MINUTE ITEM

This Calendar Item No. C71 was approved as Minute Item No. 71 by the California State Lands Commission by a vote of 2 to 0 at its 12-08-05 meeting.

CALENDAR ITEM
C71

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12/08/05
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S. Jenkins
G. Pelka
S. Mulqueen

REQUEST AUTHORITY FOR THE EXECUTIVE OFFICER TO UNDERTAKE MEASURES TO ELIMINATE/REDUCE POTENTIAL PUBLIC SAFETY HAZARDS AT ABANDONED MINE SITES ON STATE SCHOOL LANDS

PARTY:

California State Lands Commission
100 Howe Avenue, Suite 100-South
Sacramento, CA 95825-8202

BACKGROUND:

Abandoned mines may pose a potential threat to public health and safety. The Department of Conservation, Office of Mine Reclamation (OMR), which administers the Surface Mining and Reclamation Act of 1975, provides assistance to cities, counties, State agencies and mine operators to review mine reclamation plans and minimize residual hazards to public health and safety.

Staff is working to assess the scope of the abandoned mine problem on State school lands. Because existing resources preclude a comprehensive on the ground inventory, staff has characterized the scope of the problem using our Geographic Information System. According to available information, approximately 130 State school land parcels contain mine features of various sizes and configurations. The vast majority of these parcels lie in the desert region within Imperial, Riverside, San Bernardino, Inyo and Kern Counties. The expedient closure of mine openings on State school lands will benefit both the public and wildlife.

Since September of 2002, California State Lands Commission (Commission) staff has worked cooperatively with the OMR to remediate a variety of mines on State school lands using four closure techniques based on the unique

circumstances of each mine. These four techniques include the installation of steel bat gates, foam plugs, backfilling with mine waste material and, as an interim measure, fencing. Bat gates were installed at the Pacific Fluorite and Crown Uranium Mines, a foam plug in the American Opal Mine, a backfill at the Rosamond Mine and fencing at the Iron Horse Mine, Trade Rat Mine and Shadow Mountain Mines. This work is consistent with Public Resources Code section 6201.5 that promotes "the rehabilitation of lands impacted by mineral exploration and extraction." The OMR has contributed approximately $32,000 to pay for direct contractor costs and fencing materials and expended substantial staff time. Commission staff has expended over 1,000 hours during the course of this three-year period in office research, field inventory, consultation with resource agencies, environmental review and coordination, and project management. This time is equivalent to about 0.2 Personnel Years per year.

As authorized by the Commission on April 5, 2004, a Memorandum of Understanding (MOU) was entered into between the OMR and the Commission effective April 7, 2004, to clarify respective responsibilities associated with closing abandoned mines on State school lands. This MOU is effective for a five-year period and will expire on April 7, 2009. The MOU establishes that Commission staff shall identify abandoned mine sites on State school lands that are candidates for closure or protection with fencing. The OMR will determine if their funding is appropriate and available for the proposed work. If the determination is positive, the OMR will solicit and award contracts to implement the mine closure. All contractor costs are to be paid out of the OMR Reclamation Account.

ENVIRONMENTAL/HISTORICAL ISSUES:

Based on the mine closure work conducted to date, staff has identified two major categories of environmental issues, i.e., biological and historical/cultural, and has developed procedures to address them in the closure of mines. Each of these issues is discussed below.

Biological

Resource Identification

Biological issues influence both access to identified mines and the type of mine closing structure or method to be used.

All previous mine closures approved by the Commission stipulated that access to the affected mine would be limited to the use of existing roads and jeep trails to avoid additional damage to an area's natural resources and habitat. This

requirement would also apply to all other abandoned mine projects that would be completed under the terms of the MOU.

The mines closed thus far have been located in the California desert, which is commonly desert tortoise critical habitat, and within the range of the Mohave ground squirrel, a State-listed threatened species. All closures to date have been preceded by a biological survey, conducted to the satisfaction of the California Department of Fish and Game (CDFG), to determine the presence of Desert Tortoise, Mohave Ground Squirrel or other threatened or endangered species. Mine tunnels may provide habitat for desert tortoise, but they may also be deathtraps for tortoises that fall into shafts located within the mine complex.

Many bat species; raptors and other wildlife may also use abandoned mines. Although bats may not be present at all times, mineshafts are potential habitat for hibernating and for maternity bat colonies, or may be used as migratory stopovers. All work conducted to date has been performed only after determining the significance of the mine for such habitat and again consulting with the CDFG.

Closure/Restriction of Access Methodology

Natural resources in the area and the configuration and character of the affected mine determine the methodology used to close the mine while protecting affected resources. For example, when fencing is the chosen technique, CDFG has recommended these fences be augmented with tortoise-proof hardware cloth around all vertical shafts and all horizontal mine openings that contain a vertical drop-off within 150 feet of the mine entrance. All tortoise fencing is installed according to specifications provided by CDFG.

The Crown Uranium Mine, previously closed by Commission action, was identified as hosting a roosting colony of California Leaf-Nosed Bats, a federal species of concern, California Species of Concern, and a Bureau of Land Management (BLM) sensitive species. Numerous site inspections by staff dating back to 1985 confirmed the use of the mine workings as bat habitat. To safeguard the public and protect the bats, bat gates were installed on both the adit and shaft entrances. The two bat compatible gates conformed to standards of Bat Conservation International, with crossbars of angle iron that were anchored to solid bedrock with small concrete foundations to preclude vandalism. The gates contained a keyed removable steel bar to allow future access to authorized persons for biological, archeological or geological investigations. The adit gate was augmented with tortoise proof fencing to

safeguard desert tortoise from falling into the shaft. In contrast, any bat gates installed on a mine that does not have a vertical drop off within 150 feet of the entrance would be made accessible to desert tortoise for habitat.

Closure Activities

As was the case with prior closures, the CDFG would be consulted prior to any future operation so that mine closure and fencing projects and the schedule of closure would have no adverse effects on bats, raptors, desert tortoises, other sensitive wildlife or their habitats. The CDFG consultation does not allow the take of desert tortoise, Mohave ground squirrel, or any other species. Consequently, Commission staff is responsible for project oversight of construction activities to preclude such impacts. For example, if tortoises or Mohave ground squirrels, are found in any work area, all activity will stop and CDFG will be consulted immediately. To ensure adherence of all work to CDFG specifications, a Commission staff member, with appropriate training, will be present for all work. Measures will be employed to ensure the objectives of closure of a mine are achieved with no adverse impacts to biological resources.

Historical/Cultural

Any abandoned mine that is over 50 years old is presumed to be an historical resource, unless determined otherwise. For all abandoned mine closure and fencing work conducted to date, Commission staff has consulted with the State Office of Historic Preservation (SHPO) to ensure that such work does not have a significant adverse effect on any historic attributes. For example, mineshafts closed with bat compatible gates would remain accessible, through a Commission controlled lockable entrance, so that historians, archeologists or biologists could document the mine's historical resources after the mine is closed to public access. Staff would consult similarly with SHPO for any future closure and implement measures, as previously developed with the SHPO, to ensure that mine closures and fencing work will not adversely affect, or render inaccessible to academia, historical resources.

PROPOSED ACTIVITY:

Under this delegation, the Executive Officer would have authority to:

1) continue working cooperatively with the OMR through the remainder of the MOU, (April 7, 2009); and
2) authorize closure activities of any mine located on State school lands for which biological and historical clearances have been given by the CDFG and the SHPO, respectively, following the conclusion of procedures and consultations described above.

In accordance with the MOU, the OMR will fund all direct contractor costs while Commission staff will continue to perform consultation with the necessary resource agencies and perform project management and documentation. It is estimated that Commission staff work on the Abandoned Mine Program may increase slightly due to increased resources available to the OMR and accelerate the program resulting in greater safeguards in a shorter period of time.

Focused site investigations are conducted periodically by OMR and Commission staff to investigate specific parcels and determine which parcels contain features that pose the greatest risk to public health and safety and wildlife. This delegation will facilitate the efficient and expeditious closure of any abandoned mine that may pose an imminent threat to the public and wildlife.

STATUTORY AND OTHER REFERENCES:

A. Public Resources Code section 6201.5
B. Government Code section 11256, Interagency Agreements

OTHER PERTINENT INFORMATION:

1. Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (Title 14, California Code of Regulations, section 15061), the staff has determined that this activity is exempt from the requirements of the CEQA under the general rule that the CEQA applies only to projects, which have the potential for causing a significant effect on the environment. The staff believes, based on the information available to it, that there is no possibility that this project may have a significant effect on the environment.

   Authority: Title 14, California Code of Regulations, section 15061 (b) (3).

PERMIT STREAMLINING ACT DEADLINE:

N/A

RECOMMENDED ACTION:

IT IS RECOMMENDED THAT THE COMMISSION:

CEQA FINDING:

FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO TITLE 14, CALIFORNIA CODE OF

REGULATIONS, SECTION 15061 BECAUSE THERE IS NO POSSIBILITY THAT THE ACTIVITY MAY HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT; TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15061 (b) (3).

AUTHORIZATION:

AUTHORIZE THE EXECUTIVE OFFICER OR HIS DESIGNEE TO IMPLEMENT, AS DESCRIBED HEREIN, THE CLOSING OF VARIOUS MINE OPENINGS AND RELATED MINE FEATURES LOCATED THROUGHOUT THE STATE THROUGH APRIL 7, 2009.

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