



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:

Friday, February 21, 2014

10:30 A.M.

(Or immediately following the Surface Mining Standards Committee)

LOCATION:

**Assembly Hearing Room #444
State Capitol
Sacramento, California 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 10:40 A. M. by Chairman Gonzalez, with Members Gavric, Kenline, Lane, Noushkam and Reding present, and Member Barry absent, and a quorum was declared.

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

Chief Deputy Director, Jason Marshall, provided a summary of the recently completed OMR Panel Review Report and noted:

- The Panel focused on the business practices of OMR, and how is SMARA being implemented. Leadership issues were identified.
 - Lacks focus on public service.
 - Communications with stakeholders, and timeliness of communications, require improvement.
 - Needs for a working group.
 - Changes in OMR's emphasis from compliance to assistance.
 - Noted the need for an Internal Procedure Manual.
 - Leadership deficiencies.
 - Database issues, among others
- A copy of the OMR Panel Review Report was provided to all SMGB Members.
- Member Noushkam inquired as to when the SMGB could anticipate receiving a presentation on the new Lead Agency Review Team process; no definitive response was noted. Member Noushkam also inquired as to whether the report would also serve as a Strategic Plan for OMR. Chief Deputy Marshall noted that the report would serve more of a strategic direction role.
- Member Gavric noted needs for outreach and training via on-line, licensing of professionals, e-filing, and developing list server capabilities, were all sound approaches and warranted.
- State Geologist's Report (Parrish) [Information]

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

- Two preliminary Alquist-Priolo Earthquake Fault Zoning Maps were released for public comment on January 8, 2014: the Azusa Quadrangle and Hollywood Quadrangle. The Fault Evaluation Report for the Azusa Quadrangle was released on January 8, 2014; whereas, the Fault Evaluation Report for the Hollywood Quadrangle was released on



February 15, 2014.

- The status of the Earthquake Early Warning System program to be implemented in July 2015 was discussed.

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

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

- An advertisement for a new chief of OMR has not been released and is delayed due to efforts to address the appropriate Career Executive Appointment (CEA) level for the position.

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:

- A concerted effort will be made to complete the rulemaking for both the Palm Springs and San Bernardino P-C Regions. The remaining 45-day public comment period ended on February 17, and the final rulemaking packet is due to the OAL by early March.
- Public Notice Publications are still to be published for the Santa Barbara-San Luis Obispo and Stockton-Lodi P-C Regions.
- Two preliminary maps were released by CGS on January 8: Azusa and Hollywood Quadrangles. Public hearings are being scheduled to receive technical comments. For the Azusa Quadrangle, the Geohazards Committee plans to meet in the City of Azusa on Wednesday, March 12, 2014; whereas, in regards to the Hollywood Quadrangle, the whole SMGB will meet in the City of Los Angeles on Thursday, March 13, at CGS's hearing room.
- Certain SMRA lead agencies were to forward a set of their latest round of inspection reports to the SMGB for review and comment. The only County that responded to this was Madera; whereas, six other Counties have not. The Executive Officer plans to contact these lead agencies and remind them of this commitment.
- LART reports pertaining to the Counties of Siskiyou and Riverside were previously requested from OMR, such reports have not been received to date.
- Efforts are underway to conduct a comprehensive review of MRMP and compile a MRMP database.
- A summary of the Geohazards Committee Technical Advisory Committee's efforts on the Alquist-Priolo Earthquake Fault Zoning Act is anticipated to be provided to the Committee in March.

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 Kenline noted contact with John Bowman with the law firm of Elkins Kalt Weintraub Reuben Gartside, LLP., pertaining to the upcoming public hearing to be held by the SMGB on the preliminary Alquist-Priolo Earthquake Fault Zoning Map for the Hollywood Quadrangle. Member Kenline referred Mr. Bowman to the SMGB's Executive Officer.



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.]

- Certified Engineering Geologist and Principal with Earth Consultants International provided a presentation on surface rupture mitigation and defining a path forward to change the Alquist-Priolo Earthquake Fault Zoning Act.
- State Geologist Parrish noted a differing perspective and offered to provide a presentation to the SMGB at an appropriate time.
- Member Gavric expressed appreciation of risk based planning elements as noted by Mr. Gath.
- Member Noushkam inquired as to the status of similar programs and approaches in Washington or Oregon, and the potential of establishing an information workshop comprised of all stakeholders.
- Following general discussion and interest among the SMGB Members, Chairman Gonzalez suggested that the Executive Officer Testa pursue development of a symposium or workshop be considered in the near future.

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, January 9, 2014 Regular Business Meeting.

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

XI. New Business [Action]

2. **Public Hearing:** Review of the Order of Administrative Penalties Assessed to Two Surface Mining Operations Pursuant to Public Resources Code Section 2774.2 and Title 14, California Code of Regulations, Section 3900, et seq.
 - Public Hearing Case No. 91-240021-12-AP:
Valley Sand & Gravel (CA Mine ID #91-24-0021),
County of Merced.
 - Public Hearing Case No. 91-460007-12-AP:
Cole Cash Mine (CA Mine ID #91-46-0007),
County of Sierra.

Executive Officer Testa stated that the SMGB has received two petitions for appeal of the administrative penalties issued by the Department of Conservation Office of Mine Reclamation (OMR). The appeals pertain to Valley Sand & Gravel and Cole Cash Mine. The administrative penalty issued for the Cole Cash Mine was rescinded by OMR; whereas, the public hearing being



held today is for the Valley Sand and Gravel surface mining operation. The Administrative record includes the record before the Director, evidence which, in the judgment of the SMGB, considers to be applicable, and evidence presented during the hearing on the petition. Pursuant to CCR Section 3910, following the public hearing, the SMGB shall determine 1) whether the alleged violations cited in the Director's order are supported by substantial evidence in light of the whole record before it, and consideration by the SMGB to affirm, modify, or set aside, in whole or in part, the administrative penalty issued by the Director.

- DOC legal counsel Greg Tenorio and State Geologist John Parrish wanted to challenge the SMGB on its acceptance of jurisdiction for Public Hearing Case No. 91-240021-12-AP. This matter was not on the agenda and deemed inappropriate since the SMGB's Chairman has already accepted jurisdiction. Based on advice from the SMGB's legal counsel this matter was not considered.
- CCR Section 3909(e) requires all material to be submitted to the SMGB no later than 10 days prior to the hearing. Executive Officer noted that since the SMGB did not receive OMR's information until about 24 hours prior to today's meeting, most of the SMGB members did not have time to review the information, and thus recommended that this matter be continued.

Board Member Noushkam moved to continue the public hearing for Valley Sand & Gravel. Board Member Lane 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.]

3. Report on the Office of Mine Reclamation (OMR) Abandoned Mines Land Unit (AMLU) Program (OMR) [Information]

Executive Officer Testa stated that in the fall of 2013, Member Noushkam requested an overview of the AMLU program. The Department of Conservation, Office of Mine Reclamation, (OMR) Abandoned Mine Lands Unit (AMLU), is comprised of a small team of professional geologists, environmental scientists and geographic information systems (GIS) specialists. The AMLU, working with local, regional, state and federal partners, remediates public safety hazards posed by abandoned mines, and compiles a statewide database of abandoned mines. The SMGB will hear from AMLU on a summary of the current programs, and prospective future activities. The discussion being provided by the OMR AMLU is for the SMGB's information, and no recommendations or actions are being considered at this time.

- Glenda Marsh, manager of the AMLU, provided a power point presentation and overview of certain elements of the AMLU program.
- Member Gavric inquired about threats to public health and safety related to sinkholes potentially related to abandoned mines. Ms. Marsh noted that AMLU has no direct responsibilities or role.
- Member Noushkam requested a copy of the presentation, and inquired about the status of the inventory of abandoned mines and how many mines actually are there, and how long is it going to take to complete the state's inventory of abandoned mines. Ms. Marsh noted that National Park Service completed their inventory, and the US Forest Service and Bureau of Land Management has an internal inventory program. AMLU does not interact with these agencies and was not certain as to the timing of those inventories being completed. Regarding private land, it is outside AMLU jurisdiction, and AMLU does not have a role. Ms. Marsh estimated it would take about 25 years to complete a statewide inventory. Member



Noushkam also requested a summary of the process associated with AMLU role in assessing abandoned mines in which such was provided.

No action taken.

4. Discussion of the State Mining and Geology Board Budget.

Executive Officer Testa stated that the budget for the SMGB for fiscal year 2013-2014 is divided into two accounts. Fiscal year 2013-2014 is the first year that the SMGB has been identified as a separate item in the Governor's Budget. This change differs from previous years when the SMGB's budget was subsumed within the California Geological Survey's (CGS) budget. The SMGB's authorized budget as depicted in the Governor's 2014-2015 Budget Plan is \$1,227,000. There are two sources of funding for the SMGB: the Mine Reclamation Account (MRA) and the Renewable Resource Investment Fund (RRIF). The MRA fund includes the administrative fee of \$14/day per mine the SMGB invoices in the capacity as a lead agency under SMARA, and monies generated in the conduct of inspections, in its capacity of a lead agency under SMARA. The RRIF is comprised of the monies available to the SMGB which is determined annually by the DOC, and has been essentially fixed for the last several years. The SMGB's budget when serving as a board for fiscal year 2013-2014 is \$465,000 (PCA 71604), and includes costs for two staff personnel (Executive Officer and Executive Assistant). Essentially, the SMGB's budget (PCA 71604) covers salaries, honorariums and expenses. The SMGB's budget when serving as a lead agency under the Surface Mining and Reclamation Act (SMARA) is \$157,608 (PCA 71602) which incorporates two staff personnel (Senior Engineering Geologist and Office Technician), and for the payment of all attorney fees including services rendered by the Attorney General's Office as a board and as a SMARA lead agency). In addition, about \$40,000 additional monies are obtained in the conduct of mine inspections when the SMGB serves as a lead agency. Although the SMGB works within its budget under PCA 71604, litigation costs will cause the SMGB to exceed its budget under PCA 71602 for fiscal year 2013-2014, a situation anticipated to continue for fiscal year 2014-2015. Provided for the SMGB's information is the Governor's 2014-15 Budget Summary and DOC Element; SMGB expenditures as of Dec 2013, and budget summaries for the SMGB Lead Agency Administrative and Mine Inspection Fees when serving in the capacity of a SMARA lead agency. The information being presented is for the SMGB's general information, and no recommendations or actions are being offered at this time.

- Chief Deputy Jason Marshall, summarized budget related issues and concerns, with the next step being approaching the Department of Finance.
- Chairman Gonzalez noted the need for all to work together in moving this matter forward.

No action taken.

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

- Big Gun Quarry (CA Mine ID #91-31-0013) City of Rocklin.
- Knife River Hallwood Plant (CA Mine ID #91-58-0002), County of Yuba.
- Teichert Hallwood (CA Mine ID #91-58-0006), County of Yuba.
- Dantoni Pit (CA Mine ID #91-58-0011), County of Yuba.
- Teichert Marysville (CA Mine ID #91-58-0019), County of Yuba.
- Blue Point Mine (CA Mine ID #91-58-0021), County of Yuba.
- Stringer Pit 1 (CA Mine ID #91-58-0022), County of Yuba.
- Stringer Pit 2 (CA Mine ID #91-58-0023), County of Yuba.



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

XIII. SMGB Committee Reports [Information and Possible Action]

- Geohazards Committee (Chairperson Lane)
- Alquist-Priolo Technical Advisory Committee (Executive Officer Testa)
- Minerals and Geologic Resources Committee (Chairperson 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:

No new business discussed.

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:

- i. 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.
 4. Joe & Yvette Hardesty v. SMGB, & DOES 1-100 Inclusive, Case No. 34-2010-80000594, Sacramento County Superior Court.
 5. Discussion of Superior Court cases, A. Teichert & Son, Inc. v. California State Mining and Geology Board, no. 34-80000528 and Calvert, et al. v. California State Mining and Geology Board, no. 34-2010-80000530.
- ii. Possible Litigation involving the SMGB.
- iii. Executive Officer Performance Evaluation

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

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

XVII. Announcements of Future Meetings

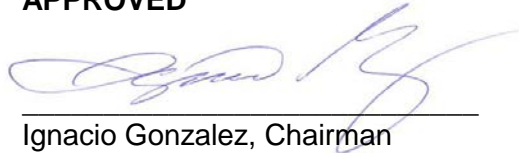


March 13, 2014 was announced as the tentative date of the next meeting, with Los Angeles as the location.

XVIII. Adjournment

The meeting was adjourned at 2:30 P.M.

APPROVED



Ignacio Gonzalez, Chairman



Stephen M. Testa, Executive Officer

