



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, October 14, 2010

10:00 A. M.

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.

[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 10:30 A. M. by Chairman Garner, with Members Lundberg absent, and Wyatt departed at noon, and a quorum was declared.

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

Acting Director Derek Chernow reported on the following:

- With the close of legislative session, two sponsored bills passed. AB 2453 (Tran) would make numerous changes to the appeal process and procedures for an operator of a well or owner of a rig, derrick, or other operating structure to appeal an order of the State Oil and Gas Supervisor or a District Deputy, regarding the operation of a well, or drilling or testing operations. AB 2761 (Chesbro) would revise existing authority of the State Geologist to contract with governmental and nongovernmental entities to provide services by CGS.
- The Department has a signed budget with authority to hire for both the Department of Oil, Gas and Geothermal Resources and the Office of Mine Reclamation.
- The Department attended the CalCIMA Education Conference and presented two reclamation awards; information is provided on OMR's website.
- Internal office configurations configurations are underway with plans to move three SMGB to the 8th floor.
- A summary of other events and conferences being sponsored or held in Sacramento was provided.
- State Geologist's Report (Parrish) [Information]

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

- CGS will be participating in the Great California Shakeout the weeks of October 14, 2010. About 6.8 million individuals have enrolled to participate.
- CGS will be participating in the California Science Teachers Conference scheduled for October 21-23. About 2000 teachers will be in attendance.
- CGS will be coordinating and participating in the National Earthquake Advisory Council meeting to be held on November 3, 2010, in Pasadena. The Council advised the United States Geological Survey on seismic and earthquake policy.



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

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

- Two SMARA workshops will be held during the remainder of 2010.
- Reclamation will commenced the week of October 14, 2010, at the New Era Mine locted in Butte County.
- A 15-Day Notice was issued to Sutter County and Sacramento County, with follow-up actions by OMR, as appropriate.
- OMR staff, Jim Pompy and John Wesling, both made presentations at the California Construction and Industrial Materials Assocaition (CalCIMA) Education Conference recently held in San Diego.

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

- Recognition of Distinguished Service for Gary Taylor (CGS)

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

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

- A Reclamation Plan appeal was received for Mosler Rock Products located in Ventura County, and currently under review. This matter will be likely being heard later this year.
- Two classification petitions have been received and subsequent accepted; one for Slaughter House Canyon located in San Diego County, and the other is Barton Ranch-Milgate Quarry, located in Sacramento County.
- One designation appeal, the first one received by the SMGB in its history, for mineral lands in Sacrametno County. CGS is currently reviewing the petition request.
- Several designation rulemaking efforst are in progress including rulemakings for the Bakersfield, Palm Springs, and Claremont-Upland Production-Consumption Region. Designation for the San Bernardino Production-Consumption Region will be considered by the SMGB in December 2010.
- The SMGB's 2009-2010 Annual Report is in preparation. Other reports being prepared by the Executive Officer includes the Alquist-Priolo Technical Advisory Committee report and several Information Reports.
- A Notice of Violation was issued by the Executive Officer to the operator of the Big Cut Mine, located in El Dorado County.

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.]

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.]



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- Jay Schneider expressed displeasure with enforcement actions being taken by OMR in regards to issues pertaining to the Sneider Historic Mine located in Sacramento County.
- Rick Churches also offered displeasure in regards to certain actions of OMR and SMGB staff pertaining to the Sneider Historic Mine, among other issues.
- Mr. Miller with the 16-to-1 Mine commented on his displeasure with SMGB staff. Executive Officer Testa indicated that no contact with Miller has recently taken place.
- Adam Harper, CalCIMA, thanked the Eecutive Officer for participation in CalCIMA's Annual Education Conference.
- Tim Smith, Central Sierra Mining Association (CSMA), commented on issues germane to CSMA members, and potential amendments to SMARA.

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, July 8, 2010, Regular Business Meeting.

Board Member Licari moved to approve the minutes. Board Member Lund seconded and the motion carried with a unanimous voice vote.

2. Approval of Minutes, September 9, 2010, Regular Business Meeting.

Board Member Licari moved to approve the minutes. Board Member Lund seconded and the motion carried with a unanimous voice vote.

3. Approval of a Revised Financial Assurance Cost Estimate for the Pt. Richmond (Canal) Quarry (CA Mine ID #91-07-0007), Mignone Wood (Agent), Bottoms Family Trust (Operator), City of Richmond.

Board Member Licari moved to approve the financial assurance cost estimate. Board Member Lund seconded and the motion carried with a unanimous voice vote.

4. Approval of a Revised Financial Assurance Cost Estimate for the Garnet Pit (CA Mine ID #91-33-0031), Catherine Vos (Agent), Granite Construction Co. (Operator), City of Palm Springs.

Board Member Licari moved to approve the financial assurance cost estimate. Board Member Lund seconded and the motion carried with a unanimous voice vote.

5. Approval of an Interim Mangement Plan for the Simpson Lane Project (CA Mine ID #91-58-0025), Lillie Noble (Agent), Teichert Aggregates (Operator), County of Yuba.

Board Member Licari moved to approve the Interim Management Plan. Board Member Lund seconded and the motion carried with a unanimous voice vote.



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6. Approval of a Revised Financial Assurance Cost Estimate for the Simpson Lane Project (CA Mine ID #91-58-0025), Lillie Noble (Agent), Teichert Aggregates (Operator), County of Yuba.

Board Member Licari moved to approve the adjusted financial assurance cost estimate. Board Member Lund seconded and the motion carried with a unanimous voice vote, with Member Lane abstain.

X. Continued Business [Action]

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

7. Approval of the State Mining and Geology Board's Annual Report for 2008-2009. Executive Officer Testa stated PRC Section 2717(a) requires the board to submit annually an annual report to the legislature. Such annual reports were deferred after June 2000 due to budget constraints. The SMGB's 2008-2009 Annual Report summarizes pertinent actions by the SMGB since July 2000. No conclusions and recommendations are provided since the report is primarily historic in nature. Conclusions and recommendations will be incorporated in the SMGB's 2009-2010 Annual Report currently in preparation.

Board Member Tepel moved to approve the SMGB's 2008-2009 annual report. Board Member Baca seconded and the motion carried with a unanimous voice vote.

8. Status Report on the City of Lake Elsinore Lead Agency Program Pursuant to the Surface Mining and Reclamation Act (SMARA).

Executive Officer Testa stated in November 2009, the SMGB received a public complaint pertaining to certain surface mining operations located within the jurisdiction of the City of Lake Elsinore (City). The complaints were forwarded to the Department of Conservation, Office of Mine Reclamation (OMR). OMR performed a site visit in March 2010, and presented a summary of its site visit at the SMGB's July 10, 2010, regular business meeting. At such meeting, the SMGB expressed concern based on information provided by OMR, and requested that OMR provide more in-depth information, including the inspection reports that the city had been filing during the time houses were being built within the boundaries of the mining footprint, and photographs taken during inspections and site visits performed by OMR, and OMR's commentary on such reports. The City has requested additional time for submittal of information as noted in their letter dated August 6, 2010. Preliminary information provided by the City is enclosed in the board packet.

- Warren Coalson, consultant with EviroMINE and representing the City, stated that his firm has been conducting inspections for the City since 1997 to about 2003, and then recently hired back, and performed inspections for the past two years. The City has not always followed through with recommendations previously set forth, and has directed EviroMINE to work with OMR and oversee compliance matters.
- John Hecht, consultant with Sespe Consulting and representing the Pacific Aggregates, commented on the status of certain compliance actions being taken by the operator, and that the operator is working closely with the City.
- Executive Officer Testa stated that a 15-Day Notice has recently been forwarded by OMR of the City.

No action taken.

XI. New Business [Action]



9. **Public Hearing:** Consideration of Low Gross Exemption, Crane Mills (CA Mine ID #91-40-0045), Crane Mills (Operator), Mr. Frank Barron (Agent), Tehama County.

Executive Officer Testa noted that the SMGB pursuant to PRC Section 2790 may by regulation adopted after a public hearing designate specific geographical areas of statewide or regional significance and specify the boundaries thereof. The SMGB based on recommendations from the State Geologist and public input, prioritizes areas to be classified and/or designated. The 60-day public comment period ran from February 6 to April 7, 2009, with a public hearing held by the SMGB's Mineral and Geologic Resources Committee held on March 11, 2009. The State Geologist initially recommended 16 areas for designation, and 5 sectors within 6 areas, were recommended for termination of designation. Following receipt and consideration of comments received, a total of 3,871 (280 million tons) for Sector J, and parts of Sector K comprising 56 acres (total in million tons proprietary), are proposed to be removed from designation consideration reflecting such land being set aside for wildlife habitat conservation (fringed-toed lizard, desert tortoise, etc.), and other conservation values, and to a lesser degree established wind farms. Mineral lands being proposed for designation comprise 2,177 acres (118 million tons) in Sectors I, J-4, J-5 and J-6, and 534 acres for Sectors K-1 through K-8 (total in million tons proprietary). In addition, 923 acres (215 million tons) are being proposed for termination of designation. The SMGB is considering accepting the regulatory language and directing the Executive Officer to commence the rulemaking process.

- Frank Barron, Chief Forrester representing Crane Mills, provided information and comment in support of the granting of a Low Gross Exemption.
- Greg Tenorio, Acting Chief Council for the Department of Conservation, expressed regulatory issues to be considered.

Member Baca moved to close the public hearing. Board Member Tepel seconded and the motion carried with a unanimous voice vote.

Member Baca recognized that existing regulation did not adequately address the issue before the SMGB, and moved to continue consideration for one year, and the operator will pay the appropriate fees at such time pursuant to the amended regulation. Board Member Tepel seconded and the motion carried with a unanimous voice vote.

10. Acceptance of Regulatory Language for Designation of Mineral Resources Areas of Statewide or Regional Significance for the Palm Springs Production-Consumption Region, County of Riverside, California.

Executive Officer Testa stated that the SMGB pursuant to PRC Section 2790 may by regulation adopted after a public hearing designate specific geographical areas of statewide or regional significance and specify the boundaries thereof. The SMGB based on recommendations from the SG and public input, prioritizes areas to be classified and/or designated. The 60-day public comment period ran from February 6, 2009, to April 7, 2009, with a public hearing held by the Mineral and Geologic Res Com held on March 11, 2009. The State Geologist initially recommended 16 areas for designation, and five sectors within 6 areas, are recommended for termination of designation.

Following receipt and consideration of comments received, a total of 3,871 (280 million tons) for Sector J, and parts of Sector K comprising 56 acres (total in million tons proprietary), are proposed to be removed from designation consideration reflecting such land being set aside for wildlife habitat conservation (fringed-toed lizard, desert tortoise, etc.), and other conservation values, and to a lesser degree established wind farms. Mineral lands being proposed for designation comprise 2,177 acres (118 million tons) in Sectors I, J-4, J-5 and J-6, and 534 acres for Sectors K-1 through K-8



(total in million tons proprietary). In addition, 923 acres (215 million tons) are being proposed for termination of designation.

- John Clinkenbeard, CGS, provided a brief overview with maps illustrating the proposed areas for designation and termination of designation.

Board Member Lane moved to accept the proposed regulatory language. Board Member Tepel 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.

11. Lead Agency Review Unit (LART) Report on the County of Santa Cruz [OMR] 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, OMR established the LART. An overview of the LART program was previously presented to the SMGB in July 2009. The SMGB has since received two reports: Sutter County and Tuolumne County. OMR LART is prepared to provide an overview of the program, and a summary of its review of Santa Cruz County.

- David Carlson, Resource Planner with the County of Santa Cruz, expressed issues related to the LART report and process, including expressing the need for exit interviews, and mechanism for correcting misunderstandings and incorrect information.

No action taken.

12. Inspection reports pursuant to PRC Section 2774(b) for the following surface mining operations may be presented for SMGB acceptance consideration as being in accordance with the SMGB's requirements:

- Somerset Sand Mine (CA Mine ID #91-09-0009), County of El Dorado.
- Lawyer Pit (CA Mine ID #91-09-0010), County of El Dorado.
- Snows Road Quarry (CA Mine ID #91-09-0012), County of El Dorado.
- Marin Quarry (CA Mine ID #91-09-0015), County of El Dorado.
- Teichert Hallwood Plant (CA Mine ID #91-58-0006), County of Yuba.
- Dantoni Pit (CA Mine ID #91-58-0011), County of Yuba.
- Teichert Marysville Plant (CA Mine ID #91-58-0019), County of Yuba.
- Simpson Lane Project (CA Mine ID #91-58-0025), County of Yuba.

Will Arcand, Senior Engineering Geologist and inspector for the SMGB, presented a summary of each inspection report outlined above.

Board Member Baca moved to accept the inspection reports. Board Member Tepel 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)
 - Chairperson Baca summarized discussions and actions taken by the Committee during its October 10, 2010, meeting.

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 business offered.

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. 34-2010-800000542, Sacramento County Superior Court.
- g). 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

SMGB's Legal Counsel, Deputy Attorney General Rick Thalhammer, announced that the SMGB met in Executive Session and no action was taken.



XVII. Announcements of Future Meetings

November 10, 2010, was announced as the next meeting, and the City of Sacramento as the location.

XVIII. Adjournment

The meeting was adjourned at 5:00 P.M.

APPROVED

Erin Garner, Chairman

Stephen M. Testa, Executive Officer

