



Publication Date: August 29, 2019

OFFICIAL NOTICE OF PUBLIC MEETING

THE STATE MINING AND GEOLOGY BOARD

Will Conduct a Regular Business Meeting on:

Thursday, September 12, 2019

1:00 p.m.

**San Diego State Building
1350 Front Street, Rm. B109
San Diego, CA 92101**

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. 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)**
- 2. Pledge of Allegiance**
- 3. Roll Call and Declaration of a Quorum**
- 4. Review of the Agenda (Sheingold)**
- 5. Department Reports**
 - Division of Mine Reclamation Report (Perez)
 - California Geological Survey Report (TBA)
 - Director of Conservation's Report (TBA)
- 6. Chair's Report (Sheingold)**
- 7. Executive Officer's Report (Schmidt)**
- 8. Board Committee Reports**
 - Policy and Administration (Chair Landregan)
 - Compliance and Enforcement (Chair Kenline)
 - Geohazards (Chair Zafir)
 - Lead Agency Standards (Chair Kappmeyer)
 - Minerals Conservation and Reclamation (Chair Garza)
- 9. Ex-Parte Communication Disclosure**

Board Members will identify any discussions they may have had requiring disclosure pursuant to Public Resources Code Sections 663.1 and 663.2.
- 10. Public Comment Period**

This time is scheduled to provide the public with an opportunity to address non-agenda items. Those wishing to speak should do so at this time. All persons wishing to address the Board are encouraged to complete a speaker card and present it to the Board Secretary. Speakers are limited to three minutes except by special consent of the Chair.
- 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 July 11, 2019 Regular Business Meeting.
- 12. Rulemaking Action Items**
 - A. Consideration and Approval of Proposed Amended Regulatory Language and Initial Rulemaking Package #7, Appeals of Orders to Comply with SMARA (California Code of Regulations, Title 14, Division 2, Chapter 8, Subchapter 1, Article 14, Sections 3940 – 3948).

- B. 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, Sections 3680 – 3690 and 3691.1 – 3691.10).

13. Additional Action Items

- A. Consideration and adoption of the Board's eighteen (18) month Work Plan.

14. Special Presentations, Reports, and Informational Items

- A. *Preserving Access to Mineral Resources: A Battle Between Competing Land Uses*
Warren Coalson, President, EnviroMINE

- B. Informational Update on Mine Operator Annual Reports
April Balestreri, Manager, Reporting Unit, DMR

15. 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.

- 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)
- e. Hardesty, et al. v. Will Arcand, et al. (Nevada County Superior Court Case No. CU19-083817)

- 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

16. Announcements and Future Meetings

17. Adjournment

THE STATE MINING AND GEOLOGY BOARD

A. 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 mining lands.

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. Today's Board has nine members appointed by the Governor and confirmed by the State Senate, for four-year terms. By statute, Board members must have specific professional backgrounds in geology, mining engineering, environmental protection, groundwater hydrology and rock chemistry, urban planning, landscape architecture, mineral resource conservation, and seismology, with one non-specialized member representing the general public.

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.

Statutory and Regulatory Authority

The Board operates in conjunction with 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)

Under this act, *Public Resources Code Sections 2710 et seq. and its regulations at 14 Cal. Code of Regulations Section 3500 et seq.*, the Board provides a comprehensive surface mining and reclamation policy to assure that adverse environmental impacts are minimized and mined lands are reclaimed. SMARA also encourages the production, conservation, and protection of the State's mineral resources.

Alquist-Priolo Earthquake Fault Zoning Act (A-P)

Under this Act, *Public Resources Code Section 2621 through Section 2630, and its regulations at 14 California Code Regulations Section 3600 et seq.*, 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 in complying with the provisions of the Act so as to protect the health, safety and welfare of the public.

Seismic Hazards Mapping Act (SHMA)

Under this Act, *Public Resources Code Section 2690 through Section 2699.6 and its regulations at 10 California Code of Regulations Section 3720 et seq.* 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.

Other Authorities Related to the Board

California Environmental Quality Act (CEQA)

The California counterpart to the National Environmental Policy Act (NEPA). CEQA requires California state and local agencies to determine the significant environmental impacts of their actions and to avoid or mitigate those impacts, if feasible.

California Endangered Species Act

Fish and Game Code 2050 et seq., makes it illegal to “take” State-listed endangered, threatened, or candidate species, except as authorized by California Department of Fish and Game.

Fish and Game, Code Section 5650

Makes it illegal to permit the passage of any substance deleterious to fish, plants, or bird life to the waters of the state, unless authorized by regional board waste discharge requirements or a federal permit for which *Clean Water Act, Section 401* state certification is issued.

Porter-Cologne Water Quality Control Act

Based on the *Water Code 13000 et seq.* this act regulates the discharge of waste that could affect State waters subject to waste discharge requirements (WDR). One of six Regional Water Quality Control Boards (RWQCB) reviews a mining proposal, holds public meetings, and requires a separate reclamation bond.

B. GENERAL PROCEDURAL INFORMATION ABOUT SMGB MEETINGS

The Board is governed by the Bagley-Keene Open Meeting Act that requires the Board to:

- (1) Publish an Agenda at least ten days in advance of any meeting
- (2) Describe in the Agenda specific items to be transacted or discussed
- (3) Refuse to add an item no later than 10 days prior to any meeting and republishing of the Agenda.

Persons are invited to visit the Board web site at <http://www.conservation.ca.gov/smgb>. The Board Agenda will be available approximately 15 days prior to the scheduled meeting. Other Agenda material and reports will be available approximately one week prior to the scheduled Board meeting, and also are available at the Board’s office during regular business hours 7:30 A.M. to 4:30 P.M. Monday through Friday (except holidays).

A Closed Session may be called by the Chair to discuss litigation and other matters for which closed sessions are authorized under the Bagley-Keene Open Meeting Act.

Agenda items are subject to postponement. Interested and affected persons may contact the Board’s office in advance of the meeting day for information on the status of any agenda item.

Board meetings are open to the public and are held in barrier-free facilities in accordance with the Americans with Disabilities Act.

C. SUBMITTAL OF DOCUMENTS ON BOARD AGENDA ITEMS

The Board encourages parties to submit comments, written material, or technical reports to include plans, specifications, maps, cross sections, boring or trench logs, and diagrams prior to the publication of the Executive Officer’s Report. This ensures that the submittal can be included in the Agenda material for the Agenda item in question. To ensure that Board members have an opportunity to fully study and consider the items on the Agenda, all such material concerning any matters on the Agenda should be submitted at least three (3) days prior to the meeting date to:

Jeffrey Schmidt, E.O.
State Mining and Geology Board
801 K Street, MS 20-15
Sacramento, California, 95814

The Board also accepts electronic mail addressed to the Executive Officer at Jeffrey.schmidt@conservation.ca.gov with a subject line identifying the agenda item name and number. The Board encourages electronic or flash-drive submission of large quantities of documents. Timely submitted written material will be provided to the Board along with the full Agenda materials, and will be uploaded to the Board web site at <http://www.consrv.ca.gov/smgb/> for the Agenda item in question, along with any supplemental Executive Officer reports. Documents submitted to the Board less than three (3) days prior to the meeting shall be considered "late submittals" as it is difficult for Board members to carefully review and consider late submittal. The Board retains discretion to determine whether or not it will consider late submittals at the meeting.

All Board files and documents considered by the Board pertaining to the items on this Agenda are made a part of the administrative record for the respective Agenda items.

D. ORAL COMMENTS DURING SMGB MEETINGS

All persons desiring to address the Board are requested to fill out a speaker card. Cards are provided near the entrance to the meeting room. Please fill out a separate card for each item on which you intend to speak, and present it to the Board Secretary prior to that agenda item.

Unless otherwise specified in the public notice, the Board limits oral presentations from all parties to three (3) minutes. The Board Chair reserves the right to shorten or lengthen this limit period depending on time constraints and other factors relating to the particular matter being heard.

| SPECIALTY | MEMBER NAME | CURRENT TERM |
|--|----------------------------|---------------------|
| Non-specialized public member | Larry Sheingold, Chair | 2018-2022 |
| Mining Engineer with background and experience in mining in California | George Kenline, Vice-Chair | 2017-2021 |
| Mineral resource conservation, development, or utilization | Brian Anderson | 2019-2023 |
| Environmental protection or the study of ecosystems | Pablo Garza | 2017-2021 |
| Registered Geologist with background and experience in mining geology | Janet Kappmeyer | 2017-2021 |
| Landscape Architect | Stephanie Landregan | 2018-2022 |
| Registered Geologist, Geophysicist, or Civil Engineer with background and experience in seismology | Zia Zafir | 2016-2020 |
| 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.

STANDING COMMITTEES

| COMMITTEE | MEMBERS |
|---|---|
| Policy and Administration | Stephanie Landregan, Chair Janet Kappmeyer, Vice-Chair Vacant |
| Compliance and Enforcement | George Kenline, Chair Brian Anderson, Vice-Chair Pablo Garza |
| Geohazards | Zia Zafir, Chair Brian Anderson, Vice-Chair Janet Kappmeyer |
| Lead Agency Standards | Janet Kappmeyer, Chair Stephanie Landregan, Vice-Chair George Kenline |
| Mineral Conservation and Geologic Resources | Pablo Garza, Chair Zia Zafir, Vice-Chair Brian Anderson |

REGULAR BUSINESS MEETING AND COMMITTEE SCHEDULE

Adopted November 28, 2018:

| Date | Agenda Publication | Document Closing | Location |
|--|---------------------------|-------------------------|--------------------------------|
| January 17, 2019 Regular Business | January 2, 2019 | January 14, 2019 | Sacramento, Sacramento Co. |
| February 14, 2019 Regular Business | January 30, 2019 | February 11, 2019 | Sacramento, Sacramento Co. |
| March 14, 2019 Committee Meetings | February 27, 2019 | March 11, 2019 | Sacramento, Sacramento Co. |
| April 11, 2019 Regular Business | March 27, 2019 | April 8, 2019 | Sacramento, Sacramento Co. |
| May 9, 2019 Regular Business | April 24, 2019 | May 6, 2019 | Sacramento, Sacramento Co. |
| June 13, 2019 Regular Business | May 29, 2019 | June 10, 2019 | Sacramento, Sacramento Co. |
| July 11, 2019 Regular Business | June 26, 2019 | July 8, 2019 | Sacramento, Sacramento Co. |
| August 8, 2019 Regular Business | July 24, 2019 | August 5, 2019 | Sacramento, Sacramento Co. |
| September 11, 2019 Committee Meetings | August 28, 2019 | September 6, 2019 | San Diego, San Diego Co. |
| September 12, 2019 Committee and Regular Business | August 28, 2019 | September 9, 2019 | San Diego, San Diego Co. |
| October 10, 2019 Regular Business | September 25, 2019 | October 7, 2019 | |
| November 14, 2019 Regular Business | October 30, 2019 | November 11, 2019 | |
| December 12, 2019 Regular Business | November 27, 2019 | December 9, 2019 | Palm Springs, Riverside Co. |

| DMR/SMGB Inspection Training Workshops | |
|---|---|
| September 17-18, 2019 | Sacramento County Rural County Representatives of California 1215 K Street, Suite 1650 Sacramento, CA 95814 |
| November 13-14, 2019 | Riverside County Granite Construction Company Indio Classroom 38000 Monroe Street Indio, CA 92203 |