



# STATE MINING AND GEOLOGY BOARD

DEPARTMENT OF CONSERVATION

801 K Street • Suite 2015 • Sacramento, California 95814

## *Policy and Legislation Committee*

*George Kenline, Chair; Jelisaveta Gavric, Negar Noushkam*

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## **CONFORMED MINUTES**

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

**Conducted a Meeting on:**

**Thursday, June 13, 2013**

**9:00 A.M.**

**LOCATION:**

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

## **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.

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**[NOTE:** Times are approximate. The chairman may alter the hearing start time or agenda item order during the meeting.]

**I. Call to Order (Kenline)**

The meeting was called to order at 9:00 A.M. by Committee Chairman Kenline, with Member Gavric present and Member Noushkam absent, and a quorum was declared.

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

**III. Consent Items [Action]**

[All the items appearing under this section will be acted upon by the committee by one motion and without discussion; however, any committee member wishing to discuss a particular item may request the Chairman to remove the item from the Consent Calendar and consider it separately under Continued Business or New Business.]

1. Approval of Minutes, March 14, 2013 Committee Meeting.

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

**IV. Continued Business [Action]**

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

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

Executive Officer Testa stated that inspection of a surface mining operation is required not less than once each calendar year to determine if the surface mining operation is in compliance with the requirements of PRC Chapter 9, commencing with Section 2710. Inspection Form MRRC-1, as referred to in CCR Section 3504.5(g), was last revised and subsequently by the SMGB in April 1997. Since such time, the quality and adequacy of inspections have not appreciatively improved. Efforts to revise Inspection Form MRRC-1 have been initiated by OMR with collaboration from SMGB staff. A revised inspection form is before the Committee for review and discussion. Written comments received to date were provided as part of the Committee's packet.

- Ken Trott, Acting Assistant Director of OMR, summarized the status of the proposed changes to the inspection form MRRC-1.
- Adam Harper, representing the California Construction and Industrial Materials Association (CalCIMA) summarized additional comments and issues related to the proposed changes to the



form, as presented in CalCIMA correspondence dated June 12, 2013. Two primary issues noted pertained to information being requested on the form related to vested rights, and consideration of field testing the form using SMGB staff. Overall, CalCIMA expressed appreciation to OMR and the SMGB for addressing many of the issues previously offered.

- Deputy Attorney General Rick Thalhammer, legal counsel to the SMGB, offered a scenario where a vested right may exist, but was never granted by the lead agency.
- Greg Tenorio, legal counsel for OMR, indicated that CalCIMA concern regarding vested rights language will be reviewed and incorporated, as appropriate.
- Executive Officer Testa indicated that the proposed revised inspection form will be brought back to the Committee, and subsequently to the whole SMGB for approval consideration at the July 11, 2013 meetings. Once eventually approved by the SMGB, the SMGB's inspection guidelines will be revisited and reviewed for consistency.

Committee Member Garvic moved to continue this matter. Committee Chair Kenline seconded and the motion carried with a unanimous voice vote.

3. State Mining and Geology Board's Information Report SMGB IR 2013-10 titled "Roles of the Engineering Geologist under California's Surface Mining and Reclamation Act (SMARA)".

Executive Officer Testa stated that the SMGB conducts its business in public, and often considers policy or informational topics of statewide interest. On occasion, the SMGB also requests information and/or analysis from its Executive Officer prior to considering policy decisions. Recently completed is Information Report SMGB IR 2013-10 titled "*Roles of the Engineering Geologist under California's Surface Mining and Reclamation Act (SMARA)*." This report stems from previous discussions pertaining to adequacy of mine inspections and reclamation, and professional standards of practice. The Committee is considering accepting a new report pertaining to a review of issues pertaining to the roles of engineering geologists under the Surface Mining and Reclamation Act (SMARA) for publication on the SMGB's website.

Committee Member Gavric moved to continue this matter. Committee Chair Kenline seconded and the motion carried with a unanimous voice vote.

**V. New Business [Action]**

**VI. Good of the Meeting [Information]**

[This time is scheduled to provide the public with an opportunity to address non-agenda items. Those wishing to speak should do so at this time. All persons wishing to address the Committee should fill out a speaker card and present it to the Secretary so that the Chair can determine the number of persons who wish to speak. Speakers are limited to three minutes except by special consent of the Chairman.]

No Good of the Meeting information was discussed.

**VII. Continuing Business [Information]**

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

No continued business was discussed.

**VIII. New Business [Information]**



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

No new business was offered.

**IX. Announcements of Future Meetings**

The next meeting of the Policy and Legislation Committee was scheduled to be held in Sacramento concurrent with the next regular business meeting of the SMGB.

**X. Adjournment**

The Committee meeting was adjourned at 10:10 A.M.

**APPROVED**

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George Kenline, Committee Chairman

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Stephen M. Testa, Executive Officer

