April XX, 2014

Senator Fran Pavley, District 27

State Capitol, Room 4035

Sacramento, CA 95814

RE: SB 1270: Surface Mining and Reclamation Act

Dear Senator Pavley:

\_\_\_\_ (County\City, Agency Name) has reviewed the contents of Senate Bill (SB) 1270; proposed changes to the Surface Mining and Reclamation Act (SMARA). \_\_\_\_ (County\City) is the lead agency for \_\_\_\_# of construction aggregate mining operations regulated under SMARA and we have implemented SMARA lead agency responsibilities successfully since its adoption. It is important for \_\_\_\_ (County\City) to maintain its lead agency status which includes its authority to conduct mining inspections and approve financial assurances. For this reason, \_\_\_\_ (County\City) is in opposition of SB 1270.

The following proposed amendments to SMARA are some, but not all of the reasons \_\_\_\_ (County\City) is in opposition of this bill.

**Approval of Financial Assurances**

SB 1270 proposes to transfer approval of financial assurances to the Director of the California Department of Conservation (DOC) and also provide authority for requiring revisions to a reclamation plan if, in the opinion of the State Mine Inspector, the plan does not meet minimum statutory and/or regulatory requirements.

\_\_\_\_\_ (County\City) is opposed to transferring the approval of reclamation plans or financial assurances to the Director of the DOC or any other State agency. The County/City has substantial experience with reviewing and approving mine reclamation plans and has a positive working relationship with the Office of Mine Reclamation (OMR). We do not see how the proposed changes would result in a substantial improvement in compliance with existing statutes. Each lead agency reviews and approves reclamation plans in consideration of local conditions and local environmental concerns. The State is not able to understand the specific local conditions that must be considered in reviewing and approving reclamation plans and financial assurances.

\_\_\_\_\_ (County\City) is also not willing to absorb the liability of reclamation in the event an operator abandons the mine if the State is responsible for approving financial assurances. The County would lose control of determining their risk of liability and is not supportive of transferring this right to the State.

**Mine Inspections**

SB 1270 proposes to transfer the responsibility of annual mine inspections to the Director of the DOC.  
  
\_\_\_\_\_\_\_ (County\City) does not support transferring the ability to conduct annual mine inspections to the Director of the DOC, State Mine Inspector or any other State entity. The \_\_\_\_\_\_\_County/City wants to maintain the authority to monitor the implementation of the Reclamation Plan and Conditional Use Permit approved for a mining operation.

**Violations**

SB 1270 proposes changes to SMARA which will require the lead agency to file a notice of violation based on the annual inspection. In addition, it requires the lead agency to develop a compliance program for correcting the violation.

If annual inspections are to be conducted by the Director, the lead agency or County/City will not take on the liability of filing a notice of violation and the responsibility of managing the schedule for the operator to perform remedial steps to resolve the violation. In addition, it is not necessary to require a notice of violation under every circumstance. Each site is different and the local conditions are important to consider in each case. The local lead agency is the only entity that is capable of understanding the specific local conditions and circumstances and we should be able to maintain our own discretion on when to issue a violation. Therefore, we are not in support of the required notice of violation. Nor are we willing to take on the liability of managing the compliance schedule if a violation has been identified by a State inspector.

**Conclusion**

\_\_\_\_ (County\City) is in a better position to determine if an operation's financial assurance is adequate. In addition, \_\_\_\_\_ (County\City) is concerned that increased State regulatory authority over a local issue will not be in the best interest of our County/City. SMARA Section 2711 (c) recognizes that California is physically and geographically diverse and that reclamation and operations will vary accordingly throughout the State. Therefore, the Legislature has already recognized that it is important for the SMARA program to be implemented by local lead agencies as they are the best entity to understand the unique local conditions and needs affecting a particular mining site. The State often interprets statutes and regulations in a one-size-fits-all fashion and does not understand the local conditions. \_\_\_\_ (County\City) believes that its knowledge of local conditions provides the basis for effectively implementing the review and approval of reclamation plans and financial assurances. As demonstrated by our past and present performance, \_\_\_\_ (County\City) is successful in implementing SMARA enforcement requirements and the County/City will not support transferring the ability to approve financial assurances to the State nor will the County/City support State mine inspections.

For these reasons, the \_\_\_\_\_ (County\City) does not support the proposed amendments to SMARA as set forth in SB 1270.

Sincerely,

cc: CSAC

Senate Natural Resources and Water Committee Members