



STATE MINING AND GEOLOGY BOARD

DEPARTMENT OF CONSERVATION

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CONFORMED MINUTES

THE STATE MINING AND GEOLOGY BOARD

Will Conduct a Regular Business Meeting on:

Thursday, May 8, 2008

10:00 A.M.

(Or immediately following the Surface Mining Standards Committee Meeting)

DRAFT

The Westin St. Francis
Alexandra's, 32nd Floor
335 Powell Street
San Francisco, CA 94102

AGENDA

For questions regarding this Agenda, please contact the SMGB office by telephone at (916) 322-1082, or by facsimile at (916) 445-0738. This Notice and associated staff reports can be accessed electronically at the SMGB's Internet web site at: <http://www.consrv.ca.gov/smgb/> (note: Agenda reports should be available electronically approximately one week prior to the scheduled meeting/hearing date).

The SMGB requests that all lengthy comments be submitted in writing in advance of the meeting date. To ensure that the SMGB has the opportunity to fully preview written material, comments should be received in the SMGB office no later than 15 days prior to the scheduled meeting date, and must indicate the Agenda Item to which it relates. For written material in excess of two pages, or that contains large maps, photos, foldouts, or other documents requiring special handling, please submit 12 copies. The SMGB will not reproduce these types of documents. Comments on Agenda Items will be accepted by electronic mail, and are subject to the same conditions set forth for other written submissions.

Individuals are responsible for presenting their own projects at the meeting.

[NOTE: Times are approximate. The chairman may alter the hearing start time or agenda item order during the meeting]

I. Call to Order (Jones)

II. Roll Call and Declaration of a Quorum

The meeting was called to order at 10:00 A. M. by Vice Chair Bly-Chester, with all members present, with exception of Member Jones, and a quorum was declared.

III. Director's Report (Luther, Department of Conservation) [Information]

Director Bridgett Luther reported on the following:

- The Budget Change Proposal which contains authorization for two positions for the SMGB when serving as a lead agency remains intact.
- AB 1869 which involved the termination of a number of Boards and Commissions, including the SMGB, was rejected.
- SB 68 is a two-year bill and is still active but all SMARA items have been removed.
- The public hearing held by the SMGB to receive comments on mining reform was appreciated, and the Department of Conservation is working toward development of a broad position.
- U.S. Representative Howard McKeon, Santa Clarita, introduced H. R. 5887, referred to as the "Soledad Canyon Mine Act". This proposed federal bill was referred to the Committee on Natural Resources and provides the Secretary of the Interior a mechanism to cancel contracts for the sale of materials and for other purposes.
- A replacement for past Assistant Director of the Office of Mine Reclamation (OMR), Douglas Craig, is anticipated to be filled in the near future.

- Office of Mine Reclamation Report (Oggins) [Information]

Mr. Cy Oggins, Acting Assistant Director with OMR, reported on the following:

- OMR would be providing an overview and update on activities of the Abandoned Mine Lands Unit (AMLU) program when the SMGB meets again in July.

- State Geologist's Report (Parrish) [Information]

Dr. John Parrish, State Geologist and Director of the California Geological Survey (CGS), provided the following report:

- CGS along with its partners, the United States Geological Survey, the Southern California Earthquake Center and the California Earthquake Authority, published on April 14, 2008, the 30-year earthquake forecast. Referred to formally as the Uniform California Earthquake Rupture Forecast (UCERF), the aim of this publication is public awareness.
- Over 1500 earthquakes with a magnitude of 1 or greater, and 285 events of magnitude 2 or greater, have been recorded in the area of Reno, Nevada. The earthquakes have magnitudes ranging up to 4.7, with epicenters estimated at depths of about 1 mile.
- Two Preliminary Seismic Hazards Maps, the Dublin and Livermore Quadrangles, Alameda County, will be before the SMGB today with the purpose of allowing opportunity for public comment.



IV. Chairman's Report (Jones) [Information]

V. Executive Officer's Report (Testa) [Information]

Executive Officer Stephen Testa summarized the following recent and upcoming activities of the SMGB:

- SMGB Information
 - Sacramento County's proposed language amending the Sacramento County Code and Zoning Code was reviewed and comments forwarded to the County for consideration.
 - Yolo County plans to adopt a Negative Declaration and to take action on the proposed In-Channel Maintenance Mining Ordinance on May 8. The comment period ran from April 1 thru April 30. The Executive Officer has in the past worked closely with the county in developing the proposed ordinance.
 - The County of San Diego's Notice on its Statement of Potential Reasons for the Elimination of Access to a State-Designated Area of Identified Mineral Resources Significance (MRZ-2) was reviewed, and comments will be forwarded to the County by end of the comment period of May 19.
 - Two reclamation plans are currently under review or being revised by the operator: Super Creek Quarry located in the City of Desert Hot Springs and Big Cut Mine located in El Dorado County.
 - An alleged unpermitted surface mining operation was reported for El Dorado County. Upon review by the County, the site was deemed a grading violation and not a violation of SMARA.
 - The Executive Officer plans to participate in the Desert Committee of the Sierra Club quarterly meeting to be held in Whitewater, California, and will provide an update on SMGB activities and a presentation on the geology and environmental issues of the Whitewater area.
- SMGB as a SMARA Lead Agency
 - The rulemaking packet for the SMGB's adopted regulations for conduct of a vested rights determination upon request from an operator when the SMGB is serving as a lead agency under SMARA was submitted to the Office of Administrative Law (OAL) on March 19. OAL contacted the SMGB's office on April 30, 2008, one day before the end of the 30-working day review period, and had specific comments including requiring an expanded "Final Statement of Reasons", and additional public comment for substantial changes that were made when the SMGB adopted the regulations.
 - Comments received during the hearing held by the SMGB at its February 2008 regular business meeting regarding Federal Mining Reform were compiled and forwarded to the Department of Conservation (DOC) and State Geologist for review and consideration. Since the public hearing, the SMGB has received comment from the Executive Director of the Northwest Mining Association (NMA), Ms. Laura Skaer. The NMA is in favor of "surgical, common-sense" mining reform. NMA's comments were also forwarded to the DOC and the



State Geologist. The DOC in conjunction with the State Geologist is working toward development of a position paper for the Governor's consideration.

- Acting Chair Bly-Chester directed the Executive Officer to track federal bills that may be of interest to the SMGB, and periodically report back to the SMGB at future meetings.

VI. Ex-Parte Communication Disclosure [Information]

[Board Members will identify any discussions they may have had requiring disclosure pursuant to Public Resources Code Sections 663.1 and 663.2.]

- Member Isham made mention of a meeting he attended between the California Department of Toxic Substances Control (DTSC), California Regional Water Quality Control Board (CRWQCB) and industry regarding the identification of mine sites with significant acid drainage problems, and potential clean-up strategies.

VII. Good of the Meeting [Information]

[This time is scheduled to provide the public with an opportunity to address non-agenda items. Those wishing to speak should do so at this time. All persons wishing to address the SMGB should fill out a speaker card and present it to the Secretary so that the Chair can determine the number of persons who wish to speak. Speakers are limited to three minutes except by special consent of the Chairman.]

- Mr. Michael Lopez introduced himself as Acting Planning Manager for Santa Clara County, and indicated that he is looking forward to the upcoming SMGB meeting in July to re-visit the progress that has been made in improving the County's overall SMARA program.
- Mr. Greg Zitney, an independent Environmental and Land Use Planning consultant, submitted a letter and expressed the need for a strong statement by the SMGB opposing the proposed elimination of mineral resources land in San Diego County referred to as the Merriam Mountain Project. Member Tepel suggested that the Executive Officer selectively attend public hearings to express the SMGB's position regarding classified and designated mineral lands in California.
- Mr. Bob Snodgrass submitted additional information and documentation pertaining to the City of Lake Elsinore and their decision to grant vested rights to another surface mining operation within their jurisdiction, and inquired as to the overall status of the SMGB's actions. Mr. Testa indicated that a written request was forwarded to the City requesting information and documentation pertaining to whether vested rights were granted by the City and what documentation and information was relied upon in making such determination.

VIII. Consent Items [Action]

[All the items appearing under this section will be acted upon by the SMGB by one motion and without discussion; however, any Board member wishing to discuss a particular item



may request the Chairman to remove the item from the Consent Calendar and consider it separately under Continued Business or New Business.]

1. Approval of Minutes, May 8, 2008, Regular Business Meeting.

Board Member Lund moved to approve the minutes. Board Member Tepel seconded and the motion carried with a unanimous voice vote.

IX. Continued Business [Action]

[These business items have been continued from a previous meeting/hearing.]

X. New Business [Action]

2. **Public Hearing:** Pursuant to Public Resources Code Section 2696(b) and Title 14, California Code of Regulations Section 3723(a), a hearing will be conducted to receive comments and recommendations for the Preliminary Seismic Hazard Zone Map specific to the areas encompassed in the Dublin Quadrangle, Alameda County.

Executive Officer Testa stated that CCR Section 3722(a) requires the SMGB to provide an opportunity for receipt of public comment and recommendations during a 90-day review period for preliminary seismic hazards zone maps to be released by CGS as provided by PRC Section 2696. The SMGB is to receive comments, and transmit such comments to the State Geologist for consideration prior to publication. Mr. Testa stated that no comments have been received.

- Ms. Candice Hill, representing CGS, provided a summary of the program noting that 155 maps have been released to date; 89 maps in southern California and 26 maps in northern California. These maps serve 9 counties and 171 cities. With release of the eventual preliminary maps for Dublin and Livermore Quadrangles, this would complete a set of six maps which comprise the Hayward Fault complex.

No comments were received.

3. **Public Hearing:** Pursuant to Public Resources Code Section 2696(b) and Title 14, California Code of Regulations Section 3723(a), a hearing will be conducted to receive comments and recommendations for the Preliminary Seismic Hazard Zone Maps specific to the areas encompassed in the Livermore Quadrangle, Alameda County.

Executive Officer Testa stated that CCR Section 3722(a) requires the SMGB to provide an opportunity for receipt of public comment and recommendations during a 90-day review period for preliminary seismic hazards zone maps to be released by CGS as provided by PRC Section 2696. The SMGB is to receive comments, and transmit such comments to the



State Geologist for consideration prior to publication. Mr. Testa stated that no comments have been received.

No comments were received.

4. Consideration of Administrative Procedures for Conduct of a Vested Rights Determination by the State Mining and Geology Board when Serving as a Lead Agency under SMARA for Big Cut Mine (CA Mine ID #91-09-00XX), Scott Morris (Agent), Rick Churches (Operator), El Dorado County.

Executive Officer Testa noted that at its February 14, 2008, regular business meeting, the SMGB adopted regulations which presented the administrative procedure for the SMGB to conduct a vested rights determination when serving as a SMARA lead agency. In preparation for conduct of such determinations anticipated to commence later this year, several considerations will be before the SMGB upon receipt of each petition: first to determine who will serve as the administrative hearing officer or body, and second to determine who will review the administrative record and compile the findings of fact for the SMGB's consideration. The SMGB may wish to proceed with these two considerations on a case-by-case basis. The two considerations before the SMGB is for the vested rights determination request of May 25, 2007, for the proposed Big Cut Mine located in El Dorado County.

Board Member Hoose moved to have the SMGB serve as the administrative hearing officer(s). Board Member Isham seconded and the motion carried with a unanimous voice vote.

Board Member Hoose moved to have SMGB staff assist the SMGB, and its Ad Hoc Committee, in the review of the administrative record and determination of findings of fact. Board Member Isham seconded and the motion carried with a unanimous voice vote.

XI. Special Reports and Department Presentations [Possible Action]

[Based on these Reports, the Chair may instruct the SMGB staff to initiate administrative actions.]

5. Preliminary Report on the County of Siskiyou SMARA Program. (Testa)

Executive Officer Testa provided background information indicating that in June 2007 the SMGB received a complaint from an adjacent neighbor to the Timberhitch Pits located in Siskiyou County. The complaint alleged that the operation has been in a state of non-compliance, and that the County failed to adequately enforce SMARA. The complaint was forwarded to OMR whose staff has been coordinating with the County in responding to this complaint. A preliminary summary of the County's SMARA program, and performance as a lead agency, was provided by Executive Officer Testa, indicating that the County was performing at a level lower than the statewide average.



- Ms. Terry Barber, Planner and Deputy Director for Siskiyou County, provided some preliminary comments regarding the County's SMARA program, specifically noting that their inspector has less than three years experience with SMARA and she had no experience. Ms. Barber stated that she has had no chance to review the Executive Officer's report, and would be working to address the specifics of the report, but that the county has been working on its SMARA program over the past two years and was hopeful that OMR could attest to the improvements made during this time. Ms. Barber did indicate however that she anticipated that the County's progress would be slow, and that there was currently no understanding of the administrative process.
- Member Tepel inquired as to whether the County had representatives participating in OMR's workshops.
- Member Lund mentioned that the County may wish to reach out to CSAC for assistance.
- Member Hoose noted the number of areas that were deficient, and although the Executive Officer's report is a preliminary report, there are many problem areas, certain areas of SMARA are not even addressed, and that she was leaning toward the issuance of a 45-Day Notice of Deficiencies. The County would need to set forth a very vigorous effort, and that the County needs to consider making the program self-supporting.
- Member Isham stated that a good effort has not been demonstrated to date, and preferred to defer any action by the SMGB until a later date.
- Member Lund concurred.
- Member Garner indicated that he wished for the County Board of Supervisors to be copied on all correspondence to the County.
- Acting Chair Member Bly-Chester suggested that this matter be deferred until July which would give the County two months to develop a vigorous program, and directed the Executive Officer to work with the County, and provide guidance with their inspection program as well.

Action by the SMGB was deferred until its July regular business meeting.

6. Inspection reports pursuant to PRC Section 2772(b) for the following surface mining operations may be presented for SMGB acceptance consideration as being in accordance with the SMGB's requirements:

- Hanson Alcatraz, Presidio, Point Knox (CA Mine ID #91-38-0001), BCDC.
- Hanson Point Knox South (CA Mine ID #91-38-0002), BCDC.
- Hanson Point Knox Shoal (CA Mine ID #91-38-0003), BCDC.
- Hanson Alcatraz South Shoal (CA Mine ID #91-38-0004), BCDC.
- Hanson Suisun Bay (CA Mine ID #91-38-0005), BCDC.
- Hanson Suisun Bay Middleground (CA Mine ID #91-38-0006), BCDC.
- Jerico Suisun Bay Middleground (CA Mine ID #91-38-0007), BCDC.



- CEMEX Carquinez Straits (CA Mine ID #91-38-0008), BCDC.
- CEMEX Alcatraz Sand Shoal (CA Mine ID #91-38-0009), BCDC.
- CEMEX Suisun Bay Middleground (CA Mine ID #91-38-00010), BCDC.
- Morris Tug & Barge Marine Oyster Shell Mining (CA Mine ID #91-38-00011), BCDC.

Executive Officer Testa noted that the SMGB serves as a lead agency for the Bay Conservation and Development Commission (BCDC). Surface mining operations within the jurisdiction of BCDC consist of marine dredging operations within bay waters. The SMGB will be considering acceptance of eleven inspection reports.

- Mr. Will Arcand, Senior Engineering Geologist and the SMARA mine inspector for the SMGB, presented a synopsis of the inspection reports for all eleven operations.
- Member Hoose inquired as to whether both the Department of Conservation and the SMGB were noted on the insurance policy. Mr. Arcand affirmed that they were, and also stated that all eleven operations were operating within their footprint as noted in their respective approved reclamation plans.
- Member Isham inquired as to whether Hanson in light of litigation was operating within its footprint. Mr. Arcand confirmed that all the operators within the jurisdiction of BCDC were operating within their respective footprint.

Board Member Tepel moved to accept the inspection reports. Board Member Hoose seconded and the motion carried with a unanimous voice vote.

XII. SMGB Committee Reports [Information and Possible Action]

- Geohazards Committee (Chairman Tepel)

Committee Chairman Tepel mentioned that the Committee met earlier in the morning and discussed slope stability and mitigation issues pertaining to the Richmond (Chevron) Quarry located in the City of Richmond.

- Alquist-Priolo Technical Advisory Committee (Chairman Tepel)

TAC Chairman Tepel mentioned that the TAC continues to make significant progress and plans to meet on July 23, 2008, in the City of Irvine, Orange County, to provide an opportunity for stakeholders to provide comment.

- Surface Mining and Standards Committee (Chairman Isham).

Committee Chairman Isham mentioned that the Committee met earlier in the morning and discussed the SMGB's policy on the issuance of administrative penalties when serving as a lead agency under SMARA.

- Minerals and Geologic Resources Committee (Chairman Garner).

No report was provided.



- Policy and Legislation Committee (Chairman Jones)

No report was provided.

XIII. Continuing Business [Information]

[This item is provided as an opportunity for any SMGB member to receive information on, or any items of continuing interest, to the SMGB.]

XIV. New Business [Information]

[This item is provided as an opportunity for any SMGB member to bring any item of new business to the SMGB's attention for further discussion and further action.] Items to be discussed:

XV. Executive Session (Closed to the Public) [Possible Action]

[The SMGB will discuss information from its legal counsel on pending litigation and may take appropriate actions based on this information. This session is being held under Government Code, Section 11126.] Items to be discussed:

- a). Brunius vs. SMGB, Case # PC 20010449, El Dorado County Superior Court.
- b). Kibbe Area Planning and Protection Association; Forest Tull vs. SMGB; A. Teichert & Sons, Inc.; and DOES 1010, Case No. 34-2007-00882657-CU-WM-GOS, Sacramento County Superior Court.
- c). An un-named case where there is potentially significant exposure to litigation against the Board.
- d). Performance evaluation of the SMGB's Executive Officer.

Re-open Regular Business Session, Announce Results of Executive Session

No Executive Session was held since no new information on pending litigation required discussion.

XVI. Announcements of Future Meetings

July 13, 2008, was announced as the next meeting, and San Jose as the location.

XVII. Adjournment

The meeting was adjourned at 1:50 P.M.

APPROVED

Allen M. Jones, Chairman

Stephen M. Testa, Executive Officer

