

**STATE MINING AND GEOLOGY BOARD**

DEPARTMENT OF CONSERVATION

801 K Street • Suite 2015 • Sacramento, California 95814

PHONE: 916 / 322-1082 • FAX: 916 / 445-0738 • TDD: 916 / 324-2555 • INTERNET: [conservation.ca.gov/smgb](http://conservation.ca.gov/smgb)**Erin Garner, Chair**  
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January 8, 2010

**FURTHER NOTICE OF PENDING DETERMINATION****State Mining and Geology Board's  
Notice of Vested Rights Determination  
Big Cut Mine Surface Mining Operation  
El Dorado County, California**

**NOTICE IS HEREBY GIVEN** that the State Mining and Geology Board (SMGB) proposes to hold a public hearing in order to consider whether the Big Cut Mine surface mining operation, located in El Dorado County, has vested rights in accordance with the Surface Mining and Reclamation Act of 1975 (SMARA), pursuant to Public Resources Code Division 2, Chapter 9, Article 5, Section 2776.

**PENDING ADMINISTRATIVE ACTION**

In a December 2007 ruling, the California Court of Appeal, Third Appellate District, held that a proper notice and hearing was required for any vested rights determination, and directed that when the SMGB is acting as the SMARA lead agency, the SMGB has the responsibility to conduct the public hearing and make the vested rights determination upon request by the operator (*Calvert v. County of Yuba*, (2007) 145 Cal. App. 4th 613). On August 14, 2008, the Office of Administrative Law approved the proposed regulations which present the administrative procedures for conducting such a determination. The regulations were enacted on September 13, 2008.

The SMGB administers certain lead agency responsibilities and obligations pursuant to SMARA (Public Resources Code Section 2710 et seq.) for El Dorado

County, and will be conducting a vested rights determination (CCR Section 3950 et seq.) for the surface mining operation known as the Big Cut Mine (California Mine Identification No. 91-09-00XX), located in El Dorado County.

### **SPECIFIC PROPERTY**

The Agents for Claimant and business addresses for the Big Cut Mine surface mining operation are:

Ms. Diane Anderson  
Agent for Claimant  
270 Hanford Street, Suite B  
Sutter Creek, California 95685  
Phone: (209) 267-5214

Mr. Kerry Shapiro  
Attorney for Claimant  
Jeffer, Mangels, Butler & Marmaro LLP  
Two Embarcadero Center, 5th Floor  
San Francisco, CA 94111  
Phone: (414) 398-8080

The specific property for which a vested rights determination has been requested from the SMGB is depicted in Figure No. 1 (attached; map can be found in Exhibit 1 of the Big Cut Mine Request For Determination, received by the SMGB on March 13, 2009). The subject area incorporates 149.75 acres, currently owned by Joseph Hardesty and Yvette Hardesty, and situated approximately 1.5 miles south-southeast of Placerville, El Dorado County, in what is locally referred to as the "Texas Hill" area.

Specifically, such area includes all real property described as a portion of N ½ of the NE ¼ Section 20, and NW ¼ of the NW ¼ of Section 21, within T. 10 N., R. 11 E.

### **PUBLIC HEARINGS AND WRITTEN COMMENTS**

The SMGB has scheduled a public hearing for the determination of vested rights for April 15, 2010, to take place in the Board of Supervisor's Hearing Room, at the El Dorado County Government Center, Building A, 330 Fair Lane, Placerville, CA 95667.

The public hearing will commence at 9:00 A. M.. The hearing facility will be barrier free in accordance with the Americans with Disabilities Act.

At the hearing, any person may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest. Representatives for the Claimant, El Dorado County and the general public, are invited to make statements at the hearing regarding the vested rights asserted. The SMGB requests, but does not require, that persons who make oral comments at the hearing also submit a written copy of their testimony. Any additional information was to be delivered to the SMGB no less than 60 calendar days (February 12, 2010) before the hearing and in no case will any responsive materials be submitted less than 45 calendar days (March 1, 2010) prior to the hearing.

### **CONTACT PERSON**

Inquiries concerning the substance of this Notice of Pending Determination should be directed to:

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