



STATE MINING AND GEOLOGY BOARD

DEPARTMENT OF CONSERVATION

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FINAL STATEMENT OF REASONS

PROPOSED AMENDED REGULATIONS FOR DESIGNATION, AND TERMINATION OF DESIGNATION, OF MINERAL LANDS IN THE STOCKTON-LODI PRODUCTION-CONSUMPTION REGION, SAN JOAQUIN AND STANISLAUS COUNTIES

GENERAL PURPOSE AND CONDITION ADDRESSED

As required by Section 11346.9(a) of the Government Code, the State Mining and Geology Board (SMGB) sets forth below the reasons for the adoption of new regulations for designation of mineral lands in the Stockton – Lodi Production-Consumption (P-C) Region, San Joaquin and Stanislaus Counties. Article 6 of the Surface Mining and Reclamation Act of 1975 (SMARA), commencing with Public Resources Code (PRC) Section 2790, provides for the State Mining and Geology Board (SMGB), based upon mineral information from the State Geologist pursuant to subdivision (c) of PRC Section 2761, to adopt in regulation specific geographic areas of the state as areas of statewide or regional mineral resource significance and specify the boundaries of those areas. PRC Section 2793 also provides a mechanism for the SMGB after a public hearing, to terminate, partially or wholly, the designation of any area of state wide or regional significance on a finding that the direct involvement of the SMGB is no longer required.

At its May 10, 2012 regular business meeting, the State Mining and Geology Board (SMGB) accepted California Geological Survey (CGS) Special Report 199, a classification report on Portland cement concrete-grade (PCC) aggregate in the Stockton-Lodi Production-Consumption (P-C) Region. CGS Special Report 199 presented updated information previously provided in a classification report on PCC-aggregate in the Stockton-Lodi P-C Region first published in 1988. The previous report was published by the California Division of Mines and Geology (CDMG; now CGS) as Special Report 160 – *Mineral Land Classification: Portland Cement Aggregate in the Stockton-Lodi Production-Consumption Region*. The State Geologist has recommended designation of select mineral resource lands in the Stockton-Lodi P-C Region. At its September 13, 2012, regular business meeting, the SMGB accepted the State Geologist's recommendations. A public comment

period was subsequently provided and commenced on August 5, 2013, and ended on October 5, 2013. Pursuant to PRC Section 2793, to offer opportunity to receive comments on the proposed action a public hearing was held in the City of Lodi on August 19, 2013. No oral or written comments were received. At its November 14, 2013, regular business meeting, the SMGB approved the proposed amended designations, and areas identified for termination of designation, for the Stockton-Lodi P-C Region pursuant to PRC Section 2761. At its August 14, 2014, regular business meeting, the SMGB adopted the proposed amended designations, and areas identified for termination of designation, for the Stockton-Lodi P-C Region pursuant to PRC Section 2761.

SPECIFIC PURPOSE

The proposed amended regulations amends Section 3550.14 to Article 2 CCR, is intended to clarify and make specific those mineral lands that are to be designated by the SMGB as having regional significance within the Stockton-Lodi P-C Region, or areas where designation is to be terminated. These regulations are contained under Article 2, titled Areas Designated to be of Regional Significance.

The proposed amended regulations reflect information provided in CGS Special Report 199 identified approximately 1.3 million tons of PCC-grade aggregate available to meet future aggregate needs.

The State Geologist has recommended, and the SMGB subsequently accepted, several candidates, or areas, for designation as an area of regional or statewide significance by the SMGB. Each Sector, or group of Sectors, meets or exceeds the Board's threshold economic value for the type of mineral resource described, and each Sector may be considered for designation as an area of regional or statewide significance by the SMGB pursuant to Article 6, Section 2790 *et seq.* (SMARA). At the time of the updated classification study, that threshold value amounted to approximately 1.3 million tons of PCC-grade aggregate. The permitted aggregate resources amounts contained in individual Sectors are considered proprietary

The State Geologist also recommended several candidates for termination of designation. Six areas (in five Sectors) are identified as potential candidates for termination of designation status due to high-value incompatible land use developments. All or parts of eight Sectors are identified as potential candidates for termination of designation status because of depletion due to mining or development of incompatible land uses.

Proposed amended regulations, CCR Section 3550.14, indicates reference to two plates. Areas proposed for designation, and termination of designation, are illustrated on Plate 1 (2013) and Plate 2 (2013). These two plates form an integral part of the regulation.

STATEMENT OF NECESSITY

PRC Section 2755 provides the SMGB the authority to adopt regulations that establish state policy for the designation of mineral lands of statewide or regional significance reclamation of mined lands, in accordance with Article 6 (commencing with Section 2790) of this chapter, and pursuant to PRC Section 2761. PRC Section 2790, states that after receipt of mineral information from the State Geologist, the SMGB may by regulation adopted after a public hearing designate specific geographic areas of the

state as areas of statewide or regional significance and specify the boundaries thereof. Such designation shall be included as a part of the state policy and shall indicate the reason for which the particular area designated is of significance to the state or region, the adverse effects that might result from premature development of incompatible land uses, the advantages that might be achieved from extraction of the minerals of the area, and the specific goals and policies to protect against the premature incompatible development of the area. PRC Section 2791 also requires the SMGB to seek the recommendations of concerned federal, state, and local agencies, educational institutions, civic and public interest organizations, and private organizations and individuals in the identification of areas of statewide and regional significance. PRC Section 2793 also allows the SMGB by regulation adopted after a public hearing, to terminate, partially or wholly, the designation of any area of statewide or regional significance on a finding that the direct involvement of the SMGB is no longer required.

Furthermore, in 2012, the California CGS in their statewide report titled "*Map Sheet 52 (Updated 2012), Aggregate Sustainability in California*" noted that the Stockton-Lodi P-C Region 50-year demand for aggregate was on the order of 436 million tons. Permitted aggregate resources were on the order of 232 million tons. The percentage of permitted aggregate resources, as compared to the 50-year demand, was 40 percent, significantly lower than the projected demand.

In the years since the designation of the Stockton-Lodi P-C Region in 1988, about 41 percent, or 2,348 acres of the 5,709 acres of lands originally designated by the SMGB have been depleted by mining or lost to land uses incompatible with mining. Lands depleted by mining include 1,404 acres containing approximately 208 million tons of PCC-grade aggregate resources and 267 acres containing a proprietary amount of PCC-grade sand resources. About 677 acres containing approximately 132 million tons of PCC-grade aggregate resources have been lost to incompatible land uses. The proposed amended regulations reflect information provided in CGS Special Report 199.

CEQA COMPLIANCE: The SMGB has determined that this rulemaking process is either not a project under Title 14, CCR Section 15378 of the CEQA Guidelines, or is categorically Exempt under Title 14, CCR Section 15308 of the CEQA Guidelines. Thus, there is no environmental impact in considering the proposed regulatory language.

ECONOMIC IMPACT ANALYSIS: Pursuant to Government Code Section 11346.3.3(b), an Economic Impact Analysis (EIA) has been prepared. Based on such analysis, the adoption of this regulation will not:

- Create nor eliminate jobs within California;
- Create new nor eliminate existing businesses within California;
- Expand businesses currently doing business in California.

The adoption of this regulation will, however, benefit the health and welfare of California residents and the state's environment by avoiding species conservation and habitat sensitive areas, as well as reducing greenhouse gas emissions related to transportation.

Article 6 of SMARA, commencing with PRC Section 2790, provides for the SMGB, based upon mineral information from the State Geologist pursuant to subdivision (c) of PRC

Section 2761, to adopt in regulation specific geographic areas of the state as areas of statewide or regional mineral resource significance and specify the boundaries of those areas. PRC Section 2793 also provides a mechanism for the SMGB after a public hearing to terminate, partially or wholly, the designation of any area of state wide or regional significance on a finding that the direct involvement of the SMGB is not longer required.

Designation is the formal recognition by the SMGB of lands containing mineral resources of regional or statewide economic significance that are needed to meet the demands of the future. The purpose of the proposed amendment to Article 2 CCR Section 3550.14 is to 1) clarify and make specific those mineral lands that are to be designated by the SMGB as having regional significance within the Stockton-Lodi P-C Region, and 2) identify areas where designation is to be terminated due to local land use decisions that have been made since these areas were originally designated in 1988, and subsequently deemed incompatible with mining.

Creation or Elimination of Jobs Within the State of California: The purpose of the proposed amended regulations to Article 2 CCR Section 3550.14 is to designate mineral lands of regional significance, and terminate designation of mineral lands previously designed in 1988 as a result of the existing incompatible land use within the Stockton-Lodi regards to the proposed regulation. This action will provide updated maps and accompanying report that will serve as a planning tool for local government (counties and cities) in considering future land use as it relates to surface mining under SMARA. The amendment will also be of benefit to the mining community, environmental groups, and other stakeholders.

Creation of New or Elimination of Existing Businesses Within the State of California: The purpose of the proposed amended regulations to Article 2 CCR Section 3550.14 is to designate mineral lands of regional significance, and terminate designation of mineral lands previously designed as a result of the existing incompatible land use within the Stockton-Lodi P-C Region. The imposition of the proposed amended regulation will have no cost impact on small businesses. There will be no new businesses created or existing businesses eliminated. This amendment will allow lead agencies to consider the regional significance of mineral lands designated by the SMGB when making land use decisions, but does not impose any fees or costs to business as part of that consideration.

Expansion of Businesses or Elimination of Existing Businesses Within the State of California: The purpose of the proposed amended regulations to Article 2 CCR Section 3550.14 is to designate mineral lands of regional significance, and terminate designation of mineral lands previously designed as a result of the existing incompatible land use within the Stockton-Lodi P-C Region. The imposition of the proposed amended regulation will have no cost impact on businesses, and no existing businesses in California will be expanded or eliminated. This amendment will serve as a planning tool for local government (counties and cities) in considering future land use as it relates to surface mining under SMARA. The amendment will also be of benefit to the mining community, environmental groups, and other stakeholders.

Benefits of the Regulation: The purpose of the proposed amended regulations to Article 2 CCR Section 3550.14 is to clarify and make specific those mineral lands that are to be designated by the SMGB as having regional significance within the Stockton-Lodi P-C Region, or areas where designation is to be terminated. The proposed amendment will not adversely affect the health and welfare of California residents, worker safety, or the State's environment. The adoption of this proposed amended regulation will benefit the health and welfare of California residents and the state's environment by assuring that all ordinances are in accordance with state policy. This amendment will serve as a planning tool for local government (counties and cities) and considering future land use as it relates to surface mining under SMARA. The amendment will also be of benefit to the mining community, environmental groups, and other stakeholders.

DISCLOSURES REGARDING THE PROPOSED ACTION: The SMGB has made the following determinations, based in part on the Economic Impact Analysis prepared for this proposed amended regulation:

Mandate on local agencies and school districts: The SMGB staff determined that adoption of this regulation does not impose any new mandates on local agencies or on local school districts.

Costs or savings to any State agency: The SMGB staff determined that this proposed regulation imposes no savings or additional expenses to state agencies.

Cost to any local agency or school district which must be reimbursed in accordance with Government Code Sections 17500 through 17630: The SMGB staff determined this proposed regulation does not impose any additional cost obligations on local agencies or on local school districts.

Other non-discretionary costs or savings imposed upon local agencies: The SMGB staff determined that no other non-discretionary costs or savings to local agencies are imposed by the proposed regulations.

Cost or savings in Federal funding to the State: The SMGB staff determined that there are no costs or savings in Federal funding to the State.

Significant statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: The SMGB staff determined that no statewide adverse impacts to California businesses result from the adoption of this proposed regulatory language. The imposition of the proposed new regulation will have no cost impact on businesses, and no existing businesses in California will be expanded or eliminated. The proposed regulatory language serves as a planning tool for local government (counties and cities) and considering future land use as it relates to surface mining of aggregates.

Potential cost impact on private persons or directly affected businesses: The SMGB staff has determined that the proposed regulatory language will not have a potential cost impact on private persons.

Creation or elimination of jobs in California: The SMGB staff has determined that the adoption of these regulations will not:

- Create nor eliminate jobs within California;
- Create new nor eliminate existing businesses within California;
- Expand businesses currently doing business in California.

No jobs in California will be created or eliminated in regards to the proposed regulation. The proposed regulatory language is intended to serve as a planning tool for local government (counties and cities) and considering future land use as it relates to surface mining of aggregate.

Significant effect on housing costs: The SMGB staff has determined that the adoption of these regulations will have no significant effect on housing costs.

Effects on small businesses: The SMGB staff has determined that the designation of mineral lands areas will have no effect on small businesses. The imposition of the proposed amendment will have no cost impact on small businesses. There will be no new businesses created or existing businesses eliminated. The proposed regulatory language allows lead agencies to consider the regional significance of mineral lands designated by the SMGB when making land use decisions, but does not impose any fees or costs to business as part of that consideration.

ALTERNATIVES CONSIDERED

The SMGB must determine that no reasonable alternative that it considers or that has otherwise been identified and brought to the attention of the SMGB would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed action. The SMGB's Executive Officer has not identified any adverse impacts resulting from the proposed regulation.

No alternatives have been considered by the SMGB at this time that would be more effective in carrying out the purpose for which the regulatory action is proposed, nor have any other alternatives been proposed that would be as effective and less burdensome to affected private persons, lead agencies, or small businesses. Furthermore, no alternative have been considered by the SMGB at this time that would more cost effective and equally as effective to affected private persons, lead agencies, or small businesses.

IDENTIFICATION OF TECHNICAL / THEORETICAL / EMPIRICAL STUDIES, REPORTS, OR DOCUMENTS UPON WHICH THE SMGB HAS RELIED

Designation is the formal recognition by the SMGB of lands containing mineral resources of regional or statewide economic significance that are needed to meet the demands of the future. In consideration of the proposed regulatory language, the

SMGB relied on several documents including California CGS Special Report 160 and updated Special Report 199, recommendations set forth by the State Geologist, and Economic Impact Analysis prepared for this proposed amended regulation.

The California CGS recently released Special Report 199 - *Update of Mineral Land Classification for Portland Cement Concrete-Grade Aggregate in the Stockton-Lodi Production-Consumption Region, San Joaquin and Stanislaus counties, California*. This report updated information on PCC grade aggregate in the original classification study of the Stockton-Lodi P-C Region published in 1988 as Special Report 160 - *Mineral Land Classification of Portland Cement Concrete Aggregate in the Stockton-Lodi Production-Consumption Region*.

The original classification study published in 1988 assisted the SMGB in its subsequent mineral land designation process whereby the SMGB formally recognized, in regulation, lands containing mineral resources of regional or statewide economic significance. In 1988, the SMGB designated construction aggregate resource areas of regional significance in the Stockton-Lodi P-C Region in SMARA Designation Report No. 9 - *Designation of Regionally Significant Construction Aggregate Resources in Stockton-Lodi Production-Consumption Region*.

In the years since the designation of the Stockton-Lodi P-C Region, about 41 percent, or 2,348 acres of the 5,709 acres of lands originally designated by the SMGB have been depleted by mining or lost to land uses incompatible with mining. Lands depleted by mining include 1,404 acres containing approximately 208 million tons of PCC-grade aggregate resources and 267 acres containing a proprietary amount of PCC-grade sand resources. About 677 acres containing approximately 132 million tons of PCC-grade aggregate resources have been lost to incompatible land uses.

At its May 10, 2012 regular business meeting, the SMGB accepted CGS Special Report 199, a classification report on PCC aggregate in the Stockton-Lodi P-C Region. At its September 13, 2012, regular business meeting, the SMGB accepted the State Geologist's recommendations, and the Executive Officer can be directed to hold a public hearing to receive comments on the proposed action. Pursuant to PRC Section 2793, to offer opportunity to receive comments on the proposed action a public hearing was held on August 19, 2013. The public comment period was from August 5, 2013, to October 5, 2013. No oral or written comments were received.

New information obtained since the publication of the 1988 Mineral Land Classification study has resulted in the reclassification of some areas originally classified MRZ-3 or MRZ-1 in this study. Sectors E, F, and G are newly identified aggregate resource sectors that were not originally designated.

Each of the Sectors below meets or exceeds the mineral resource threshold value as established by the SMGB. At the time of the updated classification study, that threshold value amounted to approximately 1.3 million tons of PCC-grade aggregate. The permitted aggregate resources amounts contained in individual Sectors are considered proprietary.

At its November 14, 2014, regular business meeting, the SMGB accepted CGS Special Report 199 which updated information previously presented in a classification report on PCC aggregate in the Stockton-Lodi P-C Region completed in 1988. The

previous report was published by the California Division of Mines and Geology (CDMG; now CGS) as Special Report 160 (SR 160) – *Mineral Land Classification: Portland Cement Aggregate in the Stockton-Lodi Production-Consumption Region*.

The updated report presented the following conclusions:

- Currently, 232 million tons of currently permitted construction aggregate reserves are projected to last through the year 2033, 23 years from the present.
- An estimated 969 million tons of concrete aggregate resources are identified in the Stockton-Lodi P-C Region. This represents an increase in PCC-grade aggregate resources of about 403 million tons from the 566 million tons of PCC-grade aggregate resources designated in 1989.
- Anticipated consumption of construction aggregate in the Stockton-Lodi P-C Region for the next 50 years (through the year 2060) is estimated to be 687 million tons, of which 275 million tons must be concrete-grade.
- If a large scale construction project or catastrophic event (i.e, earthquake) requiring rebuilding were to happen in the P-C Region, existing reserves may be depleted sooner than projected.

The State Geologist has recommended, and the SMGB subsequently accepted, several candidates, or areas, for designation as an area of regional or statewide significance by the SMGB. Each Sector, or group of Sectors, described below, meets or exceeds the Board's threshold economic value for the type of mineral resource described, and each Sector may be considered for designation as an area of regional or statewide significance by the SMGB pursuant to Article 6, Section 2790 *et seq.* (SMARA).

New information obtained since the publication of the 1988 Mineral Land Classification study has resulted in the reclassification of some areas originally classified MRZ-3 or MRZ-1 in this study. Sectors E, F, and G are newly identified aggregate resource sectors that were not originally designated.

Each of the Sectors below meets or exceeds the mineral resource threshold value as established by the Board. At the time of the updated classification study, that threshold value amounted to approximately 1.3 million tons of PCC-grade aggregate. The permitted aggregate resources amounts contained in individual Sectors are considered proprietary

The State Geologist also recommended several candidates for termination of designation. Six areas (in five Sectors) are identified as potential candidates for termination of designation status due to high-value incompatible land use developments. All or parts of eight Sectors are identified as potential candidates for termination of designation status because of depletion due to mining or development of incompatible land uses.

The 60-day public comment period commenced on August 5, 2013, and ended on October 5, 2013. In addition, pursuant to PRC Section 2793, a public hearing was held on August 19, 2013, in the City of Lodi. During such hearing, no oral or written comments were received. At its November 14, 2013, regular business meeting, the SMGB approved the

proposed regulation. At its August 14, 2014, regular business meeting, the SMGB adopted the proposed amended regulation.

DUPLICATION OR CONFLICTS WITH FEDERAL REGULATIONS

This regulation change does not duplicate or conflict with existing Federal statutes or regulations. Also, by Memorandum of Understanding with the Federal Bureau of Land Management, the U. S. Forest Service, the Department of Conservation, and the SMGB, SMARA and federal law are coordinated to eliminate duplication.

INCORPORATION BY REFERENCE: As the maps referenced in the regulation are large and cumbersome, it would be unduly expensive and otherwise impractical to publish them in the California Code of Regulations. However, the maps are readily available in the offices of the SMGB, as well as published on the SMGB's website.