



# County of Monterey

**Item No.**

## Board Report

Board of Supervisors  
Chambers  
168 W. Alisal St., 1st Floor  
Salinas, CA 93901

**Legistar File Number: 23-690**

**September 19, 2023**

**Introduced:** 8/22/2023

**Current Status:** Agenda Ready

**Version:** 1

**Matter Type:** General Agenda Item

- a. Determine that the Carmel Stone Mine is abandoned by the Operator;
- b. Authorize the Housing and Community Development (HCD) Director or his designee to seize the Financial Assurance Mechanism (FAM) put in place for the Carmel Stone Mine (PLN090191) California Mine ID# 91-27-0030 and reclaim the mine site;
- c. Authorize the HCD Director or his designee to proceed with all tasks necessary to complete reclamation of the Carmel Stone Mine.

### RECOMMENDATION:

It is recommended that the Board of Supervisors:

- a. Determine that the Carmel Stone Mine is abandoned by the Operator;
- b. Authorize the Housing and Community Development (HCD) Director or his designee to seize the Financial Assurance Mechanism (FAM) put in place for the Carmel Stone Mine (PLN090191) California Mine ID# 91-27-0030 and reclaim the mine site;
- c. Authorize the HCD Director or his designee to proceed with all tasks necessary to complete reclamation of the Carmel Stone Mine.

### SMARA:

The County of Monterey (County or Lead Agency) has 13 mines (Attachment 1) and participates in the Surface Mining and Reclamation Act of 1975 (SMARA) Program through the State of California, Department of Conservation. The SMARA is incorporated by reference into the Monterey County Code of Ordinances, Title 16 - Environment / Chapter 16.04 - Surface Mining and Reclamation, section 16.04.025.

The SMARA provides a comprehensive surface mining and reclamation policy with the regulation of surface mining operations to assure that adverse environmental impacts are minimized and mined lands are reclaimed to a usable condition. The California Division of Mine Reclamation (DMR), which is under the Department of Conservation, provides oversight for local governments (Lead Agencies) that administer the SMARA Program.

Each mine is inspected once per calendar year. County inspections occur late August through September. The Surface Mine Inspection Reports (MRRC-1) are submitted to the DMR by the County through Benchmark Resources, which conducts the yearly inspections and assists the County with SMARA-related tasks. In addition, each mine operator must submit a Mining Operation Annual Report (MRRC-2) to both the DMR and the County.

Also on a yearly basis, the Financial Assurance Cost Estimate (FACE) is compiled by the mine operator as an estimate of the current cost to reclaim the property should the operator be unable to reclaim the site. Once the FACE is approved by the Lead Agency and DMR, the mine operator adjusts the amount of the Financial Assurance Mechanism (FAM) to assure the cost of reclaiming the project site is provided for by the FAM in the form of a surety bond, CD, irrevocable letter of credit, or trust fund.

SUMMARY/DISCUSSION:

The Carmel Stone Mine (PLN090191), California Mine ID# 91-27-0030 (Mine), is approximately six miles west of Highway 101 and San Ardo, northerly of San Ardo-Lockwood Road, west of Williams Hill, a portion of Section 28, T22S, R9E, and Section 29, T22S, R9E (Assessor's Parcel Number 422-101-002-000), South County Area Plan.

The former Resource Management Agency-Planning Department approved the Mine on October 26, 2011, through a Notice of Determination filed with the County Clerk's Office (Attachment 2). The Use Permit and Reclamation Plan (Attachment 3) are for a surface mining operation that consists of approximately 12 acres on Federal land (Bureau of Land Management) (BLM). The permit allows excavation of 639,800 tons of Monterey shale (Carmel Stone) over a 25-year period in five, five-year phases ending in 2036.

Following approval of the Use Permit and Reclamation Plan, a Certificate of Deposit (CD) was opened by Mr. Chad Lincoln on January 4, 2012, at Bank of America in the amount of \$73,906 as the FAM for the mine. The CD was pledged to "*Monterey County, State of CA Conservation Dept, United States Bureau of Land Mgt.*" Since its opening, the FAM has not been increased by Mr. Querfurth as required. Currently, the CD has a balance of \$74,933.25.

The County has conducted yearly inspections (MRRC-1) as required by law. The previous three years' (2020, 2021, and 2022) MRRC-1 reports are included with this report as Attachment 4. Mr. Querfurth (Operator) has not filed a MRRC-2 report since 2015 (Attachment 5).

Per California Public Resources Code (PRC) § 2773.1(b)(1), if the Operator is found to be "*...financially incapable of performing reclamation in accordance with its approved reclamation plan or has abandoned its surface mining operation without commencing reclamation...the lead agency shall conduct a public hearing to determine...has abandoned the surface mining operation....*" If, at the public hearing, it is determined that the Operator has indeed abandoned the surface mining operation without completing reclamation, the Lead Agency is required to (1) notify the Operator that the Lead Agency intends to take appropriate action to forfeit the FAM and specify the reasons; (2) allow the Operator the opportunity to begin reclamation; (3) take the appropriate action to require forfeiture of the FAM, and (4) use the forfeited FAM to conduct and complete reclamation in accordance with the approved reclamation plan (PRC § 2773.1(b)(2)). A letter dated December 17, 2018, was sent to Mr. Querfurth advising that the County would be moving forward with forfeiture of the FAM (Attachment 6).

Mr. Querfurth has been non-responsive despite staff's repeated attempts to contact him. He has ceased filing the required MRRC-2 reports with the DMR and the County and has not paid any fees

since 2013. Attempts to notify him of violations (failure to file reports and pay fees) have been unsuccessful. See Attachment 7. No current address or phone number has been found by the County. Previous invoices and correspondence have been sent by Certified Mail to the various addresses listed for Mr. Querfurth, but they have been returned as undeliverable.

In early July 2023, current year inspection fees were invoiced along with a breakdown of previous fees owed by Mr. Querfurth. The same packet of information was sent to the four addresses on file with the County (three Post Office Box numbers and a street address in Bradley). All envelopes were returned to the County as undeliverable. Notification of this hearing was posted at the Mine site and published in the Monterey Herald.

The County, as the Lead Agency, considers the Mine abandoned by the Operator. As the Mine has not been reclaimed according to the approved Reclamation Plan, the County seeks authorization to seize the FAM and move forward with reclamation.

OTHER AGENCY INVOLVEMENT:

The Office of the County Counsel and the Auditor-Controller's Office have reviewed and approved this Board Report.

FINANCING:

The cost of reclaiming the site will be paid with the funds provided by the Financial Assurance Mechanism held as a Certificate of Deposit at Bank of America. Once the FAM is seized and made payable to the County, funds will be placed in the Department's Liability Account, Fund 019, Balance Sheet Account 2611 until such time as it is due and payable for reclamation costs. If the FAM is inadequate to cover the cost, the department will attempt to use available appropriations under HCD Appropriation Unit HCD002 Unit 8543. If this happens, the department will seek advice of County Counsel in pursuing cost recovery from the Operator.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:


This action supports the Board's Administrative goal of efficient and effective resource management by returning the mine site to a more natural state.

- Economic Development
- Administration
- Health & Human Services
- Infrastructure
- Public Safety

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Reviewed by: Robert Brayer, Deputy County Counsel <sup>DS</sup>

Approved by: Craig Spencer, Interim Director, HCD 

The following attachments are on file with the Clerk of the Board:  
Attachment 1 - Mine List

Attachment 2 - Notice of Determination

Attachment 3 - Reclamation Plan

Attachment 4 - MRRC-1 Reports

Attachment 5 - MRRC-2 Report 2015

Attachment 6 - Forfeiture of FAM

Attachment 7 - Notice of Violations