



STATE MINING AND GEOLOGY BOARD

DEPARTMENT OF CONSERVATION

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OFFICIAL NOTICE OF PUBLIC MEETING

THE STATE MINING AND GEOLOGY BOARD

Conducted a Regular Business Meeting on:

Thursday, April 13, 2017

9:30 a.m. – 5:00 p.m.

**California State Capitol
Assembly Hearing Room #444
Sacramento, California 95814**

For questions or comments regarding this Agenda, please contact the SMGB office by telephone at (916) 322-1082, or via email at smbg@conservation.ca.gov. This Notice and associated staff reports can be accessed at the SMGB's web site at: <http://www.consrv.ca.gov/smgb/>.



PUBLIC MEETING AGENDA

1. Call to Order (Kracov)

The meeting was called to order at 9:34 a.m. by Chair Kracov.

2. Pledge of Allegiance

3. Roll Call and Declaration of a Quorum

Roll was called with all members present and a quorum was declared.

4. Review of the Agenda (Kracov)

5. Department Reports

- Director of Conservation's Report

Chief Deputy Director, Jason Marshall, reported on the following:

- The department is now set up to accept online payments for annual reporting fees.
- There are two budget subcommittee hearings scheduled for next week; they will be voting on whether to increase the Board's budget for legal costs by \$200,000.

- State Geologist's Report

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

- Two Seismic Hazard map releases are planned for some time between June and August for Western Riverside County and Contra Costa and San Mateo Counties.
- The next round of A-P Fault Zone maps will be released between May and July.
- All seismic hazard and A-P maps have been digitized, and all information is now available online; parcel and parcel numbers will be incorporated within the next month or so.

Member Noushkam asked about the status of the Earthquake Early Warning System; Dr. Parrish stated that \$10 million has been contracted for the buildout, however, further funding for maintenance/operation will need to come from the state.

- Division of Mine Reclamation Report

Division Supervisor, Pat Perez, reported on the following:

- The second round of inspection workshops were held in Redding, Sacramento, and Santa Ana. The main points of interest were inspection dates and intervals; and who can conduct inspections.
- In regards to the LARA program, the City of San Bernardino is proceeding; inspections were wrapped up earlier this week. The cities of Rialto, Palmdale, and Ventura are next.
- The online Annual Reporting System is up and operational with the ability to submit and pay.
- They have filled the last Engineering Geologist position.

6. Chairman's Report (Kracov)

7. Executive Officer's Information Report (Schmidt)

- The Work Plan continues to mature; a future projects section will be added.

8. Senior Engineering Geologist's Report (Arcand)

- He has completed 22 of the 2016 inspections and has 16 reports left to write.

9. SMARA Reform Rulemaking Report (Lash)

- Rulemaking package #1 has been withdrawn due to OAL's issues with clarity on multi-site fees.
- Package #2 is currently in 30-day OAL review period; if approved, will become effective July 1.
- Package #3 regulatory language and initial rulemaking package are before the Board today.

10. Ex-Parte Communication Disclosure

No Ex-Parte Communications.

11. Public Comment Period

No Public Comment.

12. Consent Items

All the items appearing under this section will be acted upon by the Board by one motion and without discussion; however, any Board member wishing to discuss a particular item may request the Chair to remove the item from the Consent Calendar and consider it separately.

- A. Consideration and Adoption of Minutes of the February 8, 2017 Regular Business Meeting.
- B. Adoption of a Revised Financial Assurance Cost Estimate for Snows Road Quarry (CA Mine ID #91-09-0012), ACT Associates, Inc. (Operator), Rob Findleton (Agent), County of El Dorado.
- C. Adoption of a Revised Financial Assurance Cost Estimate for Santa Paula Materials (CA Mine ID #91-56-0034), Santa Paula Materials, Inc. (Operator), Mile Grbic (Agent), City of Santa Paula.
- D. Acceptance of Inspection Reports as Performed and Completed Pursuant to Public Resources Code (PRC) Section 2774(b) for the following Surface Mining Operations:
 - Santa Paula Materials (CA Mine ID #91-56-0034), City of Santa Paula
 - Western Aggregates (CA Mine ID #91-58-0001), County of Yuba
 - Knife River Hallwood Plant (CA Mine ID #91-58-0002), County of Yuba
 - Cal Sierra Development (CA Mine ID #91-58-0003), County of Yuba
 - Sperbeck Quarry (CA Mine ID #91-58-0004), County of Yuba
 - Wheatland Clay (CA Mine ID #91-58-0007), County of Yuba
 - Dantoni Pit (CA Mine ID #91-58-0011), County of Yuba
 - Parks Bar Quarry (CA Mine ID #91-58-0013), County of Yuba
 - Long Bar Property (CA Mine ID #91-58-0022), County of Yuba
 - Simpson Lane Project (CA Mine ID #91-58-0025), County of Yuba

Item 12A was pulled from consent to amend the minutes to reflect that the Chair left the meeting early and the Vice Chair concluded the meeting. Vice Chair Landregan moved to approve the minutes as amended. Member Anderson seconded and the motion carried with a unanimous roll call vote.

Member Potter moved to approve the remaining consent items. Member Kenline seconded and the motion carried with a unanimous roll call vote.

13. Rulemaking Action Items

- A. Consideration and Adoption of Proposed Regulatory Language and Initial Rulemaking Package #3, Annual Inspections (California Code of Regulations, Title 14, Division 2, Chapter 8, Subchapter 1, Article 1, Sections 3504.5).

Nick Lash gave a brief presentation on the rulemaking package. There were two public comments from Adam Harper representing CalCIMA, and Damien Galford representing EnviroMine.

Member Zafir moved to approve and adopt the proposed regulatory language and initial rulemaking package and directed Board staff to proceed with the rulemaking. Member Kenline seconded and the motion carried with a unanimous roll call vote.

14. Additional Action Items

- A. Consideration and Adoption of the 2016 Annual Fee Schedule for Mines Subject to the Surface Mining and Reclamation Act (SMARA; Public Resources Code Sections 2710 et seq. and 2207).

April Balestreri, Division of Mine Reclamation, provided an overview of the 2016 Annual Fee Schedule. Chair Kracov asked whether it was appropriate and legal to set these fees without regulation, and if so, why is the Board working on new regulation? Greg Tenorio, DOC Legal, advised that yes, it is legal to set the fees, and the new regulation is required to correct an error in the formula used to calculate the fees.

Vice Chair Landregan moved to adopt the 2016 Annual Fee Schedule. Member Noushkam seconded and the motion carried with a roll call vote with Member Anderson recusing himself.

- B. Consideration and Adoption of the 2016 Mining Operation Annual Report (MRRC-2) and related forms for Mines Subject to the Surface Mining and Reclamation Act (SMARA; Public Resources Code Sections 2710 et seq.)

April Balestreri, Division of Mine Reclamation, provided an overview and explanation of the changes made to the form and instructions.

Member Kenline moved to adopt the 2016 Mining Operation Annual Report and related forms. Member Anderson seconded and the motion carried with a unanimous roll call vote.

- C. Consideration and Adoption of the Board's Designation Report No. 14, *Updated Designation of Regionally Significant Aggregate Resources in the San Bernardino Production-Consumption Region, San Bernardino and Riverside Counties, California.*

Executive Officer, Jeffrey Schmidt, presented the finalized Designation Report No. 14.

Member Kenline moved to approve and accept Designation Report No. 14. Member Potter seconded and the motion carried with a unanimous roll call vote.

- D. Consideration and Adoption of the Board's Resolution No. 2017-01, Delegating Authority to the Executive Officer to Accept Inspection Reports as Performed and Completed Pursuant to Public Resources Code (PRC) Section 2774, for Surface Mining Operations where the Board Serves as the SMARA Lead Agency.

Will Arcand gave a brief presentation and stated that recent statutory changes have implemented a 90-day timeframe in which to submit notices of completion of inspection reports. Granting the Executive Officer authority to accept inspection reports will ensure compliance with SMARA and will streamline the annual inspection process for operations under the Board's jurisdiction as a lead agency.

The following questions, concerns, and comments were raised by Board members:

Chair Kracov: How would the Board maintain working knowledge of the facilities under its jurisdiction, and be made aware of any sites with significant issues?

Mr. Arcand stated that the inspection information could be made available as either part of the monthly Executive Officer's Information Report, or as part of his monthly Lead Agency Activities report.

Member Noushkam requested that sites with significant issues be agendized.

Member Zafir: Who reviews the inspection reports and is there only one review in terms of a professional opinion?

EO Schmidt stated that he reviews the reports for completeness only. Member Potter stated that the mine operators review the reports, and it is common for there to be only one inspector who receives feedback from the operator, and she also stated that she doesn't know of any jurisdictions where a Board of Supervisors or City Council would approve inspection reports.

Member Potter also agreed that the problem sites should be brought to the Board's attention, but the acceptance of inspection reports is largely a staff function.

Member Anderson: What would happen if the EO accepted an inspection report and another party had a concern with the report that had been accepted; would this cut off the public's opportunity to express concerns?

Member Kenline stated that they could go to DMR with concerns, or the concerns could be brought to the Board as a public comment.

Member Landregan: Has the practice of the Board accepting inspection reports been part of the obligation of oversight, and if it is, can this obligation be delegated to the EO? Also, is this being based on potential extenuating circumstances that would cause the 90-day submittal deadline to be missed?

Deputy Attorney General Nicole Rinke stated that as long as it is a ministerial function it may be delegated to staff.

Member Kenline explained that over the last couple of years, Mr. Arcand hasn't been technically in compliance in submitting inspection reports in the required time frame when we've had quorum issues or not held meetings for other reasons.

Action on this item was deferred in order to draft language that adequately addresses the concerns mentioned above.

- E. Consideration and Adoption of the Board's Resolution No. 2017-02, Delegating Authority to the Executive Officer to Approve Financial Assurances Pursuant to Public Resources Code (PRC) Sections 2770, 2773.1, and 2773.4, for Surface Mining Operations where the SMGB Serves as the SMARA Lead Agency.

Deferred.

- F. Review and Establishment of the Board's Standing Committees.

Chair Kracov will discuss committee appointments with Board members. No action taken at this time.

15. Special Reports and Presentations

Based on these Reports, the Chair may instruct Board staff to initiate administrative actions.

- A. Informational Report from Division of Mine Reclamation on Remediating Physical Hazards on State-Owned Properties (Marsh)

Deferred.

16. Board Committee Reports

- Geohazards Committee (Chair Potter)

No report.

- Minerals Conservation and Reclamation Committee (Chair Kenline)

No report.

- Board Policy and Administration Committee (Chair Landregan)

Executive Officer evaluation reports have been sent out.

- Board Lead Agency Standards Committee (Vacant)

No report.

17. Executive Session (Closed to the Public)

The Board will discuss information from its legal counsel on personnel matters and pending litigation and may take appropriate actions based on this information. This session is being held under Government Code, Section 11126.

Possible Items to be discussed:

Pending Litigation to which the Board, or its officials, are a party:

- A. Dutra Materials v. SMGB, Chevron Products Company, Real Party in Interest (Contra Costa County Superior Court Case No. N10-0388; First District Court of Appeal Case No. A147277)
- B. Teichert and Sons, Inc. v. SMGB, Western Aggregates, LLC, Real Party in Interest (Sacramento County Superior Court Case No. 34-20108000528; Third District Court of Appeal Case No. C082333)
- C. Joe & Yvette Hardesty v. SMGB (Sacramento County Superior Court Case No. 34-2010-80000594; Third District Court of Appeal Case No. C079617)
- D. Joe & Yvette Hardesty et al. v. SMGB (Sacramento County Superior Court Case No. 34-2012-80001070)
- E. Hardesty et al. v. SMAQMD et al. (United States District Court, Eastern District of California Case No. 2:10-cv-02414-KJM-KJN)
- F. Daniel Tankersly v. Will Arcand et al. (United States District Court, Eastern District of California Case No. 2:15-cv-01278-TLN-CMK)

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

Deputy Attorney General, Nicole Rinke, reported that Executive Session was held, and no action was taken.

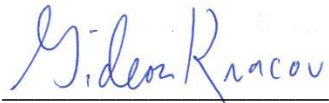
18. Announcement of Future Meetings

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

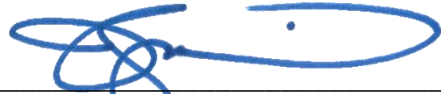
19. Adjournment

The meeting was adjourned at 3:40 p.m.

APPROVED



Gideon Kracov, Chair



Jeffrey Schmidt, Executive Officer