



STATE MINING AND GEOLOGY BOARD

DEPARTMENT OF CONSERVATION

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Publication Date: January 24, 2017

OFFICIAL NOTICE OF PUBLIC MEETING

THE STATE MINING AND GEOLOGY BOARD

Will Conduct a Regular Business Meeting on:

Wednesday, February 8, 2017

1:00 p.m.

NEW LOCATION:

**John Muir Conference Room
801 K Street, 20th Floor, Suite 2016
Sacramento, California 95814**

For questions or comments regarding this Agenda, please contact the SMGB office by telephone at (916) 322-1082, or electronically at smbg@conservation.ca.gov. This Notice and associated staff reports can be accessed electronically at the SMGB's web site at: <http://www.consrv.ca.gov/smgb/>.



PUBLIC MEETING AGENDA

1. **Call to Order (Kracov)**
2. **Pledge of Allegiance**
3. **Roll Call and Declaration of a Quorum**
4. **Review of the Agenda (Kracov)**
5. **Department Reports**
 - Director of Conservation's Report (Bunn)
 - State Geologist's Report (Parrish)
 - Division of Mine Reclamation Report (Perez)
6. **Chairman's Report (Kracov)**
7. **Executive Officer's Information Report (Schmidt)**
8. **Senior Engineering Geologist's Report (Arcand)**
9. **AGPA SMARA Reform Rulemaking Report (Lash)**
10. **Ex-Parte Communication Disclosure**

SMGB Members will identify any discussions they may have had requiring disclosure pursuant to Public Resources Code Sections 663.1 and 663.2.
11. **Public Comment Period**

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. Speakers are limited to three minutes except by special consent of the Chair.
12. **Consent Items**

All the items appearing under this section will be acted upon by the SMGB by one motion and without discussion; however, any SMGB member wishing to discuss a particular item may request the Chair to remove the item from the Consent Calendar and consider it separately.

 - A. Consideration and Approval of Minutes, January 12, 2017 Regular Business Meeting.
 - B. Acceptance of Inspection Reports as Performed and Completed Pursuant to Public Resources Code (PRC) Section 2774(b) for the following Surface Mining Operations:
 - Lapis Plant (CA Mine ID #91-27-0006), City of Marina
 - Avalon Mine (CA Mine ID #91-33-0002), City of Jurupa Valley
 - Super Creek Quarry (CA Mine ID #91-33-0003), City of Desert Hot Springs
 - Philadelphia Recycling Mine (CA Mine ID #91-33-0029), City of Jurupa Valley
 - Garnet Pit (CA Mine ID #91-33-0031), City of Palm Springs
 - Pyrite Quarry (CA Mine ID #91-33-0062), City of Jurupa Valley
 - Teichert Hallwood Plant (CA Mine ID #91-58-0006), County of Yuba
 - Teichert Marysville Plant (CA Mine ID #91-58-0019), County of Yuba

13. Rulemaking Action Items

- A. Consideration and Approval of Revised Rulemaking Package #1, Fees Calculation, (CCR, Title 14, Division 2, Chapter 8, Subchapter 1, Article 8, Section 3698).
- B. Consideration and Approval of Proposed Regulatory Language and Final Rulemaking Package #2, Financial Assurance Cost Estimate (FACE) Form, (PRC §2773.1(a)(4)).

14. SMGB Committee Reports

- Geohazards Committee (Chair Potter)
- Minerals Conservation and Reclamation Committee (Chair Kenline)
- Board Policy and Administration Committee (Chair Landregan)
- Board Lead Agency Standards Committee (Chair Lane)

15. Executive Session (Closed to the Public)

The SMGB will discuss information from its legal counsel on personnel matters and pending litigation and may take appropriate actions based on this information. This session is being held under Government Code, Section 11126.

Possible Items to be discussed:

Pending Litigation to which the SMGB, or its officials, are a party:

- A. Dutra Materials v. SMGB, Chevron Products Company, Real Party in Interest (Contra Costa County Superior Court Case No. N10-0388; First District Court of Appeal Case No. A147277)
- B. Teichert and Sons, Inc. v. SMGB, Western Aggregates, LLC, Real Party in Interest (Sacramento County Superior Court Case No. 34-20108000528; Third District Court of Appeal Case No. C082333)
- C. Joe & Yvette Hardesty v. SMGB (Sacramento County Superior Court Case No. 34-2010-80000594; Third District Court of Appeal Case No. C079617)
- D. Joe & Yvette Hardesty et al. v. SMGB (Sacramento County Superior Court Case No. 34-2012-80001070)
- E. Daniel Tankersly v. Will Arcand et al. (United States District Court, Eastern District of California Case No. 2:10cv-02414-KJMKJN)

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

16. Announcements of Future Meetings

17. Adjournment

NOTES

A. INFORMATION ABOUT THE STATE MINING AND GEOLOGY BOARD

The State Mining and Geology Board's (SMGB's) general authority is granted under Public Resources Code (PRC) Sections 660-678. The SMGB serves as a regulatory, policy and hearing body representing the State's interests in geology, geologic and seismologic hazards, conservation of mineral resources and reclamation of mining lands. SMGB membership consists of nine individuals appointed by the Governor, and confirmed by the Senate. The SMGB has specific responsibilities under the following laws:

Surface Mining and Reclamation Act of 1975 - The overall management of mineral resources in a thoughtful and responsible manner is essential to the continued economic well-being of the State and to the needs of society, and the thoughtful reclamation of mined lands is necessary to prevent or minimize adverse effects on the environment and public health and safety. Similarly, known mineral resources including those of statewide or regional significance that are not currently being mined require protection from irreversible land uses that will preclude their future use.

The Surface Mining and Reclamation Act of 1975 (SMARA) Public Resources Code Sections 2710, et seq. and its regulations at 14 Cal. Code of Regulations Section 3500, et seq., provides a comprehensive surface mining and reclamation policy to assure that adverse environmental impacts are minimized and mined lands are reclaimed to a usable condition. SMARA also encourages the production, conservation, and protection of the State's mineral resources. Under these statutes, the SMGB represents the State's interests in the development, use and conservation of the State's mineral resources, and the reclamation of mined lands, as provided by law.

Alquist-Priolo Earthquake Fault Zoning Act - Under this Act, the SMGB is authorized to represent the State's interests in establishing guidelines and standards for geological and geophysical investigations and reports produced by the California Geological Survey, public sector agencies, and private practitioners. The SMGB also is authorized to develop specific criteria through regulations to be used by Lead Agencies in complying with the provisions of the Act so as to protect the health, safety and welfare of the public.

This Act, Public Resources Code Section 2621 et seq., and its regulations at 14 California Code Regulations Section 3600 et seq. provide policies and criteria to assist cities, counties and State agencies in the exercise of responsibilities to prohibit the location of structures for human occupancy across the trace of active faults. Further, it is the intent of the Act to minimize the loss of life during and immediately following earthquakes by facilitating seismic retrofitting to strengthen buildings, and all public works facilities, including historical buildings, against ground shaking.

Seismic Hazards Mapping Act - Under this Act, the SMGB is authorized to provide policy and guidance through regulations for a statewide seismic hazard mapping and technical advisory program to assist cities, counties, and State agencies in fulfilling their responsibilities for protecting the public health and safety from the effects of strong ground shaking, liquefaction or other ground failure, landslides and other seismic hazards caused by earthquakes, including tsunami and seiche threats.

The Seismic Hazards Mapping Act, Public Resources Code Section 2690 et seq. and its regulations at 10 California Code of Regulations Section 3720 et seq. provide programs to identify and map seismic hazard zones in the State in order for cities and counties to adequately prepare the safety element of their general plans and to encourage land use management policies and regulations to reduce and mitigate those hazards to protect public health and safety.

B. GENERAL PROCEDURAL INFORMATION ABOUT SMGB MEETINGS

The SMGB is governed by the Bagley-Keene Open Meeting Act that requires the SMGB to (1) publish an Agenda at least ten days in advance of any meeting; (2) describe in the Agenda specific items to be transacted or discussed; and, (3) refuse to add an item no later than 10 days prior to any meeting and republishing of the Agenda.

Persons are invited to visit the SMGB web site at <http://www.conservation.ca.gov/smgb>. The SMGB Agenda will be available approximately 15 days prior to the scheduled SMGB meeting. The Executive Officer's Report and other Agenda material and reports will be available approximately one week prior to the scheduled SMGB meeting, and also are available at the SMGB office during public business hours (8:30 A.M. to 4:30 P.M. Monday through Friday (except holidays).

A Closed Session may be called by the Chair to discuss litigation and other matters for which closed sessions are authorized under the Bagley-Keene Open Meeting Act.

Agenda items are subject to postponement. Interested and affected persons may contact the SMGB office in advance of the meeting day for information on the status of any Agenda item.

SMGB meetings are open to the public and are held in barrier-free facilities in accordance with the Americans with Disabilities Act. For additional information or assistance, contact the SMGB office.

C. SUBMITTAL OF DOCUMENTS ON SMGB AGENDA ITEMS

The SMGB encourages parties to submit comments, written material, or technical reports to include plans, specifications, maps, cross sections, boring or trench logs, and diagrams prior to the publication of the Executive Officer's Report. This ensures that the submittal can be included in the Agenda material for the Agenda item in question. To ensure that SMGB Members have an opportunity to fully study and consider the items on the Agenda, all such material concerning any matters on the Agenda should be submitted at least three (3) days prior to the meeting date to the SMGB office at 801 K Street, Sacramento, California, 95814, or by electronic mail to the SMGB Executive Officer with a subject line identifying the Agenda item name and number. The SMGB encourages electronic or flash-drive submission of large quantities of documents. Timely submitted written material will be provided to the SMGB along with the full Agenda materials, and will be uploaded to the SMGB web site at <http://www.consrv.ca.gov/smgb> for the Agenda item in question, along with any Supplemental Executive Officer Reports. Documents submitted to the SMGB less than three (3) days prior to the meeting shall be considered "late submittals." Because it can be difficult for SMGB members to carefully review and consider late submittals, the SMGB retains discretion to determine whether or not it will consider late submittals at the meeting.

Late submittals for general public comment will be provided to the SMGB along with the full Agenda materials, but will not be uploaded to the SMGB web site. Copies of documents submitted for general public comment at least three (3) days prior to the meeting will be available in the meeting room, generally at the entrance to the room. The SMGB regulations pertaining to specific adjudicatory proceedings supersede general statements in these notes regarding SMGB procedures, including the time requirements for submission of written materials to the SMGB (Refer to Section E). If considered, late submittals will be circulated to the SMGB during the meeting.

All SMGB files and documents considered by the SMGB pertaining to the items on this Agenda are made a part of the administrative record for the respective Agenda items.

D. ORAL COMMENTS DURING SMGB MEETINGS

Speaker Cards: All persons desiring to address the SMGB are required to fill out a speaker card. Cards normally are provided near the entrance to the meeting room. Please fill out a separate card for each item on which you intend to speak, and present it to the SMGB Secretary prior to the item being heard by the SMGB.

Unless otherwise specified in the public notice for a specific item, the SMGB wishes to limit oral presentations from all parties to three (3) minutes or less per individual. The SMGB Chair reserves the right to shorten or lengthen the general three (3) minute limit period depending on time constraints and other factors relating to the particular matter being heard.

Providing and operating projectors and other presentation aids are the responsibilities of the speakers. Some equipment may be available at the SMGB meeting; however, the type of equipment available will vary depending on the meeting location. Owing to software and hardware compatibility issues, provision and operation of laptop computers and projectors for presentations generally will be the responsibility of the individual speakers. To ascertain the availability of presentation equipment, please contact the SMGB office at least five (5) working days prior to the meeting.

E. SMGB ADJUDICATORY HEARING PROCEDURES

Adjudicatory matters heard by the SMGB include Designation Appeals, Reclamation Plan Appeals, Financial Assurances Appeals, Forfeiture of Financial Assurances Proceedings, Administrative Penalty Petitions, Appeals of Orders to Comply with SMARA and Vested Rights Determinations.

Regulations governing the hearing procedures for these adjudicatory proceedings are in the SMGB's regulations at Title 14 of the California Code of Regulations, Sections 3500-4000. These regulations are posted on the SMGB internet web site at: <http://www.consrv.ca.gov/smgb/>. The SMGB regulations pertaining to specific adjudicatory proceedings supersede general statements in these notes regarding SMGB procedures, including the time requirements for submission of written materials to the SMGB. The SMGB generally will prepare and circulate to the parties an agenda and timeline pertaining to specific adjudicatory proceedings.