

Attachment A

Discussion

ATTACHMENT A DISCUSSION

The Surface Mining and Reclamation Act (SMARA) requires annual inspections of surface mining operations. The State Mining and Geology Board has implemented a new Surface Mining Inspection Report Form (form MRCC-1) to be used for all Mine Site Inspections. While that new form was being developed, the state started audits of mining programs all around the state. The audit conducted for Monterey County's program identified that more effort is needed in our inspection reports, related activities, and procedures. The new form is meant to address the issues identified in the audit and requires that much more detailed information be provided (e.g., graphics, photographs, documentation) as necessary to document observed mine operations and reclamation conditions relative to the requirements of the approved reclamation plan and operating permits. Gathering the information for each mine on the new form requires more time and effort by the Consultant, currently Benchmark Resources. Because the fee adjustment is a significant increase for the mine operators, staff is not requesting additional funds to cover the administrative costs incurred by RMA-Planning to administer the program for this year.

Under section 2774 (b) of the Public Resources Code, section 3504.5(e) of Title 14 of the California Code of Regulations, and section 16.04.100 of the Monterey County Code, the mine operator shall be solely responsible for the reasonable cost of the annual inspection conducted by the lead agency. The current fee is \$3,227.91, which covers the cost of inspections and related activities. This proposal is to increase the fee to \$7,600.00, either for all mines, or for mining operations that have more than a 20-acre disturbance area, due to increased costs stemming from these new state requirements. Seven of the 16 operations have disturbed areas greater than 20 acres.

For other counties, the fees vary greatly among the jurisdictions, with the majority charging full cost recovery on a per hour basis. Three of the jurisdictions charge a flat fee, ranging from \$1,440 to \$2,740 per inspection. One of the jurisdictions has a sliding scale, based on mine area. However some of these agencies have separate charges for condition compliance, mitigation monitoring, and one requires two inspections per year for different purposes. Comparing these fees to ours would require quite a bit more research.

On October 22, 2013, the Board of Supervisors approved Amendment No. 3 to PSA A-11561 with Benchmark Resources, to increase the amount payable by \$127,520.00 for a total amount not to exceed \$306,113.50 and to extend the term to January 31, 2014 in order to complete the annual inspections for the sixteen (16) mine sites for 2013 and to assist, as an optional task, with a response to comments made by any Lead Agency Review Team (LART)/State Mining and Geology Board (SMGB) Executive Officer's review of the upcoming 2013 SMARA annual inspection reports and associated documents.

A new Request for Proposals (RFP #10443) is currently being processed to select a Consultant to conduct the required SMARA annual inspections for the new term of 2013 through 2017. Once a consultant is selected, staff will review the costs of the program and will return to the Board of Supervisors for an adjustment to the Surface Mine Annual Inspection fee for FY 2014-15 based upon the results of the RFP and experience with the new inspection format.

Staff has provided two options for Board consideration. Option 1 provides full cost recovery of consultant costs for the current fiscal year. No recovery of staff costs will be obtained from the fee; staff costs would be funded by the General Fund. Option 2 would provide a partial recovery of consultant costs for the current fiscal year, leaving a shortfall of approximately \$36,000 to be funded from General Fund revenues. As with Option 1, staff costs would be funded by the General Fund.