



# STATE MINING AND GEOLOGY BOARD

DEPARTMENT OF CONSERVATION

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Publication Date: October 23, 2014

## CONFORMED MINUTES

### THE STATE MINING AND GEOLOGY BOARD

Conducted a Regular Business Meeting on:

Thursday, November 13, 2014

10:00 A.M.

(Or immediately following the Policy & Legislation Committee)

#### LOCATION:

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

### 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 (Gonzalez)**

**II. Pledge of Allegiance**

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

The meeting was called to order at 10:15 A. M. by Chairman Gonzalez, with Members Anderson, Gavric, Kenline, Kracov, Lane and Mendez present, and Member Noushkam absent, and a quorum was declared.

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

Director, Mark Nechodom, provided the following:

- Pat Perez, the new Assistant Director of OMR was introduced.
- Confusion regarding the Lead Agency Review Team (LART) report for the County of Riverside was expressed. The SMGB had the understanding that they were provided with the final report, when what was received was a draft final report. Riverside County's response to the draft final report is due December 15, and the final LART report can be expected in January.
- Senator Pavley has expressed interest revisiting legislation to reform and review SMARA. The Administration is developing issues they would like to look at, and the DOC has been authorized to be part of the discussions. Two issues that need to be addressed are inspections, and further assistance for lead agencies in regards to development of adequate financial assurances and reclamation plans.
- DOC continues to explore creative expenditure reductions to balance the Mine Reclamation Account, and regularly scheduled budget meetings with the Executive officer are being held.

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

Director Nechodom reported on the following:

- The final release of Alquist-Priolo maps for Azusa and Hollywood Quadrangles were released on November 6. Next in line are the Santa Monica Quadrangle and Whittier Quadrangle. CGS is also starting mapping of the Napa fault zone.
- The earthquake early warning system, authorized by legislation from Senator Padilla, is progressing on a very aggressive timeline.
- Member Gavric inquired about the funding source for the AP mapping, since SB 1155 died in committee. The Director noted that funding was provided through the budget bill.



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

Assistant Director of OMR, Pat Perez, provided background information noting:

- Perez professional career has been largely devoted to resource management and as served a temporary appointment as head of the Division of Oil, Gas and Geothermal Resources while the Governor looked for a permanent appointee. Prior to that 32 years were spent with the California Energy Commission in a wide range of capacities, and serving 4 years on local planning councils, including the Franklin Laguna Advisory Council, and as a Project Planning Commissioner for Sacramento County, and also as a locally elected official for 12 years on the Elk Grove Community Services District.
- An update to the information report provided by Jason Marshall last summer, with first quarter progress on improvements to the LART process, as well as the organizational changes within OMR and how they have been implemented, will be provided at a later date.

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

Chairman Gonzalez introduced two new SMGB Members, Michael Mendez and Brian Anderson. Mr. Mendez, who fills the environmental protection position, has over 10 years of experience in public policy practice, with the legislature, as well as serving as vice-chair of the Sacramento Planning Commission. He has a master's degree from MIT in environmental planning and is a current Ph.D. candidate at UC Berkeley in environmental planning. Mr. Anderson, who fills the mineral resource conservation position, has over 20 years of experience covering a broad variety of environmental matters. He began his career as an environmental consultant, and is a registered professional geologist in California, Arizona, Oregon, and Idaho, as well as a licensed hydrogeologist in the state of Washington. He is currently the Vice-President of Property, Permitting and Environment for Vulcan Materials.

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

Executive Officer Testa reported on the following:

- Public Notice Publication for the North San Francisco Bay P-C Region is in preparation and should be published by end of year.
- Final rulemaking packets for submittal to the Office of Administrative Law (OAL) for both the Palm Springs and San Bernardino Production-Consumption (P-C) Regions remain in progress.
- An amended mining ordinance for Siskiyou County is under review. The SMGB can anticipate re-certification consideration in early 2015.
- The LART report for Siskiyou County is under review and the SMGB will consider such report and its conclusions in early 2015.
- Four new or updated Alquist-Priolo Earthquake Fault Zoning preliminary maps are anticipated to be released by CGS by end of 2014:  
Indio Quadrangle, Riverside County; Thermal Canyon Quadrangle, Riverside County; Mescal Creek, San Bernardino and Los Angeles Counties; and Mount San Antonio, San Bernardino and Los Angeles counties. A preliminary map of the Napa area is also planned for early 2015.

#### **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 discussions regarding an inquiry from David Jones with the County of Riverside about the County of San Bernardino's experience with a SMARA inspection contractor.

**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.]

- Brian Baca, concerned citizen, submitted documents and provided a PowerPoint presentation titled "Corruption in the Department of Conservation" and addressed the purpose and role of the SMGB and DOC, and summarized certain documents submitted to the Fair Political Practice Commission pertaining to an alleged conflict of interest, falsification of government records, false reporting to the Fair Political Practice Commission and whistleblower retaliation.
- Marsha Burch, attorney representing the Desert Protection Society in Desert Center, California, provided written correspondence and expressed the need for the SMGB to review of the Lead Agency Review Team (LART) report for Riverside County and include a separate discussion of the performance of the County (in consultation with the DOC) in meeting its responsibilities as Lead Agency to regulate the Eagle Mountain mining site. A summary of the SMGB's authority in fulfilling such request was also provided, and expressed gratitude and support for the SMGB placing this matter on its agenda.
- Paulie Tehrani, citizen of Lake Elsinore, followed up on previous concerns related to vested rights for Pacific Aggregates and does not believe the City of Lake Elsinore, as lead agency, should have granted vested rights. The Executive Officer was directed to reach out to the City and report back to the SMGB, if deemed appropriate.
- John Hecht, Sespe Consulting representing Pacific Aggregates, stated that two or three years ago, they went through the process with the SMGB, the lead agency, and OMR. The reclamation plan has been reviewed with OMR, was approved, and is in full compliance.
- Patrice Lynes, spokesperson for Citizens for a Safe Temecula, stated that the city of Temecula has approved numerous development projects on seismically active hazard zones, thus not abiding by the provisions of the Seismic Hazards Mapping Act (SHMA).
- George Abrahams provided correspondence and reiterated comments provided at during the Geohazards Committee meeting held earlier and stating the need for Federal assistance for geologic mapping of geologic hazards, notably landslides, and need for more interaction between the United States Geological Survey and California Geological Survey in the area of the Pacific Palisades.
- Nikohl Vandel, citizen, spoke on miscellaneous issues related to environmental issues in the desert region.
- Richard Thalhammer, concerned citizen and former Deputy Attorney General who once represented the SMGB but here as a private citizen, commented on the documents provided by Mr. Baca, and expressed serious concern as to what was in the documents and the toleration by DOC management to allow a conflict of interest to exist, and engaged DOC counsel to write the Fair Political Practice Commission in an effort to obscure a known conflict of interest and which led to a second investigation by FPPC. This situation could have been resolved easily by removing Mr. Ferrero but did not and this has led to issues related to the Eagle Mountain Mine and who knows what else. Falsification of a report is a direct consequence of this situation and a created a serious problem in how government operates. SMGB has policy responsibilities and can take a look at consequences of



reclamation practices and consider policy changes. It is appalling to see the evidence all of which is public record which is indisputable and noted that the DOC has not disputed it.

**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, April 10, 2014, Regular Business Meeting.

Board Member Kracov moved to approve April 10, 2014, minutes. Board Member Lane seconded and the motion carried with a unanimous roll call vote, with Members Anderson and Mendez abstaining.

2. Approval of Minutes, August 14, 2014, Regular Business Meeting.

Vice Chair Gavric moved to approve the August 14, 2014, minutes. Board Member Lane seconded and the motion carried with a unanimous roll call vote, with Members Anderson and Mendez abstaining.

3. Approval of a Revised Financial Assurance Cost Estimate for the Fredericksburg Gravel Pit (CA Mine ID #91-02-0005), Teichert Aggregates (Operator), Mr. Michael Smith (Agent), County of Alpine.

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

4. Approval of a Revised Financial Assurance Cost Estimate for the Cool Cave Quarry (CA Mine ID #91-09-0005), Teichert Aggregates (Operator), Mr. Michael Smith (Agent), County of El Dorado.

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

5. Approval of a Revised Financial Assurance Cost Estimate for the Lapis Sand Plant (CA Mine ID #91-27-0006), Cemex Construction Materials Pacific, LLC (Operator), Mr. Ronald Wilson (Agent), City of Marina.

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

6. Approval of a Revised Financial Assurance Cost Estimate for Santa Paula Materials (CA Mine ID #91-56-0034), Santa Paula Materials, Inc. (Operator), Mr. Mile Grbic (Agent), City of Santa Paula.

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



7. Approval of a Revised Financial Assurance Cost Estimate for the Sperbeck Quarry (CA Mine ID #91-58-0004), Nordic Industries (Operator), Mr. Jens Karlshoej (Agent), County of Yuba.

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

8. Approval of a Revised Financial Assurance Cost Estimate for the Teichert Hallwood Plant (CA Mine ID #91-58-0006), Teichert Aggregates (Operator), Mr. Michael Smith (Agent), County of Yuba.

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

9. Approval of a Revised Financial Assurance Cost Estimate for the Teichert Marysville Facility (CA Mine ID #91-58-0019), Teichert Aggregates (Operator), Mr. Michael Smith (Agent), County of Yuba.

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

10. Approval of Administrative Protocol for Processing the Executive Officer's Time Sheets.

Board Member Kracov moved to approve the administrative protocol for approval of the Executive Officer's time sheets. Board Member Lane seconded and the motion carried with a unanimous roll call vote.

11. Approval of Administrative Protocol for Processing the Executive Officer's Expense Reports.

Board Member Kracov moved to approve the administrative procedure for approval of the Executive Officer's expense reports. Board Member Lane seconded and the motion carried with a unanimous roll call vote.

12. Approval of Executive Officer's Travel Schedule.

Board Member Kracov moved to approve the Executive Officer's travel schedule. Board Member Lane seconded and the motion carried with a unanimous roll call vote.

#### **X. Continued Business [Action]**

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

No continued business was discussed.

#### **XI. New Business [Action]**

13. Review of Office of Mine Reclamation Lead Agency Review Team (LART) Report on the County of Riverside.

Executive Officer Testa noted that under the California Surface Mining and Reclamation Act of 1975 (SMARA), there are currently 113 lead agencies: 52 counties, 50 cities, and the State Mining and Geology Board (SMGB). A lead agency as defined under SMARA means "*the city, county, San*



*Francisco Bay Conservation and Development Commission, or the board which has the principal responsibility for approving a reclamation plan pursuant to this chapter.”* SMARA lead agencies also have other responsibilities including assuring the conduct of adequate inspections at least once each calendar year, and taking appropriate enforcement actions when warranted. In 2007, the Department of Conservation, Office of Mine Reclamation (OMR) established the Lead Agency Review Team (LART). The LART has completed its final lead agency review report for the County of Riverside (County) dated April 10, 2014. Executive Officer Testa reiterated that the LART report was a final report, not a draft report, contrary to earlier remarks made by Director Nechodum. A summary of the SMGB’s statutory authority, background information pertaining to the LART program, a summary of the LART April 10, 2014, report on the County, and efforts set forth by the County since issuance of the LART Report was summarized.

No action taken.

14. Consideration of Issuance of a 45-Day Notice to Correct Deficiencies to the County of Riverside Pursuant to Public Resources Code Section 2774.4(a).

Executive Officer Testa noted that a lead agency as defined under SMARA means *“the city, county, San Francisco Bay Conservation and Development Commission, or the board which has the principal responsibility for approving a reclamation plan pursuant to this chapter.”* SMARA lead agencies have certain obligations and responsibilities pursuant to SMARA including approval of reclamation plans and amended reclamation plans, conducting environmental studies as appropriate, reviewing and approving financial assurance cost estimates and mechanisms, assuring the conduct of adequate inspections at least once each calendar year, and taking appropriate enforcement actions when warranted. In 2007, the Department of Conservation, Office of Mine Reclamation (OMR) established the Lead Agency Review Team (LART). The LART has completed its lead agency review report for the County of Riverside (County). Based on review of the LART Report for the County and pertinent documentation, the SMGB is considering issuance of a 45-Day Notice to Correct Deficiencies to the County.

- Brian Baca, concerned citizen, commented on the history of violations issued during conduct of various inspections by the County and OMR staff, the lack of adequate inspection or what he termed a “pencil inspection” and evidence for such, and that the sites within the County are not being adequately inspected. Mr. Baca also commented on the alleged conflict of interest, which accounts for DOC’s delay in issuance of the LART reports for both Siskiyou and Riverside Counties and an effort by the DOC to avoid the unpleasant matter currently before the SMGB.
- Jim Pompy, former Assistant Director for OMR, concurred with the SMGB’s legal counsel in that the SMGB has the authority and responsibility to review lead agency performance. The SMGB should direct the Executive Officer to review the County’s lead agency performance, and include Eagle Mountain Mine and LART’s findings at part of that performance review. Other issues were commented on including the approved reclamation plan being prepared for an iron mining operation, not aggregate, and noting that the site has not been reclaimed in occurrence with the site’s approved reclamation plan, and reclamation remains incomplete even though abandonment was already triggered. Mr. Pompy noted that the DOC issued a 15-Day Notice to the County because abandonment was triggered. The County subsequently directed the operator to submit falsified information on its annual report in regards to production quantities. Mr. Pompy encouraged the SMGB to issue a 45-Day Notice.
- Rick Thalhammer, concerned citizen and former Deputy Attorney General, expressed surprise that Director would refer to the LART report as a draft. The SMGB should consider the circumstances in Riverside County. In its history pertaining to the evaluation of lead



agencies, the SMGB has not been dependent on any LART report and been primarily based on citizen's complaints, and there are lots of citizens before the board complaining today, and the County should be brought before the SMGB for evaluation and guidance.

- Marsha Burch, Attorney representing the Desert Protection Society, provided written correspondence and supported issuance of a 45-Day Notice and requested an investigation of the Eagle Mountain Mine and SB 108 process. The SMGB has the authority and obligation to review lead agency performance. The evidence heard today speaks to several concerns and processes that were not followed. OMR inspection report reflected numerous violations and there is a tremendous amount of public outcry. There is awareness of the threat of lawsuits, and in writing, but fear of a lawsuit should not prevent the SMGB from fulfilling its duty to the public. Many citizens could not make it to the hearing today, but PRC Section 2774.4 provides all the authority the SMGB requires to address the fairness of the process and have the Executive Officer look into this matter.
- George Hague, Conservation Chairperson representing Moreno Valley Group of the Sierra Club, supports issuance of the 45-Day Notice and investigation of the SB 108 process related to the Eagle Mountain Mine. No public hearing was held although the County knew a public hearing should have taken place. The County has shown lack of public concern, and the timeliness of any reclamation is of issue.
- Edie Hamon, concerned citizen, expressed shock in review of the documents and the influence of corporations on government agencies, and preferential treatment of such corporations supports issuance of the 45-Day Notice and strongly consider taking away lead agency status from the County.
- Sarah Kennington, President, Morongo Basin Conservation Association, supported issuance of the 45-Day Notice and not to let Eagle Mountain Mine operators not benefit.
- Ruth Rieman, board member representing the Morongo Basin Conservation Association, expressed support for issuance of the 45-Day Notice.
- Larry Charpied, Executive Director representing the Desert Protection Society, expressed support for issuance of the 45-Day Notice.
- Donna Charpied, Executive Director representing the Desert Protection Society, expressed support for issuance of the 45-Day Notice.
- Seth Shteir, Field Representative, National Parks Conservation Association, expressed support for issuance of the 45-Day Notice and evaluation of the SB 108 process.
- David Fick, member of the Desert Protection Society and Morongo Basin Conservation Society, expressed support for issuance of the 45-Day Notice.
- Ilene Anderson, Senior Scientist, Center for Biological Diversity, expressed support for issuance of the 45-Day Notice, including the Eagle Mountain Mine, and inspire the County to do a better job.
- Pat Flanagan, Morongo Basin Conservation Association, expressed support for issuance of the 45-Day Notice.
- Ron Roy, concerned citizen with a mining background, expressed support for issuance of a 45-Day Notice.
- Tom Budlong, Sierra Club Desert Committee, noted frustration among the public with Director Nechodom's comment about a draft report, and expressed support for issuance of the 45-Day Notice and questioned what is going on with other mines throughout the jurisdiction of the County.
- Paulie Tehrani, expressed support for issuance of a 45-Day Notice and water issues should the site be developed for use as a hydroelectric project.
- Jayne Powell, Environmental Manager, Granite Construction Company, expressed support for the County.





- Adam Harper, California Construction and Industrial Materials Association (CalCIMA), noted that concurrent with the LART process, the County did reach out to the industry with the need for the County to develop a more effective SMARA program.
- Mark Harrison, attorney representing Eagle Mountain Mine, noted that the data is incomplete, and findings are not specific, and does not support issuance of a 45-Day Notice, and opined that the SMGB has no authority to provide oversight over the DOC under PRC Section 2774.4. Also, should a Notice be issued, it would not include the Eagle Mountain Mine since such mine is not specifically listed.
- Juan Perez, Director of TLMA, County of Riverside, provided some preliminary and introductory comments.
- David Jones, Chief Engineering Geologist, County of Riverside, acknowledged that the LART report dated April 10, 2014, as received by the County was noted as a final report and treated as such, and noted that no public hearing for consideration of an Interim Management Plan was held because it was not subject to a hearing. An overview of the LART process and the County's efforts to address deficiencies noted and its efforts in working proactively were also summarized.
- Member Kracov inquired as to the issues regarding Riverside County. Executive Officer summarized and stated inadequate resources, inadequate inspections, and inadequate enforcement and compliance efforts.
- Member Mendez inquired as to a missing progress report dated June 2014 and inquired from David Jones with Riverside County as to his understanding of the discrepancies and miscommunications with OMR LART and was it his understanding that the report was a draft. Jones responded that there was an agreement with OMR as to a timeline and that the LART report received from OMR was labeled a final and was treated as a final report. Member Mendez expressed the opinion that the issuance of a 45-Day Notice was unnecessary and in conflict with efforts and timelines established by DOC.
- Member Anderson inquired as to the effect of issuance of a 45-Day Notice on the reversal of the Interim Management Plan (IMP). Legal Counsel Tiedemann stated no effect nor does the SMGB have the authority to reverse a decision made by the lead agency.

Board Member Lane moved to issue the 45-Day Notice to Correct Deficiencies to the County of Riverside. Board Member Gavric seconded and the motion carried with Members Anderson and Mendez opposed, and Member Kenline abstaining.

15. Adoption of Resolution 2014-09 Certifying the County of Siskiyou's Amended Surface Mining and Reclamation Ordinance No. 12-13, as Being in Accordance with the Surface Mining and Reclamation Act (SMARA; Public Resources Code Section 2710 et seq.).

Deferred.

16. Approval of the State Mining and Geology Board's Designation Report No. 12 titled "*Designation of Regionally Significant Aggregate Resources in the San Gabriel Valley Production-Consumption Region.*"

Executive Officer Testa noted that designation is the formal recognition by the SMGB of lands containing mineral resources of regional or statewide economic significance that are needed to meet the demands of the future. On January 1, 2014, regulations set forth by the SMGB for the designation of regionally significant aggregate resources in the San Gabriel Valley Production-Consumption (P-C) Region, Los Angeles County, were enacted. Upon such regulations becoming effective, the SMGB's Report No. 12 titled "*The Designation of Regionally Significant Aggregate*



*Resources in the San Gabriel Valley Production-Consumption Region*” was prepared for the SMGB’s approval consideration.

Board Member Anderson recused himself from this item. Board Member Kracov moved to approve Designation Report No. 12. Board Member Lane seconded and the motion carried with a unanimous voice vote.

17. Approval of the State Mining and Geology Board’s Designation Report No. 13 titled *“Designation of Regionally Significant Aggregate Resources in the Palm Springs Production-Consumption Region.”*

Deferred.

18. Approval of Site Closure and Release of Financial Assurance Mechanism for the Big Gun Quarry (CA Mine ID #91-31-0013), City of Rocklin (Operator), Mr. Rick Forstall (Agent), City of Rocklin.

Executive Officer Testa stated that the SMGB serves as the lead agency under SMARA for forty-six (46) individual surface mining operations, including operations located within the jurisdiction of the City of Rocklin. On April 16, 2014, SMGB staff determined that reclamation was complete at the Big Gun Quarry, and subsequently completed the process for release of the existing financial assurance per CCR Section 3805.5. Therefore, the SMGB is considering approval of site closure and release of the remaining financial assurance mechanism for the Big Gun Quarry.

Board Member Lane moved to approve the release of the financial assurance. Board Member Kracov seconded and the motion carried with a unanimous voice vote.

19. Discussion and Approval of the State Mining and Geology Board’s 2013-2014 Annual Report.

Executive Officer Testa stated 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 the Surface Mining and Reclamation Act of 1975 (SMARA). The SMGB’s annual report for 2013-2014 is being considered for approval by the SMGB, prior to being finalized and distributed, as appropriate.

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

20. Review and Establishment of the Board’s Committees Pursuant to the Board’s Bylaws (III Organization).

Deferred.

21. Adoption of the State Mining and Geology Board’s 2015 Regular Business Meeting Calendar.

Deferred.



## **XII. Special Reports and Department Presentations [Possible Action]**

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

22. Discussion of Request by Assemblymember Perez for Investigation into SB 108 Process for the Kaiser Eagle Mountain (CA Mine ID #91-33-0060), Terry Cook (Agent), Kaiser Eagle Mountain, LLC (Operator), County of Riverside.

Executive Officer Testa stated that on October 9, 2014, the SMGB received correspondence from Assemblymember V. Manuel Perez, Fifty-sixth District, pertaining to the Eagle Mountain Mining Facility (CA Mine ID #91-33-0060), located in Riverside County. Specifically, Assemblymember Perez requested that the SMGB initiate an investigation into 1) the process by which the Kaiser Mountain Mine was returned to "idle" mining status under the provisions of SB 108 codified in Public Resources Code (PRC) Sections 2727.1, 2770 and 2777.5, and 2) the legal status of the current and proposed mining activities in regards to the subject site.

- Emmanuel Martinez, Legislative Aide, representing Assemblymember V. Manuel Perez's office, reiterated concerns as expressed in the Assemblymember's correspondence in light of the documents provided by Mr. Baca. Reiterated request that the SMGB look into the processes and whether County abided by the law, SMARA, and SB 108.
- Brian Baca, concerned citizen and former SMGB member, stated that an inspection took place July 10, 2012, with the inspection report signed by inspector in August 2012. A falsified version was signed in July 2013 by someone who didn't appear there. Self-regulation is exemplified by a letter by then Assistant Director Parrish dated July 30, 2013 stating the site not eligible for SB 108, followed by an email from Terry Cook to Chief Deputy Director Jason Marshall to fix this, followed by a drafted letter for Parrish signature on OMR letterhead. Mr. Baca expressed support for Assemblymember Perez's request for an investigation.
- Jim Pompy, concerned citizen and former Assistant Director of OMR, stated that when SB 108 was adopted, a very detailed letter of how it was to be implemented was reviewed by Senator Rubio's office then sent to all lead agencies. Having reviewed the documents Riverside County relied on in returning the Eagle Mountain Mine to idle status, as well as personally participating in an inspection on June 6, 2011, Mr. Pompy expressed support for Assemblymember Perez's request for further investigation by the SMGB.
- Marsha Burch, Attorney representing the Desert Protection Society, stated that the IMP is not within the bounds of SB 108 and expanded the mining operation in a way SB 108 never intended. A thorough investigation is warranted.
- Donna Charpied, Executive Director, Desert Protection Society, expressed support of an investigation.
- Larry Charpied, Vice President, Desert Protection Society, expressed support of the Assemblymember's request for an investigation.
- Patricia Robles, Chairperson, La Cuna de Aztlan Sacred Sites Protection Circle, supports the request for an investigation.
- Tom Budlong, Sierra Club Desert Committee, stated that Mr. Baca's accusations are central to this issue and must be investigated.
- Seth Shteir, Field Representative, National Parks Conservation Association, given Eagle Mountain Mine's proximity to Joshua Tree National Park, it is highly inappropriate that the majority of violations found in the original inspection have been swept under the rug, and expressed support for the Assemblymember's request for an investigation and also requests that idle status be revoked.
- Ilene Anderson, Center for Biological Diversity, investigation into SB 108 status by SMGB is required and land should be reverted to national park.



- Sarah Kennington, President, Morongo Basin Conservation Association, concerned about OMR's approval of IMP, and expressed support for the request for investigation.
- George Hauge, Conservation Chair, Moreno Valley Group of the Sierra Club, stated that Mr. Baca's presentation, Ms. Burch's presentation, and Assemblymember Perez's letter should be enough to convince the SMGB that an investigation is required.
- Alfred Figueroa, Chemehuevi Monitor, La Cuna de Aztlan Sacred Sites, expressed support for the request for investigation.
- Jeffrey Morgan, Local Resident for 40 years, has followed the Eagle Mountain Mine debacle for the past 25 years, and stated that it is time to follow the intentions of the original congressional action and revert the land back to Joshua Tree National Park.
- Dan Roman, Chairman of Eagle Mountain Landfill Opposition Coalition, expressed support for the request for investigation.
- Ron Roy, Riverside County Resident, expressed support for the request for investigation and was in favor of returning the land to the national park.
- Carolyn Krause, concerned citizen, expressed support of the request for investigation.
- Tiffany North, Deputy County Counsel, County of Riverside, stated that the IMP was prepared using the SMGB's guidelines, and the relevant provisions of SMAR, and guidance documents from the DOC. The initial IMP was revised several times in response to comments from the County and OMR, and a final version included an appendix of documents that pertain to each criteria of SB 108. An investigation into the SB 108 process is not necessary.

No action taken.

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

- Sonora Pit (CA Mine ID #91-26-0037), County of Mono.
- Long Valley Mineral Mining Site (CA Mine ID #91-26-0046), County of Mono.
- 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.

Board Member Lane moved to accept inspection report but defer presentation until the SMGB's next scheduled meeting. Board Member Kenline seconded and the motion carried with a unanimous voice vote.

**XIII. SMGB Committee Reports [Information and Possible Action]**

24. Policy and Legislation Committee Report (Kenline)

- Recommendations Pertaining to the State Mining and Geology Board's 2013-2014 Annual Report.

Committee Chairman Kenline noted that the Committee moved to recommend approval of the proposed language with revision to the whole SMGB.



- Policy and Legislation Committee Recommendations for Consideration of Conflict of Interest Pursuant to Public Resources Code Section 2774(b) and California Code of Regulations Section 3504.5(c).

Committee Chairman Kenline noted that the Committee moved to recommend forwarding this matter to the whole SMGB for further discussion and consideration.

25. Geohazards Committee Report (Lane)

- Recommendations Pertaining to the State Mining and Geology Board's 2013-2014 Annual Report.

Committee Chairman Lane noted that the Committee moved to recommend approval of the proposed language to the whole SMGB.

26. Minerals and Geologic Resources Committee Report (Kenline)

27. Surface Mining Standards Committee Report (Vacant)

**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:

- Member Kracov requested a discussion of Ex Parte rules and limitations from the SMGB's legal counsel for the SMGB's next scheduled meeting.
- Member Lane requested that the SMGB agendaize a discussion of budgetary concerns to address transition issues when the Executive Officer eventually departs.
- Vice Chair Gavric requested protocols be developed for how the SMGB handles the submission of earthquake fault zoning and seismic hazard maps so the SMGB has adequate opportunity for consideration and discussion, and considerations as to how the process can be made more transparent.
- Member Mendez inquired as to inclusion of SMGB member's contact information on the SMGB's website, and notably, to include his if possible.
- Member Kracov inquired as to the availability of a workshop over the next several months covering a variety of SMGB topics.

**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**

The SMGB did not meet in Executive Session.

**XVII. Announcements of Future Meetings**

December 11 was announced as the time of the next scheduled meeting, with Sacramento as the location.

**XVIII. Adjournment**

The meeting was adjourned at 4:30 p.m.

**APPROVED**



Ignacio Gonzalez, Chairman



Stephen M. Testa, Executive Officer

