



# State Mining and Geology Board



## 2019 - 2020 Annual Report

Honorable Members of the State Legislature and Governor Newsom,

The 2019 - 2020 Annual Report is submitted by the California State Mining and Geology Board to both the State Legislature and the Governor pursuant to *Public Resources Code section 2717*. This report serves as an introduction and overview of the Board, its statutory and regulatory mandates, its accomplishments, and its suggested legislative recommendations.

The Board believes that the regulation of the surface mining industry, the dissemination of earthquake and seismic hazard information, and the prudent use of its natural resources is an ongoing and essential process crucial to the economy, the infrastructure, and the people of the State of California.

Respectfully Submitted on behalf of the State Mining and Geology Board,

*Jeffrey Schmidt*

Executive Officer  
State Mining and Geology Board

**TABLE OF CONTENTS**

State Mining and Geology Board .....4

    The Board .....4

    Mission Statement.....4

    Membership.....4

    Committees .....5

    Staff.....5

    History .....5

    Key Stakeholders .....5

    Board Meetings .....5

    Statutory and Regulatory Authority .....5

        Surface Mining and Reclamation Act of 1975 (SMARA).....6

        Alquist-Priolo Earthquake Fault Zoning Act (APA).....6

        Seismic Hazards Mapping Act (SHMA).....6

Lead Agency Responsibilities .....6

    Surface Mine Inspections .....9

    Compliance and Enforcement .....9

    Surface Mining Ordinances .....9

    Annual Mine Fee Schedule.....9

Alquist-Priolo Act Responsibilities .....9

Seismic Hazard Zone Responsibilities ..... 10

Mineral Conservation and Reclamation Responsibilities ..... 10

    Designation Reports ..... 10

    Mineral Resource Management Plans (MRMPs) ..... 10

Rulemaking Responsibilities ..... 10

Board Outreach and Industry Involvement ..... 11

Ongoing Board Work and Legislative Recommendations..... 11

## STATE MINING AND GEOLOGY BOARD

### THE BOARD

The State Mining and Geology Board (Board) serves as a regulatory, policy, and hearing body representing the State's interests in geology, geologic and seismologic hazards, the conservation of mineral resources, and the reclamation of mined lands.

### MISSION STATEMENT

The mission of the Board is to provide professional expertise and guidance and to represent the State's interest in the development, utilization, and conservation of mineral resources, the reclamation of mined lands and the development and dissemination of geologic and seismic hazard information to protect the health and welfare of the people of California.

### MEMBERSHIP

Pursuant to *Public Resources Code sections 660 and 662*, the Board is composed of nine members appointed by the Governor and confirmed by the State Senate for four-year staggered terms. Each Board member must have a specific professional background in one of the following:

- Geology
- Mining Engineering
- Environmental Protection
- Groundwater Hydrology and Rock Chemistry
- Local Government
- Landscape Architecture
- Mineral Resource Conservation
- Seismology
- Public Member

Today's Board consists of 7 members with 2 vacancies to be filled.

SPECIALTY	MEMBER NAME	TERM
Non-specialized public member	Larry Sheingold, Chair	2018-2022
Mining Engineer with background and experience in mining in California	George Kenline, Vice-Chair PG, CEG, CHG	2017-2021
Mineral resource conservation, development, or utilization	Brian Anderson MS, PG	2019-2023
Environmental protection or the study of ecosystems	Pablo Garza MA	2017-2021
Registered Geologist with background and experience in mining geology	Janet Kappmeyer PG, CEG	2017-2021
Landscape Architect	Stephanie Landregan RLA	2018-2022
Registered Geologist, Geophysicist, or Civil Engineer with background and experience in seismology	Zia Zafir PhD, PE, GE	2020-2024
Groundwater hydrology, water quality, or rock chemistry	Vacant	2016-2020
Representative of local government with background and experience in urban planning	Vacant	2019-2023

\*Board member terms effectively terminate January 15 of the term-ending year.

## **COMMITTEES**

To enable the Board to meet its responsibilities more effectively, the following standing committees have been established to gather information and formulate recommendations on a variety of topics:

- Policy and Administration
- Lead Agency Standards
- Mineral Conservation and Geologic Resources
- Compliance and Enforcement
- Geohazards

## **STAFF**

The day-to-day activities of the Board are managed by:

- Jeffrey Schmidt, Executive Officer
- Will J. Arcand, Senior Engineering Geologist, PG, CEG
- Matthew Livers, Regulatory Specialist
- Jocelyn Fernandez, Office Technician

## **HISTORY**

The Board was established in 1885 as the Board of Trustees to oversee the activities of the State Mineralogist and the California Division of Mines and Geology (now the California Geological Survey). It is the second oldest Board in California.

## **KEY STAKEHOLDERS**

Key stakeholders include:

- Lead agencies with jurisdictions over zoning ordinances, building codes, and general plan developments
- Geological, geophysical, and engineering consulting community
- Teachers and educational institutions
- Contractors and developers
- Surface mining industry
- Realtors, insurers, and homeowners
- Department of Conservation
- California Geological Survey
- Division of Mine Reclamation
- Seismic Safety Commission
- Board for Professional Engineers, Land Surveyors and Geologists
- Board of Forestry
- State Legislature

## **BOARD MEETINGS**

Pursuant to *Public Resources Code Section 668*, the Board held regular business meetings or standing committee meetings ten times during the reporting period. Among its activities, the Board received briefings from the Department of Conservation, the Division of Mine Reclamation, and the California Geological Survey. Additionally, the Board considered and approved rulemaking packages, a special report from the California Geological Survey, and revised financial assurance mechanisms. The Board also elected a vice-chair, approved a 2019-2020 *Work Plan* to refocus the Board's committee goals, considered and made recommendations on candidates for State Geologist, and revised its standing committee structure.

## **STATUTORY AND REGULATORY AUTHORITY**

The Board operates within the Department of Conservation under the Natural Resources Agency and is granted responsibilities and obligations under the following acts:

### **Surface Mining and Reclamation Act of 1975 (SMARA)**

Pursuant to *Public Resources Code sections 2710* and its regulations at *14 Cal. Code of Regulations Section 3500*, the Board manages a comprehensive surface mining and reclamation policy to assure that adverse environmental impacts are minimized, and mined lands are reclaimed. The Surface Mining and Reclamation Act also encourages the production, conservation, and protection of the State's mineral resources.

### **Alquist-Priolo Earthquake Fault Zoning Act (APA)**

Pursuant to *Public Resources Code sections 2621 through 2630* and its regulations at *14 California Code Regulations Section 3600*, the Board is authorized to represent the State's interests in establishing guidelines and standards for geological and geophysical investigations and reports produced by the California Geological Survey, public sector agencies, and private practitioners. The Board is also authorized to develop specific criteria through regulations to be used by lead agencies to comply with provisions of the Act to protect the health, safety and welfare of the public.

### **Seismic Hazards Mapping Act (SHMA)**

Pursuant to *Public Resources Code sections 2690 through 2699.6* and its regulations at *14 California Code of Regulations section 3720*, the Board is authorized to provide policy and guidance through regulations for a statewide seismic hazard mapping and technical advisory program to assist cities, counties, and state agencies in fulfilling their responsibilities for protecting the public health and safety from the effects of strong ground shaking, liquefaction or other ground failure, landslides and other seismic hazards caused by earthquakes, including tsunami and seiche threats.

### **LEAD AGENCY RESPONSIBILITIES**

The primary entity responsible for the Surface Mining and Reclamation Act administration, compliance, and enforcement, is the local lead agency, generally, the city or county where the surface mining is taking place. The Surface Mining and Reclamation Act prescribes specific responsibilities and powers to the lead agency; therefore, the lead agency is responsible for assuring that all surface mine operations within its jurisdiction are in full compliance with these provisions. Specific duties of lead agencies which are charged with the primary administration and enforcement of the Surface Mining and Reclamation Act are to:

- Review and approve reclamation plans that meet the minimum requirements established by the Surface Mining and Reclamation Act and the Board's reclamation performance standards for surface mines
- Approve financial assurances, subject to annual review, that are sufficient to pay for the costs of full reclamation of the lands disturbed by surface mining operations according to the requirements of the approved reclamation plan
- Approve local permits for mining operations
- Conduct an annual inspection of each surface mine to confirm that the operation complies with the requirements of the Surface Mining and Reclamation Act and its approved reclamation plan, and to remedy the situation if the operation is not in compliance
- Issue Administrative Penalties to operators who do not come into compliance
- Close operations that do not attain compliance
- Maintain a surface mining ordinance that is in accordance with the Surface Mining and Reclamation Act
- Incorporate model resource management plans into their general plans if there are mineral "classified" or mineral "designated" lands within the lead agency's jurisdiction

Should a lead agency fail to bring or become incapable of bringing one or more surface mining operations into compliance, statute allows the Director of the Department of Conservation to commence enforcement at individual surface mining sites. The Surface Mining and

Reclamation Act prescribes specific responsibilities and powers to the Director. The Department is also responsible for providing technical reviews of reclamation plans and financial assurances to lead agencies to ensure that the requirements of the Surface Mining and Reclamation Act have been addressed in the reclamation plans prior to their formal approval by the lead agency.

Under the Surface Mining and Reclamation Act, the Board is provided authority to hear appeals of enforcement actions taken by the Director against surface mine operators, as well as appeals of certain decisions made by a lead agency regarding reclamation plans and financial assurances. In addition, the Board is provided authority to exercise a lead agency's powers, in whole or in part with exception to local land use and other regulatory permitting, when a lead agency's actions are in violation of the statute, or if the lead agency defaults on its responsibilities and obligations. The Board also reviews lead agency ordinances that establish local permit and reclamation procedures to determine whether each ordinance is in accordance with State policy for reclamation of surface mining operations and for conservation of mineral resources.

The Surface Mining and Reclamation Act affects 116 jurisdictions comprised of 61 cities and 55 counties (excluding those directly overseen by the Board). The Board served as the lead agency under the Surface Mining and Reclamation Act for 38 individual surface mining operations during the reporting period including:

- ❖ 24 located within two counties (County of El Dorado and County of Yuba)
- ❖ 7 located within cities that do not have certified surface mining ordinances
- ❖ 7 marine sand mining operations located within the San Francisco Bay and bay delta areas

The following table lists the surface mines where the Board exercised lead agency authority:

<b>SMGB SMARA LEAD AGENCY SURFACE MINES</b>				
<b>CA ID No.</b>	<b>Mine Name</b>	<b>Status</b>	<b>Primary Commodity</b>	<b>Local Lead Agency</b>
91-07-0006	Richmond Quarry	Active - Reclamation	Recyclable Concrete	City of Richmond
91-09-0001	Bear Creek Quarry	Active	Serpentinite	County of El Dorado
91-09-0002	Weber Creek Quarry	Idle	Serpentinite	County of El Dorado
91-09-0003	Diamond Quarry	Active	Limestone	County of El Dorado
91-09-0004	Chile Bar Slate Mine	Active	Slate	County of El Dorado
91-09-0005	Cool Cave Quarry	Active	Limestone	County of El Dorado
91-09-0006	Timm Mine	Idle	Specimen Gold	County of El Dorado
91-09-0009	Somerset Sand Pit	Active	Granitic Sand	County of El Dorado
91-09-0010	Lawyer Pit	Active	Granitic Sand	County of El Dorado
91-09-0012	Snows Road Quarry	Active	Sand and Gravel	County of El Dorado
91-09-0015	Marin Quarry	Idle	Granodiorite	County of El Dorado

91-09-00XX	Big Cut Mine	Idle	Sand and Gravel	County of El Dorado
91-27-0006	Lapis	Active	Beach Sand	City of Marina
91-33-0002	Avalon Mine	Active	Granitic Rock	City of Jurupa Valley
91-33-0003	Super Creek Quarry	Active	Decorative Stone	City of Desert Hot Springs
91-33-0029	Philadelphia Mine	Active - Reclamation	Recyclable Concrete	City of Jurupa Valley
91-33-0031	Garnet Pit	Active	Alluvial Sand	City of Palm Springs
91-33-0062	Pyrite Quarry	Active	Granitic Rock	City of Jurupa Valley
91-38-0001	Alcatraz, Point Knox	Active	Marine Sand	San Francisco BCDC
91-38-0002	Point Knox South	Active	Marine Sand	San Francisco BCDC
91-38-0003	Point Knox Shoal	Active	Marine Sand	San Francisco BCDC
91-38-0004	Alcatraz South Shoal	Active	Marine Sand	San Francisco BCDC
91-38-0005	Hanson Suisun Bay	Active	Marine Sand	San Francisco BCDC
91-38-0007	Jerico Suisun Bay Shoal	Active	Marine Sand	San Francisco BCDC
91-38-0011	Morris Marine Mining	Active	Marine Oyster Shells	San Francisco BCDC
91-43-0003	Azevedo Quarry	Reclamation	Rock	City of San Jose
91-56-0034	Santa Paula Materials	Active	Alluvial Sand and Gravel	City of Santa Paula
91-58-0001	Western Aggregates	Active	Alluvial Sand and Gravel	County of Yuba
91-58-0002	Knife River Hallwood	Active	Alluvial Sand and Gravel	County of Yuba
91-58-0003	Cal Sierra Development	Active	Placer Gold	County of Yuba
91-58-0004	Sperbeck Quarry	Active	Metabasalt	County of Yuba
91-58-0006	Teichert Hallwood	Active	Alluvial Sand and Gravel	County of Yuba
91-58-0007	Wheatland Clay	Active	Clay	County of Yuba
91-58-0011	Dantoni Pit	Active	Alluvial Sand and Gravel	County of Yuba
91-58-0013	Parks Bar Quarry	Active	Metabasalt	County of Yuba
91-58-0019	Teichert Marysville	Active	Alluvial Sand and Gravel	County of Yuba
91-58-0022	Long Bar Property	Active	Alluvial Sand and Gravel	County of Yuba
91-58-0025	Simpson Lane	Idle	Alluvial Sand	County of Yuba

### **Surface Mine Inspections**

Board staff conducted 38 annual inspections, produced 38 annual inspection reports, and approved 38 Financial Assurance Cost Estimates for surface mining operations during the reporting period.

### **Compliance and Enforcement**

Pursuant to *Public Resources Code* sections 2270, 2770, 2773.1, 2774.1, 2774.2, 2774.5, 2775, 2796.5 and *California Code of Regulations* sections 3696.5, 3810, and 3940, the Board may enforce the annual reporting requirements and other provisions of the Surface Mining and Reclamation Act.

No notices were issued, or fines assessed during the reporting period.

### **Surface Mining Ordinances**

Pursuant to *Public Resources Code* section 2774.3, the Board shall review lead agency ordinances which establish permit and reclamation procedures to determine whether each ordinance is in accordance with State policy and shall certify the ordinance as being in accordance with State policy if it adequately meets, or imposes requirements more stringent than, the California surface mining and reclamation policies and procedures established by the Board pursuant to this chapter.

### **Annual Mine Fee Schedule**

Pursuant to *Public Resources Code* section 2207(d)(1) the Board shall impose an annual reporting fee on, and method for collecting annual fees from, each active and idle surface mining operation. *Public Resources Code* section 2207(d) also states that, starting in fiscal year 2019 – 2020, the maximum fee for any single mining operation may not exceed ten thousand dollars (\$10,000) annually and may not be less than one hundred dollars (\$100) annually. These amounts shall be adjusted for cost of living as measured by the California Consumer Price Index.

Pursuant to *Public Resources Code* section 2207(d)(2)(A) a schedule of fees shall be calculated on an equitable basis reflecting the size and type of the operation. The Board shall also consider total assessed value of the mining operation, the acreage disturbed by mining activities, and the acreage subject to the reclamation plan. It further states that the fee schedule must provide for the collection of the amount specified in the Governor's proposed Budget for the Department of Conservation's costs in implementing *Section 2207* and the Surface Mining and Reclamation Act.

In addition, *section 2207(d) (3)* outlines the amount of revenue to be generated by the fee schedule. The total revenue generated by the reporting fees may not exceed, and may be less than, the amount of eight million dollars (\$8,000,000). This amount shall be adjusted for the cost of living each fiscal year. Cost of living adjustments are addressed in *California Code of Regulations* section 3698 and allow for increases to help maintain adequate funding for the Surface Mining and Reclamation Act programs within the Department. The cost of living adjustment, or rate of inflation, is measured by the consumer price index.

*Section 2207(d)(4)(A)* also requires the reporting fee revenue be deposited in the Mine Reclamation Account for carrying out the provisions of the Surface Mining and Reclamation Act. These provisions include the classification and designation of areas with mineral resources of statewide or regional significance, reclamation plan and financial assurance reviews, surface mine inspections, and enforcement.

### **ALQUIT-PRIOLO ACT RESPONSIBILITIES**

Pursuant to *Public Resources Code* section 2622(b), the State Geologist shall compile maps delineating the earthquake fault zones. Concerned jurisdictions and agencies shall submit all

comments to the Board for review and consideration.

There were no fault zone maps produced during the reporting period.

### **SEISMIC HAZARD ZONE RESPONSIBILITIES**

Pursuant to *Public Resources Code section 2696(a) and (b)*, the State Geologist shall compile maps identifying seismic hazard zones, and upon completion, submit them to the Board.

There were no seismic hazard zone maps produced during the reporting period.

### **MINERAL CONSERVATION AND RECLAMATION RESPONSIBILITIES**

As California's population continues to grow, its communities face increasingly difficult land use decisions. The production of mineral resources necessary to support the expanding population must compete with other land uses such as agriculture, timber production, urban development, renewable energy, recreation, and conservation. The rapid growth of many communities and the incompatibility of mining with most other land uses often results in conflicts within those communities. Often, the resource is needed by the very use which threatens it. For example, construction grade aggregate deposits, which are necessary for construction and repair of roads, housing, and commercial development, often are built over before the resource can be extracted.

To address this issue, the Surface Mining and Reclamation Act provides for a method by which mineral lands may be "Classified" by the State Geologist and "Designated" by the Board. These Classification and Designation processes are methods by which an inventory of the State's most valuable mineral deposits are designated as significant resources for local communities to consider in their land use decision making.

#### **Designation Reports**

Pursuant to *Public Resources Code section 2790*, after receipt of mineral information from the State Geologist pursuant to *section 2761 (d)*, the Board may, by regulation adopted after a public hearing, designate specific geographic areas of the state as areas of statewide or regional significance and specify the boundaries of the geographic areas.

There were no mineral designation reports produced during the reporting period.

#### **Mineral Resource Management Plans**

Pursuant to *Public Resources Code section 2762*, the lead agency shall, in accordance with State policy, establish mineral resource management policies to be incorporated in its general plan to recognize mineral information classified by the State Geologist and transmitted by the Board, assist in the management of land use that affects access to areas of statewide and regional significance and emphasize the conservation and development of identified mineral deposits.

There were no mineral resource plans submitted during the reporting period.

### **RULEMAKING RESPONSIBILITIES**

Pursuant to *Public Resources Code (PRC) Section 2755*, the Board has statutory authority to adopt, amend, or repeal regulations that establish State policy for the reclamation of mined lands within California. Currently, the Board is involved in rulemaking activities to update regulations related to comprehensive changes to the Surface Mining and Reclamation Act from the signing of AB 1142 and SB 209 in 2016. Additionally, the Board is involved in rulemaking activities to update regulations related to the Seismic Hazards Mapping Act by creating extensive tsunami threat related regulations.

To streamline this process, the regulatory sections have been divided into specific packages and are being addressed individually by the Board to ensure they align with statutory requirements along with the legal requirements of the Office of Administrative Law.

The following rulemaking packages were completed and enacted into law during the reporting period:

Number	Package Focus and Related Public Resource Code
3.	Inspections, Report Forms, and Notice of Completion of Inspection Form (PRC §2774(b)(c)).
4a.	Financial Assurance Cost Estimate (FACE) Appeals (PRC §2770(e)-(g)).

The following rulemaking packages are currently being completed by SMGB staff and should be completed by the end of the calendar year 2021.

Number	Package Focus and Related Public Resource Code
4b.	Revise Reclamation Plan Appeals Process (PRC §2770(e)-(g)).
7.	Revise Appeals of Order to Comply (OTC) with SMARA Process (PRC §2774.1).
8.	Revise Forfeiture of Financial Assurance Mechanisms Process (PRC §2773.1(b)).
11.	Modification and Release of Financial Assurance Mechanisms Process (PRC §2773).
1.	Revise Tsunami Regulations within Seismic Hazards Mapping Act Regulation (PRC §2692.1)

Furthermore, the Board has the statutory authority to continuously update regulations when necessary (*PRC Section 2759*). In addition to updating the Surface Mining and Reclamation Act to align with statutory changes, the Board is responsible for amending regulation defining the Seismic Hazards Mapping Act and the Alquist-Priolo Act.

### **BOARD OUTREACH AND INDUSTRY INVOLVEMENT**

During the reporting period, the Board worked with the Division of Mine Reclamation to help conduct two surface mine inspection workshops for operators and lead agencies throughout the State. On the Board’s end, the training included updating participants about both the Board and reforms made to the Surface Mining and Reclamation Act.

Prior to the COVID-19 lockdown, the Board held its regular meetings in Sacramento and San Diego to increase the opportunity for public participation and heard presentations from people representing a variety of concerns. As part of the rulemaking process, the Board sought public comment and incorporated many of the suggestions provided by stakeholders and the public into final recommendations. As part of its lead agency responsibilities, the Board reached out to mine operators to discuss the Surface Mining and Reclamation Act reforms and changes to related statutes and regulations.

### **ONGOING BOARD WORK AND LEGISLATIVE RECOMMENDATIONS**

Pursuant to *Public Resources Code Section 2717*, the Board is required to report to the Governor and Legislature and, on an annual basis, offer legislative recommendations for consideration regarding the Surface Mining and Reclamation Act.

The Board will continue to execute the extensive reforms mandated by AB 1142 and SB 209 as well as continue to offer suggestions to amend and/or clarify statutes and regulations pertinent to its governing acts.

In addition to the packages currently being completed, the Board anticipates finishing its work on the following regulations by the end of the calendar year 2021:

- Review and offer minor “clean-up” language changes pursuant to Section 100 of the California Code of Regulations (*California Code of Regulations Section 100*).
- Calculate Cost of Living Adjustment, Annual Board Administrative Fee, et al. (*Public Resources Code Sections 2710, 727.1, and 2735*)
- Continue EFZA Rulemaking (*Public Resources Code sections 2621 – 2630 and California Code of Regulations Section 3600*)
- Create Corporate Bonding / Financial Tests (*Public Resources Code Section 2773.1.5*)

The Board also anticipates:

- Revise the Fee Calculation and Fee Schedule Changes - Increase high limit beyond statutorily mandated \$10,000 (*Public Resources Code Section 2207(d)-(e)*)
- Remediation of Disturbed Watersheds by Legacy Mines for projects with the purpose of cleaning up waterways (*Public Resources Code Section 2714*)
- Review authority statutes and determine if there are required fixes that must be handled with legislation (*Public Resources Code Sections 2774.4, and 2774.5*) concerning the extent of Board Authority as Lead Agency -
- Revise the exemption language in *California Code of Regulations section 3505* to more clearly apply to restoration projects for damage caused by legacy mines (*Public Resources Code Section 2714*)
- Suggest legislation to allow Surface Mining and Reclamation Act exemptions for habitat restoration projects that result in one-time removal of sediment from rivers, lakes, and reservoirs with all required documents and permits, provided the project is sponsored by a public agency and/or a not for profit organization (*Public Resources Code Section 2714*)
- Review and revise State Geologist duties and qualification for consistency with other code sections (*Public Resources Code Section 677*)
- Review and revise Annual Surface Mine Fees (*Public Resources Code Sections 2207, 3697, 3698*)
- Update the mandate that states that the Board must adopt minimum verifiable reclamation standards by January 1992 (*Public Resources Code Section 2773(b)*)
- Revise language concerning placing mineral policies into lead agency general plans as it fails to address this when the Board serves as the lead agency (*Public Resources Code Section 2762*)