



# STATE MINING AND GEOLOGY BOARD

DEPARTMENT OF CONSERVATION

801 K Street • Suite 2015 • Sacramento, California 95814

[www.conservation.ca.gov/smgb](http://www.conservation.ca.gov/smgb)

[smgb@conservation.ca.gov](mailto:smgb@conservation.ca.gov)



Publication Date: May 14, 2009

## CONFORMED MINUTES

### THE STATE MINING AND GEOLOGY BOARD

Conducted a Regular Business Meeting on:

Thursday, April 9, 2009

9:00 A. M.

Assembly Hearing Room #444

State Capitol

Sacramento, California 95814

**DRAFT**

## 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 (Garner)**

**II. Roll Call and Declaration of a Quorum**

The meeting was called to order at 9:05 A. M. by Chairman Garner, with all members present, and a quorum was declared. Chairman Garner introduced the new SMGB members and the specialty position filled by each.

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

Mr. Jason Marshall, on behalf of Director Bridgett Luther, reported on the following:

- Mineral resource availability is a current topic of interest, and discussions have been taking place between the California Construction and Industrial Materials Association (CalCIMA), Department of Conservation (DOC), Caltrans and the SMGB, among others. Recently published Map 52 by the California Geological Survey (CGS) showed the shortcomings in meeting the State's aggregate needs.
- No controversial budget issues for the DOC and SMGB are apparent.
- Unpaid furlough mandates remain statewide, and furlough days are used by staff at the Manager's discretion.
- Marni Weber, Legislative Director of DOC, noted that over the next three weeks there will be an effort by the legislature to move bills out of the policy committees.
- Ms. Weber provided a synopsis of Assembly Bill (AB) AB 42, AB 43 and AB 280, all sponsored by Assembly Member Blakeslee. AB 42 requires Pacific Gas and Electric Company to use the California Energy Commission to conduct an imaging survey to map fault characteristics in the vicinity of the Diablo Canyon Nuclear Power Plant. AB 43 increases the number of authorized employees for the California Earthquake Authority from 25 to 50. AB 230 authorizes the California Earthquake Authority to create a program to access and dispense federal mitigation funds for soft-story residential buildings.

**Office of Mine Reclamation Report (O'Bryant) [Information]**

Mr. Dennis O'Bryant, Assistant Director with OMR, reported on the following:

- The Lead Agency Review Unit currently has a staff of five. The unit responsibilities will also include lead agency implementation of SMARA as it pertains to land use, mining ordinances, and Mineral Resources Management Policies. The first lead agency (County) to be reviewed will be Sutter County. OMR currently is involved in lead agency matters pertaining to Sierra County, Siskiyou County and Ventura County.
- OMR continues in its workshop efforts. SMARA workshops are planned for Calaveras County in May, followed by conduct of a workshop in Fort Bragg.
- Board Member Tepel inquired as to the timing of reports on lead agency review results. O'Bryant indicated that OMR plans to complete 7-8 reviews per year. Such reports are planned to be provided to the SMGB's Executive Officer, with presentations to be presented by OMR to the lead agency's Planning Department and Board of Supervisors.



State Geologist's Report (Parrish) [Information]

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

- State Geologist Parrish welcomed the new SMGB members and summarized the latest earthquake swarms in the vicinity of Bombay Beach, along the eastern perimeter of the Salton Sea. About 75 earthquakes were recorded starting on March 24, 2009, and could change the stress pattern in the region and possibly affect the triggering mechanism for movement along the San Andreas Fault. Over 400 earthquakes have been recorded during the month of March, and have since died down. Earthquake swarms in this area is not new. Such activity also occurred in 2001 along the west side of the Salton Sea.
- An overview of the Italian Earthquake (magnitude 6.3) was presented. The earthquake occurred in the middle of the Apennines Mountains. Seven magnitude 4.5 to 5 aftershocks have occurred. Over 250 died, fifty-five structures were demolished, and tens of thousands are homeless. In comparison with California, such magnitude earthquakes are not uncommon, and hospitals, for example, must be functional during and after an earthquake. In Italy, all of the hospitals in the affected region had collapsed.
- CGS Seismic Monitoring Instrumentation Program (SMIP) activity remains active with several sites currently in the process of being monitored, including Union Pacific Interstate-5 railroad bridge over Shasta Lake. It was discovered that every train over the 70 year old bridge generates stress on the order of 3g, which is significant. Also, instruments are being installed in a new high rise in San Francisco and other San Francisco sites, and in West Sacramento.
- An Open-House hosted by the United States Geological Survey is planned for May 15, 16 and 17. The SMGB and general public are invited.

**IV. Chairman's Report (Garner) [Information]**

Chairman Garner made the following reports:

- Recognition of distinguished service for past SMGB Member Julian C. Isham (Resolution 2009-02). The SMGB recognized the many significant contributions made to the State of California by Isham during his tenure on the Board from March 2003 to March 2009. Isham was appointed to the SMGB by Governor Gray Davis, and reappointed by Governor Arnold Schwarzenegger. His willingness to give freely of his time, energy, and ideas had a marked, positive effect on the performance of the SMGB in its implementation of the Surface Mining and Reclamation Act, the Alquist-Priolo Earthquake Fault Zone Mapping Act, and the Seismic Hazards Mapping Act. Isham served with distinction on the SMGB fulfilling the position of Mining Engineer having expertise in environmental geology and mining. He has served on the Board's Geohazards Committee and as Vice Chair of its Alquist-Priolo Earthquake Fault Zoning Act Technical Advisory Committee, Chairman of the Surface Mining Standards Committee, and on the Minerals and Geologic Resources Committee. The SMGB



gratefully acknowledged Isham's dedicated service to the SMGB and to the People of the State of California, and commended him for a job well done.

- Recognition of distinguished service for James S. Pompy, Manager of the Reclamation Unit for the OMR (Resolution 2009-03). The SMGB recognized the many significant contributions made to the State of California by Pompy with the California Geological Survey (formerly Division of Mines and Geology) as a supervisor of the Alquist-Priolo Earthquake Fault Zoning, Landslide Mapping, and Timber Harvest Programs, and his 22 years with the Office of Mine Reclamation from September 1986 to April 2009. Pompy was hired as Senior Mining Engineer assigned to the Surface Mining and Reclamation Act (SMARA) program, and responsible for the Mined-Land Reclamation Program. His willingness to give freely of his time, energy, and ideas had a marked, positive effect on the SMARA program, where he was instrumental in providing recommendations later addressed by the State legislature for the mandatory submission of annual reports, reclamation plans, and financial assurances, mandatory conduct of annual inspections, and preparation of the initial draft of state-wide reclamation standards which were subsequently incorporated into the SMGB's regulations. Pompy served with distinction on behalf of the citizens of California representing California on the Western Governor's Association, Mine Waste Task Force, which provided State input to the U.S. Environmental Protection Agency in their efforts to regulate mining wastes under the Resource Conservation and Recovery Act (RCRA). He has promoted mining and reclamation pursuant to SMARA, mentored new members of the OMR, and served as an instructor teaching SMARA classes at the University of California at Davis for the past 12 consecutive years. Member Baca commented that what he remembered most from Mr. Pompy was the phrase "*they must amend their reclamation plan.*" The SMGB gratefully acknowledged Pompy's dedicated service to the Board and to the People of the State of California, and commended him for a job well done.
- Chairman Garner read into the record a letter from State Geologist Parrish, noting that Executive Officer Testa was to receive Honorary Membership from the American Institute of Professional Geologists (AIPG), at their annual meeting to be held in Grand Junction, Colorado, on October 6, 2009. This special award recognizes certain individuals who have produced an exemplary record of distinguished service to the geological professions. Testa is Past President of the American Geological Institute (AGI) and AIPG, and past Editor-in-Chief of the American Association of Petroleum Geologists Division of Environmental Geosciences (AAPG-DEG) peer review journal Environmental Geosciences, and recipient of AIPG's prestigious Martin Van Couvering Award, AAPG-DEG's Research Award, and the Roy Shlemon Geology Mentor Honorarium for excellence in the application of applied earth science. Testa currently serves as Vice Chair of the International Year of Planet Earth National Committee, and on the Board of Directors for the Petroleum History Institute. AIPG is the largest international association dedicated to promoting geology as a profession, and adheres to the principles of professional responsibility



and public service, and is the only international organization that certifies the competence and ethical conduct of geological scientists in all branches of the science.

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

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

- A Request for Determination for the Big Cut Mine located in El Dorado County was received on March 13, 2009. A determination of jurisdiction was made by the Chairman and the claimant subsequently notified. An estimated cost for review of the Administrative Record is in progress, and anticipated to be provided to the claimant by end of April, with a Mailing of Notice of Pending Vested Rights Determination to be published by May 8, 2009. The determination of findings for the SMGB consideration during the public hearing will be performed by the Executive Officer.
- The SMGB has received several public complaints pursuant to PRC Section 2774.4 and pertaining to overall SMARA lead agency performance, notably, Sierra County and Ventura County. Sierra County is anticipated to be heard at the SMGB's upcoming May 14, 2009, regular business meeting.
- A response to the comments received regarding designation, and termination of designation, of certain sectors within the Palm Springs Production-Consumption Region, are being compiled and addressed. The SMGB can anticipate considering rulemaking in the near future.
- Legislatively mandated reports were deferred until January 1, 2008, as supported by Chapter 409 (AB 79) during the 2004 legislative session. Such reports are typically due by December 1. The annual report of the SMGB for 2007-2008 is in preparation, and anticipated to be completed by July 1, 2009; no annual reports were prepared from 2001 to January 1, 2008. The cause for delay reflects inclusion of a summary of SMGB's actions and activities for the period from 2001-2007.
- All 2008 mine inspections have been completed, and the subsequent reports accepted by the SMGB as of the SMGB's April 9, 2009, regular business meeting. An overview and general status of SMGB lead agency activities per surface mine site is attached.
- An administrative draft for an initial study and proposed mitigated negative declaration (MND) for the Big Cut Mine Reclamation Plan, a proposed surface mining operation located in El Dorado County, is under review by OMR and SMGB staff. The study and proposed MND was prepared by the SMGB's consultant, PBS&J, under project management and coordination by Rick Hansen.
- The draft reclamation plan form is being developed and will eventually be used by the SMGB when serving as a SMARA lead agency, has been reviewed by OMR staff, and will be before the Surface Mining and Standards Committee and then the SMGB for acceptance consideration, at the SMGB's upcoming May 2009, regular business meeting.



- The Executive Officer was re-invited to Stanford University to make a presentation to faculty and students within the renamed Energy and Resources Engineering Department. A presentation is scheduled for April or May 2009.
- The Executive Officer will be chairing a symposium on Engineering and Environmental Issues Associated with Mining at the upcoming 2009 annual national fall meeting of the Association of Engineering and Environmental Geologists. The meeting will be held in South Lake Tahoe.

**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 Tepel stated that he was invited by the Utah Department of Professional Licensure to provide a short course for geologists on April 28, 2009.

**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. Gary Rudholm, Senior Planner with the County of Santa Clara, provided an overview of the County's efforts to achieve compliance pursuant to SMARA for those surface mining operations within their jurisdiction, and inspection needs, requirements, and status.

**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, April 9, 2009, Regular Business Meeting.

Board Member Lund moved to approve the minutes. Board Member Bly-Chester 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. Acceptance of a Petition for Re-Classification of Mineral Resource Zone (MRZ) Lands from MRZ-3 to MRZ-2, White Rock Road Properties, Mangini Property, Sacramento County.

Executive Officer Testa indicated that Teichert Aggregates submitted a petition dated December 16, 2008, for mineral land classification of 380 acres of land referred to as the White Rock Road Properties-Mangini Property, located in Sacramento County. Based on a preliminary review, the State Geologist concluded that 1) the material will likely meet the quality specifications for Portland Concrete Cement aggregate; and 2) preliminary calculations based on info provided by the petitioner indicates the parcel contains aggregate resources in excess of the threshold value of \$12,550,000 (1998 dollars) or \$17,157,910 (2008 dollars), as required for reclassification of MRZ-3 to MRZ-2a (measured or indicated reserves) or 2b (inferred reserves) for PCC grade aggregate. The SMGB is considering accepting the petition for the classification of mineral resources land in this area.

- Discussion as to how tonnage quantities are calculated was discussed by John Clinkenbeard, Senior Engineering Geologist with CGS.

Board Member Licari moved to accept the petition. Board Member Lund seconded and the motion carried with a unanimous voice vote.

3. Acceptance of California Geological Survey Special Report 212 on Mineral Land Classification of the First Industrial Realty Trust Day Street Site, Riverside County, California for Portland Cement Concrete-Grade Aggregate.

Executive Officer Testa indicated that TerraMins, Inc., on behalf of First Industrial Realty Trust, submitted a petition dated August 6, 2008, for mineral land classification of 500 acres of land referred to as the Day Street Project, located in Riverside County. At its December 11, 2008, regular business meeting, the SMGB accepted the petition. Based on a preliminary review, the State Geologist concluded 1) the material will likely meet the quality specifications for Portland Concrete Cement (PCC) aggregate; and 2) preliminary calculations based on info provided by the petitioner indicates the parcel contains aggregate resources in excess of the threshold value of \$12,550,000 (1998 dollars) or \$16,666,000 (2007 dollars), as required for MRZ2a or MRZ-2b (inferred) for PCC grade aggregate. The SMGB is considering accepting CGS Special Report 212 for the classification of mineral resources land in this area, and directing the Executive Officer to forward copies of the report to Riverside County and other affected lead agencies.

- Mr. John Clinkenbeard, Senior Engineering Geologist with CGS presented an overview. In response to an inquiry from Member Lane, groundwater is not evaluated in CGS's consideration when evaluating mineral resources, and that groundwater-related issues are however considered during the permitting process, and with the regional water board, as appropriate. Furthermore, this being a hard rock area, groundwater is likely not a significant issue.



Board Member Baca moved to accept the report. Board Member Tepel seconded and the motion carried with a unanimous voice vote.

4. Adoption of Proposed Regulation for the Termination of Designation of Mineral Resources Lands of Statewide or Regional Significance, Claremont-Upland Production-Consumption Region, Los Angeles and San Bernardino Counties, California.

Executive Officer Testa noted that the SMGB, pursuant to PRC Section 2790, may, by regulation, adopt after a public hearing to designate specific geographical areas of statewide or regional significance and specify the boundaries thereof. The SMGB, pursuant to PRC Section 2793, may also, by regulation, terminate, partially or wholly, the designation of any area on a finding that the direct involvement of the SMGB is no longer required. The SMGB based on recommendations from the State Geologist and public input, prioritizes areas to be classified and/or designated. At its December 13, 2007, regular business meeting, the Board accepted CGS Special Report 202 which updated information previously presented in an earlier classification report. The SMGB subsequently directed the Mineral and Geologic Resources Committee (Committee) to receive recommendations of the State Geologist and follow through the process for designation and termination of designation, as appropriate. State Geologist Parrish, in April 2008, presented recommendations to the Committee for areas/sectors to be considered for termination of designation. Eighteen areas in 11 sectors are being recommended for termination of designation. The Committee held a public hearing on March 11, 2009, in the City of Palm Springs to receive comments. No written comments were received regarding the proposed action. The SMGB is considering adoption of the proposed regulations for the termination of designated land in the Claremont-Upland Production-Consumption (P-C) Region.

- Member Bly-Chester commented that as designated lands are terminated, remaining mineral land resources become more valuable.

Board Member Tepel moved to adopt the proposed regulation. Board Member Bly-Chester seconded and the motion carried with a unanimous voice vote.

5. Issuance of an Order to Comply to the Feather River Levee Improvement Project (FRLIP), Three Rivers Levee Improvement Authority (TRLIA; Operator), County of Yuba, to Correct Violations of the Surface Mining and Reclamation Act (Public Resources Code Section 2710 et seq.).

Executive Officer Testa noted that the SMGB is the SMARA lead agency for Yuba County. On September 23, 2008, the SMGB received a reclamation plan for the proposed Three Rivers Levee Improvement Authority, Feather River Levee Repair Project, Segment 2. Upon initial review, it came to staff's attention that work had already commenced, and a site visit was performed on November 14, 2008. Determining that at least part of the proposed project was subject to SMARA, a Notice of Violation (NOV) was issued on December 23, 2008. While most of the project was deemed not subject to SMARA, upon receipt of additional documents and further review by OMR and SMGB staff, two borrow pits were deemed subject to SMARA: Ella and Platter/JTS Borrow sites. The operator was requesting



from the SMGB consideration of a one-time exemption or on-site construction exemption from SMARA.

- Paul Brunner, Executive Director representing the Three Rivers Levee Improvement Authority (TRILIA) and Tom Henry, legal counsel representing TRILIA, made a presentation to the SMGB describing the structure of TRILIA, project description and purpose, borrow pit locations and rationale, contractual obligations, and exemption considerations. TRILIA consultant Dan Wanket, and TRILIA Construction Manager Douglas Harden, provided technical support.
- Member Lund stated that the two borrow sites did not meet the exemption criteria allowed pursuant to SMARA. No eminent domain issues were apparent.
- Member Bly-Chester expressed her concerns noting that no permit existed for the Ella Borrow site, and that the future of the Platter/JTS Borrow site was uncertain. Also, no funding was currently in place for reclamation purposes.
- Member Baca, Lane and Licari shared concern over lack of an adequate financial assurance in place.

Board Member Lund moved to issue the Order to Comply. Board Member Bly-Chester seconded and the motion carried with a unanimous voice vote.

6. Pre-Hearing Conference in the Matter of the Request for Determination for Vested Rights, Western Aggregates, LLC (CA Mine ID #91-58-0001), Kerry Shapiro (Agent), Western Aggregates, LLC (Operator), Yuba County.

Executive Officer Testa stated that the SMGB is the lead agency for Yuba County, and on November 5, 2008, received the filing of the administrative record for the conduct of a vested rights determination for Western Aggregates' surface mining operation located in Yuba County. The filing included an administrative record, affidavit and processing fee of \$5,000, pursuant to Article 15, Section 3954. The request for a vested rights determination was determined by the SMGB's Chairman to be within the jurisdiction of the SMGB on December 1, 2008. A mailing of the Notice of Pending Determination was published on January 6, 2009, and amended on January 12, 2009. The estimated cost for determination of findings, legal counsel, and out-of-pocket costs were provided to the claimant on January 27, 2009. Upon receipt of funds, CGS proceeded with the review and analysis of the Administrative record. At its February 2, 2009, regular business meeting, and pursuant to Article 15, Section 3957 of the Board's regulations, upon determination of jurisdiction and not more than 45 business days from such conclusions, the SMGB is required to decide who will serve as the hearing officer during conduct of the public hearing. The SMGB reaffirmed that it would serve as the hearing officer. The purpose of this pre-conference hearing is for the SMGB to hear from the affected parties' potential issues regarding scheduling and to consider preliminary scheduling of the hearing, possibly in one or more phases.

- Theodore Franklin, legal counsel and representing the Yuba Goldfields Access Coalition, provided historical context, and a desire for the public hearing to be scheduled as late in the year as possible.



- Kerry Shapiro, legal counsel with Jeffer Mangels Butler & Marmaro, LLP., and representing Western Aggregates (WA), summarized his understanding of the hearing process, and thoughts regarding evidence and testimony. In regards to the hearing process, 1) the hearing must commence within 180 business days of Determination of Jurisdiction which is December 1, 2008, 2) either three consecutive days each month or twice a week for a month was suggested, and 3) hearing sessions should break down into three phases consistent to CCR Section 3961: Phase 1 – staff presentation and WA’s opening presentation, Phase 2 – adjoining owner presentations along with those of experts and public comments, and Phase 3 – WA’s rebuttal and SMGB’s deliberation. In regards to evidence and testimony, Mr. Shapiro stated that there were no live historical or factual witnesses, and that the WA process was unique with over 40 depositions in prior litigation, and that witnesses should avoid dramatically expanding the scope and length of the hearing process. In addition, comments made in regards to written reports and oral testimony included 1) expert reports to be submitted by public 60 days prior to hearing, 2) rebuttal expert reports to be submitted by claimant 45 days prior to hearing, 3) experts to provide one-half hour of oral testimony to explain written reports, but no additional oral information beyond what was submitted in the written reports, 4) any member of the public intending to submit an expert report must identify the subject report 75 days prior to commencement of the hearing, and 5) no direct or cross-examination of witnesses or in other words no administrative trial.
- Member Baca indicated that a reasonable time should be set for the claimant, but the public should not have limits. This is a public hearing.
- Member Bly-Chester and Chairman Garner considered scheduling options.
- Member Tepel indicated the need for fairness to all parties and to the public.
- Chairman Garner directed the Executive Officer to coordinate and schedule this matter for three consecutive days in early August. Recommended dates for the public hearing were for August 6, 7 and 8, 2009, and to be held in the City of Marysville.

Board Member Baca moved to schedule the public hearing. Board Member Lund seconded and the motion carried with a unanimous voice vote.

7. Acceptance of the Annual Fee Schedule for Mines Subject to the Surface Mining and Reclamation Act (SMARA; Public Resources Code Sections 2710 et seq. and 2207).

Executive Officer Testa stated that annually, the SMGB reviews the Fee Schedule, which is set in statute under PRC 2207, and calculated in a manner consistent with the SMGB’s regulations (CCR Sections 3698 and 3699). The annual Fees for 2008, as calculated, will increase, and the base fees that are mentioned in statute will be adjusted using a Consumer Price Index (Cost of Living Adjustment; COLA) for 2008 which was about 3.4%. The tables provided in the staff report are the new fees figures that are established pursuant to PRC 2207. In review of the 2008 calculations and summary tables, fees are increasing to \$4,132,668, representing an increase of \$135,890 relative to the amount requested for



Calendar Reporting Year 2007. The SMGB is being asked to accept that the fees have been calculated in accordance with PRC 2208 and the SMGB's regulations.

- Dennis O'Bryant, Assistant Director with OMR indicated that CGS, OMR and the SMGB all share funds that comprise the Mine Reclamation Account (MRA), and the by next year, most mines will be at the maximum. The current structure does not present an equitable situation, notably, toward small and moderate sized operators.
- Member Tepel expressed concern about the Low Gross Exemptions considered by the SMGB earlier this year.
- Chairman Garner expressed the need for more flexibility.

Board Member Baca moved to accept the annual mine fee schedule. Board Member Lane seconded and the motion carried with a unanimous voice vote.

8. Review and Establishment of the Board's Committees Pursuant to the Board's Bylaws (III Organization).

Executive Officer Testa stated that the SMGB appoints committees to assist in its work. The existing four committees approved back in January 2008 are the Geohazards, Minerals & Geologic Resources, Policy & Legislation, and Surface Mining Standard. Committees The above committees present no conflicts with statute or the SMGB's bylaws, and in the view of the Executive Officer, remain valid. The review and establishment of SMGB committees are discretionary acts by the SMGB and its Chairman.

- Chairman Garner announced the following committee makeup:
  - Surface Mining Standards Committee to be comprised of Cheryl Bly-Chester, John Lane and Benjamin Licari, with Kathy Lund to serve as Committee Chair.
  - Policy and Legislation Committee to be comprised by Erin Garner, John Lane and Kathy Lund, with Brian Baca to serve as Committee Chair.
  - Geohazards Committee to be comprised of Brian Baca, John Lane and Charlie Wyatt, with Bob Tepel to serve as Committee Chair.
  - Mineral and Geologic Resources Committee to be comprised by Erin Garner, Bob Tepel and Charlie Wyatt, with Cheryl Bly-Chester to serve as Committee Chair.

Board Member Tepel moved to accept the establishment of the SMGB's committees. Board Member Bly-Chester 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.

9. Discussion of State Mining and Geology Board's Strategic Plan.

Executive Officer Testa stated that the SMGB's Strategic Plan was initially adopted in March 1997, and updated/revised in November 2000, and most recently in March 2007. The SMGB has before it a copy of the plan and the SMGB's enablers, PRC Sections 660-678, which defines the general role and authority of the SMGB. This matter is before the SMGB



to kick-off discussion of its Strategic Plan, and consider changes to the plan. No recommendations are offered at this time, and when the SMGB meets again on this subject, a status of current goals and objectives will be offered.

No action was taken by SMGB, although the Executive Officer was directed to have this matter on the SMGB's agenda in the near future.

10. 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:

- Bear Creek Quarry (CA Mine ID #91-09-0001), El Dorado County.
- Chile Bar Slate Mine (CA Mine ID #91-09-0004), El Dorado County.
- Lawyer Borrow Pit (CA Mine ID #91-09-0010), El Dorado County.
- CEMEX Lapis Sand (CA Mine ID #91-27-0006), City of Marina.
- 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.
- San Francisco Marina Dredging Operation (CA Mine ID #91-38-0012), BCDC.
- Sperbeck Quarry (CA Mine ID #91-58-0004), Yuba County.

Executive Officer Testa indicated that the inspection reports before the SMGB concludes the presentation of reports developed from inspections performed by Mr. Will Arcand in 2008. SMGB staff, Mr. Arcand, Senior Engineering Geologist, provided a summary of observations made and outstanding compliance issues.

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

## **XII. SMGB Committee Reports [Information and Possible Action]**

- Geohazards Committee (Chairman Tepel)
  - Alquist-Priolo Technical Advisory Committee (Chairman Tepel)
    - TAC Chairman Tepel stated that the TAC will likely meet sometime in late spring.
- Surface Mining and Standards Committee (Chairman to be designated)



- Committee Member Bly-Chester indicated that the Committee met on March 25 to discuss issues pertaining to the Feather River Levee Improvement Project.
- Minerals and Geologic Resources Committee (Chairman Garner)
  - No report provided.
- Policy and Legislation Committee (Chairman Garner)
  - No report 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.]

No continued business items were discussed.

**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:

No new business items were offered.

**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.

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

SMGB's Legal Counsel, Ms. Deborah Wordham, Deputy Attorney General, announced that the SMGB met in closed session to discuss pending litigation but took no actions.

**XVI. Announcements of Future Meetings**

May 14, 2009, was announced as the next meeting, and the City of Sacramento as the location.

**XVII. Adjournment**

The meeting was adjourned at 3:45 P.M.

**APPROVED**

\_\_\_\_\_  
Erin Garner, Chairman

\_\_\_\_\_  
Stephen M. Testa, Executive Officer

