



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 11, 2012

10:00 A. M.

(or immediately following the Policy & Legislation Committee Meeting)**

LOCATION:

**Assembly Hearing Room #444
State Capitol
Sacramento, California 95814**

REVISED 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 (Gonzalez)

II. Pledge of Allegiance

III. Roll Call and Declaration of a Quorum

The meeting was called to order at 10:15 A. M. by Chairman Gonzalez, with Members Barry, Gavric, Lane and Reding present, and Wyatt absent, 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:

- Welcomed Ignacio Gonzalez, the new Chairman of the SMGB, and shared optimism for a productive and full SMGB.
- Efforts continue for a legislative approach to issues related to the AB 3098 List.

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

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

- Next week is Earth Sciences Week which is a nationwide effort by the American geosciences Institute and American Association of State Geologists to outreach to the public and other stakeholders in the societal role of the earth sciences.
- The State Geologist will be participating in the upcoming Seismic Earthquake Advisory Council meeting to be held in Golden, Colorado. CGS maintains the largest seismic network in the nation, and thus serves in an advisory capacity to the United States Geological Survey.
- Maps associated with the Alquist-Priolo Earthquake fault Zoning Act and Seismic Hazards Mapping Act have been combined and such maps have a more current and relevant form. They have undergone reformatting, and include additional information not previously provided. The Hayward Quadrangle is the first of several to be released over the next several months.

• **Office of Mine Reclamation Report (Pompy) [Information]**

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

- An inspection workshop will be held in Mt. Shasta City next week. Executive Officer Testa will be participating and presenting.



- A letter was forwarded to about 500 surface mine operators advising of the limited timeline to take advantage of SB 108 which provides a mechanism for surface mine sites deemed abandoned but with an intent to resume mining to revert back to active status.
- OMR is working closely with the Executive Officer to review and consider changes of the process associated with the OMR Lead Agency Review Team (LART) program.
- The California regional Water Quality Control Board recently issued a \$376,000 administrative penalty to the operator of the Red Ink Maid Mine for violation of the Clean water Act. The SMGB previously upheld an Order to Comply issued by the Director in March 2012.
- Two engineering geologists are vacant, and OMR is in the process of filling these positions.

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

Newly appointed Chairman Gonzalez introduced himself and provided an overview of his background and experience with SMARA.

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

Executive Officer Testa reported on the following:

- Two Notice of Publications have been forwarded to the Office of Administrative Law (OAL) and subsequently published as part of the 45-day public comment period. The two notices were for the designation and termination of designation of mineral lands in the Palm Springs and San Gabriel Production-Consumption Regions. Following the public comment period, the SMGB will consider final adoption of the regulatory language and the final rulemaking packets will be forwarded to OAL.
- A presentation on aggregate availability and sustainability was presented earlier this week at the Annual CalCIMA Education Conference held in Rancho Mirage.
- SMGB staff is following up on allegations of illegal mining in the Somerset area of El Dorado County.
- A Financial Assurance Appeal was received pertaining to the RiverPark site located in the City of Oxnard. The appeal was accepted following a Determination of Jurisdiction. The SMGB will likely hear this matter in early 2013 pending compilation of the Administrative Record.
- Efforts to complete the SMGB's 2011-2012 Annual Report continues. The SMGB's 2010-2011 Annual Report was received from the printed and over 125 copies of such report have been forwarded to various repositories statewide as mandated by state law.

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 were disclosed.

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.]



- Jason Holley, consulting civil engineer, raised lead agency performance issues pertaining to the Princeton Mine (CA Mine ID #91-24-0007), located in the County of Merced. Vice Chairman Baca requested that documentation be provided to Executive Officer Testa, and for the Executive Officer to work with OMR and report back to the SMGB promptly.

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, September 13, 2012, Regular Business Meeting.

Board Member Baca moved to approve the minutes, with revision. Board Member Gavric seconded and the motion carried with a unanimous voice vote, with Chairman Gonzalez abstain.

2. Approval of a Revised Financial Assurance Cost Estimate, Cool Cave Quarry (CA Mine ID No. 91-09-0005), Teichert Aggregates (Operator), Jeff Thatcher (Agent), County of El Dorado.

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

3. Approval of a Revised Financial Assurance Cost Estimate, Knife River Hallwood Plant (CA Mine ID No. 91-58-0002), Knife River Construction (Operator), Rene' J. Vercruyssen (Agent), County of Yuba.

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

4. Approval of a Revised Financial Assurance Cost Estimate, Simpson Lane Project (CA Mine ID No. 91-58-0025), Orchard Growers, LLC (Operator), Dean Cameron (Agent), County of Yuba.

Board Member Baca moved to approve the financial assurance cost estimate. 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]

5. Issuance of a 45-Day Notice to Correct Deficiencies to the County of Madera 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, poor documentation of reclamation plan approvals, inconsistencies in providing inspection reports, failure to provide



adequate inspection reports, and failure to commence enforcement. The SMGB is considering issuance of a 45-Day Notice to Correct Deficiencies.

- Matthew Treber, Senior Planner with the County of Madera, summarized the County's criticism of the LART process, and took issue with the deficiencies identified by LART.
- Following issuance of the Notice, Executive Officer Testa indicated that the SMGB will review the adequacy of the County's response in early 2013, and directed the Executive Officer to meet and provide assistance to the County, as appropriate.

Board Member Lane moved to issue a 45-Day Notice to Correct Deficiencies to the County. Board Member Baca 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 has been 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.

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

7. Consideration of Proposed Regulatory Language Regarding the Administrative Appeal Process for Removal of Surface Mining Operations from the AB 3098 List.

Executive Officer Testa stated that discussions on proposed regulations to address due process when the Director is considering removal of a surface mining operator from the AB 3098 List commenced on November 10, 2010. Following several discussions held by the Policy and Legislation Committee between November 2010 and March 2012, the Committee deferred further consideration pending resolution of a legislative approach being orchestrated by the DOC. The Committee resumed its efforts in September 2012. Revised proposed language is being considered and the Committee is recommending that the whole SMGB approve the proposed language and forward such language to the Director for consideration. Discussion was also held by the Committee in light of whether the SMGB had the legal authority to develop regulations in this area. The SMGB's legal counsel, Rick Thalhammer, stated that the SMGB did have such authority.

- Vice Chairman Baca summarized discussions held by the Policy and Legislation Committee and suggested that the proposed regulatory language be forwarded to the Director, and request that the DOC report back to the SMGB in 90 days as to any comments the DOC may have, and/or the status of the DOC's efforts for a legislative approach.

Board Member Baca moved to forward the proposed regulatory language to the DOC, and have the DOC report back to the SMGB in 90 days, thus, at its scheduled January 2013 regular business meeting. Board Member Gavric 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 SMGB staff to initiate administrative actions.]



8. Information Report on Aggregate Availability and Sustainability [CGS]

Executive Officer Testa summarized the concepts of aggregate availability and aggregate sustainability, and the efforts to move beyond aggregate availability and incorporate in map form social, economic and environmental factors relevant today and consistent with the intent of SB 375 which focuses on the need to reduce greenhouse gas emissions, CGS working with CalCIMA, CalTrans and the Executive Officer, has developed prototypes of aggregate transportation and sustainability maps with the intended purpose of providing a useful tool for planning agencies, industry and other stakeholders in considering their future concrete-grade aggregate needs in consideration of relevant social, economic and environmental considerations.

- State Geologist Dr. John Parrish, provided an overview of CGS's previous efforts to address aggregate availability, and elements of the new preliminary aggregate transportation and sustainability maps.

The information being presented by CGS was for the SMGB's information. No action was taken.

9. 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:

- Merrill Borrow Pit (CA Mine ID #91-02-0001), County of Alpine.
- Gansberg Sand (CA Mine ID #91-02-0008), County of Alpine.
- Diamond Valley Borrow Pit (CA Mine ID #91-02-0004), County of Alpine.
- Fredericksburg Gravel Pit (CA Mine ID #91-02-0005), County of Alpine.
- Bear Creek Aggregates (CA Mine ID #91-09-0001), County of El Dorado.
- Chile Bar Slate Mine (CA Mine ID #91-09-0004), County of El Dorado.
- Cool Cave Quarry (CA Mine ID #91-09-0005), County of El Dorado.
- Marin Quarry (CA Mine ID #91-09-0015), County of El Dorado.

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

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

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

- City of Pacifica
- City of Taft
- County of San Mateo
- County of Yolo

Executive Officer Testa summarized the deficiencies identified by LART for the SMARA programs being administered by the four SMARA lead agencies.

- Van Ocampo, Director of Public Works and City Engineer for the City of Pacifica, stated that the City has only one surface mining operation and summarized events and actions that have occurred in regards to the Pacifica Quarry, and the City's attempts to get an adequate financial assurance mechanism back in place. The goal has been to couple reclamation with site development.



- Heide Tschudin and Jeff Anderson, representing Yolo County, provided some perspective on the LART process and the status of the County in responding to deficiencies identified by LART.

Board Member Gavric moved to issue a 45-Day Notice to Correct Deficiencies to the City of Pacifica. Board Member Lane seconded and the motion carried with a unanimous voice vote.

Board Member Baca moved to issue a 45-Day Notice to Correct Deficiencies to the City of Taft. Board Member Berry seconded and the motion carried with a unanimous voice vote.

Board Member Baca moved to issue a 45-Day Notice to Correct Deficiencies to the County of San Mateo. Board Member Lane seconded and the motion carried with a unanimous voice vote.

Board Member Baca moved to provide the County 90 days with a report from the County and OMR back to the SMGB Board at its January 2013, regular business meeting. Member Gavric 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)
 - Committee Chairman Baca summarized the discussions and considerations before the Committee earlier today. These discussions and considerations pertained to proposed revisions to the inspection form and proposed regulations pertaining to due process when the Director is considering removal of a surface mine operator from the AB 3098 List.
- Surface Mining and Standards Committee (Executive Officer Testa)

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 Gavric requested an information report summarizing the barriers which exist in the permitting of surface mines in California.
- Member Lane requested an information report on the importation of aggregate and high banking.

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.
- C. Staff Budget

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

No Executive Session was held.

XVII. Announcements of Future Meetings

November 8, 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 3:15 P.M.

APPROVED

Ignacio Gonzalez, Chairman

Stephen M. Testa, Executive Officer

