



STATE MINING AND GEOLOGY BOARD

DEPARTMENT OF CONSERVATION

801 K Street • Suite 2015 • Sacramento, California 95814

www.conservation.ca.gov/smgb

smgb@conservation.ca.gov

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CONFORMED MINUTES

THE STATE MINING AND GEOLOGY BOARD

Conducted a Regular Business Meeting on:

Thursday, November 14, 2013

9:00 A.M.

LOCATION:

Radisson Hotel & Conference Center

Salon A1

2233 Ventura Street

Fresno, CA 93721

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 9:05 A. M. by Chairman Gonzalez, with Members Gavric, Kenline, Lane and Noushkam present, and Members Barry and Reding absent, and a quorum was declared.

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

No report from the Director of the Department of Conservation, Dr. Mark Nechodom, was provided.

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

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

- CGS has completed the moving of its Los Angeles office.
- Chuck Real, Scientist Emeritus, is participating in a National Research Council meeting in Washington, D.C. pertaining to seismic hazards and liquefaction.
- Tim McCrink is now serving as the new program manager for the combined Alquist-Priolo Earthquake Faulting Zoning Act and Seismic Hazards Mapping Act programs.
- Recent developments with studies associated with the Hollywood Fault and the Millennium Project has resulted in increased interest in the funding of CGS's hazards mapping programs.
- Summary of other meetings the State Geologist would be attending.

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

Acting Assistant Director of the Office of Mine Reclamation (OMR), Dr. John Parrish, reported on the following:

- The Review Panel continues its work with a meeting held last week, and a report is in preparation with an anticipation date of completion by mid-December. The SMGB can anticipate receiving a report from the DOC in January.
- A draft new internal procedural manual has been prepared which will be considered for approval by the Director, and focuses on lines-of-communications and internal processes such as performance of specific duties.
- The Lead Agency Review Team (LART) has been revamped with a new mission and re-tasked. Its main purpose will be outreach and service to lead agencies, and will be effective



in January 2014. More workshops are anticipated with emphasis on documentation preparation.

- Interviews for a new chief of OMR are anticipated in 3-6 weeks.
- Following completion of SB 108, approximately 176 mines were not incorporated within the SB 108 process and not reporting. A letter is being forwarded to lead agencies for follow-up action
- Following an inquiry from SMGB Chairman Gonzalez as to the status of a new or upgraded SMARA database system, it was remarked that several programs have been evaluated and the Director is committed to one of these programs but a decision has not been reached.

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

No Chairman's report provided.

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

Executive Officer Testa reported on the following:

- Proposed regulations for the designation, and termination of designation, of certain mineral lands within the San Gabriel Production-Consumption (P-C) Region were approved by the Office of Administrative Law (OAL) and will be enacted on January 1, 2014. Proposed rulemaking for the Palm Springs P-C Region has been submitted to OAL for approval consideration, and San Bernardino P-C Region is close to submittal pending completion of final rulemaking maps.
- The final rulemaking packet for proposed regulation for mandatory notification and recertification of mining ordinances are anticipated to be submitted to OAL for approval consideration within the next two weeks.
- Certified mining ordinances for counties throughout the state have been uploaded to the SMGB's website. Such ordinances for cities statewide will be uploaded within the next few weeks.
- Following the review of certain lead agencies by the SMGB, inspection reports are anticipated to be received for review and comment for the counties of Colusa, Del Norte, Madera, Marin, Mariposa, Mono, Monterrey and Yolo.
- The SMGB's inspector, Will Arcand, made a presentation on the revised annual mine inspection form at the California Construction and Industrial Materials Association (CalCIMA) Annual Education Conference earlier this week.

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 reported.

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.]

- Executive Officer Testa summarized correspondences received pertaining to the Lehigh Quarry located in the County of Santa Clara, and from the Board for Professional Engineers, Land Surveyors and Geologists (BPELS), and would follow up, as appropriate.



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 12, 2013 Regular Business Meeting.

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

2. Approval of a Revised Financial Assurance Cost Estimate, Bear Creek Quarry (CA Mine ID No. 91-09-0001), Butte Equipment Rentals, Inc. (Operator), Mr. Boyd Sears (Agent), County of El Dorado.

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

3. Approval of a Revised Financial Assurance Cost Estimate, Somerset Sand Mine (CA Mine ID No. 91-09-0009), El Dorado County Department of Transportation (Operator), Mr. Don Spear (Agent), County of El Dorado.

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

4. Approval of a Revised Financial Assurance Cost Estimate, Marin Quarry (CA Mine ID No. 91-09-0015), Sierra Pacific Industries (Operator), Mr. Richard Wade (Agent), County of El Dorado.

Board Member Lane moved to approve the revised financial assurance cost estimate. Board Member Kenline 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.]

5. **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 stated that Petitioner 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 to \$2,843,723. The City's consultant has forwarded a revised financial assurance cost estimate of \$5,016,175. This estimate reflects slope protection via use of rip rap or similar alternatives (i.e., Flexamat; a proprietary tied concrete black mat) from elevation 36 to 60 feet, regrading of slope faces that exceed 2:1 (horizontal to vertical), and drainage devices along the top



of slopes to prevent surface runoff. As of April 2013, the parties requested a 60 day continuance and I understand the parties are now requesting another 60 day continuance. At its July 11, 2013, regular business meeting, the SMGB, based on a request from the operator and City, continued this matter for an additional 90 days. Since such time, no appreciable progress has been achieved. The Petitioner is requesting this matter be withdraw since both parties have agreed on a financial assurance cost estimate of \$5,016,175 as prepared by the Pioneer Law Group on behalf of the City of Oxnard, and dated March 28, 2013.

- Jeff Dorso, legal counsel on behalf of the City indicated that both parties have come to an understanding and supports withdrawal of the appeal.
- John Hecht, consultant representing the operator thanked the SMGB for its attention to this matter, and on the behalf of the operator supported the withdrawal.

Board Member Gavric moved to withdraw the appeal. Board Member Nouskham seconded and the motion carried with a unanimous voice vote.

6. Discussion of Regional or Statewide Significance in Regards to Proposed Regulatory Language for Designation of Mineral Lands within the San Luis Obispo-Santa Barbara Production-Consumption Region, California.

- Ken Johnson representing Johnson Contracting, and local resident John Ritter, spoke in favor of statewide significance.
- Roy Reeves representing local group Margarita Proud, and local resident Charles Kleeman, spoke in favor of regional significance.

No action taken.

7. Approval of Proposed Regulatory Language for Designation of Mineral Lands within the San Luis Obispo-Santa Barbara Production-Consumption Region, California.

Executive Officer Testa stated that at its December 8, 2011 regular business meeting, the SMGB accepted CGS Special Report 215, a classification report on Portland cement concrete-grade (PCC) aggregate in the San Luis Obispo-Santa Barbara Production-Consumption (P-C) Region. This report updated information previously published by the California Division of Mines and Geology (CDMG; now CGS) as Special Report 162 – *Mineral Land Classification: Portland Cement Concrete Aggregate and Active Mines of All Other Mineral Commodities in the San Luis Obispo-Santa Barbara Production-Consumption Region*. Special Report 215 updated the classification portion of the two-step *Classification-Designation process* mandated by SMARA. The second part of that process, designation, is the formal recognition by the SMGB of lands containing mineral resources of regional or statewide economic significance needed to meet the demands of the future. At its March 8, 2012 regular business meeting, the SMGB accepted the State Geologist's recommendations for designation of select mineral resource lands in the San Luis Obispo-Santa Barbara Production-Consumption P-C Region. The SMGB subsequently directed its Executive Officer to notice a public hearing to receive comments on the proposed regulatory action. The 60-day public comment period commenced on June 7, 2012, and ended on July 31, 2012. A public hearing was held in the County of Santa Barbara to receive comment on July 11, 2012. At its April 11, 2013 regular business meeting held within the jurisdiction of the County of San Luis Obispo, the SMGB received further comments regarding the proposed designations. The SMGB at such time deferred action for 60 days allowing sufficient time for all public comments received to be reviewed and considered. At its July 11, 2013 regular business meeting, the SMGB deferred taking action until its next scheduled meeting and requested a review by its legal counsel of previous counsel's analysis noting that designation is not a project under the California Environmental



Quality Act (CEQA) at its upcoming September meeting. Also, the County in their September 9, 2013, correspondence, has requested removal of Sector I-7 from designation since this sector lies within the County's Creston Village Reserve Line for future residential development. The SMGB approved removal this particular sector from its consideration. At its September 12, 2013, regular business meeting, the SMGB approved the regulatory language, excluding Sector I-7, but requested this matter be continued so allow sufficient time to address whether Sector C should be considered of statewide in lieu of regional significance. The SMGB is considering 1) approval of the proposed regulatory language, and 2) directing its Executive Officer to commence rulemaking.

- Roy Reeves representing local group Margarita Proud, and local resident Charles Kleeman, provided comment opposing designation of Sector C.

Board Member Gavric moved to approve the proposed regulatory language. Board Member Kenline seconded and the motion carried with a unanimous voice vote.

8. Discussion and Approval Consideration of the State Mining and Geology Board's 2012-2013 Annual Report.

Executive Officer Testa noted that existing law requires various written reports to be prepared and submitted by State and local agencies to the Legislature and the Governor. The SMGB is legislatively mandated to prepare annual reports to the Legislature pursuant to SMARA. SMARA requires the SMGB to provide an annual report on actions taken pursuant to SMARA, and specifically, PRC Section 2717(a) states: "*The board shall submit to the Legislature on December 1st of each year a report on the actions taken pursuant to this chapter during the preceding fiscal year. The report shall include a statement of the actions, including legislative recommendations, that are necessary to carry out more completely the purposes and requirements of this chapter.*" The Executive Officer has prepared the SMGB's annual report for 2012-2013. This report is being considered for approval by the SMGB, prior to being finalized and distributed, as appropriate.

- Chairman Gonzalez expressed appreciation for the efforts of the Executive Officer in preparation of a professional and comprehensive annual report.

Board Member Kenline moved to approve the SMGB's 2013-2014 annual report. Board Member Lane seconded and the motion carried with a unanimous voice vote.

XI. New Business [Action]

9. Acceptance of California Geological Survey Special Report 205 Titled "*Update of Mineral Land Classification: Aggregate Materials in the North San Francisco Bay Production – Consumption Region, Sonoma, Napa, Marin, and Southwestern Solano Counties, California.*"

Executive Officer Testa noted that the SMGB, based on recommendations from the State Geologist and public input, prioritizes areas to be classified and/or designated. California Geological Survey (CGS) Special Report 205 updates information previously presented in a classification report on Portland cement concrete-grade (PCC) aggregate in the North San Francisco Bay Production-Consumption (P-C) Region first published in 1987. The previous report was published by the California Division of Mines and Geology (CDMG; now CGS) as Special Report 146, Part III – *Mineral Land Classification: Aggregate Materials in the San Francisco-Monterey Bay Area, Part III, Classification of Aggregate Resource Areas, North San Francisco Bay Production-Consumption Region*. Should certain criteria be met, the State Geologist may recommend acceptance of the report by the SMGB which it is requesting today. The SMGB is considering accepting the updated report for the classification of mineral resource land for this P-C region. Should the SMGB accept



the report, the SMGB can also look forward to recommendations for designation, and termination of designation, of certain sector, in the near future.

- Russell Miller and Lawrence Busch, Senior Engineering Geologists representing CGS, provided an overview of the updated classification report.

Board Member Noushkam moved to accept the updated classification report. Board Member Kenline seconded and the motion carried with a unanimous voice vote.

10. Approval of Proposed Regulatory Language for Designation, and Termination of Designation, of Mineral Lands within the Stockton - Lodi Production-Consumption Region, San Joaquin and Stanislaus Counties, California.

Executive Officer Testa noted that at its May 10, 2012 regular business meeting, the SMGB accepted California Geological Survey (CGS) Special Report 199, a classification report on Portland cement concrete-grade (PCC) aggregate in the Stockton-Lodi Production-Consumption (P-C) Region. CGS Special Report 199 presented updated information previously provided in a classification report on Portland cement concrete-grade (PCC) aggregate in the Stockton-Lodi P-C Region first published in 1988. The previous report was published by the California Division of Mines and Geology (CDMG; now CGS) as Special Report 160– *Mineral Land Classification: Portland Cement Aggregate in the Stockton-Lodi Production-Consumption Region*. The State Geologist has recommended designation of select mineral resource lands in the Stockton-Lodi P-C Region. At its September 13, 2012, regular business meeting, the SMGB accepted the State Geologist's recommendations, and the Executive Officer was directed to hold a public hearing to receive comments on the proposed action. Pursuant to PRC Section 2793 a public hearing was held on August 19, 2013, to offer opportunity to receive comments on the proposed action. The public comment period was from August 5, 2013, to October 5, 2013. No oral or written comments were received. The SMGB is considering approving the proposed regulations amending California CCR Section 3550.14 for designations and termination of designation of mineral resources areas for the Stockton-Lodi P-C Region.

Board Member Kenline moved to approve the proposed regulatory language. Board Member Gavric seconded and the motion carried with a unanimous voice vote.

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

Executive Officer Testa stated that pursuant to SMARA, surface mining ordinances are adopted by the lead agency and subsequently certified by the SMGB. At the December 13, 2012 meeting of the Policy and Legislation Committee (Committee), the Executive Officer recommended that the Committee consider discussion of preliminary regulatory language for mandatory notification and recertification of surface mining ordinances being amended by a lead agency. The Committee concurred with such recommendation and directed its Executive Officer to work with the SMGB's legal counsel in developing regulatory language for consideration and further discussion by the Committee. At its February 13, 2013 meeting, the Committee reviewed draft language for mandatory notification of mining ordinances being amended by the local lead agency as defined under SMARA, and mandatory review and recertification of amended mining ordinances by the SMGB. The Committee subsequently moved to recommend approval of the proposed regulatory language to the whole SMGB. At its April 11, 2013, regular business meeting, the SMGB approved the proposed regulatory language for mandatory notification to the SMGB of amended mining ordinances, and recertification by the SMGB. The SMGB is considering 1) adoption of the proposed new regulatory language for mandatory notification to the SMGB of amended mining ordinances,



and recertification by the SMGB, and 2) directing its Executive Officer to complete the rulemaking process.

Board Member Kenline moved to adopt the proposed regulatory language. Board Member Lane seconded and the motion carried with a unanimous voice vote.

12. **Public Hearing:** Consideration of an Appeal for a Low Gross Exemption Pursuant to California Code of Regulations Section 3699 for the Timm Mine (CA Mine ID #91-09-0006), Lamplight, Inc. (Operator), Mr. Cole McGowan (Agent), County of El Dorado. Executive Officer Testa stated that pursuant to PRC Section 2207, each mine operator must submit an Annual Reporting Fee by July 1 of each year. The Annual Fee amount is provided for under CCR Section 3695 et seq. This Annual Fee amount generally is based upon the previous calendar year's production. A special exemption from the annual fee amount is provided for under CCR Section 3699. On September 27, 2013, OMR denied a Low Gross Exemption (LGE) request for the Timm Mines (CA Mine ID #91-09-0006), located in the County of El Dorado. OMR denied the request for a LGE for failure of the operator to have an approved Interim Management Plan (IMP). The Operator is appealing such denial to the SMGB pursuant to CCR Section 3699.

Board Member Noushkam moved to continue this matter. Board Member Lane seconded and the motion carried with a unanimous voice vote.

13. Consideration of a One-Time Exemption from the Surface Mining and Reclamation Act (SMARA) Pursuant to Public Resources Code Section 2714(f) for the Mendocino Forest Products (MFP) Site - Highway 101 (Operator, Desilva Gates), County of Mendocino. Executive Officer Testa presented on behalf of the MFP and stated that SMARA allows for a one-time exemption for certain surface mining operations should the SMGB determine the operation to be of an infrequent nature and involve only minor surface disturbances. The Willits Bypass project is currently in progress and entails a bypass of US 101 around the City of Willits. Once completed, the four-lane interchange at the end of the project will transition to two-lanes constructed on the ultimate northbound lanes immediately north of the southern interchange. The northern interchange will consist of two lanes. Phase one of the project will entail the use of about one million cubic meters of borrow material. Since CalTrans owns property adjacent to US 101, referred to as the Oil Well Hill borrow site, about three miles north of the City of Willits, this area was initially proposed as an optional borrow site. In 2008, the exemption from SMARA was granted by the SMGB. However, this request which was granted was never implemented. On October 14, 2013, Chuck Jeffries, on behalf of Mendocino Forest Products (MFP), submitted a request for a one-time exemption from SMARA for the removal of approximately 800,000 cubic yards of material from a site formerly used as a saw mill to be used by CalTrans for the Willits Bypass project, located in the County of Mendocino (County). Since the excavated material is planned to be transported offsite, the proposed project is subject to SMARA. On July 17, 2013, the County approved a grading permit. About 50,000 cubic yards were excavated and exported from the 50-acre site prior to August 18, 2013, when the grading permit was revoked. An additional 800,000 cubic yards remains in need. The project includes the removal of approximately 800,000 cubic yards of material from an approximately 22-acre area to be used by CalTrans for the Willits Bypass project, located in the County of Mendocino (County). The MFP site is zoned industrial, and was used as a saw mill until about 2000. There are no recreational uses on the site, and the site is entirely out of view from public roads and neighbors. The request for a one-time exemption from SMARA is supported by CalTrans as noted in their correspondence dated October 14, 2013. Under certain circumstances, the SMGB has the statutory authority to consider and grant an exemption from SMARA pursuant to PRC Section 2714(f).



Board Member Gavric moved to grant the exemption. Board Member Lane seconded and the motion carried with a unanimous voice vote.

14. Consideration of a One-Time Exemption from the Surface Mining and Reclamation Act (SMARA) Pursuant to Public Resources Code Section 2714(f) for the Cooper Pit #1 (CA Mine ID 91-15-0036), (Operator, GF Industries), Robert Thiess (Agent), County of Kern. Executive Officer Testa stated that SMARA allows for a one-time exemption for certain surface mining operations should the SMGB determine the operation to be of an infrequent nature and involve only minor surface disturbances. On October 16, 2013, Steven Gentile, Chief Executive Officer with GF Industries (GFI), submitted a request for a one-time exemption from SMARA for the Shell Pink Shale Pit Site, located in the County of Kern. The purpose of the proposed project is for GFI, who operates the Cooper Pit #1 (CA Mine ID #91-15-0036), to intermittently extract material from the Shell Pink Shale Pit (CA Mine ID #91-15-0069). In review of the SMARA database, the Shell Pink Shale Mine referenced is referred to as Calresources – PML Mine; no other information is provided on the database since onsite activity was deemed exempt from SMARA pursuant to PRC Section 2714(k). It is anticipated that the proposed shift in production from the Copper Mine #1 site to the Shell Pink Shale Mine would entail less than 500,000 tons of material over a period of three to four years. Under certain circumstances, the SMGB has the statutory authority to consider and grant an exemption from SMARA pursuant to PRC Section 2714(f).

- Steven Gentile, representing GF Industries, presented an overview of the proposed project and in support of the exemption request.

Board Member Lane moved to deny the exemption request. Board Member Noushkam seconded and the motion carried with a unanimous voice vote.

15. Consideration of a One-Time Exemption from the Surface Mining and Reclamation Act (SMARA) Pursuant to Public Resources Code Section 2714(f) for the Hanson – Villanueva Property Restoration Project, (Erika Reppun, Caltrans – District 7), County of Ventura.

Deferred.

16. Discussion of Compliance Status with the Surface Mining and Reclamation Act (SMARA) Pertaining to the Princeton Pit (CA Mine ID #91-24-0037), Chuck Falkenstein (Agent), Central Valley Concrete, Inc. (Operator), County of Merced. Executive Officer Testa stated that the SMGB and OMR on November 15, 2012, received correspondence from the Merced County Farm Bureau (Bureau) expressing concerns pertaining to reclamation efforts for the Princeton Pit (CA Mine ID #91-24-0037), located in the County of Merced (County). The Princeton Pit incorporates 38 acres and is characterized as a streambed or gravel bar skimming and pitting operation. The primary product was material for fill. The reclamation plan for the subject site was approved on August 12, 1998, and the site is currently closed with no intent to resume. The end use is described as “*viable agriculture*.” As of the end of 2011, one acre remained disturbed. A financial assurance amount of \$12,500 existed as of July 21, 2000. The financial assurance cost estimate was last reviewed on November 15, 2012, and based on review of the OMR SMARA database, the financial assurance was noted to expire as of July 21, 2011. Pursuant to the SMGB’s Administrative Procedure PP96-02, in situations where a lead agency does not act to insure SMARA compliance, and where irreparable environmental damage or substantial endangerment to the public health is not imminent, the SMGB will meet in open session at a regular business meeting to decide upon a course of action. Initial actions by the SMGB may consider a



request for a technical review by the DOC, designating the Executive Officer to monitor and investigate the situation, or request, by resolution, that the Attorney General or the Director of the DOC take appropriate legal action. The SMGB at its March 14, 2013, regular business meeting directed its Executive Officer to follow up and monitoring the situation, and report back to the SMGB for potential action, if deemed warranted. Executive Officer Testa summarized latest efforts noting that the County is currently preparing for another CCR 3805.5 request for closure and conducted a site visit in March at which time the operator had completed the spot grading and reseeding along the eastern slope. Some growth was occurring on the slope and at that time it appeared to be effective in preventing erosion, with some plant growth evident on the pit floor. The one outstanding item is the soil quality testing currently underway. No action is deemed necessary at this time. The County is following up on outstanding issues prior to closure consideration, and OMR will have opportunity to review the reclamation efforts at the appropriate time.

- Brandon Williams representing Central valley Concrete, noted his availability for questions regarding reclamation efforts implemented to date and the current status of the site.

No action taken with follow up by the Executive Officer, as deemed warranted.

17. Adoption of the State Mining and Geology Board's 2014 Regular Business Meeting Calendar.

Executive Officer Testa stated that PRC Section 668 provides that the SMGB hold its meetings at such times and at such places as it shall determine. The SMGB's Bylaws require the SMGB to hold a minimum of six meetings annually, to be held in locations appropriate to the subject matter to be considered. The Bylaws also require that unless alternate dates are agreed upon by a majority of the members, SMGB meetings shall be scheduled the second Thursday of every other month with the third Thursday being reserved as an alternate should a holiday conflict with the regularly scheduled date. Since 1993, the SMGB determined on an annual basis to hold its meetings on the second Thursday of every other month, reserving the preceding Wednesday and the following Friday as alternate dates. At the SMGB's October 30, 2003, regular business meeting, the SMGB determined that it would schedule all future regular meetings on the second Thursday of every month whenever possible. The SMGB is considering adopting its regular business meeting calendar for 2014.

Board Member Lane moved to accept the 2014 calendar. Board Member Noushkam seconded and the motion carried with a unanimous voice vote.

18. Consideration to Adjust the SMARA Lead Agency Administrative Fee Pursuant to Public Resources Code Section 2207(e).

Executive Officer Testa stated that to prevent Surface Mining and Reclamation Act of 1975 (SMARA), and Chapter 2 of the Public Resources Code (PRC), from being unfunded State mandated programs, a lead agency is provided authority to impose a fee upon each mining operation within its jurisdiction to cover the reasonable costs incurred in implementing Chapter 2, commencing with PRC Section 2200, and Chapter 9 (SMARA), commencing with PRC Section 2710. In September 2004, the State Mining and Geology Board (SMGB) determined that the basis for the flat fee was \$184, the total hourly resource cost required to operate the SMGB, times the average hours spent on each mine per year (25.68 hours). The resulting flat fee would calculate to be approximately \$4,725, or \$12.95 per day; however, the SMGB expected that approximately one-half of this hourly cost, as it pertains solely to the SMGB's lead agency activities, would be offset by additional funds reallocated from portions of the Surface Mining and Reclamation Account (SMRA) funds previously used by the CGS and OMR. Therefore, the cost imposed to mine operations was to be \$92 per hour times 25.68 hours or \$2,363 per year, or approximately \$6.50 per day. Thus, the



SMGB established regulation for a flat fee to be set at \$7.00 per day (rounded to nearest dollar) per mine for each day the mine was subject to the SMGB's SMARA jurisdiction. In 2007, the flat fee was adjusted to \$14.00 per day. This equates to \$5,110 per mine site per year. The SMGB is considering whether such flat fee should be adjusted.

No action taken albeit the Executive Officer was requested to look at costs for the period from 2007 to 2014, and alternatives such as a flat fee or deposit plus time and materials in excess of such fee, and bring the matter back to the SMGB for a more detailed discussion.

19. **Public Hearing:** Appeal to the State Mining and Geology Board Regarding Approval by the County of Fresno of the Carmelita Mine and Reclamation Project (Colony Land Company, LP, Operator), County of Fresno, Pursuant to Public Resources Code Section 2775.

(Public hearing will begin at 1:30 p.m.)

Executive Officer Testa stated that on October 30, 2012, Petitioner Friends of the Kings River (Friends, Petitioner) filed, with the SMGB an Intent to Appeal a decision by the County of Fresno (County) to approve a reclamation plan and Conditional Use Permit for the Carmelita Mine and Reclamation Project (Project) on land designated by the SMGB to contain regionally significant mineral resources on the grounds that the permit and reclamation plan for the Project were not in compliance with SMARA and the County's Zoning Ordinance 858 pursuant to SMARA, and specifically, PRC Section 2775(a). At its March 14, 2013 regular business meeting, the SMGB held a public hearing in the matter and subsequently granted the appeal, denied the County's approval of the reclamation plan on procedural grounds, and remanded the reclamation plan back to the County for approval consideration upon completion of the reclamation plan. On August 16, 2013, Petitioner Friends filed with the SMGB a second Intent to Appeal a decision by the County to approve an amended reclamation plan and Conditional Use Permit for the Project pursuant to SMARA, and specifically, PRC Section 2775(a). Pursuant to PRC Section 2775(c), the SMGB shall not exercise its independent judgment on the evidence but shall only determine whether the decision of the County is supported by substantial evidence in the light of the whole record. If the SMGB determines the decision of the County was not supported by substantial evidence in the light of the whole record, it shall remand the appeal to the County and the County shall schedule a public hearing to reconsider its action.

- Marsha Burch, on behalf of the Appellant Friends of the King River, presented in opposition of the project.
- County Planning Director Bruce Johnson, presented in support of the County's position and decision.
- Patrick Mitchell representing the operator, consultant Dave Brown representing the operator, and Board of Supervisors Member Henry Perea, presented in support of the project.
- Vicki Bloom, David Boldt, Dr. David Cehrs, Steve McDonald, and Suzanne Ward, presented in opposition of the project.

Board Member Gavric moved that the County's decision was supported by substantial evidence. Board Member Kenline seconded and the motion carried with Members Gavric, Kenline and Gonzalez in favor, and Members Noushkam and Lane oppose via a voice vote.

XII. Special Reports and Department Presentations [Possible Action]

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



20. 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:

- Bear Creek Quarry (CA Mine ID #91-09-0001), County of El Dorado.
- Weber Creek Quarry (CA Mine ID #91-09-0002), County of El Dorado.
- Diamond Quarry (CA Mine ID #91-009-0003), County of El Dorado.
- Cool Cave Quarry (CA Mine ID #91-09-0005), County of El Dorado.
- Timm Mine (CA Mine ID #91-09-0006), County of El Dorado.
- 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 Quarry (CA Mine ID #91-09-0012), County of El Dorado.
- Big Cut Mine (CA Mine ID #91-09-00XX), County of El Dorado.
- Sonora Pit (CA Mine ID #91-26-0037), County of Mono.
- Long Valley Minerals Mining Site (CA Mine ID #91-26-0046), County of Mono.
- Priest Grade Pit (CA Mine ID #91-55-0008), County of Tuolumne.

Board Member Noushkam moved to accept inspection reports for all sites with exception to Timm Mine, Sonora Pit, Long Valley Minerals Mining Site, and Priest Grade Road which were deferred. Board Member Lane 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 Kenline)
 - The County of Santa Clara (County) has recently amended its Surface Mining and Reclamation Ordinance. The County's mining ordinance was originally certified by the State Mining and Geology Board (SMGB) in 2000 (Ordinance No. 1200.299). The Committee moved to recommend certification of the amended ordinance to the whole SMGB pending adoption by the County's Board of Supervisors.
- Policy and Legislation Committee (Chairperson Kenline)
- Surface Mining and Standards Committee (Chairperson Barry)

No Committee reports provided.



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

No Executive Session held.

XVII. Announcements of Future Meetings

December 12, 2013 was announced as the tentative date of the next meeting, with Palm Springs as the location.

XVIII. Adjournment

The meeting was adjourned at 4:10 P.M.

APPROVED



Ignacio Gonzalez, Chairman



Stephen M. Testa, Executive Officer

