



# OFFICIAL NOTICE OF PUBLIC MEETING

## THE STATE MINING AND GEOLOGY BOARD

**Conducted a Regular Business Meeting on:**

**Thursday, May 9, 2019**

**9:30 a.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 [smgb@conservation.ca.gov](mailto:smgb@conservation.ca.gov). This Notice, the agenda, and all 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 (Sheingold)**

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

### **2. Pledge of Allegiance**

### **3. Roll Call and Declaration of a Quorum**

The roll was called with Members Anderson, Garza, Kappmeyer, Landregan, Zafir, Vice Chair Kenline and Chair Sheingold present and a quorum was declared.

Member Noushkam arrived at about 9:54 a.m., after roll was taken.

### **4. Review of the Agenda (Sheingold)**

- Introduced Matthew Livers, SMGB's new Regulatory Specialist who is taking the lead on doing all the rulemaking packages. Also, introduced himself as the new chair and thanked everyone for the encouragements and well wishes.
- SMARA reforms have given us all a lot of new things to do, in addition, it's created some new possibilities for what we want to be as a Board.
- Felt like a lot of our meetings was like playing whack-a-mole, things would pop up and left a lot of other things on the back burner, that we didn't have time to focus on. Four items he'd like to start with:
  - Discussion of where we go from here.
    - Jeffrey put together a (Item #7) 20-page list of all the code sections and regulations that cover what we do.
    - Asked Policy & Administration Committee to look at the list and change it into a list of job descriptions, rather than code sections.
    - Prioritize what we have and take a look at the resources we may or may not have, including best use of staff time.
  - Outreach
    - One of the jobs that should be on the list should be public outreach.
      - Looking at the list of code sections, you'll see that spread across them is a variety of requirements on sharing information with people, seeking information from people, which is basically public outreach but isn't in a particular section. His goal is to put all the public outreach requirements and put it in a plan.
  - New Committee
    - Compliance and Enforcement
      - Better handle on what lead agencies and operators may or may not be complying with the law, the impact it may have and how to deal with it.
      - 5 Notice of Violations (NOV) have been sent out.
  - Committees
    - Saw more enthusiasm and idea sharing in the committees than in any typical Board meetings and he thinks we should use committees more and they should meet more.
  - Other ideas he'll run by the Board when Work Plan (WP) is discussed in June but for now he says we're going to have a good year. Wants the changes to make sense and improve us. Counting on participation from the Board members, especially the veterans who have been here from the start of SMARA reforms.

## 5. Department Reports

- Director of Conservation's Report

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

- Welcomed Chair Sheingold to his new role as chair.
- Announced that Pat Perez is out and he was asked to pass on his report for DMR.
- May revise for Governor's budget was released today. No changes for CGS, DMR and SMGB.
- The new administration that we've been working with, we're still operating as the heads of the Department and anticipate that they'll continue working with the administration.
- HR is screening candidates who've applied for the position of State Geologist. I've been working closely with Jeffrey and there are about 2 or 3 candidates who have successfully screened that can be interviewed in June meeting.

- California Geological Survey Report

Minerals Resources Manager, Fred Guis, reported on the following:

- Seismic Hazard Program – Tim McCrink, Acting State Geologist
  - On April 4<sup>th</sup>, 5 maps were released of seismic hazard zones effecting San Mateo and Contra Costa counties, released under the authority of Seismic Hazard Mapping Act. These maps are available online.
  - CGS is conducting a geologic hazard review of Aliso Canyon, an independent review on a series of reports, evaluating geologic and seismic hazard and making sure reports adequately address those issues. Review is being done with collaboration with some of the national laboratories. Tim expects comments to be submitted this summer.
  - CGS created a Tsunami Technical Review Panel, which Dr. Zafir is a part of. Includes an evacuation committee and an engineering design component. One of the goals is to work with the board to revise the Seismic Hazard Mapping Act to address tsunami hazards.
- Geologic Maps – Jeremy Lancaster
  - On April 30<sup>th</sup>, SR 243 was released, the landslide hazard mapping for select highway corridors, it's an important tool in supporting the analysis of a potential risk to highways from landslides.
- Dr. Habid Haddadi has been promoted as the manager of Earthquake Engineering.
- Mineral Resources
  - On April 4<sup>th</sup>, Fred presented at the Public Work Officers Expo.
  - Published this morning 2017 Non-Fuel Mineral Production Annual Report.
  - Collaborating with USGS on their critical mapping resources.

- Division of Mine Reclamation Report

Chief Deputy Director, Jason Marshall, reported on the following in Division Supervisor, Pat Perez' absence:

- Redding Workshop had to be cancelled, working on getting registered for San Luis Obispo or Sacramento Workshop.
- Annual Reports have been mailed out to Mine Operators and Designated Agents, submission date is July 1, 2019.
- DMR is on board to assist with SMGB's annual mine inspection at the beginning of the fiscal year.

## 6. Chair's Report (Sheingold)

Chair Sheingold reported that he visited the reclaimed Blue Point Mine with George, attended the CalCIMA Legislative Reception with Brian and has been participating with the Rulemaking meetings.

## **7. Executive Officer's Report (Schmidt)**

Executive Officer, Jeffrey Schmidt, reported the following:

- Most notable this month is the addition of a Compliance and Enforcement module. Created not only to assist the Board's newly created committee but also to give a gauge and a running total of violations and the progress of the violations, as the Board has not done any violations for close to a decade.
- Also created this month as Chair Sheingold mentioned the table of board obligations, both statutory and discretionary. This will serve not only the Policy and Administration Committee but the other committees as well. This will give Board members and the public a grasp of the duties the Board is tasked to do.
- Mr. Livers has provided a new format for the rulemaking packages. We now have it split up by completed packages, current packages, anticipated packages and a section for mineral resources management plan and reclamation plans.
- Clarification on Compliance and Enforcement the CA Mine ID # all say 0002 that was a formatting issue.
- Operations and Administrations updated the projects and publications, will change after next month's meeting once we have a finished work plan.
- As previously mentioned the Inspection workshop in Redding has been cancelled.
- Finally, is the actual document of our statutory regulatory obligations lays out everything that the Board is statutorily mandated to do and our discretionary choices.
- Board completed a contract with DMR for staff to assist us in completing our SMARA mandated inspections, which will decrease Will's workload. The agreement is scheduled to start on July 1<sup>st</sup>, which is the start of the fiscal year.

## **8. Senior Engineering Geologist's Report (Arcand)**

Senior Engineering Geologist, Will Arcand, reported on the following:

- Working on completing 2018 Inspection Reports.
- 9 Inspection Reports completed, 7 FACE Reviews and 1 IMP for a Yuba County site.
- As Chair Sheingold mentioned we met with former Blue Point Mine operator and discussed a future project.
- Provided hours of ongoing support and provided document for legal staff for ongoing cases.
- Working closely with Mr. Livers, Board members, DMR staff and department staff to keep our regulatory packages going.

## **9. Ex-Parte Communication Disclosure**

There was no Ex-Parte disclosures.

## **10. Public Comment Period**

There were no public comments.

## **11. 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 approval of Minutes of the February 14, 2019 Regular Business Meeting.

B. Approval of a Revised Financial Assurance Cost Estimate for Lapis Sand Plant (CA Mine ID #91-27-0006), CEMEX Construction Materials Pacific, LLC (Operator), Debbie Haldeman (Agent), City of Marina.

Member Landregan moved to approve Item A and B. Member Zafir seconded and the motion was carried with a unanimous roll call vote.

## **12. Rulemaking Action Items**

Staff Service Analyst, Matthew Livers, reported on the following:

- Consideration and Approval of Proposed Amended Regulatory Language and Final Rulemaking Package #3, Inspections, Inspection Report Form, and Notice of Completion of Inspection Form (California Code of Regulations, Title 14, Division 2, Chapter 8, Subchapter 1, Article 1, Section 3504.5).
  - Member Landregan moved to approve the proposed amended regulatory language and initial Rulemaking Package #3 as discussed today and direct board member staff to proceed with rulemaking process. Member Anderson/Noushkam seconded and the motion was carried with a unanimous roll call vote.
- Consideration and Approval of Proposed Amended Regulatory Language and Final Rulemaking Package #4(a), Financial Assurance Cost Estimate (FACE) Appeals (California Code of Regulations, Title 14, Division 2, Chapter 8, Subchapter 1, Article 7).
  - Member Kappmeyer moved to approve final Rulemaking Package #4, adopt the language as presented today and direct board staff to proceed with finalizing the rulemaking process through the OAL. Member Landregan seconded and the motion was carried with a unanimous roll call vote.

Adam Harper, CalCIMA supports both packages.

Next Rulemaking Packages 4B and 8 should be ready to be presented at the next meeting.

## **13. Additional Action Items**

- A. Consideration and adoption of the Board's standing committees.
  - Due to Sandy's leaving and Member Sheingold new role as Chair, committee assignments had to be changed. There were clerical errors in the assignment tables/chart, they will be revised.
- B. Discuss and approve procedures for Board member recruitment.
  - Executive Officer, Jeffrey Schmidt encouraged the Board to recruit people to fill the Board's Public Government Representative vacancy left by Sandra Potter. Having 9 members helps to make a more effective, functioning board.

## **14. Informational Items**

## **15. Special Reports and Presentations**

- Chair Sheingold and Executive Officer, Jeffrey Schmidt are working on recruiting people from industry to make presentations at the meetings that are not agenda items but things that can maybe enrich the understanding of the board.

## **16. Board Committee Reports**

- Geohazards Committee (Chair Zafir)
  - Committee Chair Zafir reported that assignments were created in their committee (Tsunami – Zafir, Seismic Hazard – Kappmeyer, Alquist-Priolo – Anderson). Zafir is a member of the Tsunami Technical Advisors Panel (TsuTAP). They also discussed proactively coordinate with CGS as the GHC, so that they can participate in process rather just than being informed.

- Lead Agency Standards Committee (Chair Anderson)
  - Member Kenline mentioned that they discussed shifting from strategic, mission oriented to work plan oriented direction that will probably provide inspiration to the committee assignment. They discussed resources, availability, efficiency and even discussed consolidating some of the committee functions.
- Minerals Conservation and Reclamation Committee (Chair Kenline)
  - Member Garza mentioned that they discussed their scope of work as a committee and wanting to focus more on conserving mineral resources.
- Policy and Administration Committee (Chair Landregan)
  - Chair Landregan mentioned that their committee went over the new proposed direction. They discussed taking the lead on taking code and making it into practice and how they will divide that up, talked a little about performance reviews and doing job interviews with the State Geologist.

**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.

No discussion for closed session.

**A. To discuss pending litigation to which the Board, or its officials, are a party pursuant to Government Code Section 11126(e)(1):**

- a. 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)
- b. Joe & Yvette Hardesty et al. v. SMGB (Sacramento County Superior Court Case No. 34-2012-80001070)
- c. Joe & Yvette Hardesty et al. v. SMGB (Sacramento County Superior Court Case No. 34-2013-80001561)
- d. Daniel Tankersly v. Will Arcand et al. (United States District Court, Eastern District of California Case No. 2:15-cv-01278-TLN-CMK)

**B. To discuss potential litigation involving the Board pursuant to Government Code Section 11126(e)(2).**

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

**18. Announcements and Future Meetings**

- The next regular business meeting will be held on June 13, 2019 in Sacramento. No meeting in July, sub-committee meeting for State Geologist interview sometime between July and August. Tentative locations for future meetings: August in Orange, September in San Diego, October in Inland Empire, December up for discussion.
- Executive Officer, Jeffrey Schmidt, mentioned that Notice of Violations (NOV) went out yesterday (5/8/2019) and will have a full report at the next meeting.
- Member Landregan suggested having committee meetings quarterly.

**19. Adjournment**

The meeting was adjourned at 11:02 a.m.

**APPROVED**

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Larry Sheingold, Chair

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Jeffrey Schmidt, Executive Officer