



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, September 13, 2012

10:00 A. M.

LOCATION:

Assembly Hearing Room #444

State Capitol

Sacramento, California 95814

AMENDED 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 (Baca)

II. Pledge of Allegiance

III. Roll Call and Declaration of a Quorum

The meeting was called to order at 10:00 A. M. by Acting Chairman Baca, with Members Barry, Gavric, Lane, Reding and Wyatt present, and a quorum was declared.

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

Director of the Department of Conservation, Mark Nechodom, reported on the following:

- Informed the SMGB of the unexpected passing of Deputy Director Tom Gibbs.
- Updated the SMGB on recent activities of the DOC including collaborative efforts with the Executive Officer on SMARA lead agency functions, the LART program, and the inspection process.

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

No information report was provided.

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

Assistant Director and Chief of the Office of Mine Reclamation (OMR), Jim Pompy, reported on the following:

- Summarized recent activities of the Abandoned Mines Land Unit (AMLU) Program including participating in a meeting with Bureau of Land Management (BLM) pertaining to abandoned mines and associated issues such as development of a priority list and funding, and National Parks Service (NPS) on funding matters.
- OMR has a vacancy for an environmental program manager.



- A cross-training workshop was held on September 19, 2012, with U.S. Fish and Game.
- Preparing for an inspection workshop to be held on October 24-25, 2012, in Shasta City.
- Working with SMGB staff to develop a revised Surface Mining Inspection Report form.
- With recent changes to the annual reporting form, uploading such information has taken more time than in past years.

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

No Chairman's report provided.

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

Executive Officer Testa reported on the following:

- A summary of staff activities as a SMGB and when the SMGB is serving in the capacity of a SMARA lead agency was provided.
- A summary and status report pertaining to surface mine sites where a financial interest and conflict has been identified was also provided. A meeting with Tehama County and other lead agencies is being scheduled for October. The SMGB's legal counsel, Deputy Attorney General Rick Thalhammer will be accompanying the SMGB's Executive Officer in participating in this meeting.
- Recent correspondence from Congressman McClintock's office and the operator of the Red Ink Maid Mine, located in Placer County, was received. Such correspondence included a request for an extension of the timeline for compliance with the DOC Director's Order to Comply issued earlier this year. A response was prepared stating that the SMGB had no authority to consider such request and that the request needed to be made to the DOC OMR. It was also noted that should the DOC OMR issue an administrative Penalty, such action could be appealed to the SMGB at such time.
- A financial assurance appeal was received for the RiverPark site located in the City of Oxnard. Such appeal is being reviewed and under consideration.
- Three submittals are being submitted to the Office of Administrative Law (OAL) for Publication of Notice. These are for designation and termination of designation for three P-C Regions: Palm Springs, San Gabriel and San Bernardino. Rulemaking packets will be prepared for submittal to OAL following the 45-day public comment period.

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.]

- Member John Lane indicated inquiring about the level of high banking activity with Elizabeth Martin, Executive Director of the Sierra Fund.



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 was 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, Committee of the State Mining and Geology Board, June 14, 2012, Regular Business Meeting.

Board Member Gavric moved to approve the minutes with revision. Board Member Lane seconded and the motion carried with a unanimous voice vote.

2. Acceptance of Recommendations of the State Geologist for Designation of Mineral Lands for Portland Cement Concrete-Grade Aggregate in the Stockton-Lodi Production-Consumption Region, San Joaquin and Stanislaus Counties, California.

Board Member Barry moved to accept the recommendations. Board Member Gavric seconded and the motion carried with a unanimous voice vote.

X. Continued Business [Action]

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

XI. New Business [Action]

3. Department of Conservation and State Mining and Geology Board Recognition of Excellence in Reclamation Award for the Hanson Pacific Southwest Aggregates Quarry Creek Reclamation Plan, Hanson Aggregates Pacific Southwest Inc. (Operator), Marvin Howell (Agent), City of Carlsbad and City of Oceanside.

Executive Officer Testa provided a brief introduction of the 2012 Excellence in Reclamation Award being jointly awarded by the DOC and SMGB to Hanson Aggregates Pacific Southwest for the Hansen Pacific Southwest Quarry which straddles the City of Carlsbad and City of Oceanside.

- Director Nechodom provided an overview of the subject site in recognition of Excellence in Reclamation.



- Acting Chairman Baca read SMGB Resolution 2012-4.
 - On behalf of Hanson Pacific Southwest, Marvin Howell, expressed his appreciation of such recognition.
4. Assumption Consideration Following Issuance of a 45-Day Notice to Correct Deficiencies to the County of Colusa Pursuant to the Surface Mining and Reclamation Act (SMARA).

Executive Officer Testa stated that several deficiencies were reported following review of the County's SMARA program by the OMR Lead Agency Review Team (LART). Such deficiencies included failure to maintain adequate financial assurances, conduct inspections and provide adequate inspection reports, and commence enforcement. A 45-Day Notice to Correct Deficiencies (Notice) was issued on May 16, 2012.

- Kent Johnson, Associate Planner with the County of Colusa, summarized the actions taken by the County following receipt of the LART report and the Notice.
- Member Wyatt commented on the vagueness of the County's funding program.
- Member Lane expressed concerns on the adequacy of inspections.
- Acting Chairman Baca acknowledged the County's effort to catch up and bring its SMARA program current but that without a funding mechanism incorporated into the County's ordinance, the ability of the County to maintain its SMARA program is questionable.

Board Member Wyatt moved to continue this matter to January 2012, and for the County at such time to address program status, efforts to incorporate a funding mechanism into its ordinance to support the County's SMARA program, and develop a plan of action. Board Member Lane seconded and the motion carried with a unanimous voice vote.

5. Assumption Consideration Following Issuance of a 45-Day Notice to Correct Deficiencies to the County of Mariposa Pursuant to the Surface Mining and Reclamation Act (SMARA).

Executive Officer Testa stated that several deficiencies were reported following review of the County's SMARA program by the OMR Lead Agency Review Team (LART). Such deficiencies included failure to maintain adequate financial assurances and mechanisms, conduct inspections and provide adequate inspection reports, and commence enforcement. A 45-Day Notice to Correct Deficiencies (Notice) was issued on June 21, 2012.

- Janet Bibby, Board of Supervisor Chair, and Sarah Williams, Planning Director, for the County, provided a summary of efforts implemented to bring their SMARA program current, and made a commitment to maintain such program.
- Acting Chairman Baca commented on the need for cost recovery and a mechanism for such incorporated in the County's ordinance.
- Member Lane and Member Gavric commented on the County's ability to sustain its SMARA program.



Board Member Wyatt moved to continue this matter to March 2012, and for the Executive Officer to work with the County to address program status, efforts to incorporate a funding mechanism into its ordinance to support the County's SMARA program, and for the County to forward copies of the next round of inspection reports for review by the Executive Officer who will work with the County in preparation for a progress report by the County to the SMGB in March 2012. Board Member Gavric seconded and the motion carried with a unanimous voice vote.

6. Issuance of a 45-Day Notice to Correct Deficiencies to the County of Mono Pursuant to the Surface Mining and Reclamation Act (SMARA).

Executive Officer Testa stated that several deficiencies were reported in the June 2011 following review of the County's SMARA program by the OMR Lead Agency Review Team (LART). Such deficiencies included failure to maintain adequate financial assurances and mechanisms, conduct inspections and provide adequate inspection reports, commence enforcement, and initiate reclamation. The SMGB requested a progress report from the County at its June 2011 regular business meeting. According to OMR, no additional information was received from the County documenting that such deficiencies have been adequately addressed. The SMGB is considering issuance of a 45-Day Notice to Correct Deficiencies (Notice).

- Scott Burns, Community Development Director, and Nick Criss, Code Enforcement Officer, for the County, provided a summary of efforts implemented to bring their SMARA program current, and expressed dissatisfaction and offered comments on the LART program and process. Additional documentation was provided by the County as part of their testimony.
- Acting Chairman Baca stated the need for cost recovery incorporated into the County's ordinance in which the County indicated that an hourly rate is charged to operators for SMARA efforts performed by the County. However, cost recovery for sites operated by CalTrans has not been successful.
- Member Gavric requested a review be performed and legal opinion be provided by the SMGB's legal counsel in regards to this matter.

Board Member Gavric moved to continue this matter until additional documents provided by the County could be reviewed by the Executive Officer, and the SMGB can consider issuance of a Notice at such time. Board Member Barry 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.

7. Report on a Public Hearing that was Conducted to Receive Comments and Recommendations for the Preliminary Seismic Hazard Zone Map Specific to the Areas Encompassed in the Lick Observatory Quadrangle, Santa Clara County,



Pursuant to Public Resources Code Section 2696(b) and Title 14, California Code of Regulations Section 3723(a).

Executive Officer Testa stated that the new preliminary map was released on April 26, 2012, and a public hearing to receive comments was held in the City of San Jose on July 13, 2012. The closing date for comment was July 26, 2012. Comments received were forwarded to the State Geologist for review and consideration.

- Mr. Tim McCrink, Senior Engineering Geologist, and Mike Silva, with the California Geological Survey, provided an overview of the Preliminary Seismic hazard Zone Map for the Lick Observatory Quadrangle, and assessment of comments received from Jim Baker, County Geologist for the County of Santa Clara.

The information being presented was for the SMGB's information, and no action taken.

8. Acceptance of Inspection Reports Pursuant to PRC Section 2774(b) for the Following Surface Mining Operations as Being in Accordance with the SMGB's Requirements:

- Sonora Pit (CA Mine ID #91-26-0037), County of Mono.
- Priest Grade Pit (CA Mine ID #91-55-0008), County of Tuolumne.

Will Arcand, Senior Engineering Geologist with the SMGB, provided a synopsis of the inspections conducted for the aforementioned surface mining operations.

Board Member Lane moved to accept the inspection reports. Board Member Wyatt seconded and the motion carried with a unanimous voice vote.

9. Office of Mine Reclamation, Lead Agency Review Team (LART) Reports for:

- a. County of Madera

Executive Officer Testa stated that several deficiencies were reported following review of the County's SMARA program by the OMR Lead Agency Review Team (LART). Such deficiencies included failure to maintain adequate financial assurances and mechanisms, poor documentation of reclamation plan approvals, inconsistencies in providing inspection reports and failure to provide adequate inspection reports, and commence enforcement. The SMGB is considering issuance of a 45-Day Notice to Correct Deficiencies (Notice).

- Norman Alinder, Planning Director, Matt Trieber, Senior Planner, and Douglas Nelson, County Counsel representing the County of Madera, were not in agreement with the LART findings. Alinder's main issue is that the LART review is basically a file audit, based on OMR's records, which may not contain updated information. Nelson added that when they have completed a point-by-point inspection, and believe they have resolved most matters, it is difficult to know whether that information has been meaningfully considered by the SMGB.



Board Member Wyatt moved to continue this matter until additional documents provided by the County could be reviewed by the Executive Officer, and the SMGB can consider issuance of a Notice at such time. Board Member Lane seconded and the motion carried with a unanimous voice vote.

b. County of Mendocino

Executive Officer Testa stated that several deficiencies were reported following review of the County's SMARA program by the OMR Lead Agency Review Team (LART). Such deficiencies included failure to maintain adequate financial assurances and mechanisms, inconsistencies in providing inspection reports and failure to provide adequate inspection reports, and commence enforcement. The SMGB is considering issuance of a 45-Day Notice to Correct Deficiencies (Notice).

Board Member Lane moved to direct the Executive Officer to issue a 45-Day Notice to Correct Deficiencies to the County of Mendocino. Board Member Wyatt seconded and the motion carried with a unanimous voice vote.

XIII. SMGB Committee Reports [Information and Possible Action]

- Geohazards Committee (Chairperson Lane)
 - Alquist-Priolo Technical Advisory Committee (Executive Officer Testa)
- Minerals and Geologic Resources Committee (Chairperson Wyatt)
- Policy and Legislation Committee (Chairperson Baca)
- Surface Mining and Standards Committee (Executive Officer Testa)

Policy and Legislation Committee Chairman Baca provided a summary of the Committee's morning discussion pertaining to proposed regulatory language to address due process for intent to remove a surface mining operation for the AB 3098 List. This matter was continued to the next scheduled meeting to be held on October 11, 2012.

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 continued business 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 Lane requested an Information Report pertaining to high-bank mining be prepared by the Executive Officer.



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. 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.
- B. Possible Litigation involving the SMGB.

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

Deputy Attorney Rick Thalhammer announced that the SMGB met in Executive Session and took no action.

XVII. Announcements of Future Meetings

October 11, 2012, was announced as the date of the next meeting, and the City of Sacramento as the location.

XVIII. Adjournment

The meeting was adjourned at 1:30 P.M.

APPROVED

Brian Baca, Acting Chairman

Stephen M. Testa, Executive Officer

