



# 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)

## *Policy and Legislation Committee*



Approval Date: January 14, 2010

## CONFORMED MINUTES

### THE POLICY AND LEGISLATION COMMITTEE (Allen Jones, Chair; Erin Garner; Seena Hoose; Robert Tepel) OF THE STATE MINING AND GEOLOGY BOARD

Conducted a Meeting on:

Friday, September 7, 2007  
10:00 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.

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**[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 9:30 A. M. Committee Chairman Jones and member Tepel were present at the time of roll call, and no quorum was declared.

**III. Consent Items [Action]**

[All the items appearing under this section will be acted upon by the committee by one motion and without discussion; however, any committee 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, June 12, 2007, Committee Meeting.

Approval of the minutes was deferred.

**IV. Continued Business [Action]**

2. Receipt, Consideration, and Possible Recommendation to the State Mining and Geology Board on the Administrative Procedures in Conducting Vested Rights Determination Hearings as a Lead Agency under the Surface Mining and Reclamation Act of 1975 for Possible Circulation and Future Adoption. Mining and Reclamation Act of 1975 (SMARA).

Executive Officer Testa provided a brief synopsis of past actions and activities and indicated that at the June 14, 2007 meeting, the Committee received a revised version of the proposed preliminary language for the administrative procedure to conduct a vested rights determination when the SMGB serves as a lead agency under SMARA. Following review and discussion by the Committee members and interested parties, all comments on this matter were forwarded to the SMGB's legal counsel, Deputy Attorney General Mr. Bill Cunningham, for his review and consideration. A revised version based on Cunningham's consideration of those comments was provided as part of the Committee's packet.

- Deputy Attorney General Mr. Bill Cunningham, the Committee's legal counsel, discussed the concept of diminishing assets, options for an administrative hearing officer, clarification on who can serve as a claimant and file a request for determination, standard of review (i.e., clear and convincing, reasonable doubt, substantial evidence and preponderance of evidence), and other administrative procedures and considerations.
- Yuba County Supervisor Mary Griego commented that in her view no vesting existed, and desired the hearing to take place within the jurisdiction of Yuba County.
- Committee Member Tepel stated that only the SMGB should serve as the hearing officer.
- Committee Chairman Jones requested a definition of vested rights be included in the regulation.



- Theodore Franklin, an attorney with Weinberg, Rogers and Rosenberg, representing Calvert and the Yuba Goldfields Access Coalition, stated that he concurred with Mr. Cunningham in regards to burden of proof, opportunity for rebuttal, and the need for the hearing to take place in Yuba County.
  - Jim Good, legal counsel for the California Construction and Industrial Materials Association (CalCIMA), deferred to Mr. Kerry Shapiro and requested the term “waive” or “lapse” be deleted, since there are many ways in which an operation could become abandoned.
  - Kerry Shapiro, legal counsel for Western Aggregates, summarized his support for certain language, but the need for clarification regarding scheduling and opportunity for rebuttal to comments received, among other issues.
  - Adam Harper, representative with CalCIMA, stated that more of a land use process was preferred, along with another Committee meeting for further discussion.
  - Committee Chairman Jones summarized his thoughts on the draft regulations and further modifications that should be incorporated.
  - Executive Officer Testa proposed formulation of a fee structure that he would develop, to be forwarded to Deputy Attorney General Cunningham for review.
3. Consideration of the State Mining and Geology Board Information Report Nos. IR 2007-03 and IR-2007-04.

Executive Officer Testa summarized the two Information Reports before the Committee.

#### **IV. New Business [Action]**

No new business reported.

#### **V. 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 Committee 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]

No Good of the Meeting information was provided.

#### **VI. Announcements of Future Meetings**

The next meeting of the Committee was not announced.



**VII. Adjournment**

The meeting was adjourned at 2:00 P.M.

**APPROVED**

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Allen Jones, Chairman

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Stephen M. Testa, Executive Officer

