STATE MINING AND GEOLOGY BOARD

EXECUTIVE OFFICER'S REPORT

For Meeting Date: November 14, 2013

Agenda Item No. 6: Discussion of Regional or Statewide Significance in Regards to Proposed Regulatory Language for Designation of Mineral Lands within the San Luis Obispo-Santa Barbara Production-Consumption Region, California.

INTRODUCTION: At its September 12, 2013 regular business meeting, the State Mining and Geology Board (SMGB) approved the regulatory language for proposed designation and termination of mineral lands within the San Luis Obispo – Santa Barbara Production Consumption (P-C) Region. At such meeting, the SMGB also requested this matter be continued to allow sufficient time to address whether certain aggregate deposits associated with Sector C should be considered of regional or, based on comments received, be considered of statewide significance. The SMGB is considering whether such deposits being considered for designation should be of statewide in lieu of regional significance.

STATUTORY ASPECTS: The SMGB's statutory authority to incorporate mineral lands classification information into state policy is provided pursuant to Division 2, Chapter 9, Article 4, State Policy for the Reclamation of Mined Lands, Public Resources Code (PRC) Section 2761(a), which states:

> "*On or before January 1, 1977, and, as a minimum, after the completion of each decennial census, the Office of Planning and Research shall identify portions of the following areas within the state which are urbanized or are subject to urban expansion or other irreversible land uses which would preclude mineral extraction:*
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> *(1) Standard metropolitan statistical areas and such other areas for which information is readily available.*
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> *(2) Other areas as may be requested by the board.*
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> *(b) In accordance with a time schedule, and based upon guidelines adopted by the board, the State Geologist shall classify, on the basis solely of geologic factors, and without regard to existing land use and land ownership, the areas identified by the Office of Planning and Research, any area for which classification has been requested by a petition which has been accepted by the board, or any other areas as may be specified by the board, as one of the following:*
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> *(1) Areas containing little or no mineral deposits.*
>
> *(2) Areas containing significant mineral deposits.*
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> *(3) Areas containing mineral deposits, the significance of which requires further evaluation.*
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> *The State Geologist shall require the petitioner to pay the reasonable costs of classifying an area for which classification has been requested by the petitioner.*
>
> *(c) The State Geologist shall transmit the information to the board for incorporation into the state policy and for transmittal to lead agencies*."

PRC Sections 2726 and 2727 defined areas of regional and statewide significance as follows:

> " *"Area of regional significance" means an area designated by the Board pursuant to Section 2790 which is known to contain a deposit of minerals, the extraction of which is judged to be of prime importance in meeting future needs for minerals in a particular region of the state within which the minerals are located and which, if prematurely developed for alternate incompatible land uses, could result in the permanent loss of minerals that are of more than local significanc*e."

> " *"Area of statewide significance" means an area designated by the board pursuant to Section 2790 which is known to contain a deposit of minerals, the extraction of which is judged to be of prime importance in meeting future needs for minerals in the state and which, if prematurely developed for alternate incompatible land uses, could result in the permanent loss of minerals that are of more than local or regional significance."*

BACKGROUND: At its December 8, 2011 regular business meeting, the SMGB accepted California Geological Survey (CGS) Special Report 215, a classification report on Portland cement concrete-grade (PCC) aggregate in the San Luis Obispo-Santa Barbara P-C Region. This report updated information previously published by the California Division of Mines and Geology (CDMG; now CGS) as Special Report 162 – *Mineral Land Classification: Portland Cement Concrete Aggregate and Active Mines of All Other Mineral Commodities in the San Luis Obispo-Santa Barbara Production-Consumption Region*. Special Report 215 updated the classification portion of the two-step *Classification-Designation process* mandated by the Surface Mining and Reclamation Act (SMARA). The second part of that process, designation, is the formal recognition by the SMGB of lands containing mineral resources of regional or statewide economic significance needed to meet the demands of the future.

At its March 8, 2012 regular business meeting, the SMGB accepted the State Geologist's recommendations for designation of select mineral resource lands in the San Luis Obispo-Santa Barbara P-C Region. The SMGB subsequently directed its Executive Officer to notice a public hearing to receive comments on the proposed regulatory action. The 60-day public comment period commenced on June 7, 2012, and ended on July 31, 2012. A public hearing was held to receive comment in the County of Santa Barbara on July 11, 2012. At its April 11, 2013 regular business meeting, the SMGB received further comments regarding the proposed designations. At such meeting, the SMGB deferred taking action until its next scheduled meeting and requested a review by its legal counsel of previous counsel's analysis noting that designation is not a project under the California Environmental Quality Act (CEQA).

At its July 11, 2013, regular business meeting, the SMGB reviewed and addressed all comments received with one exception, that being, whether aggregate deposits associated with Sector C should be designation as being of statewide, in lieu of regional, significance.

MINERAL DEPOSITS PROPOSED FOR DESIGNATION:

Designation is the formal recognition by the SMGB of lands containing mineral resources of regional or statewide economic significance that are needed to meet the demands of the future. CGS Special Report 215 updated information previously presented in a classification report on PCC aggregate in the San Luis Obispo-Santa Barbara P-C Region first published in 1989. The previous report was published by the California Division of Mines and Geology (CDMG; now CGS) as Special Report 162 – *Mineral Land Classification: Portland Cement Concrete Aggregate and Active Mines of All Other Mineral Commodities in the San Luis Obispo-Santa Barbara Production-Consumption Region*.

Special Report 162 identified 35,888 acres of land containing 11.2 billion tons of PCC-grade aggregate resources. Reevaluation and revisions for updated Special Report 215 identified 40,895 acres of land containing 10.7 billion tons of AC - and PCC-grade aggregate resources. From 1989 to 2011, 90 million tons of AC - and PCC - grade aggregate were removed due to production, 273 million tons (1,275 acres) removed as a result of incompatible land uses, and 425 million tons removed as a result of revised calculations. In addition, 260 million tons of AC aggregate was included along with 5 million tons resulting from newly classified areas. In this updated study, three newly identified areas containing AC- and PCC-grade aggregate resources have been classified MRZ-2. These areas include 2,991 acres containing approximately 380 million tons of newly identified AC- and PCC-grade aggregate resources.

The updated classification report presented the following conclusions:

- Seventy-five (75) million tons of currently permitted construction aggregate reserves are projected to last through the year 2026, 16 years from the present (2010);

- An additional 2,991 acres of land containing concrete aggregate resources are identified in areas in and near the San Luis Obispo-Santa Barbara P-C Region;

- Anticipated consumption of construction aggregate in the San Luis Obispo-Santa Barbara P-C Region for the next 50 years (through the year 2060) is estimated to be 263 million tons, of which 137 million tons must be concrete-grade. This is 57 million tons more than the prior 50-year projection made in 1989; and

- An estimated 10,700 million tons of concrete aggregate resources are identified in the San Luis Obispo-Santa Barbara P-C Region.

Specifically, Sector C is described as follows:

> Sector C - Deposits of the La Panza Granitics Resource Area: The La Panza Granitics outcrop southeast of the City of Atascadero. Sector C is divided into four subsectors identified as C-1a, C-1b, C-2, and C-3 (Plate 1). The combined area of the subsectors is 12,289 acres; the estimated crushed stone resources are estimated to be over 6 billion tons of PCC-grade aggregate. This Sector is under the land use jurisdiction of the County of San Luis Obispo.

Subsector C-1a is 6,116 acres in sections 19, 20, 27, 28, 29, 30, 32, 33, 34, 35, T28S, R13E; 2, 3, 4, 5, 9, 10, and 11, T29S, R13E, MDBM. It is in the La Panza Granitics south of State Highway 41, east of the Salinas River, north of State Highway 58, and west of State Highway 229.

Subsector C-1b is 596 acres in sections 35, 36, T28S, R13E; 1, 2, and 11, T29S, R13E, MDBM. It is in the La Panza Granitics north of State Highway 58, and east of State Highway 229.

Subsector C-2: is 2,347 acres in sections 1, 2, 10, 11, 12, 13, 14, T29S, R13E; 7, 8, 17, 18 and 19, T29S, R14E, MDBM. It is in the La Panza Granitics south of State Highway 58, north and east of Parkhill Road.

Subsector C-3: is 3,230 acres in sections 10, 13, 14, 15, 22, 23, 24, 25, 26, 27, 35, 36, T29S, R13E; 18, and 19, T29S, R14E, MDBM. It is in the La Panza Granitics east of West Pozo Road, south of State Highway 58 and Parkhill Road, and north of Las Pilitas Road.

SUMMARY OF COMMENTS RECEIVED AND RESPONSES:

It was noted in correspondence from the San Luis Obispo County Department of Planning and Building dated September 9, 2013, that the distinction of regional versus statewide significance is an important distinction, and requested that the SMGB clarify which action is taken. Although to date all aggregate designations have reflected regional significance, certain stakeholders have requested that statewide significance be considered for Sector C. The justification for designation for aggregate deposits located specifically in Sector C, and applicable responses, are summarized below:

- Treder Land Law (correspondence dated August 6, 2012):
    - Sector C contains proven resources and high quality granite deposits that can be used in a variety of applications. The success and duration of the two existing quarries located in the Sector are a testament to that.

  Response: This is not a reason for regional or statewide classification/designation. The basis for regional and statewide designation is the significance of the economic impact the resource imparts to the region or the state.

    - Second, Sector C is already zoned for mining and has been largely protected from incompatible land uses. The Sector has been classified as MRZ-2 since the mid 1980s, and per SMARA, this classification was incorporated into San Luis Obispo County's General Plan via an "extractive overlay zone," which provided that mining was an allowed use in the area, and placed landowners on notice of the resource. The County even applied a "mine buffer zone" designation to some of the surrounding properties which helped keep

incompatible land uses at bay. Accordingly, the Sector is both properly zoned and largely undeveloped, giving greater potential for these resources to actually be accessed in the future. Many of the other MRZ-2 Sectors identified in Special Report 215 face what could be insurmountable accessibility hurdles.

For instance, nearly every other MRZ-2 deposit is within or adjacent to a dense urban area, or lies within the channel of a stream or river. Permitting a quarry in either scenario can be so costly and controversial as to be impractical, if not impossible. Sector C obtains the geologic benefits of the Salinas River, which flows through a portion of the Sector, but much of the material is located on hillsides and ridges high above the river channel, and the material can easily be removed without impacting the riverbed itself. In addition, Sector C is not adjacent to or within any incorporated city or sphere of influence, and because it already contains two active quarries, many residents in the Sector are familiar with and used to living near mining operations. For all of these reasons, the resources in Sector C should be viewed as much more accessible than the other MRZ-2 areas, and therefore much more valuable, given the shortage of aggregate throughout the region and the state.

Response: Two active quarries with easy access are not reasons for economic impact to the region or the state. The size and quality of the quarries' resources and the economic impact on the local community, or surrounding communities, developments are what is important. Aggregate is a high bulk density, low unit value commodity, and shipping such material over long distances is not economically viable. Aggregate resources may make a "regional" economic impact, but this is not a statewide economic impact. The size of the deposit and the costs of transport do not make specific aggregate deposits of statewide importance, because it cannot offset the high costs for fuel, air pollution, road use, etc. that have any effect on the state.

- Sector C is accessible not just from a permitting perspective, but from a logistical one. The Sector is traversed by an existing Union Pacific Rail line, which already passes right by the two existing quarries in the Sector, allowing for the easy transportation of material out of the region and into more urbanized areas at a relatively low cost, and with relatively little impact on the surrounding environment. Given the projected shortage of permitted aggregate resources in nearly every other P-C Region throughout the state, the importance of this opportunity should not be undervalued.

  Response: Hauling aggregate from the mine site via rail (whether unit-train or a few hopper cars on a scheduled freight train) does not alleviate any statewide aggregate availability issues for several reasons. First, this is simply spreading the "shortage" around – it is akin to borrowing money from one bank account and placing it in another. No new resources are brought to line to meet growing demands – shortages are aggravated. Secondly, since aggregate is distributed to consumption points via surface roads, hauling aggregate from a

mine site to a distribution point by train simply moves the distribution point from the mine to some other place, creating traffic and pollution issues somewhere else. In the example above, creating a distribution hub in a more urbanized area likely compounds the issues of local air pollution, traffic congestion, road wear, and completely negates any supposed advantages of decreased transportation costs, etc.

- U.S. Route 101 itself is a major interstate corridor of great importance to the State's economy, and therefore it is imperative that it remain serviceable and in good repair at all times. The material from Sector C, and specifically the Santa Margarita Quarry, was recently used to resurface major portions of Route 101 from the Cuesta Grade through Atascadero, and the work was completely quickly and with minimal disruption to traffic because of the close proximity of the aggregate source. It is my understanding that material from Sector C has also been used in the recent major retrofits to Highway 46 just east of Paso Robles, which is another important thoroughfare to the State's economy.

  Response: Based on this comment, the aggregate deposit is deemed of regional significance – not statewide. The reason it is not used to repair highways in San Diego or Truckee is because it cannot be competitively economically transported outside of a defined economic region (Production-Consumption Region).

- Ken Johnston (comments presented during SMGB's September 12, 2013, regular business meeting):
  - In all likelihood, most of the region's aggregate needs for the foreseeable future will come from Sector C, if they are to be met.
  - Sector C is a large high quality deposit that is still largely undeveloped in close proximity to Highway 101 and Interstate 1. Much of it is hilly and rocky and unsuitable for other land uses. Its location and characteristics mean it is uniquely positioned to meet the broader region's future aggregate needs and so it should be recognized as having statewide significance. Indeed material from this deposit has been mined from the existing Hansen and Cal Portland quarries in Sector C, has been used in major construction projects throughout the state. Because of its high quality and ability to meet spec, material from Sector C can be found on major state thoroughfares and arteries such as Highway 101, Highway 1, Highway 46, 41, and Highway 166.

  Response: The mentioned Highway sites are all regional construction sites; whereas, the resource has no statewide economic impact. The resource cannot be economically transported statewide. Furthermore, there are many other resources throughout the state that exist today, and will be developed in the future to meet local and regional economic demands.

- Don Ritter, land use and environmental compliance consultant from County of San Luis Obispo (comments presented during SMGB's September 12, 2013, regular business meeting):
    - In terms of environmental considerations, such as air quality, water resources, riparian and sensitive habitat areas, there are big differences between Sectors A and C. Sector A, being located within the Salinas River and its surrounding riparian area, is much more sensitive overall, and more susceptible to potential negative impacts from resource extraction, than Sector C, which is not.

      Response: These protections are all within the current authorities of the local jurisdictions through their ordinances.

    - If future demand for aggregate can be met by Sector C, it can significantly reduce the need to extract similar resources from Sector A. Environmental benefits from focusing extraction efforts on C as opposed to A, serves everyone in the state, not just regional or local residents.

      Response: These protections are all within the current authorities of the local jurisdictions through their ordinances.

    - It appears San Luis Obispo County will run out of available local aggregate within a few short years. If future aggregate demand can be met by Sector C, then fewer resources will have to be trucked in from distant areas. The potentially significant reduction in the hauling of resources from local areas such as Sector C is in compliance with the State's goals articulated in AB 32 and SB 375.

      Response: One of the major provisions of SMARA is for the development and local exploitation of valuable mineral resources – not the promotion of distributing scarcity of those resources. This comment conflicts with the following comment about a statewide resource, that being, borrowing from one bank account to supplement another is not creating new wealth. This can be characterized as simply redistributing limited resources.

    - Because of these reasons, plus its relatively large size, in terms of tonnage, its relatively close proximity to major highway and railroad transportation corridors, and its advantageous location in the center of the state, almost exactly halfway between SF and LA, Sector C, is clearly a resource area of statewide significance.

      Response: The geographic location of the mine is not relevant as a statewide resource: road transportation and surface road distribution are costly for this commodity. The transportation corridors between Sector C and northern and southern California are both lengthy and can be convoluted, this adding substantially to the costs of the commodity in terms of fuel, air pollution, road

congestion and wear, and time for deliveries. Any long-haul highway transportation negates any rail transportation "benefits". Also, why is this argument not used in reverse – by not importing from the Goldfields situated in Yuba County, which is a much larger resource and could provide statewide projects for several hundred years. Sector C commodity is no more of statewide economic significance than the larger resources at Yuba County.

- Sector needs the protection of statewide designation. A specific concern is that this important resource area be protected from the effects of urban sprawl and the encroachment of residential development into this area.

  Response: These protections are all within the current authorities of the local jurisdictions through their ordinances.

- Without the protections afforded by a designation of statewide significance, much of the value of Sector C will be lost due to the results of urbanization. As noted in the Executive Officer's report, from 1989-2011 three times the amount of resource area was taken out of production due to perceived land use inconsistencies than from extract. The actual numbers were 273 million removed due to land use inconsistency vs. 90 million tons extracted. 3-1. This ratio is anticipated to increase, as more and more people move out of the cities and into the county.

  Response: These losses to regionally designated resources were caused by local permitting agencies actions to allow developments on designated mineral land resources, and had nothing to do with the degree of designation. Sector C's resources are not economically significant to the state as a whole.

- As more extraction opportunities are taken away from more environmentally appropriate ones, such as Sector C, the more pressure is put on less appropriate areas, such as Sector A in the Salinas River.

  Response: These protections are all within the current authorities of the local jurisdictions through their ordinances.

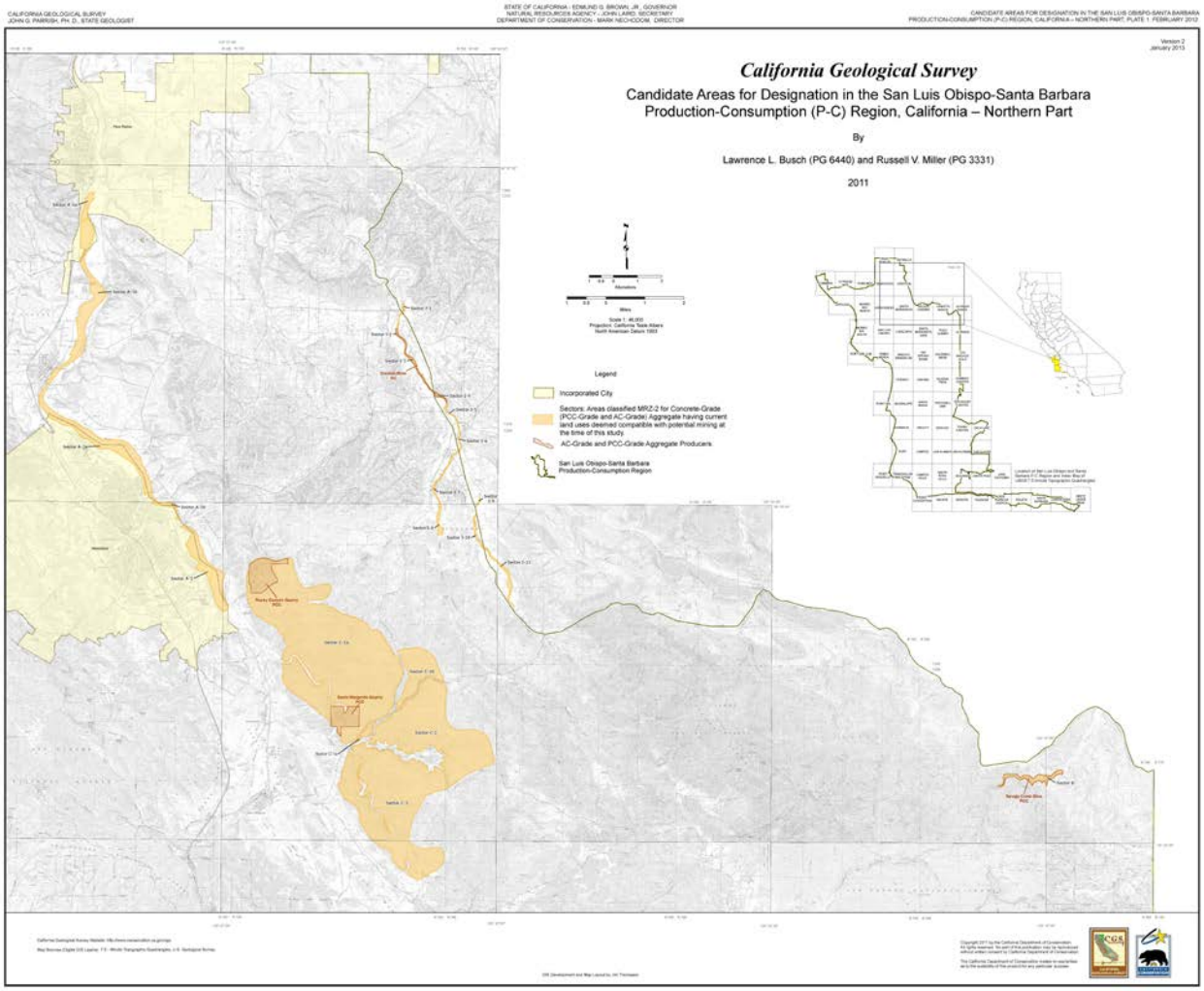

Plate 1(revised) showing distribution of Sector C-1a, C-1b, C-2 and C-3.

DISCUSSION: Determining, for purposes of mineral designation of any area, whether the deposit(s) involved are of "statewide" (PRC Section 2727) or simply "regional" (PRC Section 2726) significance, reflects both on the type of deposit and its economic impact. It has been argued that, if mining a deposit is precluded by incompatible development, then it will create a negative environmental impact of statewide significance. It is true that, if the deposit cannot be mined, replacement material will have to be transported to the area. This will necessitate additional air quality, noise, traffic, and other environmental impacts (i.e., emissions). In California, where serious and costly efforts are underway to improve air quality, the incremental increase in air pollution from the shipping of replacement minerals arguably could affect statewide air quality goals.

However, it can be seen that, in every case where replacement minerals must be transported to an area where similar deposits cannot be mined, there will be inevitable increases in air pollution from that effort. If that justifies a finding that a deposit possesses "statewide significance", then all areas of mineral deposits suitable for designation would be of "statewide significance".

More important, it is not at all evident that the issue of "significance" in the designation process aims at environmental consequences. More certainly, designation aims to protect mineral resources, where found in economically suitable quantity and quality, by guiding land use authorities to consider planning to avoid locating incompatible uses in the vicinity of those resources. Respecting this truth leads to a more rational approach to the question of statewide versus regional significance of any deposit being designated. Where the material is economically important primarily to the region in which it is located, the significance will usually be regional only. This is particularly true where the mineral deposit is located commonly around the State. Aggregate comes to mind as such a resource. Typically, it is mined and used in the region where it occurs. Other regions would have deposits located in relatively close proximity to where there would be mined for their use, since transportation cost would dictate where the aggregate can be found at the least cost.

In a few other cases, the mineral deposit may be unique to the entire state. Then, while the economic importance of the mining activity itself remains primarily local, the economic value of the materials mined will affect all of California. Examples might be rare earth elements, precious metals and boron minerals, where the minerals are significant economically statewide and their existence is not replicated sufficiently elsewhere.

EXECUTIVE OFFICER'S RECOMMENDATION: The SMGB is considering whether specific aggregate deposits should be considered of regional or statewide significance. It is the opinion of the Executive Officer that it would be appropriate for Sector C to be considered of regional significance, but based on the aforementioned discussion, that such deposits are not deemed to be of statewide significance.

SUGGESTED MOTION LANGUAGE:

To determine mineral lands to be of regional or statewide significance:

> *Mr. Chair, in light of the information before the State Mining and Geology Board today, I move to determine the mineral deposits comprising Sector C, and all other Sectors, located within the San Luis Obispo-Santa Barbara Production-Consumption Region, California, to be of regional significance.*

Respectfully submitted:

Stephen M. Testa
Executive Officer