

County will no longer inspect its own mines

John Bowman, Siskiyou Daily News, 1-4-12

YREKA — The Siskiyou County Board of Supervisors voted Tuesday to engage the services of the California State Mining and Geology Board (SMGB) to perform annual inspections of county gravel mines required by the Surface Mining and Reclamation Act of 1975 (SMARA).

Until now, the county Department of Public Health and Community Development performed the inspections and served as the oversight and enforcement entity for the county mines, which are operated by the county Department of Public Works.

However, in a letter to the county Public Works and Community Development Departments dated July 12, 2011, the SMGB notified the county “that a potential conflict of interest may exist which contradicts Title 14 ... of the California Code of Regulations.”

According to the letter, the relevant section of Title 14 states, “A surface mine inspection shall not be performed by any person who holds a financial interest in or has been employed by the surface mining operation in any capacity, including as a consultant or as a contractor, during the year preceding the inspection.”

The letter then listed seven surface mines in which Siskiyou County maintains a financial interest.

On Oct. 6, 2011, Terry Barber, director of the Siskiyou County Public Health and Community Development Department, sent a reply to the SMGB outlining concerns about the possible increase in costs should the state perform the inspections.

“While the county acknowledges your concerns, it is not uncommon for a county to operate a program that requires oversight of another department,” the letter stated. “While the county intends to cooperate with SMGB in resolving this matter, we are committed to implementing the most cost effective solution available for addressing regulatory inefficiencies and oversight.”

On Nov. 15, 2011, SMGB Executive Director Stephen Testa responded in writing to Barber’s letter.

Testa first reiterated that the county cannot perform inspections on its own mines and again cited Title 14 of the California Code of Regulations.

Regarding costs, the letter stated, “it first must be said that a precise estimate of costs for a given mining operation will depend on the particulars of that operation ...”

But, it continued, “During the 2007 through 2010 calendar years, a generalized average cost for an inspection conducted by SMGB staff was about \$1,200.”

Barber told the Board of Supervisors that her department normally charges Public Works \$2,000 for an inspection, but this amount includes all administrative costs associated with the inspection.

Under the new arrangement, the county will still be responsible for all other aspects of administering and enforcing the inspection process and would continue to cover these costs in addition to the inspection fee. Barber told the board that the alternative to using the state agency would be using private contractors. She added that an individual employed or contracted by the mining operation (in this case, the county) during the

previous year could not perform the inspections. Barber said this would essentially mean the county would have to hire new contractors each year. This would lead to an increase in expenses associated with repeatedly rebidding, rewriting and executing new contracts, Barber said. She also told the board that most other counties are opting to use the state agency.

District 2 Supervisor Ed Valenzuela said he supports the change because it would provide full transparency in the inspection process.

However, District 3 Supervisor Michael Kobseff said, “I would rather go to the private sector and look for three different contractors that could do this each year. I think it would be better spent money. It would be active money that would be at least in the region, I would hope, to help keep somebody in a job or provide a new job within the area.”

District 1 Supervisor Jim Cook said he would support going with the state and reconsidering the arrangement in the future based on initial results.

The motion was passed by a 4 to 1 vote, with Kobseff casting the sole dissenting vote.