



STATE MINING AND GEOLOGY BOARD

DEPARTMENT OF CONSERVATION

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CONFORMED MINUTES

THE STATE MINING AND GEOLOGY BOARD

Conducted a Regular Business Meeting on:

Thursday, June 10, 2010

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 requires that all lengthy comments be submitted in writing in advance of the meeting date where this matter is to be decided. To ensure that the SMGB has the opportunity to fully preview written material, comments should be received in the SMGB office located at 801 K Street, Sacramento, CA, 95814, no later than 5:00 P.M., 15 calendar days prior to the scheduled meeting date, and must identify the Agenda Item to which it relates. For written materials in excess of two pages, or that contains large maps, photos, foldouts, or other documents requiring special handling, please submit 15 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.

New submittals received after 15 calendar days prior to the scheduled meeting date will be marked as late, and the SMGB will decide whether new submittals will be considered or not during the public hearing. Late submittals, received by the SMGB at least 48 hours prior to the scheduled meeting, will be included in a late document submittal listing. Late submittals, received after 48 hours prior to the scheduled meeting, will not be included on the late document submittal list. The SMGB would

accept a two-page written summary of testimony, or final comments based on, and limited to, review of the SMGB's packet and/or Executive Officer's report, at the time of the public hearing. Such two-page summaries would be included as part of the administrative record before the SMGB. This policy does not apply to quasijudicial proceedings (i.e., appeals, petitions, etc.) where administrative procedures for the submittal of documents are set forth in statute and regulation.

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. Pledge of Allegiance

III. 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.

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

Director Bridgett Luther reported on the following:

- DOC has testified in Legislative budget committees on all of the Department's Budget Change Proposals (BCP) and Spring Finance Letter.
- Executive Officer Testa and State Geologist John Parrish did a terrific job of presiding over a full day Session at the Association of Petroleum Geologists annual convention a couple of weeks ago. She noted that she appreciated the joint efforts, including our Office of Mine Reclamation and Division of Oil, Gas and Geothermal Resources, in promoting and offering a history lesson on CGS' 150 years.
- In a meeting with Natural Resources Secretary Lester Snow. The Secretary outlined some of the things he wanted to accomplish over the rest of this Administration. She mentioned that she has been asking all of DOC Division chiefs to focus on:
 - What they want to finish
 - What they want to give momentum to
 - What they want to put aside

Secretary Snow has placed an emphasis on Total Resource Management. He would like to emphasize a couple of pilot projects that involve multiple Departments in crafting sound, holistic solutions to managing a watershed. DOC will be working on at least one of these projects with our sister departments.

- DOC will house the Natural Resources Agency's Chief Information Security Officer (ISO). We have created some office space for the new ISO who will move in with a couple of staff to our offices at 801 K Street later this month.

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

Dennis O'Bryant, Assistant Director, Office of Mine Reclamation (OMR), reported on the following activities:

- The Abandoned Mines Land Unit (AMLU) has a new manager, Steve Jenkins, who has previously served the State Lands Commission, and worked as a consultant.



- A search warrant is being pursued for access to a surface mine site located in Sacramento County.
- OMR is screening sites for best reclamation plan and reclamation project.

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

Dr. John Parrish, State Geologist and Director of the California Geological Survey, reported on the following activities:

- CGS continues with its celebration of its 150th anniversary, with April 21st as its official anniversary date. A successful and well-attended symposium was held at the joint American Association of Petroleum Geologists Pacific Section – Geological Society of America Cordilleran Section – Society of Petroleum Engineers Section joint meeting held in Anaheim in late May. Recently published geologic and fault maps will be displayed outside the Governor's office in celebration of CGS's anniversary.
- A meeting of the American Association of State Geologists (AASG) will be held in Trenton, New Jersey.
- A National Digital Mapping Conference was hosted by CGS. CGS produces more geologic maps and derivative maps, than any other survey, and those responsible for producing these types of maps will be participating.
- CGS's X-ray Diffractometer unit, and miscellaneous laboratory materials, was donated to the California State University at Chico Geology Department. CGS will have access to it, as needed.

V. Chairman's Report (Garner) [Information]

No information report was provided.

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

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

- Classification petitions for the Slaughterhouse Canyon area, San Diego County, and Barton Ranch-Milgate Quarry, Sacramento County, were received and currently under review by CGS.
- Designation hearings to receive public comment on proposed sectors to be considered for designation by the SMGB are being scheduled in late July. The hearings will be held in Bakersfield and Riverside.
- A Designation Appeal was recently received from Vulcan Materials Company reflecting a denial of a conditional use permit to mine on land designated by the SMGB.
- The Executive Officer continues to work on the Alquist-Priolo Technical Advisory Committee report, as time permits, and several Information Reports pertaining to SMARA Lead Agencies Responsibilities and Obligations, Inspection form and Guidelines, Interim Management Plans and Exemptions.

VII. 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 Baca disclosed a discussion with Warren Coalson regarding requirements for a permit to mine at the local agency level, and how that process could be, or should be, altered, and that it will likely be discussed by the Policy and Legislation Committee or SMGB in the future.



- Member Wyatt disclosed having general discussions with co-workers about his role on the SMGB.

VIII. 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.]

No Good of the Meeting information was presented.

IX. 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 13, 2010, Regular Business Meeting.

Board Member Baca moved to approve the minutes up to Section V. Board Member Tepel seconded and the motion carried with a unanimous voice vote.

X. Continued Business [Action]

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

2. Adoption of State Mining and Geology Board's Final Decision on Vested Rights Pertaining to Big Cut Mine (CA Mine ID #91-09-00XX), Diane Anderson (Agent), Rick Churches (Operator and Claimant), El Dorado County.

Executive Officer Testa stated that the SMGB is the SMARA lead agency for El Dorado County, and on March 13, 2009, received the filing of the administrative record for the conduct of a vested rights determination for the proposed Big Cut Mine surface mining operation located in El Dorado County. The public hearing was held on April 15, 2010. At this hearing, the SMGB accepted the findings set forth by the Executive Officer, and determined that a vested right did not exist for all Sections pertaining to the Big Cut Mine. This matter was deferred from consideration at the SMGB's May regular business meeting to allow for review of comments provided by the claimant's legal counsel. Such comments were reviewed, and the determination set forth in the EO's report revised to reflect such comments. The SMGB is considering adoption of its Final Decision on vested rights for the Big Cut Mine, El Dorado County, Resolution 2010-06, pursuant to Article 15 CCR Section 3964.

- Ms. Diane Anderson, legal counsel for the claimant, expressed her objection as to how certain issues previously raised were addressed in the final determination.

Board Member Baca moved to adopt the SMGB's final determination. Board Member Lund seconded and the motion carried with a unanimous voice vote.



XI. New Business [Action]

3. Approval Consideration for Exemption from the Requirements of the Surface Mining and Reclamation Act (SMARA, Public Resources Code Section 2710 et seq.) Pursuant to Section 2714(f) for the Tea Pot Dome Water District Groundwater Recharge Basin, County of Tulare.

The Executive Officer stated that SMARA allows for a one-time exemption from SMARA for certain surface mining operations should the Board find that the operation is 1) of an infrequent nature, and 2) involve only minor surface disturbances, pursuant to PRC 2714(f). EnviroMINE, on behalf of the Tea Pot Dome Water District, has submitted a request for a one-time exemption from SMARA. Proposed is the removal of about 84,000 cubic yards of material to be exported from the site, as part of construction of a groundwater recharge banking reservoir. The material being stockpiled adjacent to the extraction area, is anticipated to be subsequently exported and sold as landfill cover material. The proposed activity does not meet the construction exemption set forth in SMARA (PRC Section 2714(b)). Several of these similar-types projects statewide have had to comply with SMARA, and should this exemption be granted, several more such considerations can be anticipated in the near future. The SMGB is considering granting a one-time exemption for this project.

- Jim Pompy, Manager of the Reclamation Unit within OMR, made a presentation explaining why the proposed activity is characterized as surface mining, and should not be exempt.
- Keith Norris, General Manager for the Tea Pot Dome Water District, and Warren Coalson, consultant with EnviroMINE, further explained the nature of the proposed project, and that no material being extracted would be stockpiled adjacent to the extraction site. Rather, such material upon extracting would be immediately transported to the landfill site.

Board Member Tepel moved to conditionally grant the exemption request with the condition that no extracted material would be stockpiled, and upon extracting, such material would be immediately transported to the landfill site as cover material. Board Member Lund seconded and the motion carried with a unanimous voice vote.

4. Designation of Lead Agency Under the Surface Mining and Reclamation Act (SMARA) Pursuant to Public Resources Code Section 2771 for the McLaughlin Mine (CA Mine ID #91-28-0003), Karl Burke (Agent), Homestake Mining Company (Operator), Counties of Lake, Napa and Yolo.

Executive Officer Testa stated that when an existing surface mining operation is within the jurisdiction of two or more public agencies, is a permitted use within the agencies, and not separated by a natural or manmade barrier coinciding with the boundaries of the agencies, and a question arises regarding which lead agency serves as the SMARA lead agency, the SMGB shall designate which lead agency should serve in such capacity. OMR has raised the question and requested that the SMGB formally designate a lead agency for the McLaughlin Mine, located in Counties of Napa, Lake and Yolo. Pursuant to PRC Section 2771, when designating a lead agency, the SMGB considers 1) the capability of the agency to fulfill adequately the requirements of SMARA, and 2) which agency has principal permit responsibility. The SMGB is considering formally designating one of the three counties as the lead agency for the entire surface mining operation known as the McLaughlin Mine.

- Jim Pompy, Manager of the Reclamation Unit with OMR, presented the rationale why the SMGB should consider designating one SMARA lead agency for the McLaughlin Mine.
- On behalf of the Homestake Mining Company, the SMGB heard from legal counsel Wayne Whitlock, Closure Manager Karl Burke and consultant David Brown.



- Donald Barrella, Planner with the County of Napa, provided Napa's role as a SMARA lead agency.
- Ronald Yoder, Associate Resource planner with the County of Lake, stated that the County approved a reclamation plan amendment earlier in the year on April 26.

Board Member Baca moved to continue the matter until the next regular business meeting of the SMGB. Board Member Tepel seconded and the motion carried with a unanimous voice vote.

5. Acceptance of Amendment to Administrative Procedures for Submittal of Documents to the State Mining and Geology Board.

Executive Officer Testa stated that at its Nov. 12, 2009, and March 11, 2010, meetings, the Policy and Legislation Committee considered revisions to the SMGB's policy for the submittal of documents for items coming before the SMGB, or its Committees. Based on those discussions, draft language incorporating the revisions was presented to the whole SMGB at its April regular business meeting, and further discussion took place, and revisions subsequently made. The draft language being considered at this meeting is for the SMGB's consideration and further discussion, and whether the SMGB wishes to further modify the language, whole or in part.

- Jeffrey Dorso, on behalf of Diepenbrock Harrison Law firm, expressed issues regarding the proposed language.

Board Member Lund moved to accept the amendment to the SMGB's policy statement for the submittal of documents without revision. Board Member Lane seconded and the motion carried with a unanimous voice vote.

XII. Special Reports and Department Presentations [Possible Action]

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

6. Office of Mine Reclamation, Lead Agency Review Team (LART) Report on Sutter County .

Executive Officer Testa stated that in 2006, SMGB staff completed a review of lead agency performance under SMARA, and in 2007, published on its website Information Report IR 2006-07 titled "*Report on SMARA Lead Agency Performance Regarding Mine Reclamation.*" In 2007, DOC OMR established the LART. An overview of the LART program was previously presented to the SMGB in July 2009. LART has forwarded to the SMGB its report for Sutter County, and is providing a summary of its review of the County of Sutter SMARA program.

- Ben Shelton, LART Lead, provided a synopsis of the LART program, and their review of Sutter County, with assistance from LART staff Tom Ferrero and Anne Schimdt.

7. Office of Mine Reclamation, Lead Agency Review Team (LART) Report on Tuolumne County.

Executive Officer Testa stated that in 2006, SMGB staff completed a review of lead agency performance under SMARA, and in 2007, published on its website Information Report IR 2006-07 titled "*Report on SMARA Lead Agency Performance Regarding Mine Reclamation.*" In 2007, DOC OMR established the LART. An overview of the LART program was previously presented to the SMGB in July 2009. LART has forwarded to the SMGB its report for Tuolumne County and is providing a summary of its review of County of Tuolumne SMARA program.



- Ben Shelton, LART Lead, provided a review of Tuolumne County, with assistance from LART staff Tom Ferrero and Anne Schimdt.
- Larry Beil, GIS Coordinator with Tuolumne County, spoke on behalf of the County and its overall SMARA program.

8. Inspection Report for Santa Paula Rock, City of Santa Paula. Executive Officer Testa stated that a complaint, received in April 2010, alleged that unpermitted surface mining activities were being performed within the jurisdiction of the City of Santa Paula (City). In the late 1990s, it was determined by the SMGB that the City's mining ordinance was deficient. The City did not have any surface mining operations within its jurisdiction at the time. In 2005, the City adopted a mining ordinance which was not certified by the SMGB. Following a preliminary review of the uncertified ordinance, deficiencies were noted, thus, revisions would be necessary before the ordinance could be considered for certification by the SMGB. In the meantime, the SMGB currently serves as the SMARA lead agency. A site inspection was performed on May 27, 2010, and a Notice of Violation (NOV) subsequently issued to the operator noting surface mining without a permit to mine, and SMARA lead agency approved reclamation plan and financial assurance. The SMGB is considering as the SMARA lead agency for the City of Santa Paula, accepting the inspection report for the Santa Paula Rock surface mining operation.

- Will Arcand, Engineering Geologist with SMGB, provided a synopsis of site conditions based on his site inspection performed on May 27, 2010.
- William L. Bruckner, legal counsel representing Santa Paula Rock, Gravel and Sand, LLC., spoke on behalf of the operator, and provided background information, and a synopsis of the operation.
- Michael Mills, attorney with Stoel Rives, LLP, reaffirmed issues related to the site, and that activities being performed were deemed in his view a surface mining operation.

Board Member Lane moved to accept the inspection report. Board Member Lund seconded and the motion carried with a unanimous voice vote.

Board Member Tepel moved to direct the operator to provide an adequate reclamation plan and financial assurance cost estimate, and an interim financial assurance cost estimate for SMGB consideration at its next scheduled regular business meeting. Board Member Lund seconded and the motion carried with a unanimous voice vote.

XIII. SMGB Committee Reports [Information and Possible Action]

- Geohazards Committee
 - Alquist-Priolo Technical Advisory Committee (Chairperson Tepel)
- Surface Mining and Standards Committee (Chairperson Lund)
- Minerals and Geologic Resources Committee (Chairperson Tepel)
- Policy and Legislation Committee (Chairperson Baca)

No Committee reports were provided.

XIV. 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 continuing business information was discussed.



XV. 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 information was brought forward.

XVI. 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). 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, Mr. Richard Thalhammer, Deputy Attorney General, announced that the SMGB met in Executive Session and no action was taken.

XVII. Announcements of Future Meetings

July 8, 2010, was announced as the next meeting, and the City of Sacramento as the location.

XVIII. Adjournment

The meeting was adjourned at 5:15 P.M.

APPROVED

Erin Garner, Chairman

Stephen M. Testa, Executive Officer

