City’s Surface Mining Ordinance**

The City’s Surface Mining Ordinance is included in Chapter 19.02 of the San Bernardino City Development Code. This Code is the primary tool for implementing the goals, objectives, and policies of the San Bernardino 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 City is currently in the process of updating their Development Code. The City states that they have contracted with Lilburn Corporation to prepare the Surface Mining Ordinance section to reflect the new SMARA requirements that went into effect in April 2017, under AB 1142 and SB 209.

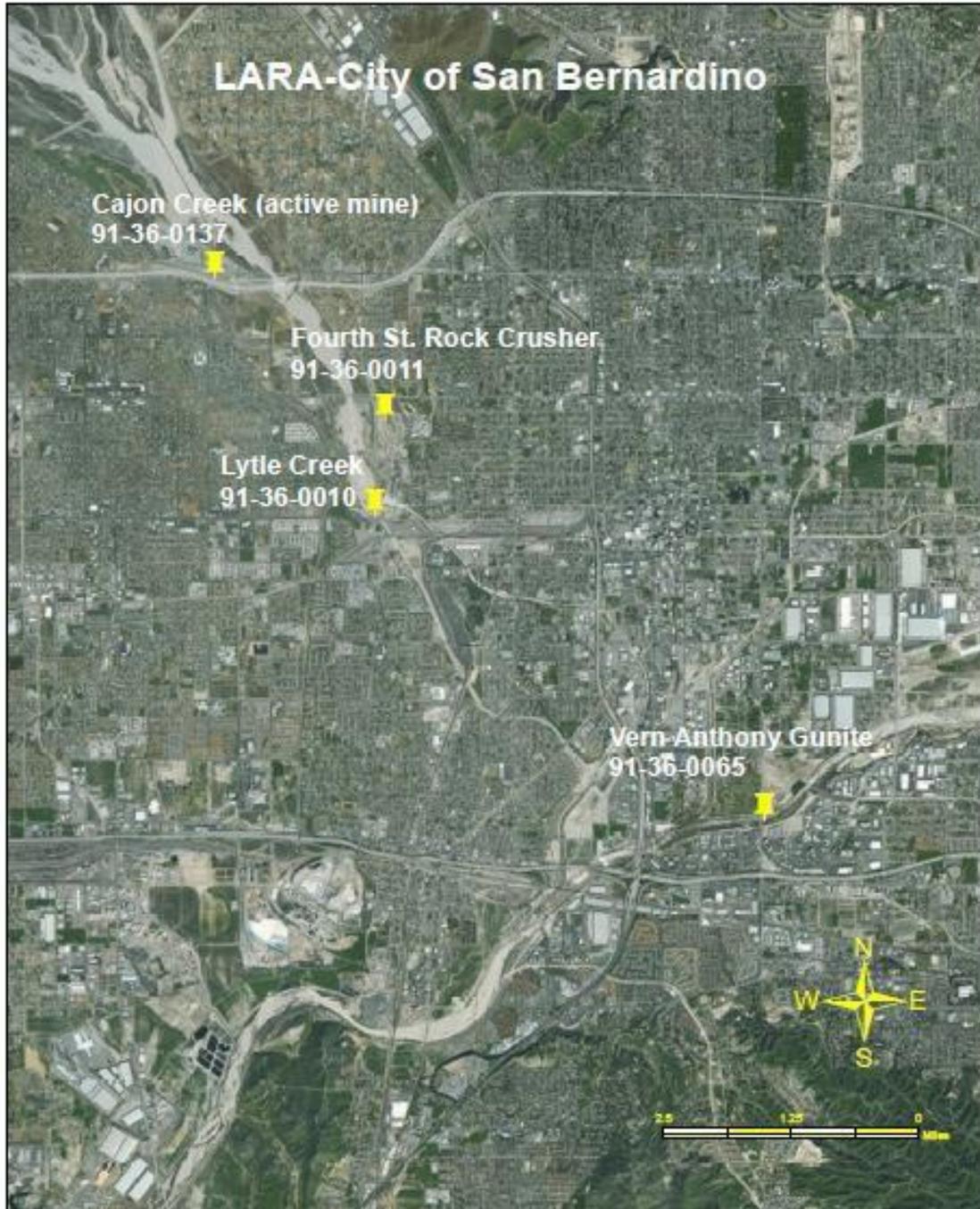
**3. Mining Operations Considered**

The City currently has one active surface mine operation within their jurisdiction which is the focus of this review. The review of the City of San Bernardino’s SMARA administration was initially based on the records of four reported surface mining operations listed below.

Cajon Creek	91-36-0137 - Active Surface Mine Operation
Lytle Creek	91-36-0010 - Flood Control Maintenance Facility
Fourth Street Rock Crusher	91-36-0011 - Aggregate Processing Plant
Vern Anthony Gunitite	91-36-0065 - Flood Control Maintenance Facility

A map depicting site locations and a brief summary of each mine operation follows.

## Location of the Four City Mine Operations



The Cajon Creek mine operation has an approved reclamation plan and conditional use permit (CUP NO. 91-31/Reclamation Plan) approved in 1993. The other three operations were determined by the City to be exempt from SMARA as described below. Cajon Creek is owned and operated by CalMat Co. dba Vulcan Material Company.

### Exempt Operations

During the LARA review process and based on a compliance report prepared by the Lilburn Corporation dated October 17, 2016, the subject of the three exempt mines was discussed. The three sites were visited jointly by the Division and the City, and the City Planning Commission

adopted resolutions identifying the three mines as exempt from SMARA. A brief discussion of the exempted mines follows.

Initially the operations listed below were subject to SMARA. However, SMARA was amended in 1993 to exempt aggregate processing plants and in 1997, Title 14 of the California Code of Regulations (CCR) was amended to clarify that flood control facilities were exempt under CCR section 3505(a)(2).

In 2017 the City decided to clarify the administrative record by formally acknowledging the mine operations as exempt via City resolutions. Because these operations were exempt during the period of review, the Division did not include these sites in its LARA review.

<b>Site Name</b>	<b>Mine ID Number</b>	<b>Flood Control Facility CCR § 3505 (a)(2)</b>	<b>Aggregate Processing Plant PRC § 2714(c)</b>
<b>Lytle Creek</b>	91-36-0010	<b>x</b>	
<b>Fourth Street Rock Crusher</b>	91-36-0011		<b>x</b>
<b>Vern Anthony Gunite</b>	91-36-0065	<b>x</b>	

The current status of the exempted sites is shown below.

Lytle Creek (flood control facility)

The County of San Bernardino Flood Control District (District) has approved engineered plans for this site as a flood control facility. The District maintains Lytle Creek wash by removing sediment build-up to meet engineered flood capacity levels.

Fourth Street Rock Crusher (aggregate processing plant)

This site is currently used for industrial purposes including a concrete plant and aggregate processing facility. Previously the site was subject to a reclamation plan and the mined lands were reclaimed pursuant to the approved reclamation plan.

Vern Anthony Gunite (flood control facility)

The County of San Bernardino Flood Control District (District) has approved engineered plans for this site as a flood control facility. The District maintains the Santa Ana wash by removing sediment build-up to meet engineered flood capacity levels.

**E. Lead Agency Review and Assistance Program Activities Completed**

**1. Mine File Review**

In order for the Division to establish a complete and accurate administrative record, a review of the Division’s files for all mining operations within the City’s jurisdiction was undertaken. A list of missing documents comprising the administrative record for each mine was provided to the City to ensure that the Division files and the City’s files contain the same up-to-date documents for the surface mine operation.

The list below indicates the standard documents that are collected and assessed to review the lead agency’s SMARA administration. 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)
- Reclamation plans, reclamation plan amendments, and comment and response documents from and between lead agency and the Division
- Operator's Annual Reports (2011-2015)
- FACEs (2011-2015)
- Documented statement of adequacy from lead agency for FACEs (2011-2015)
- Lead agency response to the Division comments on FACEs (2011-2015) (when applicable)
- FAMs
- Lead agency inspection reports (2011-2015) and inspection notices

The mine file review resulted in identification of some missing documentation in the administrative record for the Cajon Creek mine operation for both the City and the Division. Documents for mining operations within the City of San Bernardino can be requested by emailing [DMR-Submittals@conservation.ca.gov](mailto:DMR-Submittals@conservation.ca.gov).

## 2. Introductory Meeting

The City of San Bernardino introductory meeting occurred on January 18, 2017. The purpose of the meeting was for personal introductions between Division staff, the City staff, and staff from the City's consultant, Lilburn Corporation. The meeting was an opportunity to provide an overview of the Program, discuss expectations, and respond to questions. The following persons attended:

### Division

Pat Perez, Supervisor, Division of Mine Reclamation  
 April Balestreri, Reporting Unit Manager  
 Bret Koehler, Engineering Geologist  
 Connie Spade, Associate Environmental Planner

### Lead Agency

Oliver Mujica, Planning Division Manager  
 Elizabeth Mora-Rodriguez, Assistant Planner

### Lead Agency Consultant - Lilburn Corporation

Steven Kupferman, Principal Geologist  
 Frank Amendola, Project Manager

## 3. LARA Program - Inspections

Division staff inspected three sites within the City's jurisdiction on April 11 and 12, 2017, and confirmed that the sites appeared to be exempt from SMARA. The following persons were in attendance:

### Division

Paul Fry, Senior Geologist  
 Bret Koehler, Senior Geologist  
 Connie Spade, Associate Environmental Planner

### City of San Bernardino

Elizabeth Mora-Rodriguez, Assistant Planner

Lead Agency Consultant - Lilburn Corporation

Steven Kupferman, Principal Geologist  
Frank Amendola, Project Manager

County of San Bernardino Flood Control District

Brenda Hartman, Property Management Coordinator  
Brad Mecham, Inspector

Robertsons Ready Mix

Phil Souza, Manager

**F. Lead Agency's Response to Initial Report**

The City provided comments in response to the Division's initial LARA report in a letter dated April 2, 2018. The City's comments are as follows:

"The City of San Bernardino has obtained/retained the services of Lilburn Corporation. Lilburn Corporation will continue to support the City of San Bernardino through an annual contract that encompasses annual mine inspections, Financial Assurance Cost Estimate (FACE) review, and any additional lead agency SMARA responsibilities. Additionally, Lilburn Corporation will conduct annual inspections and FACE reviews for the City of San Bernardino's one active surface mine operation, Cajon Creek Mine (CA Mine ID No. 91-36-0137).

Thus, the City of San Bernardino concurs with the findings (as stipulated in the report) that we feel confident we can continue to enforce the Mining Ordinance as City's exit from bankruptcy, per Judge Meredith dated June 15, 2017."

**II. City of San Bernardino's Administration of SMARA (2011-2015)**

**A. Lead Agency's Internal Processing of Reclamation Plans and Amendments**

All permits, reclamation plans, and other entitlements for the four operations were issued prior to the review period. The reclamation plan for the Cajon Creek mine operation was approved in February 1994. The City's Assistant Planner, Elizabeth Mora-Rodriguez, indicated she could not find anything in the record to determine the City's internal processing procedures for Reclamation Plans in 1994.

**B. Inspections**

The lead agency did not conduct inspections during the five-year review period for the three exempt mines. The Cajon Creek mine operation was inspected by an Engineering Geologist from the Lilburn Corporation, under contract from the City, for two of the five years (2012 and 2013).

The required time for submittal of an inspection report and inspection notice to the Division was 30 days after the date of inspection (now 90 days). The lead agency was 4 days late in their submittal of the 2012 inspection report and 23 days late in their submittal of the 2013 inspection report. Inspection notices were not included with the reports.

**C. Financial Assurance Documents 2011-2015**

**1. Lead Agency's Internal Processing of FACEs**

Annual submittal of FACEs by the mine operator to the lead agency is required under SMARA.

The Cajon Creek operation submitted FACES to the city in 2012, 2013, and 2014. The City subsequently transmitted those FACES to the Division for review. The cost estimates were prepared by Enviromine, Inc., on behalf of the operator, Vulcan Materials Company. In 2016 the City of San Bernardino contracted with Lilburn Corporation to continue reviewing the operator's annual FACE.

The City's cover letters (dated February 16, 2012 and May 1, 2013) for the 2012 and 2013 FACES state that the City intended to approve the FACES on the same dates as the letters. This did not allow for the statutory 45-day review required under SMARA at PRC section 2774(d) for the director to prepare written comments; for the lead agency's response to the comments; nor for the required 30-day notice to the director of the lead agency's scheduled approval of the FACE. The cover letters did not contain a statement of adequacy as required under CCR section 3805.

The record indicates that the Division provided one letter to the City indicating "no comment" for the 2012 FACE. It is optional for the Division to provide comments on FACES.

## **2. Financial Assurance Mechanism (FAM)**

The Cajon Creek mine operation has maintained adequate FAMs from 2011-2015. Currently the FAM for this operation is \$1,387,442 and exceeds the current FACE of \$850,484.

## **D. Operator's Annual Reports**

The operator for the Cajon Creek mine operation submitted annual reports for all five years.

## **III. Review Conclusions**

### **A. Observations**

#### Annual Reports – Cajon Creek mine operation

Operators are required to submit an annual report to the lead agency and to the Division. The operator for the Cajon Creek mine operation submitted 100% of their annual reports during the review period.

#### Inspections - Cajon Creek mine operation

The City completed **40% of inspections** for the Cajon Creek mine operation during the five-year review period. Inspection notices required under (then) SMARA at PRC section 2774(b) were not included with the inspection reports. The City has now contracted with Lilburn Corporation to do future annual inspections.

As recent as 2016, the City's Planning Division staff was limited to a Planning Director and an Assistant Planner. However, two Associate Planners and one Assistant Planner were added later in 2016. Another Assistant Planner was added in 2017. With the addition of planning staff, utilizing Lilburn Corporation to do annual inspections, and the bankruptcy process complete, the City believes it should be able to conduct and report on inspections annually.

#### FACE - Cajon Creek mine operation

The City submitted **60% of their FACES** during the five-year review period for the Cajon Creek mine operation, although as noted above the cover letters on two submittals did not allow time for the mandated review and comment period, nor did they contain a statement of adequacy. The

FACEs for 2011 and 2015 were not submitted, while the FACE for 2014 does not include a cover letter. During this period, the Division did not provide comments to the City on the FACEs submitted.

#### Exemptions

The City passed resolutions during the LARA review process for the three exempt mines to clarify the administrative record and formally acknowledge the exemptions.

#### Summary

The City was in bankruptcy proceedings for almost five years, starting with the filing for Chapter 9 bankruptcy on August 1, 2012. On June 15, 2017, the U.S. Bankruptcy Court filed a Confirmation Order allowing the City to finalize the implementation of their Amended Plan of Adjustment of Debts. On June 19, 2017, the City issued a public statement titled, "San Bernardino Emerges from Bankruptcy; Focus to the Future." The City anticipates a positive General Fund unallocated cash balance of approximately \$9.5 million in FY 2022–2023, as opposed to the deficit of \$360 million projected for that date in 2017.

The Division appreciates the City's collaborative efforts during the LARA Program review process, making time for meetings, and providing comments on the Initial Report. Through the LARA process, the City and the Division have enhanced their working relationship. The Division has encouraged the City to utilize Division staff as a resource now and in the future.

### **B. Lead Agency Plans**

The City provided comments regarding their plans for their SMARA program going forward in a letter dated April 2, 2018.

"The City of San Bernardino filed for bankruptcy on August 1, 2012, and was officially out of bankruptcy June 15, 2017. During the five (5) year span, the City of San Bernardino lost more than half (1/2) of our staff. Under the Community Development Department, the Planning Division staff, whom serves as the City's SMARA Lead Agency responsible body, was downsized to approximately one (1) to two (2) staff members during this bankruptcy period. Now that the City of San Bernardino has emerged from bankruptcy, the Planning Division has been able to obtain more staff (to include: four (4) Planners and one (1) Planning Division Manager that will allow it to manage the many duties and responsibilities required by its City. Additionally, the City of San Bernardino has been able to now obtain/retain the services of Lilburn Corporation, to support the City of San Bernardino lead agency SMARA responsibilities including, but not limited to: annual mine inspections and FACE review."

### **IV. Surface Mining and Reclamation Act Compliance - Resources Available to Lead Agencies**

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's webpage.

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

- Rulemaking updates, information, and current activities
- SMARA Inspection Workshop schedules
- Resources that include a Reclamation Plan checklist

Attachment B of this report is the City's letter dated April 2, 2018, in response to the initial LARA Report.

### **V. Sources for Report Preparation**

1. City of San Bernardino, City of San Bernardino Development Code, Chapter 19.02.

2. Surface Mining and Reclamation Act of 1975, and the associated California Code of Regulations.  
<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](https://www.conservation.ca.gov/smgb/Guidelines/Documents/Fincl-Assurances/FA_GUIDELINES.pdf)  
<http://www.conservation.ca.gov/smgb/Guidelines/Pages/Appendices.aspx>
6. Lilburn Corporation, SMARA Mining Program Compliance letter and document dated September 6, 2016.

# **Attachment A**

City of San Bernardino  
Lead Agency Review and Assistance Report

Resources Available to Lead Agencies

# **Attachment A**

## **City of San Bernardino 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](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.).

## **Attachment B**

City of San Bernardino  
Lead Agency Review and Assistance Report

City of San Bernardino's Letter of Response  
to Division of Mine Reclamation's Initial Report



# City of San Bernardino

Community Development Department | Planning Division

April 02, 2018

Connie Spade  
Department of Conservation  
Division of Mine Reclamation  
801 K Street, MS 09-06  
Sacramento, CA 95814

## **SUBJECT: LEAD AGENCY REVIEW AND ASSISTANCE (LARA) INITIAL REPORT RESPONSE**

Dear Ms. Spade,

The City of San Bernardino has reviewed the Lead Agency Review and Assistance (LARA) Report, dated January 9<sup>th</sup> of 2018. After review of the report, we respectfully request that the following should be amended and/or added to the report:

- **I. Introduction: D. The City of San Bernardino: 3. Surface Mine Operations Considered** section stipulates that the “*City Council adopted resolutions identifying the three mines as exempt*”. For clarification, the City Planning Commission adopted those resolutions and the report should reflect that action.
- **I. Introduction: F. Lead Agency’s Response to Initial Report.** The City of San Bernardino has obtained/retained the services of Lilburn Corporation. Lilburn Corporation will continue to support the City of San Bernardino through an annual contract that encompasses annual mine inspections, Financial Assurance Cost Estimate (FACE) review, and any additional lead agency SMARA responsibilities. Additionally, Lilburn Corporation will conduct annual inspections and FACE review for the City of San Bernardino’s one active surface mine operation, Cajon Creek Mine (CA Mine ID No. 91-36-0137). Thus, the City of San Bernardino concurs with the findings (as stipulated within the report) that we feel confident we can continue to enforce the Mining Ordinance as City’s exit from bankruptcy, per Judge Meredith dated June 15, 2017.
- **III. Review Conclusions: B. Lead Agency’s Response.** The City of San Bernardino filed for bankruptcy on August 1<sup>st</sup> of 2012 and was officially out of bankruptcy June 15<sup>th</sup> of 2017. During the five (5) year span, the City of San Bernardino lost more than half (1/2) of our staff. Under the Community Development Department, the Planning Division staff, whom serves as the City’s SMARA Lead Agency responsible body, was downsize to approximately one (1) to two (2) staff members during this

bankruptcy period. Now that the City of San Bernardino has emerge from bankruptcy, the Planning Division has been able to obtain more staff (to include: four (4) Planners and one (1) Planning Division Manager) that will allow it to manage the many duties and responsibilities required by its City. Additionally, the City of San Bernardino has been able to now obtained/retained the services of Lilburn Corporation, to support the City of San Bernardino lead agency SMARA responsibilities including, but not limiting to: annual mine inspections and FACE review.

Thank you and we concur with the findings of the LARA Initial Report and we feel confident that we will continue to enforce the Mining Ordinance. Should you have additional questions, comments, or need additional information, please contact Elizabeth Mora-Rodriguez at (909) 384-7272, extension 3075 or via email at [Mora-Rodriguez\\_El@sbcity.org](mailto:Mora-Rodriguez_El@sbcity.org).

Respectfully Submitted,



Elizabeth Mora-Rodriguez  
Assistant Planner

Reviewed by:



Oliver Mujica  
Planning Division Manager