



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, August 13, 2015

10:00 A.M.

(or immediately following the Policy and Administration Committee)

LOCATION:

Assembly Hearing Room #4202

State Capitol

Sacramento, California 95814

10:00 A.M.

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 (Kracov)

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 Kracov, with Members Noushkam and Potter absent, and a quorum was declared.

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

Department of Conservation Director Dr. David Bunn, reported on the following:

- Director Bunn introduced himself and expressed agreement with Chairman Kracov regarding open lines of communication between the DOC and the SMGB.
- Ben Turner, Legislative Director for the DOC, provided an update on the stakeholder meetings pertaining to SMARA reform, and highlighted some of the key points of AB 1142 and SB 209.
- State Geologist's Report (Parrish) [Information]

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

- Two senior staff, Jerry Treiman and Russ Miller have retired.
- Two Engineering Geologists, Rick Wilson and Jeremy Lancaster, have received the Andy Lee Award for Extraordinary Public Service.
- Six seismic hazard liquefaction and landslide maps, four in Riverside County and two in San Mateo County, are being prepared for preliminary release in the spring of 2016.
- Noted that this meeting marks the 10th anniversary of the SMGB's Executive Officer.

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

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

- Mining operation annual reports were due July 1; 1,100 have been received and are being reviewed by staff. 175 operators have not yet submitted their reports or fees, but staff is working with lead agencies to receive them.



- Another SMARA workshop was conducted in late June in San Luis Obispo. An inspection workshop is scheduled for October 13-14 in Indio, and a Lead Agency SMARA workshop is scheduled for November 4-5 in Auburn.
- OMR has hired a new Environmental Scientist, as well as a Senior Engineering Geologist Supervisor, and interviews are being conducted for several other administrative positions and engineering geologist positions.
- An informational presentation on the implementation and roll out of the Lead Agency Review and Assistance (LARA) program is being finalized pending the outcome of the current SMARA legislation.

Member Mendez requested a general background report on steps California takes to prevent an incident similar to the one at the Gold King Mine in Colorado.

Chairman Kracov inquired about the technology needs at OMR and whether they are making strides towards getting needs met. Mr. Perez stated that the U.S. Army Corps of Engineers will be providing OMR with \$300,000 to complete a feasibility study on modernizing the technology to collect and process annual reports electronically.

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

- In late May a designation appeal was received from Las Pillitas Resources in San Luis Obispo. Chairman Kracov determined that the SMGB did not have jurisdiction to hear the appeal.

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

Executive Officer Testa reported on the following:

- In the capacity of a SMARA Lead Agency:
 - All CEQA projects have been completed, current standing CEQA contract expires September 1, 2015; a process for procuring new standing contract will commence this Fall.
 - Status of enforcement actions under consideration was summarized.
 - The 2015 annual SMARA inspections will commence in August.
- Designation:
 - A hearing to receive public comments for the Temescal Valley Production Region is scheduled for August 18 in the City of Riverside.
 - Final rulemaking is currently under review by OAL for the North San Francisco Bay P-C Region with the SMGB considering re-adoption of the revised regulatory action for this area.
 - San Bernardino Designation Report No. 14 pertaining to the San Bernardino P-C Region is near completion.
 - Other designation reports in progress include the San Luis Obispo-Santa Barbara and Stockton-Lodi P-RC Regions.
- Alquist-Priolo Earthquake Fault Zoning Act:
 - A public hearing to receive comments on the five preliminary A-P maps released by CGS is scheduled for August 18 in the City of Riverside.
 - The next A-P TAC meeting is scheduled for August 20 in Sacramento.
 - Work on a Model A-P Ordinance will likely not commence until sometime in the Fall.
- The SMGB 2014-2015 Annual Report in progress.



- An effort to develop Model Mineral Resources Management Policies (MRMP) will likely not commence until sometime in the Fall.
- A synopsis of the 2014-2015 end of fiscal year budget was provided.

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.]

No Ex-Parte discussions were disclosed.

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.]

No Public Comments.

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, June 11, 2015, Regular Business Meeting.

Approved as amended by unanimous consent.

2. Approval of a Revised Financial Assurance Cost Estimate (FACE) for the Somerset Sand Mine (CA Mine ID #91-09-0009), El Dorado County Department of Transportation (Operator), Mr. Don Spear (Agent), County of El Dorado.
 - Vice Chair Anderson expressed concern that the revegetation monitoring costs were not itemized in the FACE.

Member Gavric moved to approve the Financial Assurance Cost Estimate and Member Mendez seconded the motion. The motion failed, with Members Gavric and Mendez voting in favor and all other Members opposing. A second motion was made by Vice Chair Anderson and seconded by Member Landregan to direct staff to reevaluate the workup for the Financial Assurance Cost Estimate to include a standard 3-year post-vegetation monitoring program and bring it back to the SMGB for approval. The motion carried with a unanimous roll call vote.

3. Approval of a Revised Financial Assurance Cost Estimate for the Marin Quarry (CA Mine ID #91-09-0015), Sierra Pacific Industries, Inc. (Operator), Mr. Richard Wade (Agent), County of El Dorado.

Approved by unanimous consent.

X. Continued Business [Action]

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



No continued business discussed.

XI. New Business [Action]

4. Issuance of an Order to Comply to Lawyer Pit (CA Mine ID #91-09-0010), Archie's Trucking and Backhoe (Operator), Archie Lawyer (Agent), County of El Dorado, to Correct Violations of the Surface Mining and Reclamation Act (Public Resources Code Section 2710 et seq.).

Rescinded.

5. Issuance of an Order to Comply to Cal Sierra (CA Mine ID #91-58-0003), Cal Sierra Development, Inc. (Operator), Tony Massey (Agent), County of Yuba, to Correct Violations of the Surface Mining and Reclamation Act (Public Resources Code Section 2710 et seq.).

Member Anderson moved to issue the Order to Comply. Member Landregan seconded the motion and the motion carried with a unanimous roll call vote. A second motion was made by Member Landregan and seconded by Member Gavric to direct the Executive Officer to schedule a public hearing should a revised Financial Assurance Cost Estimate not be received by September 14, 2015. The motion carried with a unanimous roll call vote.

6. Issuance of an Order to Comply to Simpson Lane Project (CA Mine ID #91-58-0025), Orchard Growers LLC (Operator), Dean Cameron (Agent), County of Yuba, to Correct Violations of the Surface Mining and Reclamation Act (Public Resources Code Section 2710 et seq.).
 - Member Gavric asked for clarification as to how an adjusted Financial Assurance Cost Estimate of zero was reached and how is it that the operator is not complying. Will Arcand, SMGB Lead Agency staff, stated that all communication with the operator has ceased and in order to close the site or issue an Interim Management Plan, a revised cost estimate must be received.

Member Lane moved to issue the Order to Comply. Member Kenline seconded the motion and the motion carried with a unanimous roll call vote. A second motion was made by Member Lane and seconded by Member Kenline to direct the Executive Officer to schedule a public hearing should a revised Financial Assurance Cost Estimate not be received by September 14, 2015. The second motion carried with Member Gavric abstaining and all other members in favor.

7. Adoption of Regulatory Language for Designation, and Termination of Designation, of Mineral Lands in the North San Francisco Bay Production-Consumption Region, Sonoma, Napa, Marin, and Southwestern Solano Counties, California.

Executive Officer Testa noted that at its November 14, 2013, regular business meeting, the SMGB accepted CGS Special Report 205, titled *"Update of Mineral Land Classification: Aggregate Materials in the North San Francisco Bay Production-Consumption Region, Sonoma, Napa, Marin, and Southwestern Solano Counties, California."* At its March 12, 2015, regular business meeting, the SMGB proposed and adopted proposed language pertaining to the designation, and termination of designation, of mineral lands in the North San Francisco Bay Production-Consumption Region. The proposed regulatory language was initially published in the California Regulatory



Notice Register 2014, Volume No. 22-Z. Revised regulatory text was made available for public comment for 15 days, beginning July 28 and ending August 12, 2015, and subsequent to re-adoption consideration by the SMGB. The proposed language currently under consideration reflects the need for clarity between such language and the accompanying plates, and does not reflect any new proposed areas for designation, or termination of designation, when previously considered and adopted by the SMGB in March 2015.

Member Lane moved to adopt the amended regulatory language. Member Gavric seconded the motion and the motion carried with a unanimous roll call vote.

8. Updated Designation of Regionally Significant Aggregate Resources in the San Bernardino Production-Consumption Region, Counties of San Bernardino and Riverside.

Deferred.

XII. Special Reports and Department Presentations [Possible Action]

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

9. Information Report on the Department of Conservation Abandoned Mines Land Unit Program. [OMR]

Executive Officer Testa stated that 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. A summary and overview of the AMLU program is being presented. The discussion provided by the OMR AMLU is for the SMGB's information, and no actions are being considered.

- Glenda Marsh, Abandoned Mines Land Program Manager, OMR, presented an overview of the program.
- Elizabeth "Izzy" Martin, CEO of the Sierra Fund, acknowledged the excellent work the AMLU program is doing to bring attention to the issue of abandoned mines.
- Alberto Ramirez, Mining Engineer, commented that he would like to see in future reports a history of why mines close, and to look into using private resources to reopen mines.
- Member Landregan asked whether there was an information portion to the duties of the AMLU program to inform the public of the dangers of abandoned mines. Ms. Marsh stated that there isn't any kind of statewide information campaign at this time.
- Member Mendez asked whether there were plans for a searchable public database; Ms. Marsh stated that while that would be a useful tool, there were no plans for it in the immediate future.
- Member Lane asked whether they get calls from private citizens asking for assistance and what kind of assistance is provided. Ms. Marsh stated that they do get calls from people who have purchased property and discovered there is an old mine and are asking what they should do. They are advised to hire a Geotechnical consultant, as the AMLU program doesn't currently have enough staff for hands-on consulting.
- Vice Chair Anderson asked if it was known on the map showing concentration of sites how many were underground mines or pre-SMARA surface mines.
- Chairman Kracov inquired about the state of the internal technology at OMR; Ms. Marsh stated that OMR is looking into upgrading the field data collection technology. He also asked, given the SMGB's limited authority, what role the SMGB could play to assist the program.



No action taken.

10. Legal Overview for Board Members Regarding Board Member Obligations Including Open Meeting Law Requirements, Ex Parte Communication Disclosure Requirements, the Public Records Act, Conflicts of Interest, Conduct of Board Meetings, and Recommendations to Repeal the Board's Bylaws. [Tiedemann]

Legal Counsel to the SMGB, Deputy Attorney General Chris Tiedemann, provided an overview regarding SMGB member obligations including open meeting law requirements, ex parte communication disclosure requirements, the Public Records Act, conflict of interest laws, and conduct of SMGB and committee meetings. Legal counsel also recommend that the SMGB consider the repeal of its existing Bylaws because state agency operations are conducted pursuant to state statutes and regulations, rather than pursuant to agency-adopted Bylaws. The current SMGB Bylaws consist primarily of statutory and regulatory requirements. Although the SMGB's adoption of these requirements as Bylaws suggests that the SMGB can change these requirements by a vote of the majority of the members of the SMGB, that is not correct. Only the Legislature can adopt and amend statutory requirements. Likewise, SMGB rules of general application, other than internal operating procedures, must be adopted as regulations pursuant to the requirements of the California Administrative Procedure Act rather than simply by a SMGB vote to adopt a Bylaw. Instead of SMGB Bylaws, legal counsel has provided SMGB members with a handbook containing the statutes and regulations that pertain to the SMGB. These include the substantive laws and regulations regarding the SMGB's duties and the Bagley-Keene Open Meeting Act pertaining to the conduct of SMGB meetings. Other SMGB internal operating procedures, including matters such as the procedure to submit written material for SMGB consideration and suggested time limits for speakers at SMGB meetings, need not be adopted as regulations. They are instead summarized in the Agenda Notes for SMGB meetings.

Member Mendez moved to repeal the SMGB's Bylaws. Member Anderson seconded the motion and the motion carried with a unanimous roll call vote.

XIII. SMGB Committee Reports [Information and Possible Action]

- Geohazards Committee (Chairperson Gavric)

Committee Chairman Gavric stated that the Geohazards Committee committee will be meeting in September to discuss the recommendations from the Alquist-Priolo Technical Advisory Committee.

- Alquist-Priolo Technical Advisory Committee (Executive Officer Testa)

Committee Chairman Gavric stated that the final meeting of the committee is scheduled for August 20th and the report will be prepared for review by the Geohazards Committee in September.

- Minerals Conservation and Reclamation Committee (Chairperson Kenline)

Committee Chairman Kenline stated that the two priority issues are the Mineral Resource Management Policies, and Backfill Regulations which are to be brought back after reaching out to stakeholders.

- Board Policy and Administration Committee (Chairperson Mendez)

Committee Chairman Mendez stated that his committee adopted new forms for the Executive Officer evaluation using language similar to that used in other boards and commissions. The second item discussed was an analysis of staff reports.

- Board Lead Agency Standards Committee (Chairperson Noushkam)

Committee Member Lane stated that the Executive Officer prepared a SMARA statutory and regulatory requirement checklist which is out for 30-day review and will come back to the committee.



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 no business was 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.
 6. Weber Creek Quarry
- 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

October 8 was announced as the date of the next scheduled meeting, with Sacramento as the location.

XVIII. Adjournment

The meeting was adjourned at 4:55 p.m.



APPROVED

Gideon Kracov, Chairman

Stephen M. Testa, Executive Officer

