



# 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, January 8, 2015

9:00 A.M.

LOCATION:

Assembly Hearing Room #444  
State Capitol  
Sacramento, California 95814

### 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.

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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 (Gonzalez)**

**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 Gonzalez, with Members Anderson, Gavric, Kenline, Kracov, Lane and Mendez present, and Member Noushkam absent, and a quorum was declared. Vice Chair Gavric departed at 3:30 P.M.

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

Deputy Director, Jason Marshall, provided the following:

- SMGB's 2014-15 appropriations and revenue and expenditure projections were distributed; the projection is \$53,000 under budget.
- Department is prepared to offer a state email account to any SMGB member who wishes to have one. Process will take about seven days to set up. SMGB's legal counsel Deputy Attorney General Chris Tiedemann reminded SMGB members that emails are subject to Ex Parte rules, regardless of which email account is used, and any communications on a state account are subject to disclosure under Public Records Act requests. SMGB Member Mendez thanked Mr. Marshall for following up and will contact him to set up.
- Requested the SMGB agendize for March an informational hearing or Director's report on department's Lead Agency Review Team process.

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

State Geologist, John Parrish reported on the following:

- The last committee meeting pertaining to the California Earthquake Early Warning System was held on January 7, 2015, and is now working on draft implementation report, expected to be completed in fall 2015. By January 2016 CGS will have recognized budgeted funds and will begin implementation.
- On December 15, 2014 received a call through Office of Emergency Services from Riverside County where a large debris flow destroyed out a couple of homes and was poised to take out a community center. CGS dispatched a geologist to assist the county in evaluating the consequences and future of the debris flow. CGS response to these requests is rare due to funding cuts.
- The integrated peer review panel for seismic hazards at Diablo Canyon Nuclear Plant is about to conclude its work over the last two and a half years, and the final reports will be forwarded to the Public Utilities Commission and PG&E sometime this spring.



- The State Geologist will participate in the Scientific Earthquake Studies Advisory Group for USGS which will meet at Cal Tech on January 27, 2015.

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

Assistant Director of OMR, Pat Perez, reported on the following:

- Mr. Perez participated in a site visit to Manchester Mine in San Bernardino County with SMGB Member Kenline, as well as OMR staff Beth Hendrickson and Paul Fry. San Bernardino County staff issued a Notice of Violation to the Bureau of Reclamation for non-compliance.
- OMR staff is currently reviewing the County of Riverside's submittal which was received five days before the deadline, and hope to complete the review over the next couple of weeks. County is making substantial progress in obtaining updated financial assurance cost estimates, as well as adequate financial assurance mechanisms for most mines, and is taking appropriate enforcement actions to obtain full compliance for remaining surface mines. Inspection reports have been received for all 52 mines.
- Since November, the Abandoned Mines Land Unit has inventoried an additional 39 features on U.S. Forest Service lands, bringing the total features inventoried for 2014 to roughly 2100.
- Mariposa County has completed reclamation projects for the Bear Valley Quarry and Bear Creek Slate Quarry.
- Annual reporting and fee collection for 2013 has improved, with 146 non-filers down from 175 in 2012. Two Administrative Penalties were issued in 2013 with an outstanding balance of about \$44,000; 41 Administrative Penalties were issued in 2012 with a balance of about \$154,000. Annual fees collected in 2013 amounted to about 3.62 million dollars, up slightly from the previous year of 3.56 million dollars.

#### **V. Chairman's Report (Gonzalez) [Information]**

No Chairman report provided.

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

Executive Officer Testa reported on the following:

- SMGB accepted CGS's updated classification report for the North San Francisco Bay Production-Consumption Region at its November 14, 2013, regular business meeting. Recommendations for designation, and termination of designation, anticipated to be received from the State Geologist and accepted by the SMGB at its March 13, 2014, regular business meeting. A hearing was held to receive initial public comments prior to consideration of SMGB approval of amended regulations to designate areas of statewide or regional significance and specify the boundaries thereof, for mineral lands located in Sonoma, Napa, Marin, and Southwestern Solano Counties. The hearing took place on May 14, 2014 in the City of Napa. Comments were received and reviewed. The SMGB approved such regulations at its August 14, 2014, regular business meeting. Notice of proposed rulemaking for publication in OAL California Regulatory Notice Register (2014, Volume No. 52-Z) has been prepared and submitted to OAL on December 16, 2014, with a publication date of December 26, 2014. The 45-day public comment period ends February 9, 2015, in which the SMGB will tentatively consider adoption in March 2015.
- Final rulemaking submittals to the Office of Administrative Law (OAL) for the San Luis Obispo-Santa Barbara and - Stockton-Lodi P-C Regions remain in progress, with anticipated submittal to OAL within the next few weeks.



- The County of San Diego forwarded a Notice of Public Review - Statement of Reasons to permit proposed use and extinguish access to mineral resources of statewide significance findings dated December 22, 2014, on December 22 and under review. A response due by February 17, 2015m, and is in preparation.
- The Lead Agency Review Team (LART) report pertaining to the County of Siskiyou is under review. A report to the SMGB is anticipated in early 2015, in addition to re-certification consideration of the County's amended mining ordinance.
- A 2013-2014 set of inspection reports were received from the Counties of Del Norte, Madera, Mariposa, Marin, San Mateo, Mendocino and Monterey. A summary of such review will be provided to the SMGB, in addition to identification of any significant outstanding issues for the SMGB's consideration.
- The EO received an invitation to present an overview on mine safety and mineral conservation to a Chinese delegation representing the Shanxi International Energy Group (SIEG), one of the twelve largest enterprises in Shanxi Province, on November 21, 2014. This event was initiated through Member Gavric and was well received.
- An invitation to speak on career opportunities in the geosciences and professional development was received by the UC Davis Department of Geology for the evening of January 8, 2015, at the UC Davis campus.

**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.]

No Ex-Parte communications reported.

**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 provided.

**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, November 13, 2014, Regular Business Meeting.

Continued.

2. Approval of a Revised Financial Assurance Cost Estimate for the Timm Mine (CA Mine ID #91-09-0006), Lamplight, Inc. (Operator), Mr. Cole McGowan (Agent), County of El Dorado.

Member Kracov moved to approve the revised financial assurance cost estimate. Board Member Kenline seconded and the motion carried with a unanimous roll call vote.



**X. Continued Business [Action]**

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

No continued business was discussed.

**XI. New Business [Action]**

3. Acceptance of California Geological Survey Special Report 231 Titled "*Update of Mineral Land Classification for Portland Cement Concrete-Grade Aggregate in the Temescal Valley Production Area, Riverside County, California.*"

Executive Officer Testa notes that the SMGB, based on recommendations from the State Geologist and public input, prioritizes areas to be classified and/or designated. CGS Special Report (SR) 231 updates information previously presented in a classification report on Portland cement concrete-grade (PCC) aggregate in the Temescal Valley Production Area first published in 1987. The previous report was published by the California Division of Mines and Geology (CDMG; now CGS) as SR143, Part III, and SR 206. Should certain criteria be met, the SMGB may consider acceptance of the updated classification report.

Vice Chair Gavric moved to accept the classification report. Board Member Kenline seconded and the motion carried with a unanimous roll call vote, with Member Anderson recused.

4. Approval of the State Mining and Geology Board's Designation Report No. 13 titled "*Designation of Regionally Significant Aggregate Resources in the Palm Springs Production-Consumption Region, Riverside County.*"

Deferred.

5. Discussion and Possible Action Regarding Conflict of Interest Pursuant to Public Resources Code Section 2774(b) and California Code of Regulations Section 3504.5(c).

Deferred.

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

Executive Officer Testa noted that the SMGB appoints committees to assist in its work. Committees are created by a majority affirmative vote of the total authorized membership of the SMGB (i.e., 5 members). Currently, the SMGB has the following four continuing committees: Geohazards, Minerals & Geologic Resources, Policy & Legislation, and Surface Mining Standards. Committee members are appointed by the SMGB's Chairperson, and serve at the pleasure of the Chairperson. The Chairperson may also serve as an ex-officio member of each committee, and may vote on committee issues. The Bylaws do not limit the committee members' terms, define special requirements, or limit the size of the committees; however, a committee may not constitute a quorum of the SMGB (5 members) including the Chairman, when sitting as ex-officio member.

Action taken.



7. Adoption of the State Mining and Geology Board's 2015 Regular Business Meeting Calendar.

Executive Officer Testa noted that PRC Section 668 provides that the SMGB hold its meetings at such times and at such places as it shall determine. The SMGB's Bylaws require the SMGB to hold a minimum of six meetings annually, to be held in locations appropriate to the subject matter to be considered. A meeting schedule for 2015, as presented, proposes 11 (eleven) regular SMGB meetings throughout the year, with the exception being the month of August. Committee meetings are typically scheduled on the same dates, or the day prior. This 11-month meeting schedule reflects the routinely scheduled August break. Approval of the SMGB's 2015 meeting calendar does not prohibit the SMGB from deferring certain meeting dates should circumstances warrant such action. The SMGB is considering adopting its regular business meeting calendar for 2015.

Vice Chair Gavric moved to adopt the 2015 calendar with noted change. Board Member Anderson seconded and the motion carried with a unanimous roll call vote.

8. Discussion of Policies Regarding Change of Good of the Meeting to Public Comment Period.

Executive Officer Testa stated that during conduct of regular business meetings and hearings of the SMGB, a time is scheduled, referred to as Good of the Meeting, to provide the public with an opportunity to address non-agenda items. Any individual wishing to address the SMGB fills out a speaker card and presents 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. The SMGB is considering clarifying its policies regarding Good of the Meeting by changing the title of the scheduled session to Public Comment Period, and also how written materials submitted to the SMGB for this session are handled. PRC Section 662(b) states "*All members of the board shall represent the general public interest...*" The SMGB's Mission Statement states "*The mission of the State Mining and Geology Board... to provide a forum for public redress.*" The EO report contains a tabulation of formats provided by a select number of other boards and commissions and by no means is complete, and a summary of points to take into consideration as part of the SMGB's deliberations.

Board Member Kracov moved to change the Good of the Meeting to Public Comment Period and to distribute written materials to SMGB Members, include in the public folder and make available upon request, but not post on the SMGB's website. Board Member Mendez seconded and the motion carried with a unanimous roll call vote.

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

Executive Officer Testa noted that the SMGB's Strategic Plan was initially adopted on March 13, 1997, the SMGB's Strategic Plan has been periodically reviewed and re-adopted in November 2000, March 2007, November 2010, and most recently in July 2013. The Plan presents a Mission Statement supported by six Goals. Each of the Goals is sustained by a list of Strategies for achieving those Goals. The Strategies in turn require specific Objectives (tasks) to be performed. The updated Strategic Plan is provided for discussion purposes and adoption consideration at its next scheduled regular business meeting.

- Member Gavric suggested adding timelines/dates to Attachment B so the SMGB can chart the progress of goals and objectives.
- Member Mendez recommended a draft go to the Policy and Legislation Committee before the plan is forwarded to the whole SMGB noting that new SMGB members should have an opportunity to have more say in the strategic direction of the SMGB, and would feel more



comfortable voting on this type of document if there was opportunity for input at the committee level.

- Member Anderson also suggested that the review of this draft go to committee for input by board before it is agendaized for action. A number of objectives have noble intentions, but may be beyond the reach of this SMGB.
- Member Kracov stated that for the Strategic Plan to be effective it needs to be streamlined, and recommends that it be referred to the Policy and Legislation Committee.

No action taken.

## **XII. Special Reports and Department Presentations [Possible Action]**

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

### 10. Information Report on the California Geological Survey Proposed Mineral Land Classification Program Scheduling. [CGS]

Executive Officer noted that SMARA provides for a mineral lands inventory process termed "classification-designation". CGS and the SMGB are the state agencies responsible for administering this process. The primary objective of this process is twofold. First is to provide local agency decision makers with information on the location, need and importance of mineral resources within their respective jurisdiction. Second is to assure that this information will be considered in local land-use planning decisions. This second objective is met through the lead agency adoption of local mineral resource management policies (MRMP). During the first phase of this process, known as classification, the State Geologist is responsible for preparing a geological inventory of selected mineral commodities within a defined study region. This is accomplished by classifying areas into various Mineral Resource Zones (MRZs) based on their mineral resource potential. As set forth in Section 2761(b) of SMARA, the State Geologist classifies land solely on the basis of geologic factors and without regard to existing land use and economic factors according to the SMGB's Guidelines. Areas subject to mineral land classification studies are divided by the State Geologist into various MRZ categories that reflect varying degrees of mineral resource potential. An updated schedule for CGS's mineral land classification programs being provided for the SMGB's information.

No action taken.

### 11. Information Report on the 2014 South Napa Earthquake. [CGS]

Executive Officer Testa noted that the moment magnitude (M<sub>w</sub>) 6.0 South Napa earthquake struck at 3:20 a.m. (PDT) on August 24, 2014, just north of San Francisco, California. The cities of Napa, American Canyon, and Vallejo were located in the area of strongest ground shaking, and experienced the most damage. The CGS plays an important role after a major earthquake in California. CGS is mandated to establish a clearinghouse, along with its managing partners, Earthquake Engineering Research Institute (EERI), the United States Geological Survey (USGS), the California Office of Emergency Services (CalOES), and the California Seismic Safety Commission (CSSC). CGS is providing an overview of what occurred and what was learned, and its unique role following a major earthquake in California.

No action taken.



12. Information Report on Final Earthquake Fault Zone and Seismic Hazards Map for the Azusa and Hollywood Quadrangles under the Alquist-Priolo Earthquake Fault Zoning Act. [CGS]

Executive Officer Testa noted that the Alquist-Priolo Earthquake Fault Zoning (AP) Act was passed into law following the destructive February 9, 1971, magnitude (Mw) 6.6 San Fernando earthquake. The AP Act provides a mechanism for reducing losses from surface fault rupture on a statewide basis. The intent of the AP Act is to ensure public safety by prohibiting the siting of most structures for human occupancy across traces of active faults that constitute a potential hazard to structures from surface faulting or fault creep. On November 6, 2013, CGS released the revised A-P Maps for the Azusa Quadrangle and accompanying Fault Evaluation Report FER-249 and supplement, and for the Hollywood Quadrangle and accompanying FER-253 and supplement, respectively. The release of these maps commenced a 90-day public comment period. The SMGB conducted public hearings in March 2014 to receive comments and hear oral technical discussion from those who wished to make presentations regarding the map under discussion. At its August 14, 2014 regular business meeting, the SMGB reviewed and considered comments received, and forwarded comments and recommendations to the State Geologist. The information report being provided by CGS today is for the SMGB's general information, and will address how the comments and recommendations provided by the SMGB were addressed.

- Member Gavric asked why there is no second chance for public comment on revised map as there is on preliminary map. Dr. Parrish stated that although the maps are deemed final, they continue to undergo peer review by local lead agencies on a site specific basis.
- Member Mendez requested an explanation of the scientific peer review process.
- Member Lane inquired whether there was opportunity for public comment if there were changes made to the final map. Dr. Parrish stated that if CGS receives significant data from the lead agency affecting the final map, CGS would open another public comment period and then issue a revised final map.

No action taken.

13. Briefing by Counsel Regarding Ex Parte Communication Disclosure Requirements. Executive Officer Testa noted that PRC Sections 663.1 and 663.2 provides legal restrictions regarding ex parte communications by members of the SMGB. PRC Section 663.1 defines "ex parte communication" to mean any oral or written communication between a member of the SMGB and an interested person about a matter within the SMGB's jurisdiction that does not occur in a public hearing, workshop, or other official proceeding, or on the official record of the proceeding on the matter. The SMGB is being provided an overview by its legal counsel Deputy Attorney General Chris Tiedemann of ex parte communications and provide some guidance as to recognizing when ex parte communications are triggered.

- Legal Counsel Deputy Attorney General Tiedemann summarized Ex Parte disclosure requirements.
- Member Kracov suggested that such information be disclosed on the website.

14. Acceptance of Inspection Reports as Performed and Completed Pursuant to PRC Section 2774(b) for the following Surface Mining Operations:

- Merrill Borrow Pit (CA Mine ID No. 91-02-0001), County of Alpine
- Gansberg Sand (CA Mine ID No. 91-02-0002), County of Alpine
- Diamond Valley Borrow Site (CA Mine ID No. 91-02-0004), County of Alpine
- Fredericksburg Gravel Pit (CA Mine ID No. 91-02-0005), County of Alpine
- Somerset Sand Yard (CA Mine ID No. 91-09-0009), County of El Dorado



- Lawyer Borrow Pit (CA Mine ID No. 91-09-0010), County of El Dorado
- Marin Quarry (CA Mine ID No. 91-09-0015), County of El Dorado
- Priest Grade Pit (CA Mine ID No. 91-55-0008), County of Tuolumne

Member Kracov moved to accept inspection report with exception to the Priest Grade Pit which was deferred. Board Member Lane seconded and the motion carried with a unanimous voice vote.

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

- Policy and Legislation Committee Report (Chairman Kenline)
- Geohazards Committee Report (Chairman Lane)
- Minerals and Geologic Resources Committee Report (Chairman Kenline)
- Surface Mining Standards Committee Report (Vacant)

### **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 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:

- Member Kracov requested a study session on the budget be agendized for either February or March, and also suggested a SMGB orientation and training on matters such as the SMGB's regulatory authorities, parliamentary procedures, and would also like to see action on 45-day notices from the Executive Officer's information report.
- Chairman Gonzalez requested that some sort of study session or workshop be arranged between OMR, the Department and the SMGB that would cover SMARA and outline the relationships between the three.

### **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:

- i. Pending Litigation to which the SMGB is a party:
  1. Dutra Materials vs. SMGB, Chevron Products Company Real Party in Interest, Case No. N10-0388, Contra Costa Superior Court.
  2. A. Teichert and Sons, Inc. v. SMGB, Western Aggregates, LLC. Real Party in Interest, Case No. 34-2010-80000528, Sacramento County Superior Court.
  3. 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.
  4. Joe & Yvette Hardesty v. SMGB, & DOES 1-100 Inclusive, Case No. 34-2010-80000594, Sacramento County Superior Court.
  5. Discussion of Superior Court cases, A. Teichert & Son, Inc. v. California State Mining and Geology Board, no. 34-80000528 and Calvert, et al. v. California State Mining and Geology Board, no. 34-2010-80000530.

**Note:** In addition, the Board may consider matters which fall under Government Code Sections 11126(e)(2)(B) and 11126(e)(2)(C).



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

Deputy Attorney General Chris Tiedemann announced that the SMGB met in Executive Session and took no action.

**XVII. Announcements of Future Meetings**

February 12 was announced as the date of the next scheduled meeting, with Sacramento as the location.

**XVIII. Adjournment**

The meeting was adjourned at 3:45 p.m.

**APPROVED**



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Ignacio Gonzalez, Chairman



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Stephen M. Testa, Executive Officer

