



## STATE MINING AND GEOLOGY BOARD

### DEPARTMENT OF CONSERVATION

801 K Street • Suite 2015 • Sacramento, California 95814

### ***Policy and Legislation Committee***

*Brian Baca, Chair; Jelisaveta Gavric, John Lane*

[www.consrv.ca.gov/smgb](http://www.consrv.ca.gov/smgb)  
[smgb@consrv.ca.gov](mailto:smgb@consrv.ca.gov)

## **CONFORMED MINUTES**

### THE POLICY AND LEGISLATION COMMITTEE OF THE STATE MINING AND GEOLOGY BOARD

Conducted a Meeting on:

Thursday, December 13, 2012

8:30 A.M.

LOCATION:

City Council Chambers  
Palm Springs City Hall  
3200 E. Tahquitz Canyon Way  
Palm Springs, CA 92262

## **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.

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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 (Baca)**

The meeting was called to order at 9:35 A M. by Committee Chairman Baca, with Member Gavric and Member Lane present, and a quorum was declared.

**II. Roll Call and Declaration of a Quorum**

**III. Consent Items [Action]**

[All the items appearing under this section will be acted upon by the committee by one motion and without discussion; however, any committee 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, October 11, 2012, Committee Meeting.

Committee Member Garvic moved to approve the minutes. Committee Member Lane seconded and the motion carried with a unanimous voice vote.

**IV. Continued Business [Action]**

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

2. Consideration of Changes to Inspection Form MRRC-1 (4/97) Pursuant to Title 14, Division 2, Chapter 8, Subchapter 1, California Code of Regulations, Article 1, Section 3504.5

Executive Officer Testa stated that inspection of a surface mining operation is required not less than once each calendar year to determine if the operation is in compliance with the



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requirements of PRC Chapter 9, commencing with Section 2710. Inspection form MRRC-1, as referred to in CCR Section 3504.5(g), was last revised by the SMGB in April 1997. Since such time, the quality and adequacy of inspections have not appreciatively improved. Efforts to revise Inspection Form MRRC-1 have been initiated by OMR with collaboration from SMGB staff. A revised inspection form is before the Committee for review and discussion. Written comments received to date were provided as part of the Committee's packet.

- Jim Pompy (Assistant Director with OMR), and Tom Ferrero (Manager of OMR's Reporting and Compliance Unit), provided an overview and rationale for revisions made to the form.
- Pat Flanagan representing the Morongo Basin Conservation Association spoke in favor of the revisions.
- Jim Good, legal counsel for the California Construction and Industrial Materials Association (CalCIMA), provided written comments in correspondence dated December 5, 2012. Comments pertained to block IV.A of the proposed amended form regarding vested rights, the form requires too much information from an inspector, and the opinion that an amended form required the SMGB to follow regulatory procedures and requirements of the California Administration Procedure Act.
- Adam Harper, representing CalCIMA, also provided comment and referenced correspondence dated February 6, 1991, from Byron Sher, former California Assemblymember and Chairman of the Natural Resources Committee.
- Executive Officer Testa noted that the Department develops the form and the SMGB approves it.
- Rick Thalhammer, the Policy and Legislation Committee's legal counsel, noted that the revisions being considered do not involve rulemaking assuming the revisions do not develop new standards or regulations.

Committee Member Lane moved to continue this matter to the next scheduled meeting of the Committee, and to have a revised version of the form forwarded to each Committee member for independent review and comment, prior to its next scheduled meeting.

Committee Member Gavric seconded and the motion carried with a unanimous voice vote.

**V. New Business [Action]**

3. Consideration of Proposed Regulatory Language for Review and Recertification of Mining Ordinances Pursuant to Division 2, Public Resources Code, Article 5, Section 2774 et seq.

Executive Officer Testa summarized some of the issues noted in reviewing an amended surface mining ordinance at the request of the County of Riverside, and that the whole SMGB will be considering recertification of the County's amended ordinance later in the day. The primary issues included in the view of the Executive Officer the need for mandatory notification and recertification by the SMGB of an amended surface mining ordinance.



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Another issue identified that required some clarification was the question as to when an amended ordinance was considered effective.

- Adam Harper, representing CalCIMA, stated that he did not see the need for mandatory notification.
- Committee Chair Baca requested further written clarification from legal counsel as to when an amended surface mining ordinance becomes effective.

Committee Member Gavric moved to continue this matter to the next scheduled meeting of the Committee, and for the Executive Officer to include draft language for mandatory notification and recertification of amended surface mining ordinances for the Committee's review and consideration. Committee Member Lane seconded and the motion carried with a unanimous voice vote.

**VI. 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 Committee 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 were discussed.

**VII. Continuing Business [Information]**

[This item is provided as an opportunity for any SMGB Committee member to receive information on or any items of continuing interest to the SMGB.]

No continued business was discussed.

**VIII. New Business [Information]**

[This item is provided as an opportunity for any SMGB Committee member to bring any item of new business to the Committee's attention for further discussion and further action.]

No new business was offered.

**IX. Announcements of Future Meetings**

The next meeting of the Policy and Legislation Committee was scheduled to be held in Sacramento in November 2012.

**X. Adjournment**

The Committee meeting was adjourned at 9:55 A.M.

**APPROVED**



Brian Baca, Committee Chairman



Stephen M. Testa, Executive Officer

