



STATE MINING AND GEOLOGY BOARD

DEPARTMENT OF CONSERVATION

801 K Street • Suite 2015 • Sacramento, California 95814

www.conservation.ca.gov/smgb
smgb@conservation.ca.gov

Publication Date: September 8, 2011

CONFORMED MINUTES

THE STATE MINING AND GEOLOGY BOARD

Conducted a Regular Business Meeting on:
[Continued from June 9, 2011]

Thursday, June 16, 2011

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 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 regular business meeting continued from June 9, was called to order at 10:00 A. M. by Chairman Garner, and a quorum was declared, with Member Lund absent.

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

No Director's Report was heard.

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

Bill Short on behalf of State Geologist Dr. Parrish provided the following information:

- Five new Landslide Inventory Maps will be published covering portions of Alameda and Santa Clara counties within the next couple of weeks. These quadrangle-sized maps are part of a large series of Landslide Inventory Maps that are derived products from the Seismic Hazard Zonation Program.
- A statewide Landslide Susceptibility Map Sheet 58 will also be published and available in a couple of weeks. This map is a product of the ARK Storm Multi-Hazard Project sponsored by the USGS. CGS played a major role in providing the Landslide information to this study. This Map Sheet is already available on the CGS website.
- Special Report 222, "HAZUS Scenario and Annualized Earthquake Loss Estimation for California" is being published. Earthquake loss estimation and planning scenarios quantify seismic risk based on seismic hazard, exposure and vulnerability of the built environment. This study, and previous studies by CGS, uses HAZUS, a computer program developed for FEMA to quantify the effects of earthquakes. These studies need to be frequently updated because of continuing development of the built environment and evolving technology in earthquake ground motion prediction and seismic hazard assessments.
- Two Engineering Geologists have joined CGS, Brian Swanson in our Los Angeles Office, and Peter Holland in our Sacramento Office. Both will be working on Seismic Hazards Assessments for the School Site and Hospital Site projects. (CGS reviews about 435 school sites and 65 hospital sites each year for the Division of the State Architect and the Office of Statewide Health Planning and Development (OHSPD), respectively.



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

Jim Pompy, Assistant Director, Office of Mine Reclamation (OMR), reported on the following activities:

- Enforcement actions continue for a Tungsten Mine located in Los Angeles County.
- Beth Hendrickson has been appointed to head OMR's Reclamation Unit.
- Another SMARA and inspection workshop is being planned for 2011.
- OMR Reporting and Compliance Unit is working on responses to the Administrative Penalty Petitions received by the SMGB.

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

- Discussion of the Role of the State Mining and Geology Board and Recognition of Board Members Service to the State of California.

No discussion was heard.

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

Executive Officer Stephen Testa reported on the following:

- A Committee of the Board will consider four Order to Comply that were issued by the DOC OMR to certain surface mining operations located within the jurisdiction of the City of Lake Elsinore. The public hearing will be scheduled for July 29, 2011, in the City of Lake Elsinore. Members Baca and Wyatt will serve as a Committee of the Board with Member Wyatt chairing the meeting.
- On May 5, 2011, a NOV was issued to operators of the Big Cut Mine. You may recall that an administrative penalty for the amount of \$100,000 was issued to the operators for illegal conduct of surface mining activities at this site located in El Dorado County. Not only did the operators not make payment of the penalty amount, but expanded operations, and failed to protect downstream beneficial uses of water, and control sedimentation and minimize siltation of watercourses. The SMGB can anticipate hearing an OTC consideration at its next scheduled regular business meeting.
- On April 10, 2010, the SMGB at its March 11, 2010, regular business meeting adopted its findings of fact adopted and granting vested rights to Western Aggregates for 3,927-acres located in the Yuba Goldfields in Yuba County. Following this determination, a new version of an amended reclamation plan for Western Aggregates, Yuba County, was recently received and has been reviewed, with no substantive comments.
- Several Administrative Petitions have been received for failure to submit a Mining Operation Annual Report. The SMGB will hear those petitions accepted by the Chairman at its next scheduled regular business meetings.

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 Wyatt mentioned nonsubstantive discussion with members of the California Construction and Industrial Materials Association (CalCIMA) pertaining to Lake Elsinore.



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.]

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, March 10, 2011, Regular Business Meeting.
Board Member Baca moved to approve the minutes. Board Member Tepel seconded and the motion carried with a unanimous voice vote.
2. Approval of Minutes, May 12, 2011, Regular Business Meeting.
Board Member Baca moved to approve the minutes. Board Member Tepel seconded and the motion carried with a unanimous voice vote.
3. Consideration of Revised Interim Financial Assurance, Richmond (Chevron) Quarry (91-07-0006), Dutra Materials (Operator), Aaron Johnson (Agent), City of Richmond.
Deferred.
4. Approval of a Reclamation Plan, Financial Assurance Cost Estimate and Environmental Impact Report for Santa Paula Rock (91-56-00XX), Santa Paula Rock, Gravel & Sand, LLC (Operator), Al Bitetti (Agent), City of Santa Paula.
Deferred.

X. Continued Business [Action]

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

XI. New Business [Action]

5. Approval of Proposed Agreement between the State Mining and Geology Board and the County of Alpine Pertaining to Lead Agency Status Pursuant to the Surface Mining and Reclamation Act.

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

Board Member Baca moved to direct the Executive Officer to work with legal counsel to finalize the agreement. Board Member Tepel seconded and the motion carried with a unanimous voice vote.



6. Issuance of an Order to Comply to the Big Cut Mine (CA Mine ID #91-09-00XX), Joseph and Yvette Hardesty and Rick Churches (Operator), Joseph and Yvette Hardesty and Rick Churches (Agent), County of El Dorado, for Failure to Correct Violations Pursuant to the Surface Mining and Reclamation Act.

Deferred.

7. Acceptance of Mine Closure Inspection Report and Approval of Site Closure for Ella and Platter Borrow Sites (CA Mine ID #91-58-0026), Three Rivers Levee Improvement Authority (Operator), Paul Brunner (Agent), County of Yuba.

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

Board Member Baca moved to conclude site has been reclaimed pending concurrence by DOC. Board Member Tepel seconded and the motion carried with a unanimous voice vote.

8. Adoption of Regulatory Language for Designation of Mineral Resources Areas of Statewide or Regional Significance for the Bakersfield Production-Consumption Region, County of Kern, California.

Roll Call vote. Board Member Tepel moved to adopt the proposed regulatory language. Board Member Lane seconded and the motion carried with a unanimous voice vote.

9. Information Report on the Annual Reporting Process Pursuant to the Surface Mining and Reclamation Act (SMARA) [OMR]

10. **Public Hearing:** Review of the Order of Administrative Penalties Assessed to Nine Surface Mining Operations Pursuant to Public Resources Code Section 2774.2 and Title 14, California Code of Regulations, Section 3900, et seq.

- Public Hearing Case No. AP #91-03-0029-09-AR:
South Arkansas Creek (CA Mine ID #91-03-0029),
County of Amador

Board Member Baca moved to modify the administrative penalty to \$1500. Board Member Tepel seconded and the motion carried with a voice vote, Members Garner and Wyatt opposed.

- Public Hearing Case No. AP #91-23-0033-09-AR:
McKenzie Mine (CA Mine ID #91-23-0033), Mendocino
County

Board Member Baca moved to uphold the administrative penalty. Board Member Tepel seconded and the motion carried with a unanimous voice vote.

- Public Hearing Case No. AP #91-32-0033-09-AR:
CBS Aggregates (CA Mine ID #91-32-0033), Plumas
County

Board Member Lane moved to modify the administrative penalty to \$100. Board Member Tepel seconded and the motion carried with a voice vote.



- Public Hearing Case No. AP #91-33-0042-09-AR:
Shamrock Sand & Gravel (CA Mine ID #91-33-0042),
County of Riverside

Deferred.

- Public Hearing Case No. AP #91-36-0074-09-AR:
K-1 Pit (CA Mine ID 91-36-0074), San Bernardino
County

Deferred.

- Public Hearing Case No. AP #91-47-0053-09-AR:
Lor O (CA Mine ID #91-47-0053), Siskiyou County

Deferred.

XII. Special Reports and Department Presentations [Possible Action]

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

11. Information Report from the County of Santa Clara for the Hansen Permanente Cement Quarry, Lehigh Southwest Cement Company (Operator), Scott Renfrew (Agent), County of Santa Clara, and Department of Conservation, Office of Mine Reclamation.
[Refer to conformed minutes for June 9, 2011]
12. Information Report from the California Geological Survey on the March 11, 2011 M 9.0 Tohoku Earthquake, and the Resultant Tsunami on California.
[Refer to conformed minutes for June 9, 2011]
13. Office of Mine Reclamation, Lead Agency Review Team (LART) Report on the County of Alameda.
 - Ben Shelton, Manager of the LART program, presented a summary of the audit review and presented an unfavorable report.

No action taken although the SMGB directed the Executive Officer to bring this matter back to the SMGB in six months should OMR LART determine that all issues have not been adequately resolved.

14. Office of Mine Reclamation, Lead Agency Review Team (LART) Report on the County of Mono.
 - Ben Shelton, Manager of the LART program, presented a summary of the audit review, and the report was not a favorable one.
 - Nick Criss and Scott Burns representing the County of Mono indicated that the process required better communication and that it was not their understanding that the audit review was more of an assistance-driven program, not compliance and enforcement driven. The County is committed to remedy outstanding issues.

No action taken although the SMGB directed to Executive Officer to bring this matter back as a progress report in the fall of 2011.



15. Office of Mine Reclamation, Lead Agency Review Team (LART) Report on the City of Truckee.

- Ben Shelton, Manager of the LART program, presented a summary of the audit review, and the report was not a favorable one.

No action taken although the SMGB directed the Executive Officer to discuss with OMR what actions should be considered at this time not only related to the City of Truckee, but other lead agencies, including communicating with the Leagues of Cities, California State Association of Counties, among others..

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)

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.]

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:

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). Dutra Materials vs. SMGB, Chevron Products Company Real Party in Interest, Case No. N10-0388, Contra Costa Superior Court.
- d). A. Teichert and Sons, Inc. v. SMGB, Western Aggregates, LLC. Real Party in Interest, Case No. 34-2010-80000528, Sacramento County Superior Court.
- e). William Calvert, Elfriede Calvert and the Yuba Goldfields Access Coalition v. SMGB, Western Aggregates, LLC. Real Party in Interest, Case No. 34-2010-80000530, Sacramento County Superior Court.
- f). North Continent Land and Timber, Inc. vs. SMGB, Department of Conservation, Office of Mine Reclamation, County of Butte Board of Supervisors, Case No. 34-2010-80000542, Sacramento County Superior Court.
- g). Joe & Yvette Hardesty v. SMGB, & DOES 1-100 Inclusive, Case No. 34-2010-80000594, Sacramento County Superior Court.
- h). An un-named case where there is potentially significant exposure to litigation against the SMGB.



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

[Refer to conformed minutes for June 9, 2011]

XVII. Announcements of Future Meetings

July 14, 2011, was announced as the next meeting, and Sacramento as the location.

XVIII. Adjournment

The meeting was adjourned at 3:00 P.M.

APPROVED

Erin Garner, Chairman

Stephen M. Testa, Executive Officer

