



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:

Wednesday, February 13, 2013

10:00 A. M.

LOCATION:

**Sheraton Grand Sacramento
Tofanelli Room
1230 J Street
Sacramento, CA 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 10:00 A. M. by Chairman Gonzalez, with Members Barry, Gavric, Lane and Wyatt present, and Member Baca absent, and a quorum was declared.

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

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

- Status update on the implementation of AB 3098, and the progress made working with CalCIMA to find a sponsor for a bill, and getting the legislative language drafted.
- Met with county planning directors from throughout the state, and discussed the implementation of SMARA and the Williamson Act.
- Due to the large number of new legislators this year, his office is organizing a meet-and-greet to provide an overview of the Department, as well as what the SMGB does.

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

State Geologist, Dr. John Parrish reported on the following:

- The latest edition of the Statewide Aggregate Sustainability maps are at the printer and will be out soon.
- The CGS budget remains flat, although contracts are dropping off. He estimates that they have lost an average of three professional staff per year as a result of budget reductions and fewer contracts.
- Earthquake early warning systems will be rolling out within the next 2-3 years.
- A recent court decision awarded two million dollars to an individual injured in the 2003 Paso Robles/San Simeon quake by an unreinforced masonry building.

• Office of Mine Reclamation Report (Trott) [Information]

Acting Assistant Director of the Office of Mine Reclamation (OMR), Ken Trott, reported on the following:

- Introduced OMR's newest Engineering Geologist, Bill Bergman, who joined the Compliance Unit in December.
- OMR has begun interviewing for a new manager for the Abandoned Mines Land Unit, and is advertising for a new Reporting Section Analyst.



- There will be an inspection training workshop for lead agencies and consultants in Southern California scheduled for April. OMR is also working on dividing the workshops into two parts: one for lead agencies and the other for operators.
- OMR has commenced digitizing Reclamation Plan boundaries, with 25 completed to date, and the remainder anticipated to be completed over the next couple of years.
- Administrative Penalty Notices have begun to be issued to operators who have failed to file Annual Reports and pay mine fees.

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

Chairman Gonzalez acknowledged Director Nechodom for attending the County Planning Directors Association meeting on February 8, 2013.

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

Executive Officer Testa reported on the following:

- Preparation of rulemaking packets for Palm Springs and San Gabriel Production-Consumption Regions continues. Adoption consideration for the San Bernardino P-C Region is before the SMGB later today. A public hearing to receive comment on the proposed designation and termination of designation within the Stockton-Lodi P-C Region will be scheduled in March.
- A designation appeal was received by the Friends of the Kings River in regards to the Carmelita Mine located within the jurisdiction of the County of Fresno. This matter will be heard by the SMGB at its scheduled March 2013 regular business meeting.
- The SMGB will review the responses to a 45-Day Notice to Correct Deficiencies issued to four SMARA lead agencies today. The SMGB will review such response for the City of Bakersfield at its March 2012 regular business meeting. The SMGB will receive status reports from the County of Mariposa in March, and the County of Yolo in the near future.
- A complaint was received from the Merced County Farm Bureau in regards to the Princeton Pit Mine located in the County of Merced. This matter will be heard by the SMGB at its scheduled March 2013 regular business meeting.

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 Wyatt shared a cab from the airport with Warren Coalson, consultant with EnviroMINE, but nothing was discussed.
- Member Reding has received emails from operators with concerns about the new inspection form, and whether the public has had enough opportunity to opine.
- Member Barry received an invitation to participate in an upcoming workshop on the Alquist-Priolo Earthquake Fault Zoning Act

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.]

- Jim Williamson, representing Williamson Family Farm and Ranch, asked for the SMGB's assistance with getting a 20-acre mine on his property in Siskiyou County reclaimed and has been trying for five years, but has gotten nowhere with the County. Williamson also noted



that he has been unable to get any information from OMR about the mine. Williamson would like the SMGB to take over as lead agency.

- Executive Officer Testa stated that Siskiyou County was before the SMGB a few years ago for assumption consideration. The SMGB decided not to assume at that time. Once the LART report has been finalized, it will be reviewed by the SMGB and appropriate action initiated, as appropriate.
- Member Wyatt inquired if there was a publication date established for the completed LART report, and if it was ever released as a draft. Tom Ferrero, manager of the OMR Compliance Unit, commented and stated the LART report is anticipated to be completed for release to the SMGB this quarter and for release to the general public by the third quarter of this year.

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, December 13, 2012, Regular Business Meeting.

Board Member Wyatt moved to approve the minutes, with revision. Board Member Barry seconded and the motion carried with a unanimous voice vote, with Member Wyatt abstaining.

2. Adoption of Regulatory Language for Designation and Termination of Designation of Mineral Lands within the San Bernardino Production-Consumption Region, San Bernardino and Riverside Counties.

Board Member Wyatt moved to approve the revised financial assurance cost estimate. Board Member Barry 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. Approval of Regulatory Language for Designation of Mineral Lands within the San Luis Obispo-Santa Barbara Production-Consumption Region, California.

Executive Officer Testa stated that the County of San Luis Obispo has requested that this matter be deferred to April and that the SMGB hold its regular business meeting in San Luis Obispo to allow for concerned stakeholders to provide comment directly to the SMGB.

Board Member Wyatt moved to defer this agenda item to the SMGB's April 11, 2013, regular business meeting. Board Member Gavric seconded and the motion carried with a unanimous voice vote.

4. **Public Hearing:** Appeal for Failure of the City of Oxnard to Adjust a Financial Assurance for the RiverPark Mine (CA Mine ID #91-56-0007 and #91-56-0026), City of Oxnard, Pursuant to Public Resources Code Section 2770(e) and Title 14, Division 2, Chapter 8, Subchapter 1, California Code of Regulations, Article 7, Section 3680.



Executive Officer Testa reported that material extraction has occurred on the subject property since the early 1950s. Hanson Aggregates West, Inc. (Hanson) obtained approval to resume mining of construction-grade aggregate from the County of Ventura on March 22, 1979. The mining permit expired in March 1999, with all extraction activities terminated. The ready-mix concrete and asphalt plant permit also expired in March 1999, but are still in use and operate under temporary status authorized by the County of Ventura. The site is being reclaimed to accommodate an approximately 701-acre mixed-use development. Petitioner RiverPark B, LLC, (hereinafter referred to as RiverPark), on September 10, 2012, filed with the SMGB an Intent to Appeal stating that the City of Oxnard failed to approve and timely act upon an adjusted financial assurance for the RiverPark Mine. RiverPark has petitioned the SMGB to take jurisdiction of the appeal pursuant to SMARA, notably, PRC Section 2770(e)(3). The current approved financial assurance amount is \$16,648,526. Although a significant amount of reclamation related work has been completed, no adjustment of the financial assurance amount has been made to date. As of April 23, 2011, the estimated amount of reclamation costs remaining was calculated to be on the order of \$2,843,723. Recent submittal of adjusted financial assurance cost estimates were provided by RiverPark in correspondence dated January 25, 2013. The two scenarios reflecting reclamation activities remaining to be completed were of the amount of \$1,586,390 and \$1,982,068, respectively. The SMGB shall determine whether, based on the record before it, the proposed or existing financial assurances for reclamation substantially meet the applicable requirements of PRC Sections 2770, 2773.1, and the lead agency surface mining ordinance adopted pursuant to subdivision (a) of Section 2774. Should such financial assurance meet the applicable requirements, the financial assurance cost estimate shall be approved.

- John Vander Velde, Vice President of RiverPark B, spoke on behalf of their efforts to date.
- John Hecht, President and consultant with Sespe Consulting, and representing RiverPark B, spoke to slope stability issues and the financial assurances alternatives.
- Tony Talamane, consultant for RiverPark Legacy, discussed technical aspects pertaining to slope stability issues.
- Devanik Chaudhurn, Associate Engineer with the City of Oxnard, presented on behalf of the City.
- Jeff Dorso, attorney representing the City of Oxnard spoke on behalf of the City, and summarized attempts to resolve the financial assurance issues and the concerns of the City. Written comments were provided.

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

Board Member Barry moved to continue this agenda item to the SMGB's April 11, 2013, regular business meeting. Board Member Gavric 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 Colusa Pursuant to the Surface Mining and Reclamation Act (SMARA).

Executive Officer Testa provided a synopsis of past actions and current status for the County of Colusa.

- Steve Hackney, Director of Planning and Building for Colusa County, summarized the actions the County has taken to resolve the deficiencies noted in the Notice, and expressed his appreciation to the SMGB's Executive Officer for his assistance.



Board Member Gavric moved to determine that the County has responded to the Notice to the satisfaction of the SMGB. Board Member Lane seconded and the motion carried with a unanimous voice vote.

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

Executive Officer Testa provided a synopsis of past actions and current status for the Pacifica Quarry.

- Van Ocampo, Director of Public Works for the City of Pacifica, summarized the actions the City has taken to resolve the deficiencies noted in the Notice, notably the status of the City's efforts to reestablish an adequate financial assurance mechanism, and expressed his appreciation to the SMGB's Executive Officer for his assistance.

Board Member Gavric moved to determine that the City has responded to the Notice, and for this matter to be continued for 90 days to allow adequate time for the City to acquire an adequate financial assurance instrument for the subject surface mining operation. Board Member Wyatt seconded and the motion carried with a unanimous voice vote.

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

Executive Officer Testa provided a synopsis of past actions and current status for the City of Taft.

Board Member Lane moved to continue this matter since the City was not present to provide testimony. Board Member Wyatt seconded and the motion carried with a unanimous voice vote.

8. Assumption Consideration Following 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 provided a synopsis of past actions and current status in regards to the County of Madera.

- Matthew Treber, Senior Planner with the County of Madera, provided an overview of the actions the County has taken to resolve outstanding deficiencies and appreciated the efforts of the SMGB's Executive Officer in assisting the County in responding to the Notice.

Board Member Lane moved to determine that the County has made a good faith effort to respond to the Notice, and for this matter to be continued for 60 days to allow adequate time for the County to address outstanding issues to the satisfaction of the SMGB. Board Member Reding seconded and the motion carried with a unanimous voice vote.

9. Discussion of Compliance Status with the Surface Mining and Reclamation Act (SMARA) Pertaining to Best Rock at Grimes Canyon (CA Mine ID #91-56-0010), Montazeri (Agent), Best Rock Products (Operator), County of Ventura.

Executive Officer Testa reported that the SMGB on December 3, 2012, received a complaint and request for investigation of non-compliance pertaining to a surface mining operation located in the County of Ventura (County) referred to as Best Rock at Grimes Canyon (Best Rock; CA Mine ID No. 91-56-0010). The request for investigation and action was from EnviroMine, Inc., consultant to the property owner. The lease for this site expires in early 2014, and as a result of an audit performed



by EnviroMine on behalf of the property owner, several substantial deviations from the approved reclamation plan were identified. Alleged violations included:

- Encroachment into permit setback and beyond reclamation plan boundaries, including intrusions into neighboring properties.
- Over-excavation of cut slopes in close proximity to the property boundaries will require backfilling.
- Significantly inadequate financial assurance in order to reclaim the site in accordance with the permit conditions and approved reclamation plan.
- Continued presence on the AB 3098 List despite the site being significantly out of compliance with its approved reclamation plan, and currently maintaining a significantly inadequate financial assurance mechanism.

At its December 13, 2012 regular business meeting, the SMGB heard from the property owner's consultant, and requested that this matter be placed on the SMGB's agenda for its next scheduled meeting.

- Warren Coalson, consultant with Environ MINE and representing the land owner, summarized his concerns and issues.

The Executive Officer was directed to investigate the matter and report back to the SMGB and offer possible actions, as appropriate.

10. Approval of Revised 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.

Deferred.

11. Acceptance of the 2012 Annual Fee Schedule for Mines Subject to the Surface Mining and Reclamation Act (SMARA; Public Resources Code Sections 2710 et seq. and 2207).

Executive Officer Testa stated that annually, the SMGB reviews the Fee Schedule, which is set in statute under PRC 2207, and calculated in a manner consistent with the SMGB's regulations CCR Sections 3698 and 3699. The amount requested by the Department of Conservation for Calendar Reporting Year 2012 is \$4,380,503; this amount represents an increase of \$96,087 over the amount requested for Calendar Reporting Year 2011. The Annual Fee for 2012 as calculated will increase, and the base fees that are mentioned in statute will be adjusted using a Consumer Price Index (Cost of Living Adjustment; COLA) for 2011 which was about 2.2%. The tables provided in the staff report are the new fee figures that are established pursuant to PRC 2207. Estimating the funds to be collected in Calendar Year 2011 from set fees described in CCR Sections 3698 and 3699 is \$3,518,165. The amount of fees to be collected for the 2012 Calendar Reporting Year is \$3,597,162. The SMGB is considering accepting the fees in that they have been calculated in accordance with PRC 2208 and the SMGB's regulations.

Board Member Wyatt moved to accept the 2012 annual mine fees. Board Member Lane seconded and the motion carried with a unanimous voice vote.

12. Approval of the State Mining and Geology Board's Annual Report for 2011-2012. Executive Officer Testa provided a progress report and indicated that the report will be completed for the SMGB's consideration for its scheduled March 14, 2013, regular business meeting.

Continued.



XII. Special Reports and Department Presentations [Possible Action]

[Based on these Reports, the Chair may instruct SMGB staff to initiate administrative actions.]

13. Report from the Department of Conservation Regarding Previous Consideration of Proposed Regulatory Language Pertaining to the Administrative Appeal Process for Removal of Surface Mining Operations from the AB 3098 List.

A synopsis of the current status of legislative action being pursued was provided by Marni Weber, Assistant Director, Governmental and Environmental Relations within the Department of Conservation.

No action taken.

14. 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:

- Big Cut Mine (CA Mine ID #91-09-00XX), County of El Dorado.
- Hanson Alcatraz, Presidio, Point Knox (CA Mine ID #91-38-0001), BCDC.
- Hanson Point Knox South (CA Mine ID #91-38-0002), BCDC.
- Hanson Point Knox Shoal (CA Mine ID #91-38-0003), BCDC.
- Hanson Alcatraz South Shoal (CA Mine ID #91-38-0004), BCDC.
- Hanson Suisun Bay (CA Mine ID #91-38-0005), BCDC.
- Hanson Suisun Bay Middleground (CA Mine ID #91-38-0006), BCDC.
- Jerico Suisun Bay Middleground (CA Mine ID #91-38-0007), BCDC.
- Morris Tug & Barge Marine Oyster Shell Mining (CA Mine ID #91-38-0011), BCDC.

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

Board Member Wyatt moved to accept the inspection report for the Big Cut Mine. Board Member Gavric seconded and the motion carried with a unanimous voice vote.

Board Member Wyatt moved to accept the inspection reports for all surface mining operations within the jurisdiction of BCDC. Board Member Barry seconded and the motion carried with a unanimous voice vote.

15. Discussion of State Mining and Geology Board Budget.

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)

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:

No new business was 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. 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

Marian Moe, Deputy Attorney General and Acting Legal Counsel for the SMGB reported that the SMGB met in Executive Session and directed its Executive Officer to forward to the Attorney General's office the SMGB's directive to commence appropriate enforcement action in the matter of the Big Cut Mine, El Dorado County.

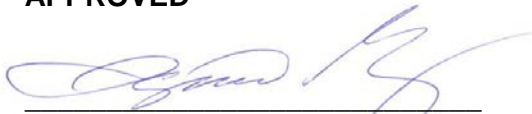
XVII. Announcements of Future Meetings

March 14, 2013, was announced as the date of the next meeting, and the City of Fresno as the location.

XVIII. Adjournment

The meeting was adjourned at 4:00 P.M.

APPROVED



Ignacio Gonzalez, Chairman



Stephen M. Testa, Executive Officer

