



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

Publication Date: December 19, 2013

CONFORMED MINUTES

THE STATE MINING AND GEOLOGY BOARD

Conducted a Regular Business Meeting on:

Thursday, January 9, 2014,

9:00 A.M.

LOCATION:

**City Council Chambers
Palm Springs City Hall
3200 E. Tahquitz Canyon Way
Palm Springs, CA 92262**

NOTE: The meeting will simultaneously be held via teleconference, open to public participation, at the following address and time:

Thursday, January 9, 2014

9:00 A.M.

**Teleconference Call
801 K Street, Suite 2015
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.

[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 9:15 A. M. by Chairman Gonzalez, with Members Gavric, Kenline, Lane and Noushkam present, and Member Reding present via telecom, and Member Barry absent, and a quorum was declared. Chairman Gonzalez recused and was absent for consideration of Agenda Item No. 2

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:

- Two preliminary Alquist-Priolo Earthquake Fault Zoning Maps have been released for public comment: the Azusa Quadrangle and Hollywood Quadrangle.

- 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 OMR Review Panel work was completed in early December with exception of preparation of the final report.
- An advertisement for a new chief of OMR is anticipated to be released within two weeks.

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:

- Amended regulations for designation and termination of designation of mineral lands within the San Gabriel Production-Consumption Region became effective on January 1, 2014.
- Reissuance of Notice for Publication of amended regulations for the Palm Springs P-C and San Bernardino P-C Regions were submitted to OAL. These regulations are anticipated to become effective April 1, 2014, assuming no other issues are identified by OAL.
- The final rulemaking packet for proposed regulation for mandatory notification and recertification of mining ordinances was submitted to OAL and approved. This amended regulation will be effective as of April 1, 2014.
- Certified mining ordinances for counties and cities throughout the state have been uploaded to the SMGB's website.
- Mineral Resources Management Policies are currently being scanned and will be posted on the SMGB's website once completed. A model MRMP is being developed.
- 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, Monterey and Yolo. Inspection reports for the County of Madera have been received and are under review.
- A presentation on mineral resources and conservation was made on January 7, 2014, to a delegation from the Bureau of Geology and Mineral Exploration and Development, Guizhou Province, China.

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 Lane noted discussions of a general nature with Ms Izzy Martin, Executive Director of The Sierra Fund.

VIII. Good of the Meeting [Information]

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

- Ric Moore, Executive Director of the Board of Professional Engineers, Land Surveyors and Geologists (BPELSG), and Hugh Robertson representing BPELSG's Technical Advisory Committee, discussed their desire to work more closely with the SMGB and collaborate on topics of mutual interest.
- Paulie Tehrani, raised issues related to the City of Lake Elsinore and vested rights related issues.

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, November 14, 2013 Regular Business Meeting.



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

XI. New Business [Action]

2. Adoption of Resolution 2013-03 Certifying the County of Santa Clara's Amended Surface Mining and Reclamation Ordinance (Zoning Ordinance, Sections 2.10.040 and 4.10.370) as Being in Accordance with the Surface Mining and Reclamation Act (SMARA; Public Resources Code Section 2710 et seq.).

Executive Officer Testa noted that SMARA requires that each city or county with a surface mining operation within its jurisdiction adopt a surface mining ordinance in accordance with State Policy that establishes procedures for the review and approval of reclamation plans and financial assurances and the issuance of a permit to conduct surface mining operations. SMARA provides for the SMGB to certify local agency mining ordinances as being in accordance with State Policy. 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 SMGB in 2000 (Ordinance No. 1200.299). At its September 12, 2013 meeting, the Minerals and Geologic Resources Committee moved to recommend certification of the amended ordinance to the whole SMGB pending adoption by the County's Board of Supervisors. At the meeting of the County's Board of Supervisors held on November 26, 2013, the amended mining ordinance (Zoning Ordinance; Section 2.10.040, Non-Residential Use Classification for Surface Mining (Resource Extraction), and Section 4.10.370, Surface Mining) was adopted. The SMGB is considering certification of the amended zoning ordinance.

Board Member Lane moved to certify the County's ordinance. Board Member Kenline seconded and the motion carried with a unanimous voice vote.

3. Consideration of a One-Time Exemption from the Surface Mining and Reclamation Act (SMARA) Pursuant to Public Resources Code Section 2714(f) for a Barn Construction Project, (Jon Green), County of Mendocino.

Executive Officer Testa noted 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 September 27, 2013, Cort Munselle submitted a request for a one-time exemption from SMARA for proposed building site grading for an agricultural-exempt barn construction project, located in the County of Mendocino (County). The purpose of the proposed project is to create an enclosed pasture and cattle corral by leveling about 21.8 acres of agricultural land. The proposed project would result in the generation of about 902,000 cubic yards of material to be made available for sale and subsequently exported offsite. The proposed project is subject to the County's building and zoning regulation (County Code Section 22.16.040.C Construction Exemption). Mr. Munselle acquired Grading Permit BU 2013-0341, albeit for a much reduced scope of activity allowed by the County. The County determined that the project as originally proposed was not applicable since the project is not deemed by the County as an "*integral and necessary*" element in the construction of structures and land improvements. Thus, Mr. Munselle indicated that he would be rescinding the zoning clearance granted under the grading permit and associated grading, and pursue a use permit and associated documents as required under SMARA. Prior to pursuing this alternative, an exemption from SMARA is being requested. Under certain circumstances, the SMGB has the statutory authority to consider and grant an exemption from SMARA pursuant to PRC Section 2714(f).

- Jon Green, representing the land owner, presented in support of the exemption request.



- Member Lane noted that the proposed project is too conceptual and not enough information exists to move forward.
- Member Gavric characterized the proposed project as a surface mining operation.
- Members Nouskham and Kenline concurred.

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

4. Consideration of a One-Time Exemption from the Surface Mining and Reclamation Act (SMARA) Pursuant to Public Resources Code Section 2714(f) for English and McDonald Roads Marsh Restoration Project (Imperial Irrigation District), County of Imperial.

Executive Officer Testa noted 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 December 17, 2013, the SMGB received a request for a one-time exemption from SMARA from the Imperial Irrigation District (IID) for the English and McDonald Roads Marsh Restoration Project, located in the County of Imperial (County). The proposed project stems from heavy precipitation in 2012 which caused extensive flood damage to IID and County facilities. Many repairs required immediate attention. The proposed project is part of the second phase of a Managed Marsh complex, which includes the borrow pits, on three 150 acre parcels situated southwest of the intersection of Highway 111 and MacDonald Road. The complex encompasses approximately 970 acres of aquatic habitat designed to provide for the conservation of wildlife species normally located within wetland areas in the County and within the IID irrigation infrastructure. The purpose of the proposed project is for IID to incorporate a borrow site into its marsh restoration project; whereas, the borrow pits will eventually be incorporated into the aquatic wildlife habitat area in 2014. The borrow area is approximately 20 acres and the floor of the excavation is about 6 feet below existing ground elevation at its deepest point. The sides of the borrow cells have been sloped to provide a more stable bank and to allow for planting of aquatic vegetation in the areas. Under certain circumstances, the SMGB has the statutory authority to consider and grant an exemption from SMARA pursuant to PRC Section 2714(f).

- Bruce Wilcox, representing the Imperial Irrigation District, characterized the project, noting that the borrow pits are now closed, and IID is preparing to commence reclamation activities.

Board Member Lane moved to conditionally grant the exemption request pending compliance with all requirements set forth by the County and any other agency that has authority over the proposed project. Board Member Nouskham seconded and the motion carried with a unanimous voice vote.

5. Adoption of State Mining and Geology Board's Final Decision on Appeal to the State Mining and Geology Board in Upholding the Decision of the County of Fresno in its Approval of the Carmelita Mine and Reclamation Project (Colony Land Company, LP, Operator), Pursuant to Public Resources Code Section 2775.

Executive Officer Testa noted that on October 30, 2012, Petitioner Friends of the Kings River (Friends) 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 mineral resources of statewide and regional significance on the grounds that the permit and reclamation plan for the Project were not in compliance with the 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, 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, 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. At its November 14, 2013 regular business meeting, the SMGB held a public hearing in the matter of a designation appeal under PRC Section 2775 for the Project. At such meeting, the SMGB determined that the County's decision was supported by substantial evidence in the light of the whole record, and upheld the decision of the County to approve a permit and reclamation plan for the above referenced project. The SMGB is considering adoption of the findings.

- Marsha Burch on behalf of the Petitioner and representing Friends of the Kings River requested that the SMGB reconsider its decision and include more detail in the findings in order to provide more guidance to the County of Fresno.

Board Member Kenline moved to adopt the SMGB's findings. Board Member Gavric seconded and the motion carried with a unanimous voice vote.

6. Election of Vice Chair of the State Mining and Geology Board Pursuant to Public Resources Code Section 669.

Executive Officer Testa noted that the SMGB selects an individual from its membership to serve as Vice Chair. The Vice Chair performs the duties of the Chairman in his or her absence or upon request of the Chairman when possible conflicts of interest may occur.

Nominations to this role are made by the SMGB members. The selection of the Vice Chair is solely at the discretion of the SMGB, and the EO makes no recommendation.

Board Member Lane moved to nominate Member Gavric. Board Member Kenline 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.]

7. Acceptance of Inspection Reports as Performed and Completed Pursuant to PRC Section 2774(b) for the following Surface Mining Operations:

- Timm Mine (CA Mine ID #91-09-0006) County of El Dorado.
- Atkinson Pit I (CA Mine ID #91-19-0004), City of Compton.
- Avalon Mine (CA Mine ID #91-33-0002), City of Jurupa Valley.
- Super Creek Quarry (CA Mine ID #91-33-0003), City of Desert Hot Springs.
- Philadelphia Recycling Mine (CA Mine ID #91-33-0029), City of Jurupa Valley.
- Garnet Pit (CA Mine ID #91-33-0031), City of Palm Springs.
- Pyrite Quarry (CA Mine ID #91-33-0062), City of Jurupa Valley.
- Santa Paula Materials (CA Mine ID #91-56-0034), City of Santa Paula.

Board Member Gavric moved to accept inspection reports. Board Member Kenline 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)
- 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:

- Chairman Gonzalez requested for the Executive Officer to schedule discussion of the SMGB's budget for the next scheduled meeting of the SMGB, review the issues pertaining to vested rights in the City of Lake Elsinore and bring this matter back to the SMGB for discussion.
- Member Gavric requested scheduling of a legislative update and subsequent discussion for the Policy and Legislation Committee meeting to be held in February and at minimum monthly thereafter.
- Member Kenline requested that the Executive Officer schedule several matters for the Mineral and Geologic Resources Committee including Mineral Resources Management Policies (MRMP) including due process and consequences, and consideration of amendments to the SMGB's backfilling regulations.
- Member Lane inquired as to whether State Geologist Parrish could brief the SMGB on fracking issues facing the state in relation to induced seismicity.
- Member Noushkam inquired of Dr. Parrish in his role as OMR Acting Assistant Director of OMR as to when the SMGB can expect receiving the LART reports for Siskiyou County and Riverside County. In addition, Member Noushkam also inquired as to when the SMGB can anticipate receiving the report from the OMR Panel Review; Dr. Parrish stated that a report would be provided at the next scheduled meeting of the SMGB.

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

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

XVII. Announcements of Future Meetings

February 21, 2014 was announced as the tentative date of the next meeting, with Sacramento as the location.

XVIII. Adjournment

The meeting was adjourned at 12:30 P.M.

APPROVED



Ignacio Gonzalez, Chairman



Stephen M. Testa, Executive Officer

