SMGB Information Report 2008-05

STATE MINING AND GEOLOGY BOARD

A Report of Mineral Land Classification and Designation Under the Surface Mining and Reclamation Act of 1975

Department of Conservation
Resources Agency

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This Information Report No. 2008-05
of the State Mining and Geology Board was presented, in part,
at its Regular Business Meeting
held on May 10, 2007.

This report does not set forth policy, but rather presents information that the SMGB considers in setting policy.

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A Report on Mineral Land Classification and Designation Under the Surface Mining and Reclamation Act of 1975

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ABSTRACT

Mineral Land Classification by the California Geological Survey (CGS) and Designation by the State Mining and Geology Board (SMGB) reflect the initial steps in the exploration, development, production, use and reclamation of lands under the Surface Mining and Reclamation Act of 1975 (SMARA). The primary goal of this aspect of SMARA is to ensure that the mineral resources potential of lands in California are recognized and considered in the land-use planning process. Mineral Land Classification is very dependent on staffing and funding, and a substantial increase and long-term funding source is needed to restore the effectiveness of this program. Designation by the SMGB has been deferred since 1990, with 14 Production-Consumption Regions awaiting designation. A summary of these two programs in regards to their respective legislative history, methodology and current status is provided. Recommendations, and further considerations for policy decisions, are also provided.

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INTRODUCTION

Mineral Land Classification by the California Geological Survey (CGS) and Designation by the State Mining and Geology Board (SMGB) reflect the initial steps in the exploration, development, production, use and reclamation of lands under the Surface Mining and Reclamation Act of 1975 (SMARA). The primary goal of this aspect of SMARA is to ensure that the mineral resources potential of lands in California are recognized and considered in the land-use planning process.

The primary role of CGS in this process is to provide objective classification data, including forecasting, to the SMGB, lead agencies, and others, in an easily understood format. The role of the SMGB is to conduct public hearings in compliance SMARA to determine which resources areas identified by CGS are of statewide or regional significance, and "Designate" those areas. Lead Agencies subsequently incorporate the information provided by CGS and the SMGB into their general plans and use it in their daily land-use decisions to protect a 50-year supply of aggregate.

At its September 14, 2006, meeting the SMGB's Minerals and Geologic Resources Committee (Committee) received from staff a presentation regarding the State's Mineral Resources Management Program. Staff offered a review of 1) the current status of the SMGB's effectiveness in reviewing Mining Ordinances, Mineral Resource Management Policies (MRMP), and California Environmental Quality Act (CEQA) documents under the SMARA Mineral Resource Management Program, and 2) the state of compliance by local governments in adopting Mining Ordinances and incorporating MRMPs into their general plans, pursuant to Public Resources Code (PRC) Sections 2762 and 2763, and Title 14 California Code of Regulations (CCR) Sections 3675 and 3676. Several recommendations were offered. In addition, a report on the State's overall Mineral Land Classification and Designation program was requested for discussion at a future meeting. The report on Mineral Land Classification and Designation under SMARA contained herein has been prepared in response to the Committee's request. The report is divided into seven parts:

- A Primer on the Economics of Construction Aggregates
- SMARA History
- SMARA Methodology
- SMARA Current Status and Chronology

- Legislative History and Resources
- Observations
- Recommendations

INTRODUCTION ON THE ECONOMICS OF CONSTRUCTION AGGREGATES

Mineral Land Classification by CGS and Designation by the SMGB, are the first links in the SMARA chain. The primary goal of the mineral resource classification and designation program is to ensure that the mineral resource potential of lands in California is recognized and considered in the land-use planning process.

Construction aggregate is the most important mineral commodity produced in California (Figure 1). It forms the physical foundation of our societal infrastructure. It is effectively irreplaceable, and cannot be economically imported and distributed. Produced in every county except San Francisco, and used in all, it is the cheapest commodity produced per unit volume while being the highest overall value commodity mined in California. There are two types of construction aggregate which are largely interchangeable: sand and gravel (natural aggregate) and crushed stone (rock). These materials have many uses (Figure 2), and from increasingly tougher specification to lesser performance expectations, include:

- Portland-Cement-Concrete Aggregate (PCC-grade aggregate)
- Asphaltic-Concrete Aggregate (AC-grade aggregate)
- Road Base
- Railroad Ballast
- Rip-Rap
- Fill
- Others

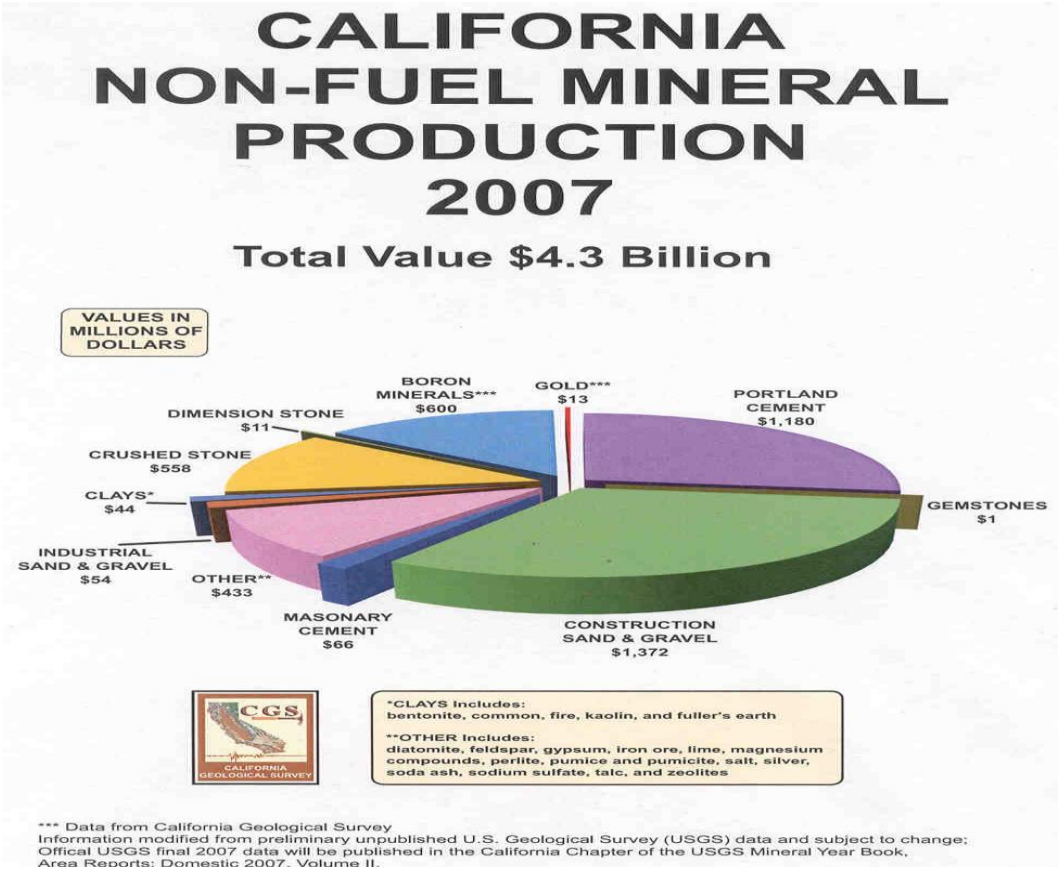


Figure 1. California Non-Fuel Mineral Production for Year 2007 (California Geological Survey, 2008).

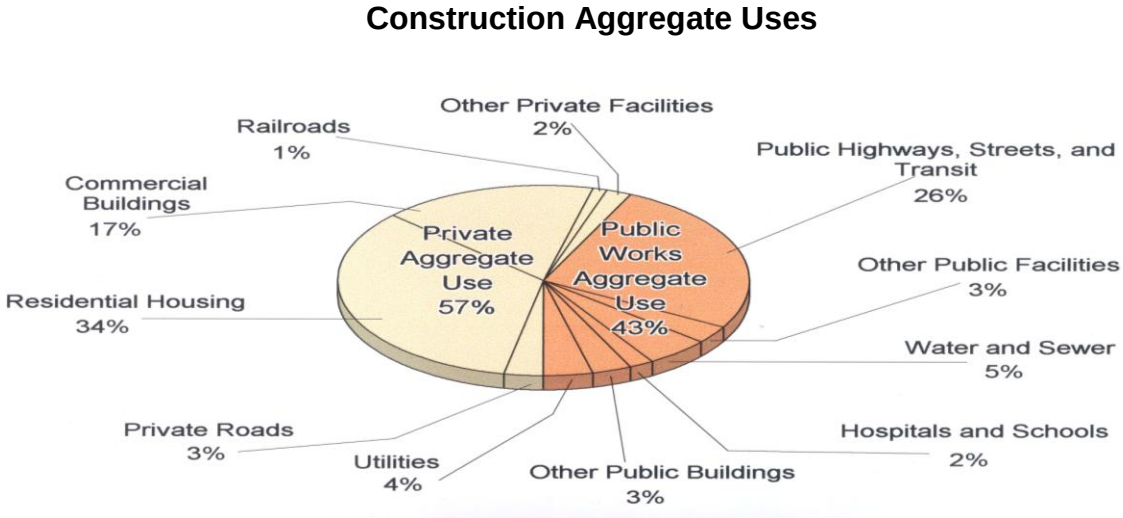


Figure 2. Construction Aggregate Uses (modified after Coopers and Lybrand, 1998).

Construction aggregate is vital to maintain and expand the State's infrastructure and economy. Aggregate accounts for $163 billion (44% of

the value) of California's total 2005 mineral production. In regards to usage, in 2005 176.4 million tons of sand and gravel, and 58.9 million tons of crushed stone were used (a total of 255.3 million tons), by a state comprised of 36,100,100 people. Essentially, the annual per capita consumption is on the order of 7.1 tons per person per year. According to the American Geological Institute (AGI, 2004), about 229 tons of aggregate is used for a typical 1,000 square foot ranch house, or a 2,000 square foot two-story house (Figure 3).

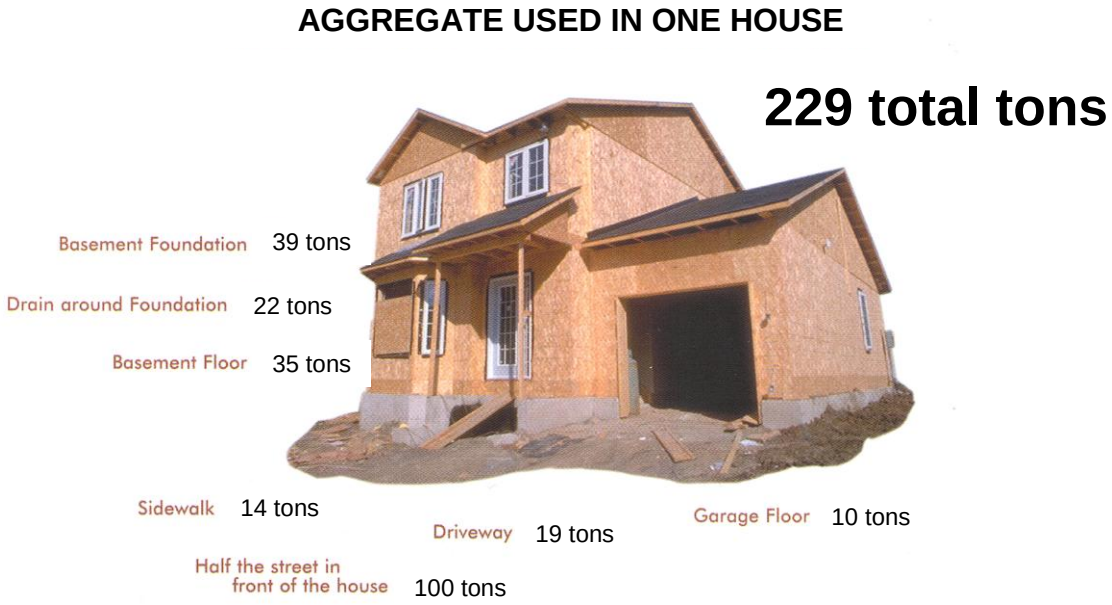


Figure 3. Illustration showing the amount of aggregate used in one house. Not included is the capita share of the library, school, church, power Plant, airport, dam, freeways, shopping centers, hospitals, firehouses, etc. (modified after AGI, 2004).

For construction minerals to have value, they must be produced near their place of use. This reflects their overall low unit value and high transportation costs due to their bulk and weight. A haul distance of about 25 miles doubles the delivered price of construction aggregate. Shorter haul distances mean lower costs and less environmental impact which results in less fuel use, air pollution, traffic congestion, road wear, tire and equipment wear, and shorter delivery times. Since almost half of construction aggregate is used in public works projects, lower cost aggregate means lower taxes.

Land values in the urban and suburban areas of the state are high, so it is always in the economic self-interest of the mine operator to reclaim their mines. Thus, lack of reclamation and abandoned aggregate mines are rarely issues in California, and local sources of construction aggregate are in the society's best interest. When a mine is too near its market,

problems can develop forcing premature closure and the sterilization of its resources. Unplanned development allows residential growth to engulf and strangle mines to the detriment of society.

Wise and effective land-use planning by local government is essential because of a universal "Not in my Backyard" (NIMBY) syndrome. While aggregate deposits may be geographically widespread, they are not universally present or economically recoverable. A single local jurisdiction may control land-use permitting for aggregate deposits that serve the needs of an entire metropolitan region. Like gold, suitable aggregate deposits are where you find them. They cannot be moved to a convenient place to be mined.

SMARA HISTORY

Enactment of SMARA took years of effort beginning in the 1960s. The SMGB played a very significant role in the development of SMARA, working directly with the California Legislature and the Resources Agency Secretary.

In 1967, the California Legislature through a Senate Resolution requested a review for uniform controls and standards for surface mining. The Senate Committee on Natural Resources and Wildlife subsequently requested that the SMGB review the resolution and advise the Legislature as to the nature of the problem and the need for legislation. The SMGB suggested that a state review of surface mining would be of value and advanced that proposal via Resolution to the Resources Agency Secretary.

In November of 1968, the Resources Agency Secretary requested seven representatives of industry, state and local government, and the academic community to undertake an inquiry to determine "*such regulations as may be needed to avoid collision between urbanization and the mining industry*". The group became know as the "Surface Mining Committee" or "Blue-Ribbon Task Force" and worked for two years holding a series of hearings throughout the state. Their final report was completed in October 1970 and adopted by the SMGB in November 1970. An ad hoc Committee of SMGB Members was appointed, and they presented a "State Mining and Minerals Policy", along with a proposed "Act on Mining and Mined Land Reclamation" to the SMGB on September 14, 1971. That Act was presented to the Governor's Cabinet prior to the 1972 session for introduction to the Legislature, where it resulted in Senate Concurrent Resolution 89 on October 8, 1971.

In 1973, The Urban Geology Master Plan – CGS Bulletin 198, documented that "*the identification and protection of mineral resources*

had the highest cost-benefit ratio (1:176) of any geologic issue in California." It forecast that California would face a $17 Billion loss of aggregate resources by the year 2000 if then-current land-use practice continued. This publication was not specifically focused on ongoing SMARA discussions in the Legislature, but was instrumental in its passage. SMARA remained deadlocked for three years in the Legislature between the aggregate industry, local government, and the environmental community. A compromise was finally reached by assuring cities and counties local land-use authority and by strengthening the elements addressing "mine reclamation" in addition to "mineral land classification". The Act was passed as SMARA in 1975.

Before SMARA the landmark publication on sand and gravel resources in California was the 1968 statewide three-part CGS Bulletin 180 (Parts A, B and C), authored by Hal Goldman. This publication became a vital data source for all subsequent SMARA work.

With the passage of SMARA, three pilot studies were undertaken by CGS to develop methodology:

- Stanislaus River Study (OFR 77-16 authored by Rapp et al, 1977), which included a three-dimensional analysis based on drill log data.

- Los Angeles Basin Study (SR 139 authored by Evans et al, 1979), which characterized aggregate production districts.

- San Francisco Bay Study (unpublished, authored by Stinson and Manson), which discussed active mines and marketing.

Concurrently, the SMGB was working with the State Geologist to develop policy and pass regulations to implement SMARA. Specifically, these elements consisted of:

- Policy development;

- Regulations (April 28, 1977, CCR Section 3500 et seq.);

- Guidelines for Classification and Designation of Mineral Lands (CGS SP 51);

- Approval of Classification priorities; and

- Guidance and Assistance for Lead Agencies.

Parts of all three pilots were ultimately used, but the Los Angeles Basin study was selected as the basic model for future classification work. A classification study of the entire Los Angeles Basin was begun by Tom Anderson and Marge Bushnell, but after a year was abandoned as being too broad in scope. This effort resulted in SR 143, Part 1. The Los Angeles Basin was subsequently subdivided into "Production – Consumption Regions", and work began in the San Fernando Valley (SR 143, Part II, 1979). This effort was interrupted to work in Western Ventura County and the Simi Valley (SR 145, 1981) at the direction of the SMGB, but later resumed.

In 1980, an amendment to SMARA authorized the beginning of Mineral Land Classification in non-urban areas of the state and established the SMARA Account as a funding source. It restricted the use of SMARA funds to be used only for Mineral Land Classification, Mined Land Reclamation, and the SMARA activities of the SMGB. Two SMARA Classification Programs were started in 1980-81, both under the direction of Rudy Strand and later by John Alfors:

- Urban SMARA; led by David Beeby

- Country SMARA; led by Tom Anderson

Urban SMARA addressed areas threatened by urbanization, beginning in the Los Angeles and Ventura Basins, and the San Francisco Bay area. The Urban SMARA program was purely data driven, without regard to current land-use.

At is outset the Urban SMARA program dealt strictly with construction aggregate, initially Portland Concrete Cement (PCC) and Asphaltic Cement (AC) grade aggregate. It would subsequently expand to include all construction and industrial minerals, in addition to all other active mines. Information collected was almost all published as Special Reports, and incorporated forecasting aggregate need for "the foreseeable future", petitions for Classification, Designation by the SMGB, and mandatory 10-year re-mapping and forecast updates.

The Country SMARA program addressed non-urban areas threatened by development or Federal land withdrawal. This program began in the Mother Lode and Sierra regions, and in the Mojave Desert (RARE I and II, CDCA, proposed parks). Initially focused on gold and precious metals, it would subsequently include everything except Construction Aggregate and Clay. No local market data was compiled, and almost all of the information was published as Open-File Reports, instead of Special

Reports. The Country SMARA program also did not incorporate Petitions or Designations as "Regionally Significant" by the SMGB. Between 1981 and 1994, 29 study areas were established, covering 15% of the state's area and incorporating 5% of its population (Figure 4).

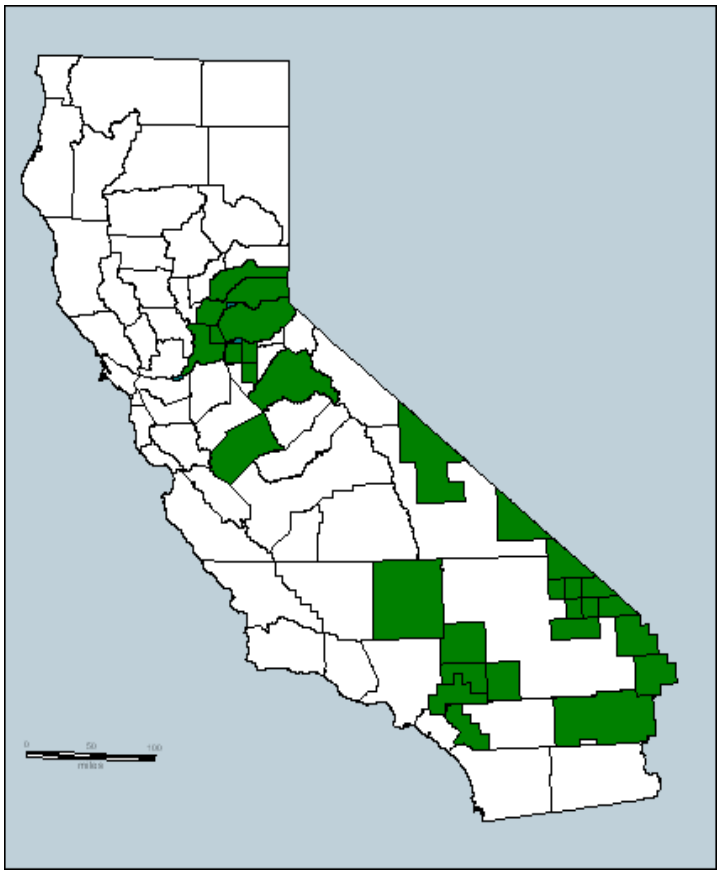


Figure 4. Illustration showing progress of the former County SMARA program from 1981 through 1994. The 29 studies areas are shown in green.

The reports set a new quality standard for wilderness mapping but were almost entirely ignored in withdrawal decisions. Various desert and wilderness Federal land withdrawals eventually took place with the passage by Congress of the "California Desert Protection Act" on October 31, 1994. This Act almost entirely ignored mineral resources mapping of the Country SMARA program. After the withdrawals, Country SMARA ceased to serve an immediate purpose of aiding the land withdrawal decision process.

The Urban and Country SMARA programs were reintegrated into a single Classification Program in 1995 with a focus on all mineral commodities in areas threatened by urbanization, or by any incompatible land use. Staff remained in both northern (SMARA North) and southern (SMARA South)

California to maintain close ties and working relationships with local government, but the distinction was informal.

SMARA METHODOLOGY

Mineral Land Classification:

How are mineral deposits classified, and how are they designated as being regionally significant? Classification categories are illustrated in Figure 5. A simplified version of land classification categories include:

MRZ-1	No resource
MRZ-2a	Reserves (permitted)
MRZ-2b	Resource
MRZ-3	Suspended resource
MRZ-4	Unknown

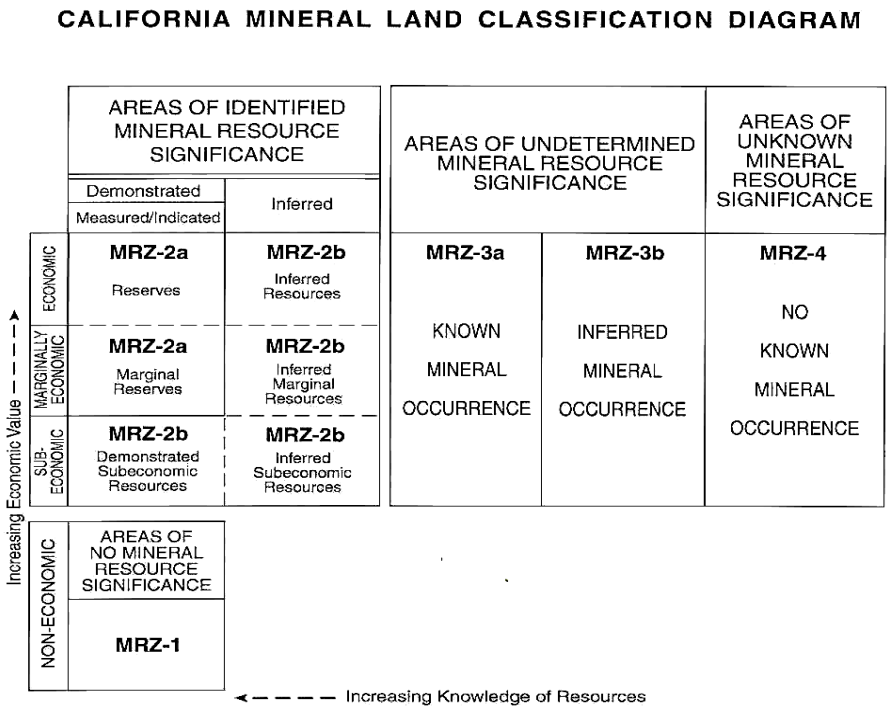


Figure 5. California Mineral Lands Classification diagram showing the various categories of resources (modified after U.S. Bureau of Mines and U.S. Geological Survey, 1980).

Classification methodology is divided into two categories: geologic and economic. Classification studies involve geologic mapping, review of historic and existing mine records, subsurface data, aggregate test data, extrapolation of data, identification of Mineral Resource Zones, and 10-year re-mapping. Economic factors include determination of P-C Regions, market study, quantification of reserves and resources, per capita use, forecasting and publication. The process is purely objective and scientific, is not based upon land ownership or land use, is non-political, and advocates the mineral resources as opposed to the mine. The purpose of the 10-year re-map program is to keep the information current.

SMARA Petitions:

If an applicant could convince the SMGB that they had a mineral deposit that was threatened and could be lost if not classified immediately, they could petition the SMGB for immediate classification ahead of the remaining P-C Regions, provided that 1.) they controlled the land, 2) they would provide adequate data and access for an MRZ-2 Classification and 3) they would pay for the cost of the classification effort. Possible reasons for a SMARA petition included:

- The area had not been previously classified;
- The area had not been previously threatened;
- New data indicating a deposit was MRZ-2 had become available in a previously classified area;
- Improved processing technique made a sub-economic deposit economic; or
- A previously classified area had been mined out.

Between 1980 and 2006, 35 petitions encompassing 34 properties and one County (Sonoma in 2005) were completed. The locations of Classification petitions are shown on Figure 6.

The Number of Classification petitions completed since 1980 are illustrated in Figure 7. The first SMARA classification petition (Pfizer) was completed in 1980. There has been an average of two per year between 1980 and 1994, with none between 1995 and 1999, and less than one per year, on average, from 1999 through 2005. Staff reductions resulted in a temporary hold on petitions between 1995 and 2000. Two petitions have been received since 2005.

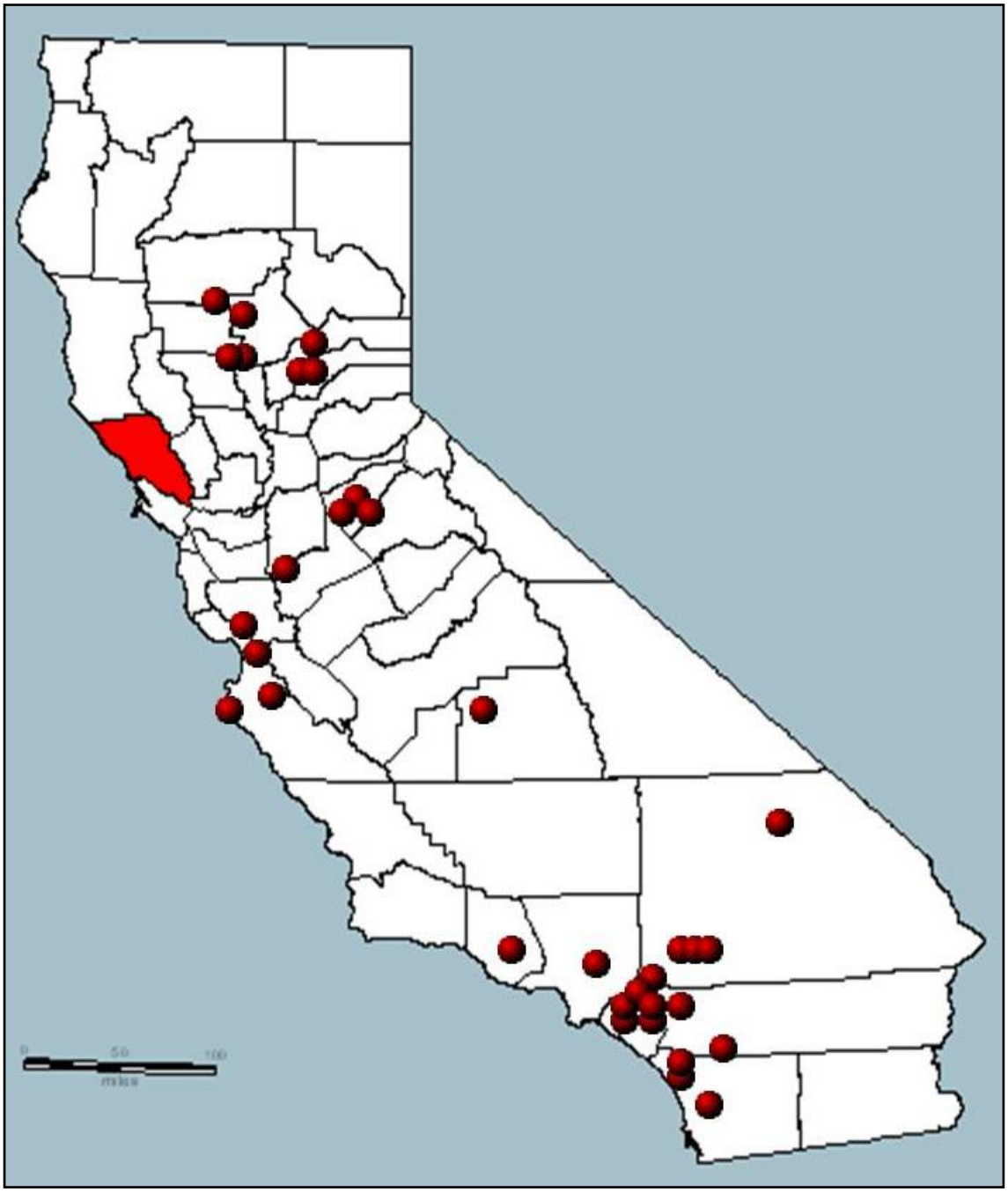


Figure 6. Location of Classification Petitions from 1980 through 2006.

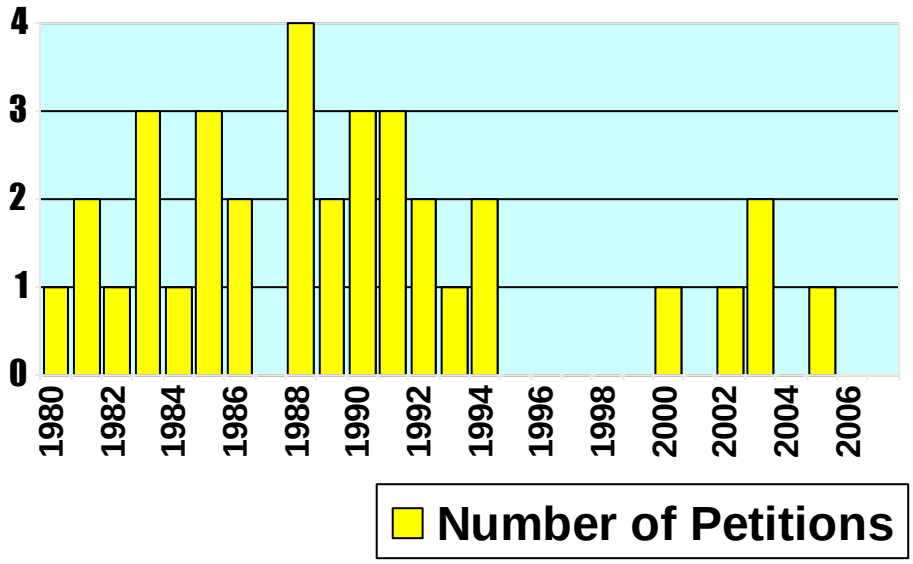


Figure 7. SMARA Classification petitions completed by year since 1980.

Aggregate studies performed by CGS showing progress of the Urban Program from 1976 through 2006 are presented in Figure 8. SMARA construction aggregate classification studies that have been updated, completed or are in progress, are presented in Figure 9. Eight SMARA Construction Aggregate Classification areas have been completed as of 2005, with six areas in progress. Those completed include Ventura County (1993), Los Angeles County (1994), Orange County (1995), South San Francisco Bay and San Diego County (1996), Monterey Bay and Fresno (1999) and Sonoma County (2005). Those areas in progress as of 2006 included Claremont-Upland, Bakersfield, North San Francisco Bay, Palm Springs, Stockton-Lodi areas, and San Bernardino County.

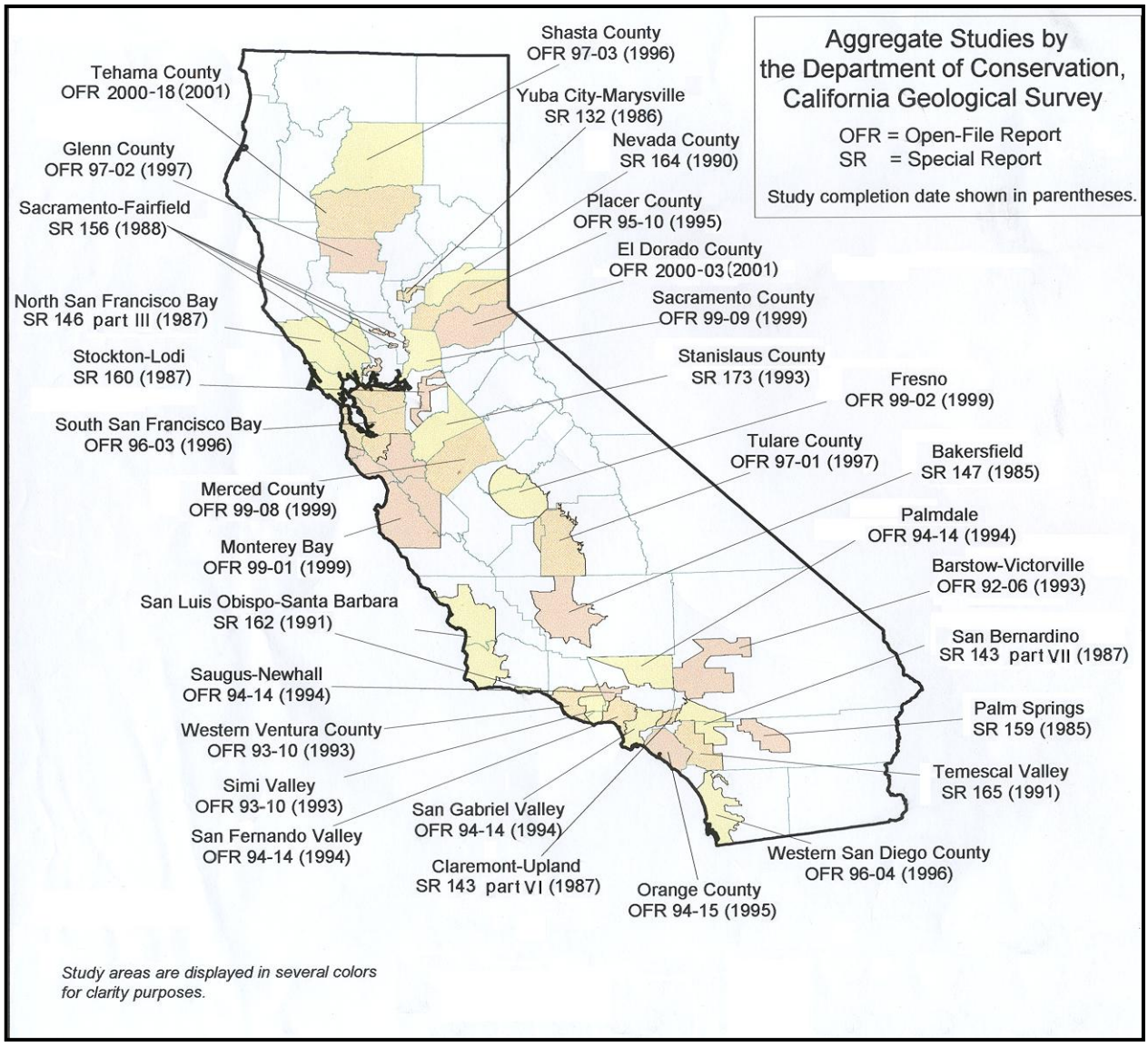


Figure 8. Aggregate studies performed by CGS showing progress of the Urban Program from 1976 through 2006.

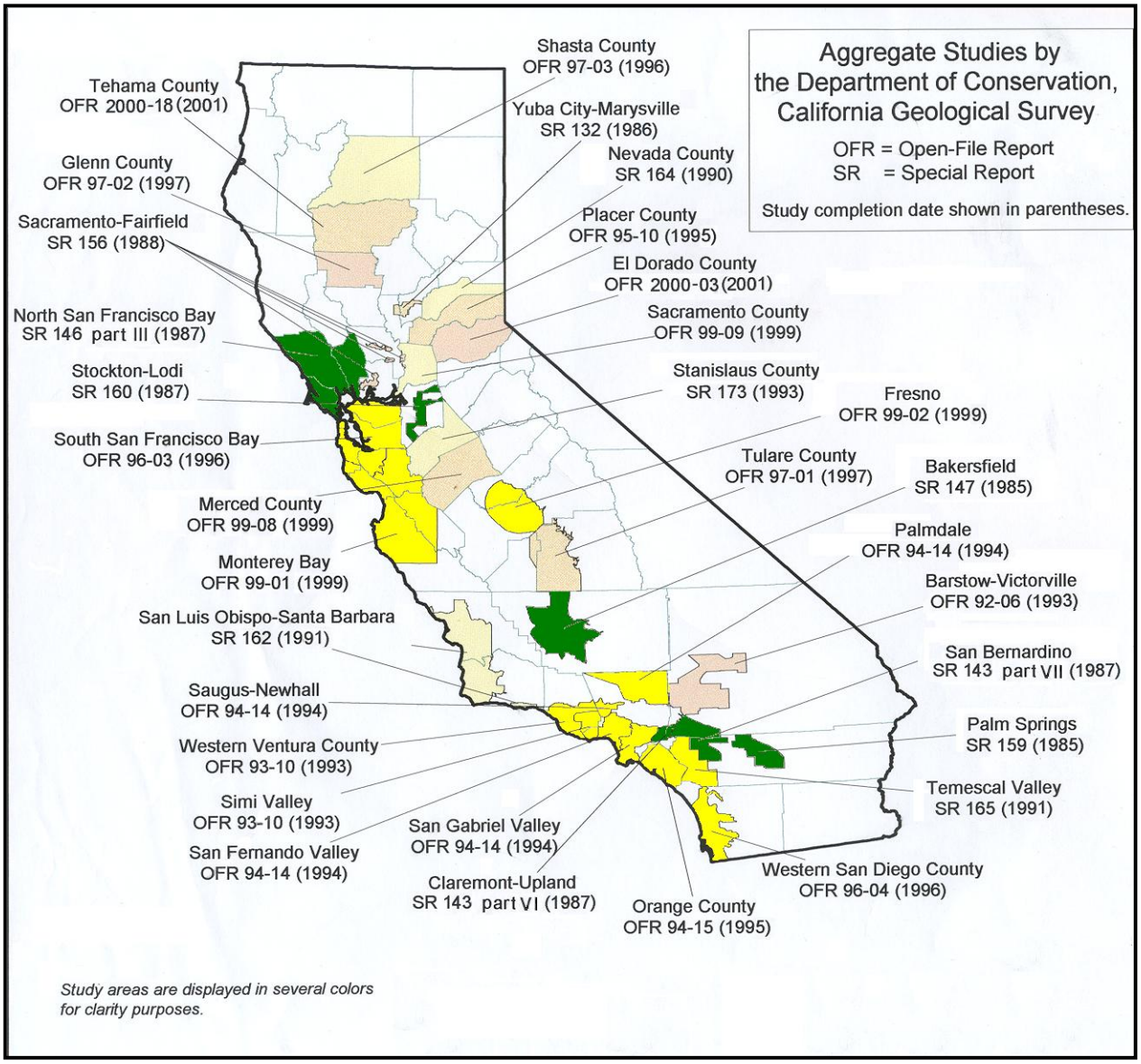


Figure 9. SMARA construction aggregate classification studies either updated, completed, or in progress.

Mineral Land Designation:

Designation is the process by which the SMGB formally recognizes the statewide or regional significance of classified mineral resources. If after receiving a classification report from the State Geologist, the SMGB deems it appropriate it may take an additional step to protect those areas

classified as MRZ-2. This step is accomplished by "Designating" some or all of those mineral resources as "Regionally Significant" in meeting the future needs of the State or the region. A formal process to Designate a resource was specified in SMARA and in the SMGB Guidelines (SP 51). Designation routinely followed classification, and the first designation, San Fernando Valley P-C Region, was finalized in January 1982. A total of ten Designations have been completed covering 16 P-C Regions (Figure 10). The last Designation took place in 1990. Fourteen more classified P-C Regions remain to be designated (Figure 11). SMARA P-C Regions Designated by the SMGB per year since 1982 is graphically illustrated in Figure 12.

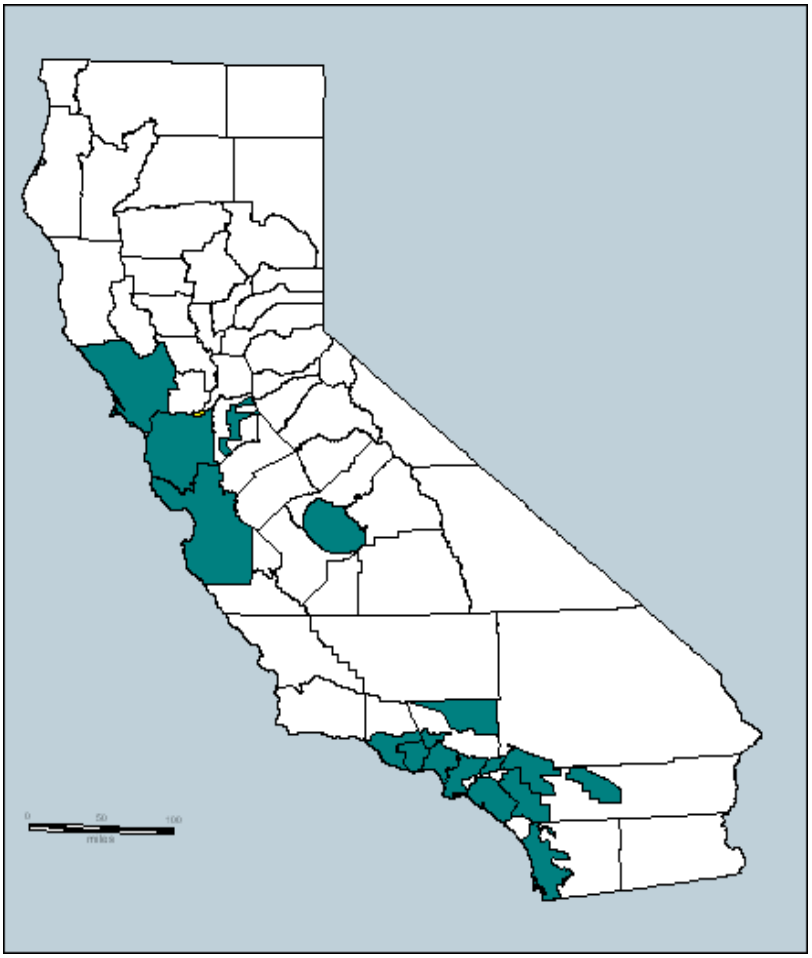


Figure 10. Statewide map showing the 16 Production-Consumption Regions Designated by the SMGB through 1989.

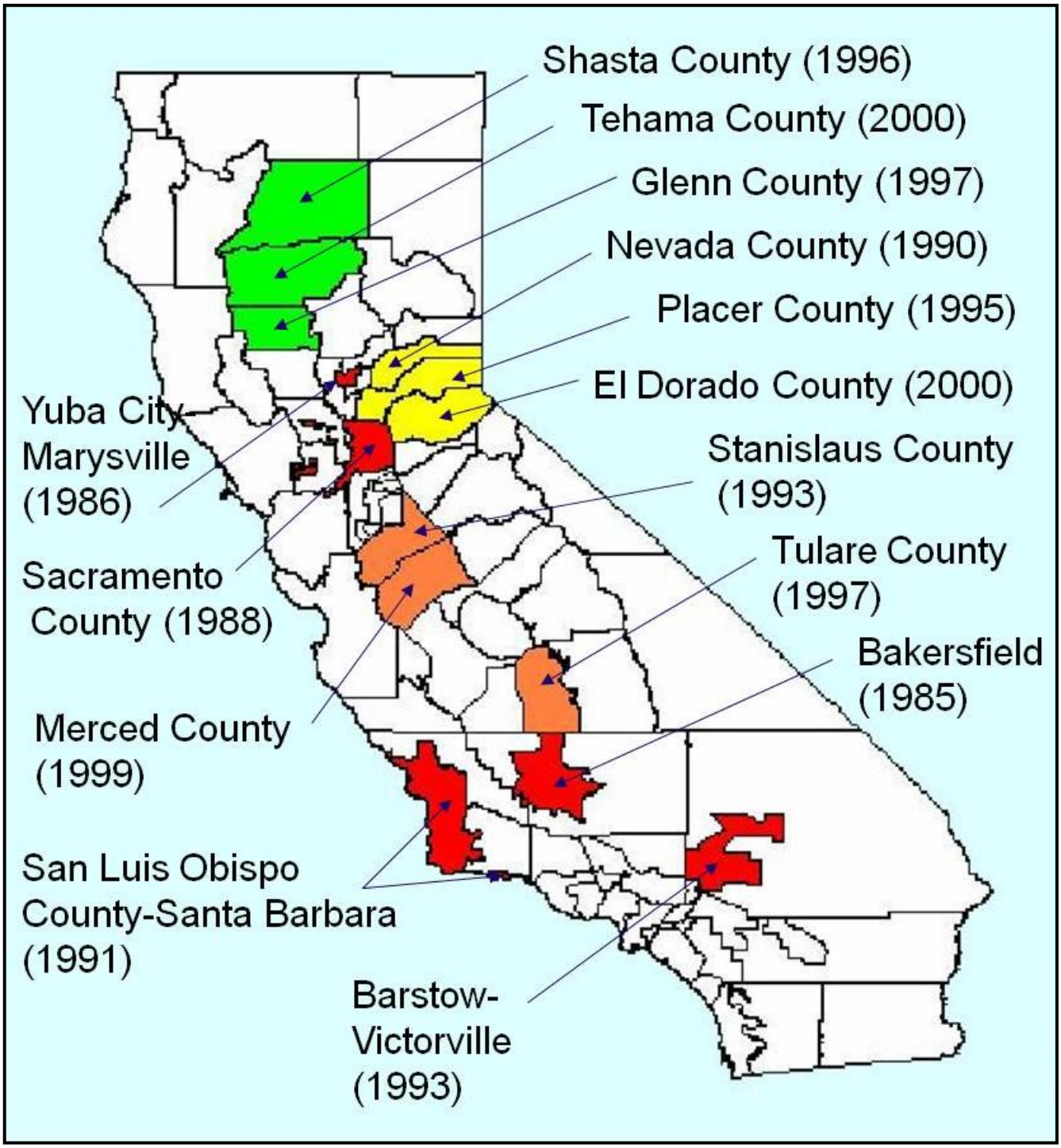


Figure 11. Statewide map showing the 14 classified Production-Consumption Regions not Designated by the SMGB. Growth pressure is colored coded: very high (red), high (orange), mdium (yellow) and low (green).

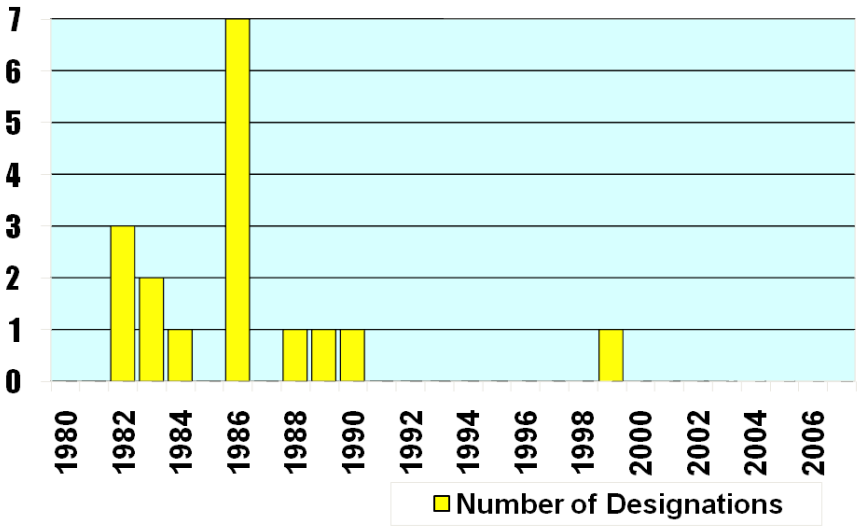


Figure 12. SMARA Production-Consumption (P-C) Regions Designated by the SMGB per year since 1982.

In about 1980 an "informal" Attorney General opinion to the SMGB suggested that that Designation could be considered a project under CEQA. This required that each Designation Action required several public hearings in the region being considered, and the preparation of a 1) Draft EIR followed by public comments, 2) a Final EIR, and 3) the "Designation Report", conveying the SMGB's final decisions to the public. Following the Designation Report the SMGB's Executive Officer had to go through a lengthy rulemaking process in order to enter the designation decisions into the California Code of Regulations. However, this was not the final step.

The decision was then forwarded to Lead Agencies for incorporation into their General Plans. Several Lead Agencies sued the state under the "Unfunded State Mandates" provisions for reimbursement of the cost of updating their General Plans. They were successful and the SMARA reserve had to be tapped.

The SMGB asked for a clarification from the AG on the applicability of CEQA to SMGB designation reports and actions. It was at that time that the Attorney General, following several SMGB workshop and public hearings, determined that the designation process was not subject to CEQA. Designation effectively stopped in 1990, with 14 classified P-C regions remaining undesignated, and currently all designation reports are out-of-print and unavailable.

In general, SMARA Designation methodology reflects the following elements:

- Hold public meetings in P-C region.
- Focus on MRZ-2 areas.
- Eliminate Parks, Cemeteries, Military Bases, existing and planned developments, roads, etc.
- Identify what remains as “Resource Sectors”.
- Apply normal setbacks and slopes locally required by local government permits, and quantify resources.
- Present recommendations of the State Geologist to the SMGB for designation decision.
- Publish designation report and codify decision.

CURRENT STATUS

Since 1979, 30 P-C Regions and 29 non-Urban studies have been completed as of 2006, covering 25% of the State’s area and incorporating 90% of its population (Figure 13). Urban and County studies were incorporated into a single program in 1994. Some of these studies were published as Special Reports, while some were published as Open-File Reports. The number of staff working annually on classification, reclamation, and for the SMGB, from 1976 through 2006, is illustrated in Figure 14. Mineral Land Classification peaked in about 1986 and has progressively decreased, although by 2007 three SMARA Classification positions were restored. Cuts in the General Fund temporarily eliminated the Classification Program from 2002 through 2004. The last new area classified was Tehama County in 2001.

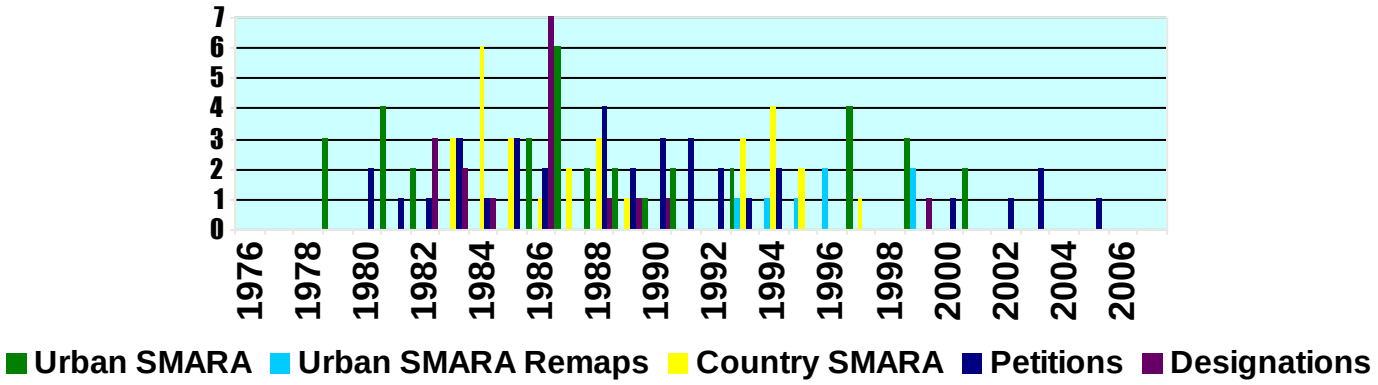


Figure 13. SMARA Mineral Land Classification and Designations completed by year since 1979.

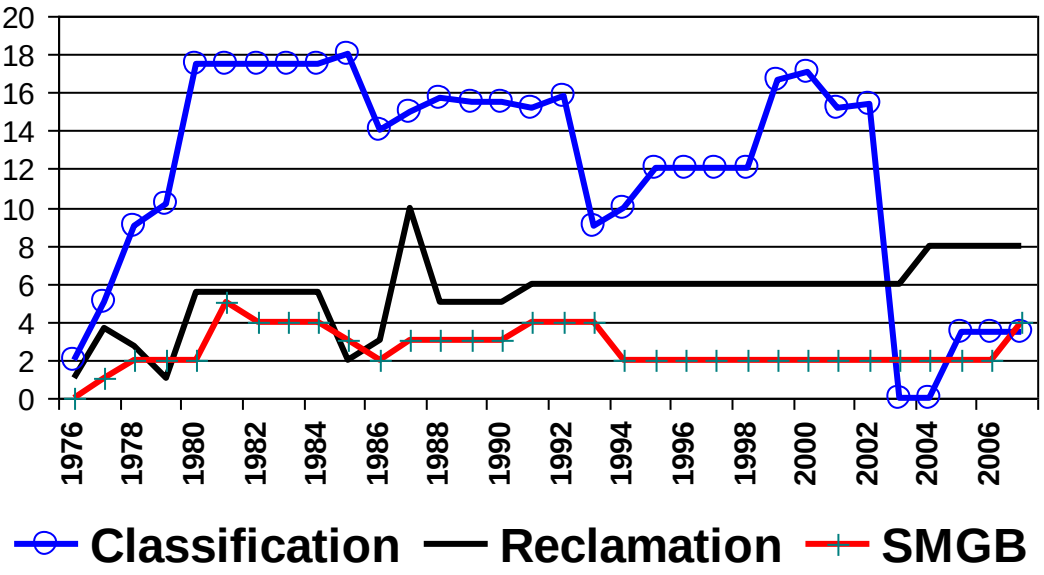


Figure 14. Graph showing number of staff working annually on classification and reclamation, and for the SMGB.

The importance of aggregates in California has been exemplified in two unique products. In 1999, the SMGB in concert with CGS implemented the SMARA Regional Synthesis Map series. A concept initiated by the SMGB's Past Chairman Robert E. Grunwald, the first of the series, and last, was the area covering the Los Angeles Basin (Figure 15). The classification of aggregate resources in the three-county area of Los Angeles, Orange, and Ventura, was followed by a "designation" process by the SMGB that formally recognized significant deposits that could provide for future needs. Maps and descriptions of the deposits were placed in the California Public Resources Code and officially transmitted to those county and city governments having decision-making authority over the use of those lands. Those areas are shown on the map in red. To maximize land-use options for local governments, designated areas contain aggregate resources in excess of the region's 50-year need. Since the designation of the aggregate resource areas in the 1980s, about 6 percent of those resources have been covered by urbanization. Commonly referred to as the Los Angeles Basin "placemat" map, it was very useful for regional planners and the general citizenry since it provided a broader perspective not readily apparent in the P-C Region maps.

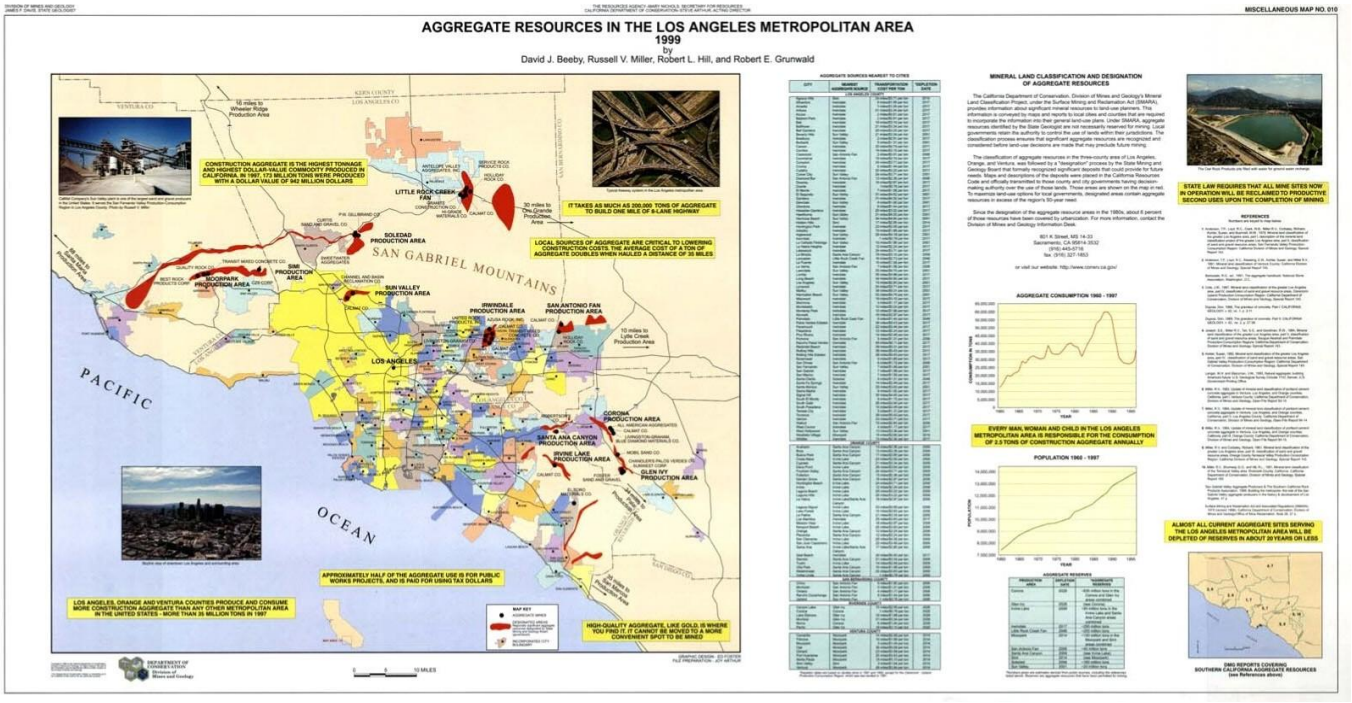


Figure 15. The SMARA Regional Synthesis Map for the Los Angeles Basin region. Although intended to be the first in a series, this map was the first and only map created which showed the location of the surface mining operations, designated mineral lands, and users.

In 2002, CGS published *Aggregate Availability in California -Map Sheet 52* which summarized data from studies by CGS for 32 aggregate resource areas throughout the state (Kohler, 2002). This map and accompanying report was updated n 2006 (CGS, 2006). This statewide synthesis map (Figure 16) and accompanying report provided information about the current availability of California's permitted aggregate resources. The purpose of the map is to compare projected aggregate demand for the next 50 years with currently permitted aggregate resources in 31 regions of the state. The map also highlights regions where there are less than 10 years of permitted aggregate supply remaining.

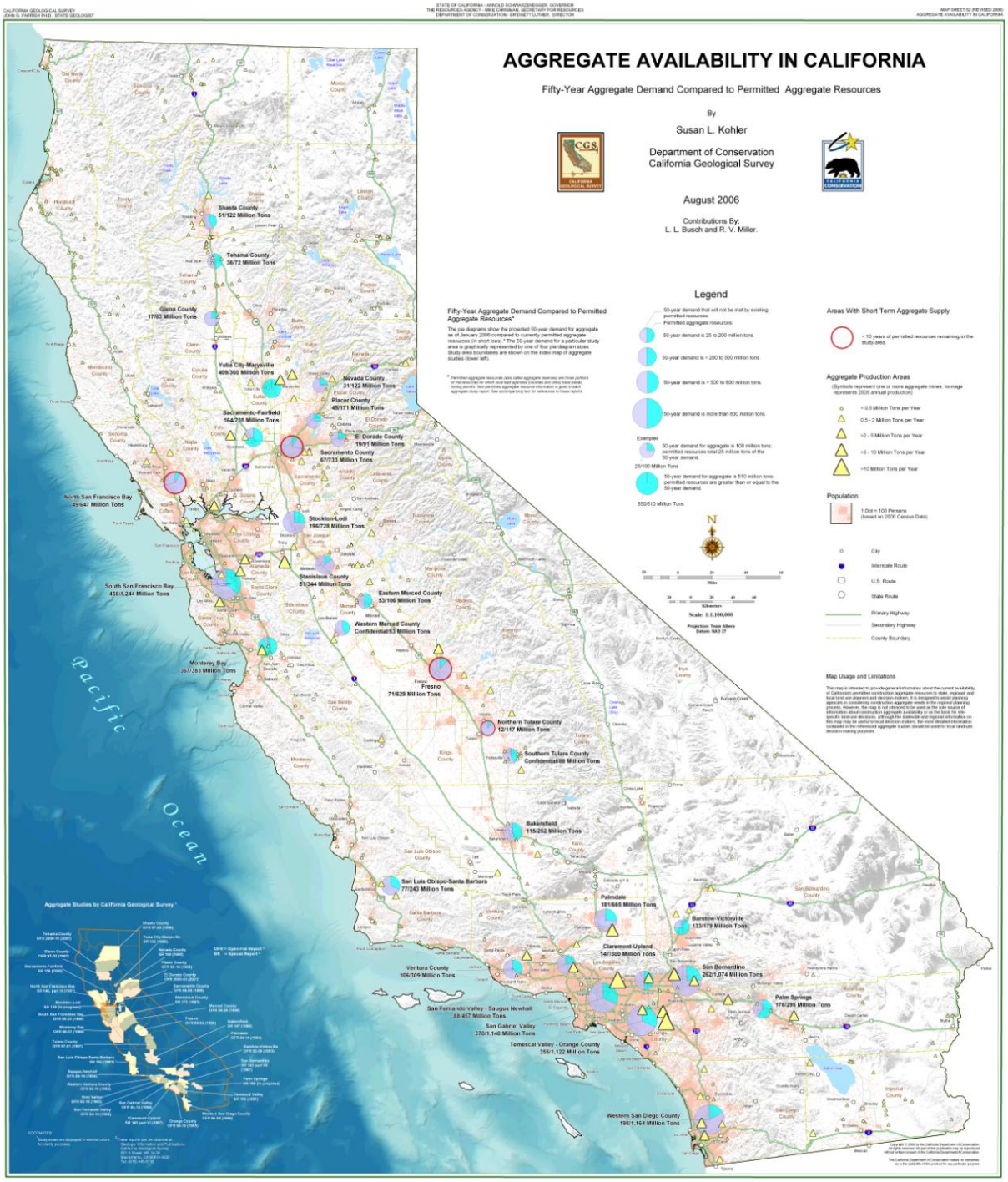


Figure 16. SMARA synthesis map showing aggregate availability in California statewide (California Geological Survey, 2006).

At the SMGB's September 13, 2007, regular business meeting, CGS proposed eighteen classification projects to be scheduled between September 2007 and the year 2010 (Table 1). The prioritization of areas to be considered for classification was based on constituency surveys and other considerations.

Table 1

Summary of CGS's Proposed Classification Projects

Priority	Project	Fiscal Year	Status
A	Palm Springs P-C Region Update	2007/2008	Completed
A	Claremont-Upland P-C Region Update	2007/2008	Completed
A	San Bernardino P-C Region Update	2007/2008	In progress
A	North San Francisco Bay P-C Region Update	2007/2008	In progress
A	Stockton-Lodi P-C Region Update	2007/2008	In progress
	Annual Summary of Mining in California	2008/2009	
B	Bakersfield P-C Region Update	2008/2009	
B	San Luis Obispo-Santa Barbara P-C Region Update	2008-2009	
B	San Gabriel Valley P-C Region Update	2008/2009	
C	Temescal Valley-Orange County P-C Region Update	2008/2009	
C	San Fernando Valley-Saugus-Newhall/ Simi/Palmdale P-C Region Update	2008/2009	
C	Nevada County Update	2008/2009	
	Annual Summary of Mining in California	2008/2009	
D	Western San Diego County P-C Region Update	2009/2010	
D	Placer County P-C Region Update	2009/2010	
D	South San Francisco Bay P-C Region Update	2009-2010	
	Annual Summary of Mining in California	2009/2010	
	Statewide Aggregate Availability Map Update	2009/2010	

At the SMGB's February 14, 2008, regular business meeting, CGS recommended new designation activities by the SMGB built upon the new classification studies presented in Table 1. Upon completion of the updated classification studies, these regions may be considered for designation, or updates to previous designations, which may include removal of areas that have been previously designated. These updated classification studies include both areas that have been previously designated and areas that were never designated after the original classification was completed. As an initial list of candidates for the SMGB to consider, CGS suggested that the SMGB consider the studies presented in Table 2. Six of the eight studies are in urban areas previously classified and portions subsequently designated, and two pending studies, Bakersfield and San Luis Obispo-Santa Barbara, are areas that have not been previously designated.

Table 2

Summary of Initial Candidates for Designation Consideration

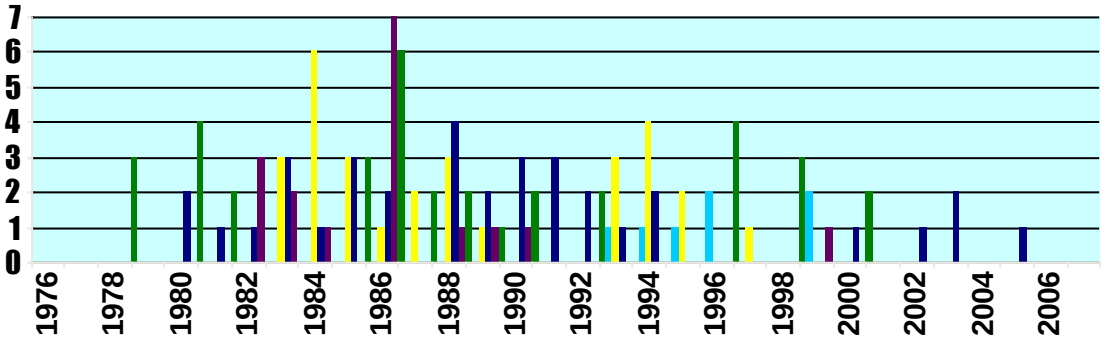
Project	**Status**
Palm Springs P-C Region	Classification update completed
Claremont-Upland P-C Region	Classification update completed
San Bernardino P-C Region	Classification update in progress
North San Francisco Bay P-C Region	Classification update in progress
Stockton –Lodi P-C Region	Classification update in progress
Bakersfield P-C Region	Classification update pending
San Luis Obispo-Santa Barbara P-C Region	Classification update pending
San Gabriel Valley P-C Region	Classification update pending

LEGISLATIVE HISTORY AND RESOURCES

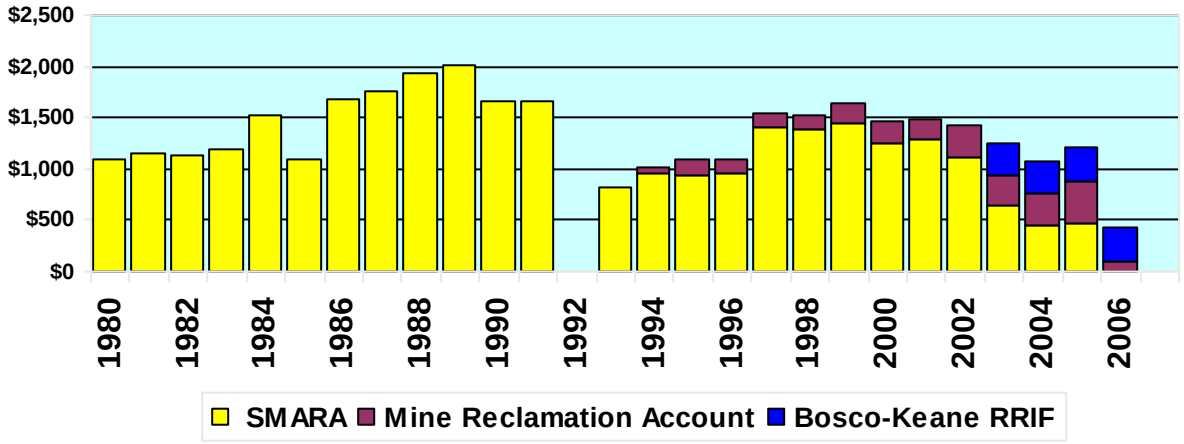
Key events in the implementation of SMARA's Mineral Land Classification and Designation elements from 1975 through 2007 are summarized in Table 3.

Table 3	
Summary of Key Events in the Implementation of SMARA's Classification and Designation Elements	
Year	Event
1975	Promulgation of SMARA: No funding mechanism provided. Initial efforts used discretionary "General Funds".
1980	SB 1300: SMARA Fund is established which provides $1.1 Million for SMARA from the Federal Mineral Lands Leasing Act, restricting use of the funds to only Mineral Land Classification and reclamation activities, and SMGB SMARA workload.
	Inherent within SMARA since its implementation in 1975 is need for both Mineral Land Classification and Mine Reclamation, resulting in many of the 28 amendments by the legislature. In the 1980s reclamation portions of SMARA de-funded and reclamation staff transferred to other programs. Amendments during this period began the emphasis from Classification, and increasing SMARA's regulatory authority.
1985	SB 593: Ceiling on SMARA increased to $2.0 Million and sets a trigger; if the Federal Revenues fall below $20 Million, the SMARA Account reverts to $1.1 Million.
1990	AB 3551: Tighter oversight on mine operators is established, annual inspections initiated, Mine Reclamation Account (MRA) established.
	New regulatory roles resulted in establishment of the Office of Mine Reclamation (OMR) in 1990.
	OMR continues to take more of a regulatory posture (i.e., enforcement). CGS mineral programs, including SMARA Classification, lose funding and staff through early 1990s as the General Fund was severely reduced.
1993	SB 741: OMR is formed and the Mined Land Reclamation Program is moved out of CGS. SMARA-related staff within the SMGB re-assigned into OMR.
2002	The decline in CGS's Classification program reached its "nadir" when in 2002 SMARA funding and personnel positions in CGS were reduced to zero, and relocated to OMR for regulatory activities.
2005	SB 71: Committee on Budget and Fiscal Review – Resources (Annual Resources Budget Trailer Bill); SMARA statues are modified to remove the $2.0 Million trigger.
	SB 1110: Modified statues allow DOC to use SMARA funds for activities of the Abandoned Mine Lands Unit (AMLU).
2007	Three of CGS's Classification staff positions were restored.

Overall productivity (number of Classification Reports per year) is directly related to the amount of funding (Figures 17a and b). As shown in Figures 18a and b, from the period 1980 to 2002, the appropriation of the combined SMARA/RRIF/MRA Funds between programs for Classification and Reclamation activities were 45 percent for both the Mine Land Reclamation and Mineral Land Classification, and 10 percent for the SMGB. In 2007, the appropriations of funds were 63 percent for Mined Land Reclamation, 35 percent for Mineral Land Classification and 2 percent for the SMGB.



(a) Classification productivity (reports per year).



(b) Classification budget (x $1,000).

Figures 17(a) and 17(b). Graphs illustrating the relationship between classification productivity (a) versus classification budget (b).

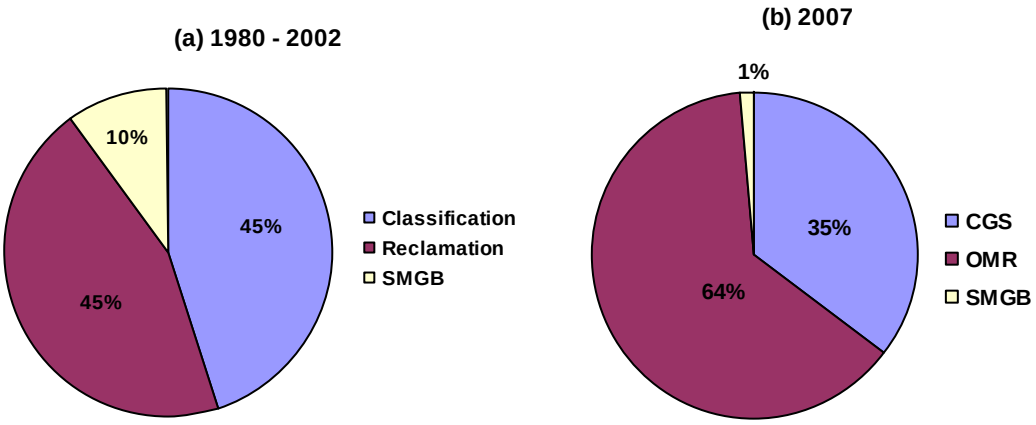


Figure 18. Approximate split of the combined SMARA/RRIF/MRA Funds between programs for Classification and Reclamation work for the period 1980 – 2002 (a) and 2007 (b).

OBSERVATIONS

Observations pertaining to mineral land classification, mineral land designation, SMARA petitions, regional synthesis maps, are summarized below.

Mineral Land Classification:

- Mineral Land Classification is very dependent on staffing and funding. Reductions in program resources have resulted in a direct reduction in productivity. A substantially increased and long term source of funding is needed to restore the effectiveness of the Classification Program;

- Mandated 10-year re-maps of previously competed P-C Regions have exceeded CGS program capability. Most re-maps have been in progress more than 5 years. Many regions remain out-of-date;

- At the current staffing level of the CGS Classification Program, new classification studies appear virtually impossible;

- Classification Reports appear to have fallen "below the radar" in many Lead Agencies, and copies have become lost from their files. Increased outreach is critical to reconnect with local government;

- Special Reports are the publication format of choice because they are more widely distributed than Open-File Reports. Special Reports are more expensive to produce but are less expensive to CGS customers; and

- Additional Regional Maps can only be completed at this time at the expense of the mandated re-maps.

Mineral Land Designation:

- Construction Aggregate deposits in urban areas are the only mineral commodity ever Designated. This may need to be reconsidered;

- Designation by the SMGB has been "on hold" for the past 17 years (since 1990);

- Fourteen Classified P-C regions still await Designation by the SMGB; this might be inhibiting the ability of mines to get operating permits, and is certainly not helping;

- Fiscal concerns of Designation (CEQA project and Un-funded State Mandate) may be non-issues but may need to be definitively addressed; and

- Designation reports and documents are all out-of-print and have been essentially unavailable. They have however recently been made available on the SMGB's website.

SMARA Petitions:

- Petitions for Mineral Land Classification have been accepted since the beginning of the SMARA program. Petitions for Designation have been allowable in SMGB Guidelines but have never been submitted to the SMGB;

- Past policy required the petitioner to have control (ownership or lease) of the land being petitioned for classification; and

- With minimal staff, the acceptance of petitions is a higher priority than the mandated re-maps.

Regional Synthesis Maps:

- Regional Synthesis Maps represent a simplified and more "user-friendly" conveyance of information than the more detailed (and intimidating) P-C Region reports;

- Regional Synthesis Maps appear to be a very underutilized product to bring aggregate permitting to the attention of the public and of elected officials;

- The two types of products serve different needs and both are essential to their specific users; and

- Additional Regional Synthesis Maps can only be completed at the expense of the mandated re-maps.

RECOMMENDATIONS

Recommendations for the Classification and Designation programs, and further considerations for policy decisions, are outlined below.

Classification:

The following classification recommendations are offered:

1) Consider additional staffing needs to be added in CGS and trained before remaining Classification staff retires and mentoring ability disappears.

2) Increase and re-emphasize outreach efforts to reconnect SMARA with local government.

3) Reprint Classification Open-File Reports as Special Reports and distribute to appropriate local governments.

4) Produce additional regional maps similar in style and format as to what was previously published for Los Angeles County (i.e., San Diego, San Francisco Bay area, and the Central Valley area are all possible candidates).

5) Adopt new Resolution specifying Classification Priorities. In the past recommendations from the State Geologist have been adopted.

Designation:

The following designation recommendations are offered:

1) Resume the Designation process for the 14 P-C Regions that have been classified but not designated. Such efforts have recently been implemented by CGS and the SMGB.

2) Reprint and publicize the Designation Reports and Environmental Impact Reports, or at minimum, provide such reports in a digital format on the SMGB's website. Such steps have since been implemented by the SMGB.

Policy Decisions Considerations:

The following considerations regarding policy decisions are offered:

- Evaluate whether Designation is working and whether lead agencies are fulfilling their obligations and responsibilities;

- Consider termination of designation on designated land that has been developed as a means to avoid the misperception that mineral land is available when in fact it is not. Such steps have since been implemented.

- Consider accepting Designation Petitions;

- Consider re-evaluating land ownership requirements for petitioners;

- Consider determining whether acceptance of petitions is a higher priority than the mandated re-maps; and

- Consider whether mineral commodities other than construction aggregates should ever be Designated (i.e., borates, limestone, etc.).

REFERENCES

Langer, W. H., L. J. Drew and Sach, J. S., 2004, Aggregate in the Environment, American Geological Institute, 68p.

Coopers and Lybrand, 1998, Construction Aggregates Databook, Basic Edition, 333p.

Kohler, Susan, 2006, Aggregate Availability in California – Map Sheet 52, Updated 2006, California Geological Survey, 26 p.

Kohler, Susan, 2007, California Non-Fuel Minerals 2007, California Geological Survey, 11p.

APPENDIX A

Pertinent Statutory and Regulatory Requirements

PERTINENT STATUTORY REQUIREMENTS

(Public Resources Code, Division 2, Chapter 9)

Article 4. State Policy for the Reclamation of Mined Lands

§ 2755. The board shall adopt regulations that establish state policy for the reclamation of mined lands in accordance with Article 1 (commencing with Section 2710) of this chapter and pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

§ 2756. State policy shall apply to the conduct of surface mining operations and shall include, but shall not be limited to, measures to be employed by lead agencies in specifying grading, backfilling, resoiling, revegetation, soil compaction, and other reclamation requirements, and for soil erosion control, water quality and watershed control, waste disposal, and flood control.

§ 2757. The state policy adopted by the board shall be based upon a study of the factors that significantly affect the present and future condition of mined lands, and shall be used as standards by lead agencies in preparing specific and general plans, including the conservation and land use elements of the general plan and zoning ordinances. The state policy shall not include aspects of regulating surface mining operations which are solely of local concern, and not of statewide or regional concern, as determined by the board, such as, but not limited to, hours of operation, noise, dust, fencing, and purely aesthetic considerations.

§ 2758. Such policy shall include objectives and criteria for all of the following:
(a) Determining the lead agency pursuant to the provisions of Section 2771.
(b) The orderly evaluation of reclamation plans.
(c) Determining the circumstances, if any, under which the approval of a proposed surface mining operation by a lead agency need not be conditioned on a guarantee assuring reclamation of the mined lands.

§ 2759. The state policy shall be continuously reviewed and may be revised. During the formulation or revision of the policy, the board shall consult with, and carefully evaluate the recommendations of, the director, any district technical advisory committees, concerned federal, state, and local agencies, educational institutions, civic and public interest organizations, and private organizations and individuals.

§ 2760. The board shall not adopt or revise the state policy, unless a public hearing is first held respecting its adoption or revision. At least 30 days prior to the hearing, the board shall give notice of the hearing by publication pursuant to Section 6061 of the Government Code.

§ 2761. (a) On or before January 1, 1977, and, as a minimum, after the completion of each decennial census, the Office of Planning and Research shall identify portions of the following areas within the state which are urbanized or are subject to urban expansion or other irreversible land uses which would preclude mineral extraction:

(1) Standard metropolitan statistical areas and such other areas for which information is readily available.

(2) Other areas as may be requested by the board.

(b) In accordance with a time schedule, and based upon guidelines adopted by the board, the State Geologist shall classify, on the basis solely of geologic factors, and without regard to existing land use and land ownership, the areas identified by the Office of Planning and Research, any area for which classification has been requested by a petition which has been accepted by the board, or any other areas as may be specified by the board, as one of the following:

(1) Areas containing little or no mineral deposits.

(2) Areas containing significant mineral deposits.

(3) Areas containing mineral deposits, the significance of which requires further evaluation.

The State Geologist shall require the petitioner to pay the reasonable costs of classifying an area for which classification has been requested by the petitioner.

(c) The State Geologist shall transmit the information to the board for incorporation into the state policy and for transmittal to lead agencies.

§ 2762. (a) Within 12 months of receiving the mineral information described in Section 2761, and also within 12 months of the designation of an area of statewide or regional significance within its jurisdiction, every lead agency shall, in accordance with state policy, establish mineral resource management policies to be incorporated in its general plan which will:

(1) Recognize mineral information classified by the State Geologist and transmitted by the board.

(2) Assist in the management of land use which affect areas of statewide and regional significance.

(3) Emphasize the conservation and development of identified mineral deposits.

(b) Every lead agency shall submit proposed mineral resource management policies to the board for review and comment prior to adoption.

(c) Any subsequent amendment of the mineral resource management policy previously reviewed by the board shall also require review and comment by the board.

(d) If any area is classified by the State Geologist as an area described in paragraph (2) of subdivision (b) of Section 2761, and the lead agency either has designated that area in its general plan as having important minerals to be protected pursuant to subdivision (a), or otherwise has not yet acted pursuant to subdivision (a), then prior to permitting a use which would threaten the potential to extract minerals in that area, the lead agency shall prepare, in conjunction with preparing any environmental document required by Division 13 (commencing with Section 21000), or in any event if no such document is required, a statement specifying its reasons for permitting the proposed use, and shall forward a copy to the State Geologist and the board for review.

If the proposed use is subject to the requirements of Division 13 (commencing with Section 21000), the lead agency shall comply with the public review requirements of that division. Otherwise, the lead agency shall provide public notice of the availability of its statement by all of the following:

(1) Publishing the notice at least one time in a newspaper of general circulation in the area affected by the proposed use.

(2) Directly mailing the notice to owners of property within one-half mile of the parcel or parcels on which the proposed use is located as those owners are shown on the latest equalized assessment role.

The public review period shall not be less than 60 days from the date of the notice and shall include at least one public hearing. The lead agency shall evaluate comments received and shall prepare a written response. The written response shall describe the disposition of the major issues raised. In particular, when the lead agency's position on the proposed use is at variance with recommendations and objections raised in the comments, the written response shall address in detail why specific comments and suggestions were not accepted.

(e) Prior to permitting a use which would threaten the potential to extract minerals in an area classified by the State Geologist as an area described in paragraph (3) of subdivision (b) of Section 2761, the lead agency may cause to be prepared an evaluation of the area in order to ascertain the significance of the mineral deposit located therein. The results of such evaluation shall be transmitted to the State Geologist and the board.

§ 2763. (a) If an area is designated by the board as an area of regional significance, and the lead agency either has designated that area in its general plan as having important minerals to be protected pursuant to subdivision (a) of Section 2762, or otherwise has not yet acted pursuant to subdivision (a) of Section 2762, then prior to permitting a use which would threaten the potential to extract minerals in that area, the lead agency shall prepare a statement specifying its reasons for permitting the proposed use, in accordance with the requirements set forth in subdivision (d) of Section 2762. Lead agency land use decisions involving areas designated as being of regional significance shall be in accordance with the lead agency's mineral resource management policies and shall also, in balancing mineral values against alternative land uses, consider the importance of these minerals to their market region as a whole and not just their importance to the lead agency's area of jurisdiction.

(b) If an area is designated by the board as an area of statewide significance, and the lead agency either has designated that area in its general plan as having important minerals to be protected pursuant to subdivision (a) of Section 2762, or otherwise has not yet acted pursuant to subdivision (a) of Section 2762, then prior to permitting a use which would threaten the potential to extract minerals in that area, the lead agency shall prepare a statement specifying its reasons for permitting the proposed use, in accordance with the requirements set forth in subdivision (d) of Section 2762. Lead agency land use decisions involving areas designated as being of statewide significance shall be in accordance with the lead agency's mineral resource management policies and shall also, in balancing mineral values against alternative land uses, consider the importance of the mineral resources to the state and nation as a whole.

§ 2764. (a) Upon the request of an operator or other interested person and payment by the requesting person of the estimated cost of processing the request, the lead agency having jurisdiction shall amend its general plan, or prepare a new specific plan or amend any applicable specific plan, that shall, with respect to the continuation of the existing surface mining operation for which the request is made, plan for future land uses in the vicinity of, and access routes serving, the surface mining operation in light of the importance of the minerals to their market region as a whole, and not just their importance to the lead agency's area of jurisdiction.

(b) In adopting amendments to the general plan, or adopting or amending a specific plan, the lead agency shall make written legislative findings as to whether the future land uses and particular access routes will be compatible or incompatible with the continuation of the surface mining operation, and if they are found to be incompatible, the findings shall include a statement of the reasons why they are to be provided for, notwithstanding the

importance of the minerals to their market region as a whole or their previous designation by the board, as the case may be.

(c) Any evaluation of a mineral deposit prepared by a lead agency for the purpose of carrying out this section shall be transmitted to the State Geologist and the board.

(d) The procedure provided for in this section shall not be undertaken in any area that has been designated pursuant to Article 6 (commencing with Section 2790) if mineral resource management policies have been established and incorporated in the lead agency's general plan in conformance with Article 4 (commencing with Section 2755).

PERTINENT SMGB REGULATIONS

(California Code of Regulations, Title 14, Division 2, Chapter 8, Subchapter 1)

Article 2. Areas Designated to be of Regional Significance

§ 3550. Introduction.

Pursuant to Section 2790 of the Surface Mining and Reclamation Act, the Mining and Geology Board designates certain mineral resource sectors within the following geographical areas to be of regional significance.

NOTE

Authority and reference cited: Section 2790, Public Resources Code.

HISTORY

1. *New Article 2 (Sections 3550 and 3550.1) filed 10-22-81; effective thirtieth day thereafter (Register 81, No. 43).*

§ 3550.1. Tujunga and Pacioma Wash Areas of the San Fernando Valley Region, Los Angeles County.

On January 7, 1981, following a December 11, 1980, public hearing, the Mining and Geology Board designated Sectors A, B, C, and D of the Tujunga and Pacoima Wash areas to be regional significance. In general, these sectors are described as follows:
(1) Sector A – Tujunga Valley east of the Hansen Dam flood control basin, west of Interstate 210 and excluding identified archaeological sites;
(2) Sector B – the Hansen Dam rea;
(3) Sector C – an area southwest of Hansen Dam; and
(4) Sector D – Pacoima Wash north of Lopez Dam. These sectors contain sand and gravel deposits which provide a source of construction aggregate for the region's future need. Designation Map #81-1 and a report summarizing the designation findings of the State Mining and Geology Board are on file at the Board's office in Sacramento.

NOTE

Authority and reference cited: Section 2790, Public Resources Code.

§ 3550.2. Santa Clara River Valley Area of the Western Ventura County Region, Ventura County.

On January 28, 1982, following a November 19, 1981, public hearing, the State Mining and Geology Board designated Sectors A, B, C, D, E, F, G, H, I, and J, on

Designation Map #82-1, in the Santa Clara River Valley to be of regional significance. In general, these sectors are described as follows:

(1) Sector A – Instream deposits of the Santa Clara River near the community of El Rio beginning approximately one mile downstream of the U.S. Highway 101 bridge and extending to a point approximately two miles upstream of the Los Angeles Avenue bridge.

(2) Sector B – Offstream deposits located adjacent to Vineyard Avenue in the community of El Rio.

(3) Sector C – Offstream deposits located in and adjacent to the community of El Rio.

(4) Sector D – Offstream deposits located east of Los Angeles Avenue and south of the Santa Clara River.

(5) Sector E – Instream deposits of the Santa Clara River beginning at the eastern boundary of Sector A and extending upstream to the confluence of Santa Paula Creek.

(6) Sector F – Instream deposits extending from the eastern boundary of Sector E upstream to the confluence of Sespe Creek

(7) Sector G – Instream deposits extending from the eastern boundary of Sector F upstream to Cavin Road.

(8) Sector H – Instream deposits extending from the eastern boundary of Sector G upstream to Piru.

(9) Sector I – Instream deposits extending from the eastern boundary of Sector H upstream for approximately three miles.

(10) Sector J – Instream deposits extending from the eastern boundary of Sector I upstream to Ventura County line.

These sectors contain sand and gravel deposits that provide a source of construction aggregate for the region's future need. Designation Map #82-1 and a report summarizing the designation findings of the State Mining and Geology Board, "Designation of Regionally Significant Construction Aggregate Resource Areas in the Western Ventura County and Simi Production-Consumption Regions – March 1982" are on file at the Board's office in Sacramento.

NOTE

Authority cited: Section 2790, Public Resources Code. Reference: Sections 2726, 2761 – 2763 and 2790 – 2781, Public Resources Code.

HISTORY

1. New Section filed 5-6-82; effective thirtieth day thereafter (Register 82, No. 19).

§ 3550.3. Simi Valley Area of the Simi Region, Ventura County.

On January 28, 1982, following a November 19, 1981, public hearing, the State Mining and Geology Board designated Sectors A, B, and C, on Designation Map 82-1, in the Simi Valley area to be of regional significance. In general, these sectors are described as follows:

(1) Sector A – Hillside deposits located on Oak Ridge and the Simi Hills.

(2) Sector B – Hillside deposits located along a portion of Oak Ridge extending from Long Canyon eastward to the Ventura County line.

(3) Sector C – Hillside deposits located above Meir and Runkle canyons in the Simi Hills.

These sectors contain sand and gravel deposits that provide a source of construction aggregate for the region's future needs. Designation Map #82-1 and a report summarizing the designation findings of the State Mining and Geology Board, "Designation of Regionally Significant Construction Aggregate Resource

Areas in the Western Ventura County and Simi Production-Consumption regions – March 1982," are on file at the Board's office in Sacramento.

NOTE

Authority cited: Section 2790, Public Resources Code. Reference: Sections 2726, 2761-2763 and 2790-2791, Public Resources Code.

HISTORY

1. *New section filed 5-6-82; effective thirtieth day thereafter (Register 82, No. 19).*

§ 3550.4. Santa Ana River, Santiago Creek Arroyo Trabuco, San Juan Creek, and Temescal Valley Areas of the Orange County-Temescal Valley Region, Orange, Riverside, and San Bernardino Counties.

A set of maps identifying the exact locations of the designated areas, entitled "Regionally Significant Construction Aggregate Resource Areas in the Orange County – Temescal Valley and San Gabriel Valley Production-Consumption Regions," is incorporated by reference into this regulation. These maps are available from the State Mining and Geology Board's office in Sacramento.

The construction aggregate deposits in the following areas have been designated as being of regional significance:

Sector A – Instream deposits of the Santa Ana River beginning at Prado Dam and extending downstream for one-half miles.

Sector B – Instream deposits along the north side of the Santa Ana River beginning near Coal Canyon and extending downstream for approximately three miles.

Sector C – Instream deposits along the south side of the Santa Ana River from Horseshoe Bend downstream to the Weir Canyon Bridge.

Sector D – Offstream deposits located between Orangethrope Avenue and La Palma Avenue in the northeastern part of Anaheim.

Sector E – Offstream deposits located near the intersection of Fee Ana Street and La Palma Avenue in Anaheim.

Sector F – Offstream deposits in the Warner Basin located near Jefferson Street and the Riverside Freeway in Anaheim.

Sector G – Offstream deposit located on the south side of the Santa Ana River near Lincoln Avenue in Anaheim.

Sector H – Hillside deposit located immediately east of Prado Dam in the Chino Hills.

Sector I – Hillside deposit located east of Gypsum Canyon in the Santa Ana Mountains.

Sector J – Instream deposit of Santiago Creek Beginning near Villa Park Dam and extending downstream to approximately the Newport Freeway.

Sector K – A conglomerate deposit in upper Blind Canyon east of Villa Park Dam.

Sector L – Instream deposit located on Santiago Creek between Santiago Dam and Irvine Park

Sector M – Instream deposit located under the Santiago Reservoir on Santiago Creek.

Sector N – Instream deposits of Santiago Creek beginning near Santiago Reservoir and extending upstream to the confluence of Williams Canyon, including a portion of Silverado Canyon.

Sector O – Offstream deposit located on the southeast side of Cota Street in Corona.

Sector P – Offstream deposits of Temescal Wash near the intersection of the Riverside Freeway and Interstate 15 near Corona.

Sector Q – Instream deposits located in Temescal Wash beginning near Magnolia Avenue and extending upstream to Cajalco Road.

Sector R – Instream deposits located in Temescal Wash beginning near the Olsen Canyon confluence and extending upstream to Lee Lake.

Sector S – Offstream deposits of the Coldwater Mayhew Fan near Glen Ivy Hot Springs.
Sector T – Instream deposits of San Juan Creek beginning near Casper Regional Park and extending downstream to approximately Ganado Road in San Juan Capistrano.
Sector U – Instream deposits of Arroyo Trabuco beginning one-half mile above Interstate 5 and extending approximately five miles upstream.
Sector V – Instream deposits of Arroyo Trabuco beginning at the Live Oak Canyon Road crossing and extending upstream for approximately two miles.

NOTE

Authority cited: Section 2790, Public Resources Code. Reference: Sections 2726, 2761-2763 and 2790-2791, Public Resources Code.

HISTORY

1. *New section filed 8-24-83; effective thirtieth day thereafter (Register 83, No. 35).*

§ 3550.5. San Gabriel River, Eaton Wash, Devils Gate, and Palos Verdes Areas of the San Gabriel Valley Region, Los Angeles County.

A set of maps identifying the exact locations of the designated areas, entitled "Regionally Significant Construction Aggregate Resource Areas in the Orange County-Temescal Valley and San Gabriel Valley Production-Consumption Regions," is incorporated by reference into this regulation. These maps are available from the State Mining and Geology Board's office in Sacramento.

The construction aggregate deposits in the following areas have been designated as being of regional significance:
Sector A – Offstream and instream deposits of the San Gabriel River below Morris Dam near Azusa.
Sector B – Instream deposit consisting of the flood control channel of the San Gabriel River upstream of Foothill Boulevard near Azusa.
Sector C – Instream deposits in a portion of the Santa Fe Flood Control Basin and spillway channel near Irwindale.
Sector D – Offstream and instream deposits in the western portion of the San Gabriel River Fan near Baldwin Park and Arcadia.
Sector E – Offstream deposits in the eastern portion of the San Gabriel River Fan in Irwindale.
Sector F – Instream deposits of Eaton Wash located in the Eaton Wash Flood Control Basin.
Sector H – Instream deposits of Arroyo Seco in the Devils Gate Reservoir area.
Sector I – Hillside deposit in the Palos Verdes Hills on Narbonne Avenue in Bent Springs Canyon.

NOTE

Authority cited: Section 2790, Public Resources Code. Reference: Sections 2726, 2761-2763 and 2790-2791, Public Resources Code.

HISTORY

1. *New section filed 8-24-83; effective thirtieth day thereafter (Register 83, No. 35).*

§ 3550.6. Construction Aggregate Resources, Western San Diego County Region.

A set of maps identifying the exact locations of the designated resource areas, entitled "Regionally Significant Construction Aggregate Resource Areas in the Western San Diego County Production-Consumption Region" is incorporated by reference into this regulation. These maps are available from the State Mining and Geology Board's office in Sacramento.

The construction aggregate deposits in the following areas are designated as being of regional significance:

Sector A – A granitic rock deposit located in eastern Oceanside, southwest of the intersection of Highway 78 and College Boulevard, near Buena Vista Creek Canyon.
Sector B – Channel and flood-plain deposits of the San Luis Rey River beginning near North River Road in Oceanside and extending upstream for approximately six miles.
Sector C – Channel and flood-plain deposits of the San Luis Rey River from near the Highway 78 bridge upstream to approximately the Interstate 15 bridge.
Sector D – Alluvial deposits of the upper San Luis Rey River, extending discontinuously from the Interstate 15 bridge upstream to the community of Rincon in Pauma Valley.
Sector E – A hillside alluvial fan deposit located northeast of the San Luis Rey River, extending from the community of Pala to Pauma Valley.
Sector F – An alluvial fan deposit located in upper Pauma Valley near the community of Rincon.
Sector H – A granitic rock deposit located in Twin Oaks Valley approximately three miles east of the City of Vista.
Sector I – An alluvial fan deposit extending eastward from Lake Hodges on the San Dieguito River to the upper end of the San Pasqual Valley.
Sector J – A mesa-top conglomerate deposit consisting of four areas located in or near the communities of Rancho Bernardo, Rancho Penasquitos, Poway Mira Mesa, Tierra Santa, and Santee, and on the Miramar Naval Air Station.
Sector K – A metavolcanic rock deposit located in Mission Gorge on the San Diego River.
Sector M – Channel and flood-plain deposits of the upper San Diego River from Magnolia Avenue in the City of Santee to within one mile of El Capitan Dam.
Sector N – A channel deposit of the lower Sweetwater River located near the community of Sunnyside.
Sector O – A channel deposit of the Sweetwater River located at the upper end of Sweetwater Reservoir. Sector P – A channel deposit of the Sweetwater River that extends from near the Singing Hills Golf Course upstream for a distance of approximately four miles.
Sector Q – A channel deposit of the Sweetwater River that extends from near the Singing Hills Golf Course upstream for a distance of approximately four miles.
Sector R – Channel and adjacent mesa deposits of the Otay River extending from near Interstate 805 upstream to approximately the head of Otay Valley.
Sector S – A metavolcanic rock deposit on Rock Mountain located on the north side of upper Otay Valley.
Sector U – Floodplain deposits of the Tijuana River extending from the international boundary downstream for a distance of approximately four miles.
Sector V – Conglomerate deposits located on the Border Highlands immediately south of the Tijuana River.

NOTE

Authority cited: Section 2790, Public Resources Code. Reference: Sections 2726, 2761-2763 and 2790-2792, Public Resources Code.

HISTORY

1. *New section filed 3-19-85; effective thirtieth day thereafter (Register 85, No. 12).*

§ 3550.7. Construction Aggregate Resources, Claremont – Upland Region.

A set of maps identifying the exact locations of the designated resources areas, entitled "Regionally Significant Construction Aggregate Resources Areas in Claremont-Upland Production-Consumption Region," is incorporated by reference into this regulation. These maps are available from the State Mining and Geology Board's office in Sacramento.*

The construction aggregate deposits in the following areas are designated as being of regional significance:
Sector A – The annual recharge area upstream from the San Antonio Creek Flood Control Dam.
Sector B – Eight parcels south of San Antonio Creek Flood Control Dam in the unurbanized areas of the San Antonio Creek Fan, northeast of the City of Claremont. Sector B is roughly bounded by Foothill Boulevard on the south, San Antonio Avenue on the east, and Thompson Creek on the west.
Sector C – Four parcels in the proximal part of the Cucamonga Creek Fan, north of the City of Upland. The area is generally north of 19th Street, west of Carmelian Avenue, east of Euclid Avenue, and south of the San Bernardino National Forest.
Sector D – Three parcels covering parts of the Day Creek and Deer Creek fans between the cities of Cucamonga and Fontana. It is bounded by the San Gabriel Mountains on the north and Highland Avenue on the south.

NOTE

Authority cited: Section 2790, Public Resources Code. Reference: Sections 2726, 2761-63 and 2790-92, Public Resources Code.

HISTORY

*1. New section filed 12-3-86, effective thirtieth day thereafter (Register 86, No. 49). *Copies of the maps incorporated by this section accompanied the text which was filed with Secretary of State on 12-3-86.*

§ 3550.8. Constructive Aggregate Resources, San Bernardino Region.

A set of maps identifying the exact locations of the designated resources areas, entitled " Regionally Significant Construction Aggregate Resources Areas in San Bernardino Production-Consumption Region, is incorporated by reference into this regulation. These maps are available from the State Mining and Geology Board's office in Sacramento.*

The construction aggregate deposits in the following areas are designated as being of regional significance:
Sector A – Eighteen parcels on the Lytle Creek Fan in and around the City of Fontana. The larger parcels of this sector are north of Fontana; several smaller parcels are scattered to the east and south of Fontana to the Santa Ana River.
Sector B - Thirteen parcels covering the unurbanized portions of Lytle Creek Wash from north of Freeway 15, west to the downtown area of the City of San Bernardino.
Sector C – Eight parcels along the Cajon Creek Wash from the bend in the wash south of Lost Lake, southward to the confluence of Cajon Creek and Lytle Creek.
Sector D – Five parcels in a generally oval-shaped area southeast of the City of Ontario. The area is generally bounded by Freeway 10 on the south, Marlay Avenue on the north, Haven Avenue on the west, and Etiwanda Avenue on the east.
Sector E – Fourteen parcels in and along the Santa Ana River from Freeway 395, south and west to the town of Rubidoux. Sector F – Seventeen parcels along the upper Santa Ana River and Santa Ana Wash and areas along smaller drainages merging with the Santa Ana Wash, including Warm Creek, City Creek, and Mill Creek.
Sector G – Two parcels covering parts of the San Gorgonio River alluvial fan, east of the City of Banning. Sector G extends from the mouth of Banning Canyon, southeastward to the community of Cabazon.
Sector H – The alluviated area of the Rice Canyon drainage, about one mile south of Alberhill.
Sector I – The alluvial deposits in the lower part of Mc Vickers Canyon and the alluvial fan near the mouth of McVickers Canyon. Sector I is a few miles northeast of Lake

Elsinore.

NOTE

Authority cited: Section 2790, Public Resources Code. Reference: Sections 2726, 2761-63 and 2790 – 92, Public Resources Code.

HISTORY

*1. New section filed 12-3-86, effective thirtieth day thereafter (Register 86, No. 49). *Copies of the maps incorporated by this section accompanied the text which was filed with Secretary of State on 12-3-86.*

§ 3550.9. Construction Aggregate Resources, Saugus-Newhall and Palmdale Regions.

A set of maps identifying the exact locations of the designated resources areas, entitled "Regionally Significant Construction Aggregate Resources Areas in Saugus – Newhall and Palmdale Production-Consumption Region, is incorporated by reference into this regulation. These maps are available from the State Mining and Geology Board's office in Sacramento.*

The construction aggregate deposits in the following areas are designated as being of regional significance:

Sector A – Portions of the Santa Clara River and its immediate floodplain extending from the Los Angeles County Line to Bee Canyon, parts of Castiac Creek, and Oak Spring Canyon.

Sector B – An area bounded by Bee Canyon on the northwest, the Santa Clara River to the south, and extending approximately one mile east of the Agua Dulce Canyon; and a triangle-shaped area with a boundary extending from the mouth of Pole Canyon west along an old railroad grade, south to Oak Spring Canyon then northeast back to the mouth of Pole Canyon.

Sector C – A triangular area beginning at the mouth of Pole Canyon, running southeast along the canyon to Oak Spring Canyon then southwest to Coyote Canyon, turning northeast to close the triangle back at the mouth of Pole Canyon.

Sector D – An area north of the California Aqueduct whose eastern boundary is along Little Rock Wash then turns west approximately one mile north of Boundary Avenue. The western boundary runs south near 47th Street and Fort-Tejon Road.

Sector E – An area of the Big Rock Wash bounded by the aqueduct on the south, North 165th Street on the east, Palmdale Boulevard on the north, and 116th Street on the west.

NOTE

Authority cited: Section 2790, Public Resources Code. Reference: Sections 2726, 2761-63 and 2790-92, Public Resources Code.

HISTORY

*1. New section filed 12-3-86, effective thirtieth day thereafter (Register 86, No. 49). *Copies of the maps incorporated by this section accompanied the text which was filed with Secretary of State on 12-3-86.*

§ 3550.10. Construction Aggregate Resources,
South San Francisco Bay Region.

A set of maps identifying the exact locations of the designated resources areas, entitled "Regionally Significant Construction Aggregate Resources Areas in South San Francisco Bay Production-Consumption Region, is incorporated by reference into this regulation. These maps are available from the State Mining and Geology Board's office in Sacramento.

Sector A – Aggregate deposit located in Amador Valley and Livermore Valley areas in the cities of Pleasanton and Livermore in Alameda County.

Sector B – Alluvial deposit consisting of six parcels along Arroyo del Valle on the southwestern edge of Livermore in Alameda County.
Sector C – Alluvial deposit consisting of six parcels located along Arroyo Mucho on the eastern edge of Livermore in Alameda County.
Sector D – Greenstone deposit located on Apperson Ridge east of Sunol Valley in Alameda County.
Sector E – Alluvial deposit consisting of five parcels in Sunol Valley in southern Alameda County.
Sector H – Elongated sandstone deposit located on the foothills of the cities of Fremont and Union City.
Sector I – Elongated series of parcels consisting of a sandstone deposit along the foothills east of the cities of Fremont and Milpitas.
Sector J – Alluvial deposit located near Mowry Landing on the southern edge of Fremont in Alameda County.
Sector K – Alluvial deposit located west of Highway 17 on the southern edge of Fremont in Alameda County.
Sector L – Alluvial deposit consisting of three parcels located between the Nimitz Freeway, Alameda Creek, the Coyote Hills, and Jarvis Avenue in the northwestern portion of the City of Fremont in Alameda County.
Sector M – Located at the southern end of the Coyote Hills on the west side of Fremont in Alameda County.
Sector N – Greenstone deposit in the foothills east of the City of Hayward in Alameda County.
Sector O – Consists of greenstone and rhyolite located in the Berkeley Hills west of Lake Chabot in Alameda County.
Sector P – Consists of rhyolite located north of the oak Knoll Naval Hospital in the Berkeley Hills.
Sector S – Mount Zion and a smaller adjacent hill in central Contra Costa County.
Sector T – Consists of basalt and andesite located at the south end of Gudde Ridge in the City of Moraga in southwestern Contra Costa County.
Sector U – Consists of basalt and andesite located on a small ridge southwest of the City of Orinda in Contra Costa County.
Sector V – Consists of basalt and andesite located on a small ridge southwest of the city of Orinda in Costa Contra County.
Sector W – Sandstone and shale deposit consisting of three parcels located on the west side of the City of Richmond in Contra Costa County.
Sector X – The Guadalupe Quarry property on the north side of Mount San Bruno adjacent to the City of Brisbane in San Mateo County.
Sector Y – Limestone and greenstone deposits located west of Pacifica near Rockway Beach in northern San Mateo County.
Sector Z – Greenstone deposit located in the Los Altos Hills in northwestern Santa Clara County.
Sector BB – Limestone deposit located west of the City of Cupertino on upper Permanente Creek in Santa Clara County.
Sector CC – Greenstone deposit located northwest of Stevens Creek Reservoir on the western edge of the City of Cupertino in Santa Clara County
Sector DD – Conglomerate deposit located northwest of Stevens Creek Reservoir west of the City of Cupertino in Santa Clara County.
Sector EE – Located immediately northwest of the intersection of Capitol Expressway and Monterey Road (Highway 82) on the City of San Jose in Santa Clara County.
Sector GG – Sandstone deposit located approximately four miles south of Brentwood in

eastern Contra Costa County.
Sector HH – Granitic rock deposit located northwest of the City of Half Moon Bay in western San Mateo.
Sector II – Sandstone and siltstone deposit located in Limekiln Canyon east of Lexington Reservoir in southwestern Santa Clara County.
Sector LL – Sandstone deposit located in the foothills east of the City of Fremont in Alameda County.

NOTE

Authority cited: Section 2790, Public Resources Code. Reference: Sections 2726, 2761 – 63 and 2790-92, Public Resources Code.

HISTORY

*1. New section filed 12-3-86, effective thirtieth day thereafter (Register 86, No. 49). *Copies of the maps incorporated by this section accompanied the text which was filed with Secretary of State on 12-3-86.*

§ 3550.11. Construction Aggregate Resources, North San Francisco Bay Region.

A set of maps identifying the exact locations of the designated resources areas, entitled "Regionally Significant Construction Aggregate Resources Areas in North San Francisco Bay Production-Consumption Region, is incorporated by reference into this regulation. These maps are available from the State Mining and Geology Board's office in Sacramento.*

The construction aggregate deposits in the following areas are designated as being of regional significance:
Sector A – Channel and floodplain alluvium deposits located in Alexander Valley of Sonoma County; extends from approximately the City of Cloverdale downstream to a point 3.25 miles southeast of the community of Jimtown.
Sector B – Alluvial deposits of the middle reach of the Russian River and a small portion of Dry Creek 0.5 miles west of Healdsburg. The sector extends from the City of Healdsburg down the Russian River to a point near the Wohler Road Bridge.
Sector C – Alluvial deposits restricted to two small portions of Sonoma Creek. The first is about one mile south of Sonoma State Hospital, and the second is about one mile south of Boyes Hot Springs.
Sector D – Consists of Novato Conglomerate deposits located near Black Point in eastern Marin County.
Sector E – A small basalt deposit located on Petaluma Hill near the southeastern edge of the City of Petaluma in Sonoma County.
Sector F – A small aggregate deposit located west of the City of Cotati on Stony Point Road in Sonoma County.
Sector G – Three contiguous parcels consisting of metamorphosed graywacke and greenstone deposits located east of the City of Vallejo at the southern end of Sulphur Springs Mountain.
Sector H – Aggregate deposit located southeast of the City of Napa in Napa County.
Sector I – Metamorphosed sandstone deposit located on Point San Pedro in eastern Marin County.
Sector J – A large block of andesite located on Burdell Mountain approximately two miles north of the City of Novato in Marin County.
Sector K – Two areas east of Dunbar Union School and northeast of the community of Glen Ellen in Sonoma County.
Sector L – Small greenstone and pillow lavas deposits located in Millerton Gulch approximately 3.5 miles north of the community of Point Reyes Station in Marin County.

Sector M – A small serpentine deposit located in upper Bowman Canyon on Burdell Mountain approximately three miles northwest of Novato in Marin County.
Sector N – A small siltstone deposit located approximately one mile west of the community of Forestville and south of Highway 116.
Sector O – A small siltstone located approximately one mile west of the community of Forestville and north of Highway 116.
Sector P – Located along the west side of Green Valley approximately three miles southwest of Forestville in Sonoma County.
Sector Q – Sandstone deposit located in Cheney Gulch approximately 2.5 miles east of Bodega Bay in western Sonoma County.
Sector R – Located approximately 2.5 miles southeast of the City of Petaluma in Sonoma County.
Sector S – Located approximately five miles west of Petaluma on Petaluma Creek Road in Sonoma County.
Sector T – Sandstone deposits located 1.5 miles north of Duncan Mills on Austin Creek in western Sonoma County.
Sector U – Located at the confluence of the South Fork and Wheatfield Fork of the Gualala River in northwestern Sonoma County.
Sector V – Consists of andesite located on Burdell Mountain approximately two miles north of the City of Novato in Marin County.
Sector W – Located on Porter Creek Road approximately four miles east of the community of Mark West Springs in eastern Sonoma County.
Sector X – Consists of sandstone and andesite located along Highway 121 approximately 2.5 miles north of Sears Point in southeastern Sonoma County.
Sector Y – Shale deposit located approximately 2.5 miles west of Healdsburg in Sonoma County.

NOTE

Authority cited: Section 2790, Public Resources Code. Reference: Sections 2726, 2761-63 and 2790-92, Public Resources Code.

HISTORY

*1. New section filed 12-3-86, effective thirtieth day thereafter (Register 86, No. 49). *Copies of the maps incorporated by this section accompanied the text which was filed with Secretary of State on 12-3-86.*

§ 3550.12. Construction Aggregate Resources, Monterey Bay Region.

A set of maps identifying the exact locations of the designated resources areas, entitled “Regionally Significant Construction Aggregate Resources Areas in Monterey Bay Production-Consumption Region, is incorporated by reference into this regulation. These maps are available from the State Mining and Geology Board’s office in Sacramento.*

The construction aggregate deposits in the following areas are designated as being of regional significance:
Sector A – Consists of quartz diorite located on Ben Lomond Mountain southwest of Felton in Santa Cruz County.
Sector B – Consists of sandstone deposit divided into three large non-contiguous parcels located east of Felton in Santa Cruz County.
Sector C – Sandstone deposit located near Wilder Ranch west of the City of Santa Cruz.
Sector D – Alluvial deposit located in a portion of Uvas Creek located west of Gilroy in southern Santa Clara County.
Sector E – Channel and floodplain deposits located in a long portion of the San Benito

County.
Sector F – Two elongated deposits located near the community of Aromas in western San Benito County, extending from State Highway 101 northwesterly to Pajaro Gap on Highway 129, a distance of approximately five miles.
Sector G – The Natividad Quarry located northeast of Salinas in Monterey County.
Sector H – Sand deposits in two separate but adjacent parcels located along the southern portion of Monterey Bay, north of the City of Marina.
Sector I – A large sand dune area located on the northern edge of the City of Marina in Monterey County.
Sector J – Quartz diorite located on Huckleberry Hill on the east side of the community of Pebble Beach in Monterey County.
Sector K – Stream channel and floodplain deposits consisting of a one mile long portion of the lower Carmel River in the Carmel Valley of Monterey County.
Sector L – Consists of quartz diorite and siltstone located on upper Soquel Creek on the east side of Sugarloaf Mountain in Santa Cruz County.
Sector M – Fluvial sand and gravel deposit located on Freedom Boulevard approximately seven miles northwest of Watsonville in southern Santa Cruz County.
Sector N – Located at the confluence of Chalone Creek with the Salinas River in southern Monterey County, approximately three miles southwest of the community of Greenfield, northeast of the Southern Pacific Railroad tracks.
Sector O – Located at the confluence of Chalone Creek with the Salinas River in southern Monterey County, approximately three miles southwest of the community of Greenfield.
Sector P – Stream channel and floodplain deposits of San Lorenzo Creek located in the foothills of the Gabilan Range in southern Monterey County, approximately six miles northwest of King City.
Sector U – Stream channel and floodplain deposits of Upper Pacheco Creek located near Bells Station in southeastern Santa Clara County.

NOTE

Authority cited: Section 2790, Public Resources Code. Reference: Sections 2726, 2761-63 and 2790-92, Public Resources Code.

HISTORY

*1. New section filed 12-3-86, effective thirtieth day thereafter (Register 86, No. 49). *Copies of the maps incorporated by this section accompanied the text which was filed with Secretary of State on 12-3-86.*

§ 3550.13. Construction Aggregate Resources,
Fresno Production-Consumption Region.

A set of maps identifying the exact locations of the designated resource areas, entitled "Regionally Significant Construction Aggregate Resource Areas in the Fresno Production-Consumption Region," is incorporated by reference into this regulation. These maps are available from the State Mining and Geology Board's office in Sacramento.

The construction aggregate deposits in the following areas are designated as being of regional significance:
Sector K – Alluvial deposits of the Kings River between Avocado Lake on the northeast and the Southern Pacific Railroad tracks on the southwest.
Sector S – Portions of the San Joaquin River floodplain between Friant Dam and Highway 99.

NOTE

Authority cited: Section 2790, Public Resources Code. Reference: Sections 2726, 2761-63 and 2790-92, Public Resources Code.

HISTORY

1. New section filed 9-16-88; operative 10-16-88 (Register 88, No. 39).

2. Amendment of first paragraph filed 9-5-2000; operative 10-5-2000 (Register 2000, No. 36).

§ 3550.14. Construction Aggregate Resources, Stockton-Lodi Production-Construction Region.

A map identifying the exact locations of the designated resource areas, entitled "Regionally Significant Construction Aggregate Resource Areas in the Stockton-Lodi Production-Consumption Region, 1989," is incorporated by reference into this regulation. This map is available from the State Mining and Geology Board's office in Sacramento. The construction aggregate deposits in the following areas are designated as being of regional significance:

Sector A – Aggregate deposits on the alluvial fan created by Corral Hollow Creek, situated south of the City of Tracy.

Sector B – Aggregate deposit on the alluvial fan created by Lone Tree Creek. Deposit extends from just west of Interstate 580 near the base of the Coast Range hills northwest to the alignment of Interstate 5.

Sector C – Aggregate deposit that consists of the alluvial fan formed by Hospital Creek. Deposit extends from west of Interstate 580 within the foothills of the Coast Range and east into the San Joaquin Valley.

Sector D – Sand deposit centered on the San Joaquin River near the intersection of Highway 120 and Interstate 5 west of the City of Manteca.

NOTE

Authority cited: Section 2790, Public Resources Code. Reference: Sections 2762, 2761-63 and 2790-92, Public Resources Code.

HISTORY

1. New section filed 6-29-89; operative 7-29-89 (Register 89, No. 27).

§ 3550.15. Construction Aggregate Resources, Palm Springs Production-Consumption Region.

Two maps identifying the exact locations of the designated resource areas, entitled "Regionally Significant Construction Aggregate Resource Areas in the Palm Springs Production-Consumption Region, 1989 (Designation Map no. 89-2, Plates 1 and 2)," are incorporated by reference into this regulation. These maps are available from the State Mining and Geology Board's office in Sacramento.

The aggregate deposits in the following areas are designated as being of regional significance:

Sector A-1 – Aggregate deposits located adjacent to the southeast border of the community of Cabezon at the base of the San Jacinto Mountains.

Sector A-2 – Aggregate deposits located between the Colorado River Aqueduct and the Morongo Indian Reservation.

Sector A-3 – Aggregate deposits located directly south of Interstate 10 two miles east of the community of Cabazon.

Sector B-1 – Aggregate deposit located at the mouth of the Whitewater Canyon north of Interstate 10.

Sector B-2 – Aggregate deposit located immediately south of Interstate 10 at the intersection of Highway 62.

Sector B-3 – Aggregate deposit located immediately south of Sector B-2 and east of the San Gorgonio Pass to Garnet Hill.

Sector B-4 – Aggregate deposit located east of Indian Avenue and south of Garnet Hill.

Sector B-5 – Aggregate deposit located adjacent to the northern border of Sector B-3 and the southern border of Interstate 10 near Garnet Hill.
Sector C – Aggregate deposit located in the Little Morongo Canyon approximately one mile north of the City of Dessert Hot Springs.
Sector D – Aggregate deposit located in a small unnamed wash in the foothills of the community of Thousand Palms.
Sector E-1 – Aggregate deposit located northeast of Dillon Road, approximately six miles northeast of the City of Indio.
Sector E-2 – Aggregate deposit located approximately six miles northeast of the City of Indio.
Sector F – Aggregate deposit located approximately four miles northeast of the City of Indio.
Sector G – Aggregate deposit located approximately three miles north of the City of Indio.
Sector H-1 – Aggregate deposit located approximately four miles east of the community of Thermal.
Sector H-2 – Aggregate deposit located northeast of the Coachella Canal approximately three and a half miles east of the community of Thermal.
Sector H-3 – Aggregate deposit located southwest of the Coachella Canal approximately three miles east of the community of Thermal.

NOTE

Authority cited: Section 2790, Public Resources. Reference: Sections 2762, 2761-63 and 2790-92, Public Resources Code; and Ops. Cal. Atty. Gen. 343 (1995).

HISTORY

1. New section filed 11-13-89; operative 12-13-89 (Register 89, No. 46).

Article 4. Designation Appeal Procedures

§ 3625. Purpose of Regulations.

The regulations contained in this article govern procedures affecting appeals to the board on the approval or denial of a permit to conduct surface mining operations by a city or county, hereinafter referred to as the "lead agency," in an area designated as containing mineral deposits of statewide or regional significance pursuant to the provisions of Section 2775, Public Resources Code (PRC 2775).

NOTE

Authority cited: Section 2775, Public Resources Code. Reference: Section 2775, Public Resources Code.

§ 3626. Filing of Intent to Appeal.

(a) Any person filing an appeal to the Board pursuant to PRC 2775 shall, within 15 days of exhausting his or her rights to appeal in accordance with the procedures of the lead agency, file an intent to appeal by submitting the following information. Failure to submit all the required, completed documents to the Board within the 15 days filing period will result in an incomplete filing of intent and an automatic rejection of the appeal.

(1) A map indicating the exact location of the disputed area, including township and range, and corresponding to the designation map prepared for the region;

(2) Written statements with supporting documentation indicating the basis for the appellant's challenge to the decision by the lead agency either to approve or deny a permit to mine in an area designated as being of statewide or regional significance.

(3) Copy of notice to the lead agency that the appellant has filed an intent to appeal to the Board.

NOTE

Authority cited: Section 2775, Public Resources Code. Reference: Section 2775, Public Resources Code.

HISTORY

1. *New section filed 7-6-88; operative 8-5-88 (Register 88, No. 30)*
2. *Amendment of subsection (a) filed 9-19-2002; operative 10-19-2002 (Register 2002, No. 38).*

§ 3627. Determination of Jurisdiction.

The Chairman of the Mining and Geology Board, or the Chairman's designee, based upon the information submitted pursuant Section 3626 of this article, shall determine whether the appeal is within the jurisdiction of the Board for purposes of hearing the appeal, and determine whether the appellant's challenge raises substantial issues with respect to the action taken to approve or deny the permit to conduct surface mining operations by the lead agency. The Chairman of the Board, or the Chairman's designee, shall make such determination within 15 days of receipt of the information required by Section 3626 of this article, and shall notify the appellant and the lead agency of the determination by certified mail.

If the Chairman finds, based upon the criteria stated in (a), (b) or (c) below, that the appeal raises no substantial issues with respect to the action taken by the lead agency to approve or deny the permit to conduct surface mining operations in a designated area, he or she shall refuse to grant a hearing on an appeal. In making this determination, the Chairman, or the Chairman's designee, shall consider the following:

(a) Whether the appeal raises any issues which legally can be addressed by the Board within the limits of the Public Resources Code and the rules of the Board; and

(b) Whether the appeal specifically relates to the approval or denial of a permit to conduct surface mining operations in an area designated by the Board as being of statewide or regional significance.

(c) Whether the appeal is that of a lead agency's reconsideration of an appeal previously remanded by the board to that lead agency, and the appellant's challenge raises no new substantial issues with respect to the action taken by the lead agency to approve or deny the permit to conduct surface mining operations

NOTE

Authority cited: Section 2775, Public Resources Code. Reference: Section 2775, Public Resources Code.

HISTORY

1. *New section filed 7-6-88; operative 8-5-88 (Register 88, No. 30)*
2. *Amendment filed 9-19-2002; operative 10-19-2002 (Register 2002, No. 38).*

§ 3628. Administrative Record.

(a) Once the appellant has been notified that a determination has been made that an appeal is within the jurisdiction of the Board for purposes of hearing the appeal, the appellant shall submit to the board within 30 days of receipt of notification three certified copies for the complete administrative record, which shall include, but not be limited to, all of the following information.

(1) Project application and complete, detailed description of the proposed project, including conditions added for mitigation of environmental impacts;

(2) Location and site description maps submitted to the lead agency as part of the application process;

(3) All reports, findings, communications, correspondence, and statements in the file of the lead agency relating to the project; and

(4) Written transcripts of all public hearings related to the decision of the lead agency.

(b) In cases where the appellant is faced with substantial delay in gathering the administrative record due to internal procedures of the lead agency, the appellant shall so notify the Board in writing and the Board may require the lead agency to immediately submit three copies of the administrative record to the Board for purposes of hearing the appeal without undue delay.

(c) Failure to produce the administrative record upon request of the Board within 30 days shall be deemed grounds to remand the appeal to the lead agency for reconsideration.

NOTE

Authority cited: Section 2772, 2773, Public Resources Code. Reference: Section 2775, Public Resources Code.

HISTORY

1. *New section filed 7-6-88; operative 8-5-88 (Register 88, No. 30).*
2. *Amendment filed 9-19-2002; operative 10-19-2002 (Register 2002, No. 38).*

§ 3629. Hearing Procedures-Scheduling.

The Board shall schedule and hold a public hearing on an appeal no later than 30 days from the filing of the complete administrative record, or at such time as may be mutually agreed upon by the Board and the appellant. In no case shall the hearing be scheduled beyond 180 days of the receipt of the complete administrative record without the concurrence of the Board, the appellant, and the project proponent (when not the same person as the appellant). The hearing may be scheduled as part of a regular business meeting of the Board or may be conducted by a committee of the Board.

NOTE

Authority cited: Section 2775, Public Resources Code. Reference: Section 2775, Public Resources Code.

HISTORY

1. *New section filed 7-6-88; operative 8-5-88 (Register 88, No. 30).*

§ 3630. Hearing Procedures-Authority for Delegation.

The Board may delegate conduct of the hearing to a committee of at least two members to be appointed for that hearing by the Chairman of the Board. The Chairman of the Board or the Chairman's designee shall conduct the hearing; the recommendations of the committee shall be presented to a quorum of the Board at its next regular business meeting for a decision of the full Board consistent with the procedures set forth in Section 3634 of these regulations.

NOTE

Authority cited: Section 2775, Public Resources Code. Reference: Section 2775, Public Resources Code.

HISTORY

1. *New section filed 7-6-88; operative 8-5-88 (Register 88, No. 30).*

§ 3631. Hearing Procedures-Notice.

(a) At least 10 working days prior to the hearing, the Board shall give public notice as follows:

(1) Mailing the notice to the lead agency, the appellant, and the project proponent (when not the same person as the appellant);

(2) Mailing the notice to any person who requests notice of the appeal or hearing;

(3) Mailing the notice to the Board's regular mailing list; and

(4) Posting of the notice in a place where notices are customarily posted in the city or county jurisdiction within which the proposed surface mining operations are to take place.

(b) The notice of hearing shall include the following:

(1) The name of the appellant;

(2) Identification of the proposed surface mining operation, a brief description of the location of the operation by reference to any commonly known landmarks in the area, and a simple location map indicating the general location of the operation;

(3) A statement that the appellant has appealed the lead agency's decision to approve or deny the project and has requested the Board hear the appeal;

(4) A statement inviting the appellant, the lead agency, the project proponent (when not the same person as the appellant), and the public to make statements at the hearing regarding the decision of the lead agency; and

(5) The time, date, and location of the public hearing.

NOTE

Authority cited: Section 2775, Public Resources Code. Reference: Section 2775, Public Resources Code.

HISTORY

1. New section filed 7-6-88; operative 8-5-88 (Register 88, No. 30).

§ 3632. Hearing Procedures-Record.

The record before the Board at the public hearing shall be the administrative record submitted pursuant to Sections 3626 and 3628 of this article.

NOTE

Authority cited: Section 2755, Public Resources Code. Reference: Sections 2755, Public Resources Code.

HISTORY

1. New section filed 7-6-88; operative 8-5-88 (Register 88, No. 30).

§ 3633. Hearing Procedures-Sequence.

(a) The public hearing should normally proceed in the following manner:

(1) Identification of the record;

(2) Statements on behalf of the appellant;

(3) Statements on behalf of the lead agency;

(4) Statements on behalf of the project proponent (when not the same person as the appellant);

(5) Statements on behalf of the public;

(6) Rebuttal on behalf of the appellant; and

(7) Motion to close the public hearing.

(b) Notwithstanding the above, the Chairman or the Chairman's designee for purposes of conducting the hearing may in the exercise of discretion, determine the order of the proceedings.

(c) The Chairman or the Chairman's designee may impose reasonable time limits upon statements and presentations and may accept written statements in lieu of oral statements. Written statements must be submitted to the Board at least five days prior to the hearing.

(d) The public hearing shall be recorded either electronically or by other convenient means.

NOTE

Authority cited: Section 2755, Public Resources Code. Reference: Sections 2755, Public Resources Code.

HISTORY

1. New section filed 7-6-88; operative 8-5-88 (Register 88, No. 30).

§ 3634. Hearing Procedures - Determination.

Following the public hearing, the Board shall determine whether, upon the record before it, the lead agency decision was made based on substantial evidence in light of the whole record. Notification of the Board's determination shall be made by certified mail to the appellant, the lead agency, and the project proponent (when not the same person as the appellant) within 15 days following the regular business meeting of the Board at which the decision is made.

NOTE

Authority cited: Section 2755, Public Resources Code. Reference: Sections 2755, Public Resources Code.

HISTORY

1. New section filed 7-6-88; operative 8-5-88 (Register 88, No. 30).