

**SACRAMENTO METROPOLITAN
AIR QUALITY MANAGEMENT DISTRICT**

For Agenda of September 23, 2004

To: Members, Board of Directors
Sacramento Metropolitan Air Quality Management District

From: Larry Greene
Air Pollution Control Officer

Subject: Update on Folsom Asbestos Issue

Recommendation Staff recommends that the Board receive this report for its information and provide direction as needed.

Background On July 21, 2004 the California Department of Toxic Substances Control (DTSC) notified the District that it had identified naturally occurring asbestos (NOA) at the site of the future Lago Vista High School. The school site is at the corner of Broadstone Parkway and Golf Links Road within the Empire Ranch subdivision under construction by Elliott Homes. The DTSC is required to test school sites prior to construction for the presence of toxic substances. DTSC staff also notified the City of Folsom and the Folsom Cordova Unified School District of its findings. District staff has worked cooperatively with the City of Folsom, the State Geologist's Office and the California Air Resources Board (CARB) to communicate and implement the District's approach to enforcement of the Air Toxic Control Measure (ATCM) relating to NOA. A summary of the Asbestos Airborne Toxic Control Measure ATCM for Construction, Grading, Quarrying, and Surface Mining Operations is attached for your reference.

The District's priority in addressing the issues arising from discovery of NOA is to protect public health. It is important to note that the City of Folsom and Elliott Homes have been proactive in implementing protective public health measures.

Jurisdiction When ultramafic rock is identified on a geologic map, or NOA is identified through soil testing, the AQMD has jurisdiction in enforcing the requirements of the state ATCM. Existing maps developed by the State Geologist's Office indicate the presence of ultramafic rock in El Dorado County. Ultramafic rock has a high potential for containing NOA. Mafic rock, identified on existing geologic maps of Sacramento County, has a lower potential for

containing NOA and does not by itself trigger the District's jurisdiction. NOA is a localized occurrence. I have requested a letter from the State Geologist's Office identifying the area in Sacramento County where, based on geologic history and conditions, it may reasonably be assumed that NOA is present. The State Geologist's Office has indicated that it has drafted such a letter, and that it is in the review process.

**Issues relating to
Empire Ranch**

In an effort to be proactive in determining whether NOA discovered at the Lago Vista High School site extended into its Empire Ranch subdivision, Elliott Homes hired a geologic engineering firm, Youngdahl and Associates, to take soil samples at locations throughout the 700 acre (check this) site. Those tests revealed the presence of NOA in several of its "villages". Based on this information, I have determined that the entire Empire Ranch project site is subject to the requirements of the ATCM.

ATCM requirements

Elliott Homes must follow the ATCM requirements, including submitting a dust mitigation plan, and following closeout procedures as the home sites are completed. These include provisions such as hydroseeding or other vegetation, covering the area with three inches of clean fill, or other methods of ensuring that windblown NOA does not endanger public health. Questions have arisen over whether the District will allow exemptions from ATCM requirements for specific sites within the Empire Ranch project based soil samples. I have determined, based on the ATCM, that a minimum of three soil samples per acre must be submitted with an exemption request pursuant to ATCM requirements. The cost of providing these samples must be weighed, as a business decision, against the costs of complying with the ATCM, but I believe it is in the public interest that the sampling requirements be consistent with the ATCM. It is important to understand that the ATCM applies only to areas that will be disturbed, not the entire geologic area where NOA may be expected to occur. Greenbelts, paved and already planted areas will not be affected by the grading requirements of the ATCM at issue here. These types of sites, as well as individually owned homes, will need to comply with the ATCM in the future when undertaking projects where soil is disturbed, and the City of Folsom understands this.

District activities

Staff has met with Folsom Assistant City Manager Will Kempton and Community Development Director Michael Johnson on several occasions to identify and review a number of issues. We

have worked with the City to develop the City's protocol for contractors. The District retains the responsibility for enforcing the ATCM; the City will notify all grading and building permit applicants that the ATCM is applicable to those areas of Folsom which will be identified by the State Geologist. I anticipate that much of the City of Folsom, though not all, may be included as part of the jurisdictional area for ATCM requirements, and I shared this with the City. District staff is also working with other air districts in the region to review approaches to enforcement of the ATCM, public outreach, and other issues. Our effort is to understand the issues in other jurisdictions and ensure consistency of approach.

Outreach efforts

The City of Folsom will hold a public meeting on NOA issues in early October. The District will participate in this meeting and provide support in developing the agenda, as well as at the meeting itself. The State Geologist's Office, California Air Resources Board, Folsom Cordova School District, Elliott Homes, and the County Health Officer have been invited to participate. Staff has produced and is distributing a flyer for other contractors in the Folsom area, as well as the County of Sacramento, regarding the potential presence of NOA, and requirements under the ATCM.

Staff has produced a prominently-displayed asbestos resource on the District's Web site for the public and affected business such contractors

Enforcement

Staff has received a dust mitigation plan submitted by Elliott Homes for its Empire Ranch project as required by the ATCM. The plan as submitted is inadequate on a number of points, and Elliott Homes will have an opportunity to provide further information to satisfy the ATCM requirements. Field staff continues to monitor construction sites in Folsom for compliance with application dust mitigation requirements, and has documented a dust violation at one Elliott Homes construction site. A Notice of Violation was issued to Elliott Homes and its contractor, Mills Grading, for violations observed during the week of August 9. Since that time staff has observed considerable progress by the contractor in implementing watering and other protective measures to reduce dust.

County of Sacramento Staff has received a request from the Sacramento County Department of Environmental Review and Assessment (DERA) regarding inclusion of an assessment of NOA in the Environmental Impact Report (EIR) process for projects in the eastern part of the county. Staff is developing language which will address this issue for inclusion in future environmental reviews. Applicability of this provision will depend on areas identified by the State Geologist.

Future action In addition to the upcoming community meeting, and ongoing communication identified above, staff has determined that a more detailed geologic map for Sacramento County is needed to better identify areas where NOA may be present. The State Geologist's Office has indicated that it does not have the resources to develop such a map in a timely manner. If funding were available, it may be possible to produce the map within six to twelve months. Staff is working with the State Geologist's office to determine the amount of funding needed, and likely timing. In the event such a process appears feasible, staff will return to the Board with a request for approval of funding.

The District's plan review fee rule does not currently include a provision for cost recovery related to review of NOA dust mitigation plans. Staff is evaluating a revision to the fee rule and will return to the Board for action in early 2005.

Staff will work with the Folsom Cordova School District to ensure compliance with the ATCM at both new and existing school sites.

Respectfully submitted,

Larry Greene
Air Pollution Control Officer

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