



# 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:

Thursday, June 11, 2015

10:00 A.M.

(or immediately following the Mineral Conservation and Reclamation Committee)

Thursday, March 12, 2015

#### 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.

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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 (Kracov)**

**II. Pledge of Allegiance**

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

The meeting was called to order at 10:25 A. M. by Chairman Kracov, with Members Mendez and Potter absent, and a quorum was declared.

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

Acting Director Jason Marshall, reported on the following:

- Administration's SMARA reform discussions are moving along; and may be ready for legislation this year.
- There are several bills the SMGB may be interested in: AB 1034, Obernolte; AB 1142, Gray; SB 209, Pavley.
- The DOC has been working with the Department of Finance on a mid-year addition to the SMGB's expenditure authority as well as a shift in MRA funds from CGS and OMR to cover the SMGB's litigation costs.

Member Landregan requested copies or a list of legislation of interest to the SMGB.

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

John Clinkenbeard, Senior Supervising Geologist, reported on the following:

- Five preliminary A-P maps were released on June 4 for review and public comment; the comment period will end September 1, 2015. Following the SMGB's review, final maps are expected to be published in early December 2015. A second batch of preliminary maps are expected to be released sometime in September 2015.

Chairman Kracov inquired about the SMGB's obligations with regard to public comment and hearings on the preliminary maps. Executive Officer Testa stated that a hearing would be held sometime in August to receive public comments; if there were no significant comments, the hearing would be held by the Executive Officer and not the committee.



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

Assistant Director of OMR, Pat Perez, reported on the following:

- Congratulations were extended to Chairman Kracov, Vice Chairman Anderson, and Member Mendez on their Senate confirmation.
- OMR conducted an inspection workshop in Amador County; there were 20 participants representing eight lead agencies. Upcoming workshops are scheduled in San Luis Obispo on June 22-23; in Indio on October 13-14; and in Auburn on November 4-5.
- Since the last meeting, OMR has hired an additional Engineering Aid. OMR is also interviewing for a Senior Engineering Geological Supervisor, and are moving forward with recruitment for Office Technician and other positions.
- OMR has a series of informational presentations planned for future SMGB meetings beginning with the Abandoned Mines Land Unit program.

Chairman Kracov asked how OMR notifies lead agencies of upcoming workshops, and requested that notices be sent to the SMGB as well. Member Kenline asked if the funding aspect would be included in the Abandoned Mines Land Unit presentation, and Member Lane requested a list of the active projects.

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

No report provided.

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

Executive Officer Testa reported on the following:

- Rulemaking Status: Amended regulations for the San Luis Obispo-Santa Barbara Production-consumption Region was approved by the Office of Administrative Law and will be effective on July 1<sup>st</sup>; Amended regulations for the Stockton-Lodi Production-Consumption Region was also approved and will be effective on October 1<sup>st</sup>. Amended regulations for the North San Francisco Bay Production-Consumption Region was submitted to OAL on June 3<sup>rd</sup> for approval consideration. Some minor non-substantial cleanup in regards to the use of consistent terms and phrases will be attended to in the near future.
- Designation Reports: SMGB Designation Report No. 12 pertaining to San Gabriel Valley Production-Consumption Region was finalized and posted on the SMGB's website; Palm Springs was also finalized and will be posted upon completion. Four other designation reports await preparation.
- Alquist-Priolo Earthquake Fault Zoning Act: Three preliminary maps (i.e., quadrangles) covered by five Fault Evaluation Reports will be released by CGS on June 4, 2015:

1. Fault Evaluation Report 250 – Indio and Thermal Canyon quadrangles (2)
2. Fault Evaluation Report 251 – Mt. San Antonio and Mescal Creeks quadrangles (2)
3. Fault Evaluation Report 258 – Yorba Linda Quadrangle (1)

The release of these preliminary maps commences a 90-day public comment period. Hearings to receive comments are anticipated to be scheduled for August 2015.

- Alquist-Priolo Technical Advisory Committee (A-P TAC): The A-P TAC held a conference call on April 28, 2015, and scheduled meeting on June 30, with 2-3 additional meetings to be held between now and when a presentation is made to the SMGB's Geohazards



Committee anticipated for September. An overview and status report is also scheduled for the Seismic Safety Commission on August 13<sup>th</sup>.

- **SMGB Lead Agency:** The SMGB's Lead Agency summary table has been modified reflecting comments previously expressed by the SMGB; simplified and color coded to reflect three general categories within the set of 42 surface mining operations listed: operations deemed compliant (35), sites where enforcement actions are underway or pending (4), and sites under litigation or experiencing other extenuating circumstances (3).
  - Three OTC are being considered for July: Lawyer Pit located in El Dorado County, and Cal Sierra and Simpson Lane in located in Yuba County.
- **SMGB 2014-2015 Annual Report:** Some thoughts as to preparation of the SMGB's 2014-2015 Annual Report is being given as the SMGB closes out the reporting year which runs from July 1, 2014 to July 31, 2015. Much of this work will be accomplished over the summer months with a draft to the SMGB in September or October.
- Upcoming activities will include one designation hearing, and 2-3 A-P hearings, to be scheduled for mid-to-late August. The purpose of the hearings is to receive public comment.

**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.]

- Chairman Kracov noted that he received emails from Sophie Treder and Babak Naficy regarding their desire for a designation appeal, but did not respond.

**VIII. Public Comment Period [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.]

Sophie Treder, Attorney, suggested the SMGB forward a copy of the Strategic Plan to lead agencies, and emphasized the importance of the Model Mineral Resource Management Policies.

**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 9, 2015, Regular Business Meeting.

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

2. Approval of a Revised Financial Assurance Cost Estimate for the Philadelphia Recycling Mine (CA Mine ID #91-33-0029), Plyley Enterprises, Inc. (Operator), Douglas Carson (Agent), City of Jurupa Valley.

Member Gavric moved to approve the financial assurance cost estimate. Member Noushkam seconded and the motion carried with a unanimous voice vote.



3. Approval of a Revised Financial Assurance Cost Estimate for the Western Aggregates LLC Yuba County Operations (CA Mine ID #91-58-0001), Western Aggregates LLC (Operator), Lloyd Burns (Agent), County of Yuba.

Member Gavric moved to approve the financial assurance cost estimate. Member Noushkam seconded and the motion carried with a unanimous voice vote.

4. Approval of a Revised Financial Assurance Cost Estimate for the Knife River Hallwood Plant (CA Mine ID #91-58-0002), Knife River Construction (Operator), Rene' J. Vercruyssen (Agent), County of Yuba.

Member Gavric moved to approve the financial assurance cost estimate. Member Noushkam seconded and the motion carried with a unanimous voice vote.

5. Approval of a Revised Financial Assurance Cost Estimate for the Parks Bar Quarry (CA Mine ID #91-58-0013), Nordic Industries, Inc. (Operator), Jens Karlshoej (Agent), County of Yuba.

Member Gavric moved to approve the financial assurance cost estimate. Member Noushkam seconded and the motion carried with a unanimous voice vote.

6. Approval of a Revised Financial Assurance Cost Estimate for the Stringer Pit #1 (CA Mine ID #91-58-0022), Silica Resources Inc. (Operator), Nicole Lindbom (Agent), County of Yuba.

Member Gavric moved to approve the financial assurance cost estimate. Member Noushkam seconded and the motion carried with a unanimous voice vote.

7. Approval of a Revised Financial Assurance Cost Estimate for the Stringer Pit #2 (CA Mine ID #91-58-0023), Silica Resources Inc. (Operator), Nicole Lindbom (Agent), County of Yuba.

Member Gavric moved to approve the financial assurance cost estimate. Member Noushkam seconded and the motion carried with a unanimous voice vote.

**X. Continued Business [Action]**

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

No continued business discussed.

**XI. New Business [Action]**

8. Recommendations from the State Geologist for the Designation, and Termination of Designation, of Mineral Lands for Portland Cement Concrete-Grade Aggregate in the Temescal Valley Production Area, Riverside County, California.

Executive Officer Testa noted that the SMGB, based on recommendations from the State Geologist and public input, prioritizes areas to be classified and/or designated. CGS Special Report (SR) 231 updated information previously presented in a classification report on Portland cement concrete-grade (PCC) aggregate in the Temescal Valley Production Area first published in 1987. At its



April 9, 2015, regular business meeting, the SMGB accepted CGS Special Report 231, The State Geologist has recommended designation, and termination of designation, of select mineral resource lands in the Temescal Valley Production Area, Riverside County, California. The State Geologist, in memorandum dated May 21, 2015, has recommended that the candidate areas identified as Sectors AA through FF be designated as lands containing construction aggregate resources of regional significance. It is also recommended that certain candidate areas previously designated be terminated as provided under PRC Section 2793. These Sectors are A, H, O,P, Q, R, and S, and Sector E-24. These areas have since been urbanized. Upon the SMGB's acceptance of the State Geologist's recommendations, the Executive Officer will hold a public hearing to receive comments on the proposed regulatory action.

Member Lane moved to accept the State Geologist's recommendations and Member Kenline seconded the motion. The motion carried with a roll call vote with Vice Chair Anderson absent.

9. Certification of the County of Orange's Amended Sand, Gravel, and Mineral Extraction Code (2014 Edition), as Being in Accordance with the Surface Mining and Reclamation Act (SMARA; Public Resources Code Section 2710 et seq.).

Executive Officer Testa noted that the County of Orange (County) has amended its Surface Mining and Reclamation Ordinance. The County's mining ordinance was originally certified by the SMGB in 1994 (Ordinance Nos. 3905 and 3906). At the County's request a preliminary review of the County's amendments was performed and comments offered by the SMGB's Executive Officer in correspondence dated August 2, 2014. Such comments were adequately addressed and were presented before the SMGB's Minerals and Geologic Resources Committee (Committee) for review and comment on February 12, 2015, prior to the County considering adoption of the amended ordinance. The Committee recommended certification pending adoption by the County's Board of Supervisors. On April 14, 2015, the County's Board of Supervisors adopted the amended ordinance. Pursuant to PRC Section 2774.5(a), the SMGB is considering certification of the County's Revised Provisions of the Sand, Gravel, and Mineral Extraction Code, Ordinance No. 15-006.

Member Kenline moved to adopt Resolution 2015-04 and certify Ordinance No. 15-006 and Member Lane seconded the motion. The motion carried with a roll call vote with Vice Chair Anderson absent.

10. Certification of the County of Siskiyou's Amended Surface Mining and Reclamation Ordinance (Ordinance No. 15-06), as Being in Accordance with the Surface Mining and Reclamation Act (SMARA; Public Resources Code Section 2710 et seq.).

Executive Officer Testa noted that the County of Siskiyou (County) has recently amended its Surface Mining and Reclamation Ordinance. The County's mining ordinance was originally certified by the SMGB in 1999 (Ordinance No. 15-06). At the County's request, a preliminary review of the County's amendments was performed and comments offered by the SMGB's Executive Officer in correspondence dated November 5, 2014. Such comments were adequately addressed and were presented before the SMGB's Minerals and Geologic Resources Committee (Committee) for review and comment on February 12, 2015, prior to the County considering adoption of the amended ordinance. The Committee recommended certification pending adoption by the County's Board of Supervisors. On May 12, 2015, the County's Board of Supervisors adopted the amended ordinance. Pursuant to PRC Section 2774.5(a), the SMGB is considering certification of the amended ordinance.



Member Kenline moved to adopt Resolution 2015-05 and certify Ordinance No. 15-06 and Member Gavric seconded the motion. The motion carried with a roll call vote with Vice Chair Anderson absent.

11. Approval of Model Surface Mining and Reclamation Act (SMARA) Mining Ordinance. 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 before they become effective, and effective April 1, 2014, amended regulations require mandatory notification of ordinances amended by lead agencies and recertification by the SMGB. Adopted on June 16, 1996, a Model Ordinance was prepared and adopted by the SMGB to assist lead agencies in developing and revision of their local SMARA ordinance (PRC Section 2774). At its meeting held on April 9, 2014, the Mineral Conservation and Reclamation Committee (formally Minerals and Geologic Resources Committee), accepted the amendments but requested that such amendments be forwarded to stakeholders for additional public comment, prior to forwarding such considerations to the whole SMGB. The amended Model Ordinance was made available for public comment commencing on May 6, 2015, and ending on June 5, 2015. No comments were received. The updated *Model SMARA Ordinance* is an expansion of the SMGB's original version and incorporates SMARA revisions since 1996, and expansion on language pertaining to MRMP. The SMGB is considering approval of the amended and updated SMARA Model Ordinance.

Member Kenline moved to approve the Model Ordinance and Member Noushkam seconded the motion. The motion carried with a roll call vote with Vice Chair Anderson absent.

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

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

### **12. State Mining and Geology Board's Budget Briefing [DOC]**

Executive Officer Testa noted that fiscal year 2013-2014 was the first year that the SMGB is noted as a separate item in the Governor's Budget. This change differs from previous years when the SMGB's budget was subsumed within the CGS budget. The SMGB's budget as depicted in the Governor's 2015-2016 Budget Plan is \$1,244,000. The SMGB's budget when serving as a board for fiscal year 2014-2015 is \$447,056 (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 SMARA is \$357,000 (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 \$45,000 additional monies are obtained in the conduct of mine inspections when the SMGB serves as a SMARA lead agency. The budget for the SMGB for fiscal year 2013-2014 was discussed at its regular business meeting held on February 21, 2014.

- Acting Director Jason Marshall provided the budget overview and covered definitions, budget cycle, development and deliberation. Also discussed was the SMGB's role in the budget process which includes Budget Change Proposal (BCP) preparation; SMARA fee structure development; and revenue generation, where the board gets to decide what the annual reporting fee will be for mines within its jurisdiction.



- Member Gavric asked how the numbers for the SMGB's authority to spend are calculated. Mr. Marshall explained that the figures are developed over several years, based on previous year figures and BCPs.
- Member Noushkam asked whether, on the MRA authority, there was some level of money initially put in as a baseline for litigation, and does the SMGB need to make an adjustment to the authority to cover legal costs. Mr. Marshall stated that the baseline amount was determined by a BCP in 2007-08, and a new BCP would be required to increase the amount.
- Member Lane asked how the SMGB compares to other boards in terms of as a target for litigation, and how do other boards handle increasing legal fees.

This item was informational only and no action was taken.

13. State Mining and Geology Board Member Reimbursement Rules and Policies. Executive Officer Testa noted that Members of the SMGB are entitled to reimbursement of out-of-pocket expenses during conduct of official duties. Reimbursement policies and guidance information is being provided as it pertains to general compensation, travel arrangements, traveling to meetings and hearings, reimbursement requests, and miscellaneous activities and events. The following information being provided is for the SMGB's general information. The SMGB may consider policies in administering and performing its specific official duties.

- Member Noushkam asked whether there was a time window for reimbursement. Clayton Haas, Deputy Director of Administration, stated that the turn around time was usually one week from the time the claim was received.
- Member Lane inquired about the reimbursement policy for attending conferences or workshops. Mr. Haas explained that if the reason for conference attendance was to learn and return to the department to teach others, expenses will be approved and reimbursed for the specific days necessary.

This item was informational only and no action was taken.

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

2014 Inspections:

- Hanson Alcatraz/SLC 709.1 (CA Mine ID No. 91-38-0001), BCDC
- Hanson Pt. Knox Shoal/SLC 2036.1 (CA Mine ID No. 91-38-0002), BCDC
- Hanson Pt. Knox South/SLC 7779.1 (CA Mine ID No. 91-38-0003), BCDC
- Hanson Alcatraz South/SLC 7780.1 (CA Mine ID No. 91-38-0004), BCDC
- Hanson Suisun Bay/SLC 7781.1 (CA Mine ID No. 91-38-0005), BCDC
- Hanson Middleground/TLS39 (CA Mine ID No. 91-38-0006), BCDC
- Jerico Suisun Bay Middleground/TLS39 (CA Mine ID No. 91-38-0007), BCDC
- MT&B Marine Oyster Shell Mining/SLC 5534.1 (CA Mine ID No. 91-38-0011), BCDC
- Timm Mine (CA Mine ID No. 91-09-0006), County of El Dorado
- Priest Grade Pit (CA Mine ID No. 91-55-0008), County of Tuolumne

2015 Inspection:

- Big Cut Mine (CA Mine ID No. 91-09-00XX), County of El Dorado

Member Lane moved to accept the inspection reports and Member Landregan seconded the motion. The motion carried with a voice vote with Vice Chair Anderson absent.



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

- Geohazards Committee (Chairperson Gavric)
- Chairperson Gavric stated that they are awaiting final findings and report from A-P Technical Advisory Committee and expect to have something in September or October.
  - Alquist-Priolo Technical Advisory Committee (Executive Officer Testa)
  - Minerals Conservation and Reclamation Committee (Chairperson Kenline)
- Committee discussed initiating review of backfill regulations. Directed the EO to work with DOC and stakeholders to consider flexibility in regulations and utilizing CEQA as a driver.
- Considered draft policy/ordinance concerning Mineral Resource Management Policies (MRMP); directed EO to look at other agencies' MRMPs or come up with a draft to circulate for comment and future incorporation into General Plans.
  - Board Policy and Administration Committee (Chairperson Mendez)
  - Lead Agency Standards Committee (Chairperson Nouskham)

**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 Kracov requested a an orientation by legal counsel regarding a variety of legal topics, and issues related to the Weber Creek Quarry located in El Dorado County. A briefing on the SMGB's budget and progress made on the SMGB's 2015-2016 Strategic Plan; these items are anticipated to be scheduled for September or October. Other new business discussed pertained to the Alquist-Priolo Earthquake Fault Zoning Act and appropriate signage on reclamation plans.

**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. In addition, the SMGB may consider litigation matters which fall under Government Code Sections 11126(e)(2)(B) and 11126(e)(2)(C).

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

No Executive Session was held.

**XVII. Announcements of Future Meetings**

July 9 was announced as the date of the next scheduled meeting, with Sacramento as the location.

**XVIII. Adjournment**

The meeting was adjourned at 2:20 p.m.

**APPROVED**



Gideon Kracov, Chairman



Stephen M. Testa, Executive Officer

