OFFICIAL NOTICE OF PUBLIC MEETING

THE STATE MINING AND GEOLOGY BOARD

Conducted a Regular Business Meeting on:

Thursday, September 13, 2018

10:00 a.m. to 4:30 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 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.conservation.ca.gov/smgb.
PUBLIC MEETING AGENDA

1. Call to Order (Potter)
The meeting was called to order at 10:00 by Chair Potter.

2. Pledge of Allegiance

3. Roll Call and Declaration of a Quorum
Roll was called with Members Anderson, Garza, Kenline, Landregan, Noushkam, Sheingold, and Zafir present and Member Kappmeyer absent and a quorum was declared.

4. Review of the Agenda (Potter)
Chair Potter welcomed the Board’s new member, Pablo Garza, followed by introductions from each Board member.

5. Department Reports
   • Director of Conservation’s Report
     Chief Deputy Director, Jason Marshall, reported on the following:
     - Director Bunn sends his regards; he is attending a global climate event in San Francisco.
     - The legislature adjourned without any further changes to SMARA.
     - Work to update the Division of Mine Reclamation’s (DMR) database continues.

   • State Geologist’s Report
     State Geologist, Dr. John Parrish, reported on the following:
     - The Mineral Resources Program has a new Supervisor, Fred Gius. Mr. Gius has been busy reviewing and revamping the program, and four new economic geologists have been hired.
     - The Strong Motion Instrumentation Program (SMIP) has been busy inputting instruments throughout the state; one of the biggest projects has been outfitting the new bridge at the Port of Long Beach with 75 instruments. They are also outfitting the new Rams/Charger stadium, as well as five buildings in Los Angeles, and two in San Francisco.
     - The Seismic Hazards Mapping Program will be releasing five preliminary liquefaction zone maps in October.
     - A new method of seismic shooting has been tried on the Hollywood Fault and Raymond Fault with excellent results; the new method may replace fault trenching in the future.
     - The Forest Watershed Program has been busy assisting Cal Fire with the aftermath of the Carr Fire and the Holy Fire and will be doing debris flow mapping/modeling for the County of Riverside.

   • Division of Mine Reclamation Report
     Division Supervisor, Pat Perez, reported on the following:
     - The Lead Agency Review and Assistance Program (LARA) has completed final reports for the cities of San Bernardino and Rialto. San Bernardino responded and concurred with the findings; no response has been received from Rialto. A draft initial report is in progress for the County of Ventura.
     - Two more Lead Agency Inspection workshops have been completed; the next is scheduled for Siskiyou County, unless wildfires interfere.
     - DOC and DMR are discussing updating the existing Memorandum of Understanding (MOU) with the U.S. Dept. of Agriculture, Forest Service, Dept. of the Interior, and Bureau of Land Management (BLM), and will hold brainstorming sessions with BLM staff. The goal is to realign the MOU to reflect changes to mining and environmental laws.
• Out of 1100 mine operators required to submit Annual Reports, only 50 remain outstanding. DMR has collected 1.1 million in fees to date.
• Since the last meeting, three new engineering geologists have been hired, and two new positions will be posted soon.

6. Chair’s Report
Chair Potter reported that she met with Supervisor Perez in August to discuss the inspection workshops.

7. Executive Officer’s Report
Executive Officer, Jeffrey Schmidt, reported on the following:
• 50 percent of the rulemaking packages have been completed; the remaining packages will be completed in either the third or fourth quarter of 2019.
• All mining ordinances have been reviewed; four have been identified as needing further review/attention.
• The next EO Information Report will have a chart with DMR’s LARA progress.

8. Senior Engineering Geologist’s Report
Senior Engineering Geologist, Will Arcand, reported on the following:
• Since the last meeting, he has completed 17 2017 annual inspection reports and one 2018 report which were part of the meeting packet. Three additional 2018 reports will be completed for the next meeting.
• Six Financial Assurance Cost Estimate (FACE) reviews have been completed and forwarded to DMR for review. All six plus two more are on consent today.
• He has been communicating with the City of Plymouth regarding an upcoming project and the possibility of the Board assuming lead agency responsibilities.
• He participated as an instructor at the last two inspection training workshops.

9. AGPA Report
Associate Governmental Program Analyst, Nick Lash, reported on the following:
• Rulemaking packages 1, 2, 5, 6, and 10 have been completed.
• Packages 3 and 4a are before the Board today.
• Pre-rulemaking for Package 4b will be presented at the October meeting; pre-rulemaking for the remaining packages will begin early 2019.

10. Ex-Parte Communication Disclosure
No Ex-Parte disclosures.

11. Public Comment Period
Public comments were received from the following:
• Steven Suitt, PG, CEG, encouraged the Board to work with the DOC and DMR in updating the existing MOU with BLM.
• Jim Pompy, retired head of OMR, commented on updating the backfilling regulations and stated that he was around and involved in the 2003 adoption of the backfill regs.

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 Approval of Minutes of the June 14, 2018 Regular Business Meeting.

C. Approval of a Revised Financial Assurance Cost Estimate for Super Creek Quarry (CA Mine ID #91-33-0003), Painted Hills Mining Company (Operator), Allan E. Bankus, Jr. (Agent), City of Desert Hot Springs.

D. Approval of a Revised Financial Assurance Cost Estimate for Garnet Pit (CA Mine ID #91-33-0031), Granite Construction Company (Operator), Jayne Powell (Agent), City of Palm Springs.


F. Approval of a Revised Financial Assurance Cost Estimate for Wheatland Clay Pit (CA Mine ID #91-58-00), Gladding McBean (Operator), Daniel Bair (Agent), County of Yuba.


Vice Chair Landregan moved to approve the consent items. Member Kenline seconded and the motion carried with a unanimous voice vote.

13. Rulemaking Action Items

A. Consideration and Approval of Proposed Amended Regulatory Language and Initial 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).

Nick Lash provided a brief presentation of the rulemaking package which would make procedural improvements to the conduct of inspections; repeal the previous version of the Inspection Report Form MRRC-1 (4/97); adopt and incorporate by reference the new form MRRC-1 (9/18); and adopt and incorporate by reference the Notice of Completion of Inspection Form NOCI-1 (9/18).

Member Garza commented on the language in Section 3504.5 (c) regarding inspections not being conducted by someone with an interest in the mine and asked how or who determines this doesn’t happen. Will Arcand stated that the lead agency is the first level of enforcement, and DMR would be the second level of enforcement through the LARA program.

Member Zafir moved to approve the proposed amended regulatory language and initial rulemaking package and directed Board staff to proceed with the rulemaking process. Member Anderson seconded and the motion carried with a unanimous roll call vote.
B. Consideration and Approval of Proposed Amended Regulatory Language and Initial Rulemaking Package #4(a), Financial Assurance Cost Estimate (FACE) Appeals (California Code of Regulations, Title 14, Division 2, Chapter 8, Subchapter 1, Article 7).

Nick Lash provided a brief presentation of the rulemaking package which would amend current language to conform existing appeal processes to changes made by AB 1142 (Gray), and add language to provide procedures specifically for DMR’s statutory authority to appeal lead agency approved financial assurance cost estimates to the Board.

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

14. Informational Items
   A. Presentation of Annual Inspection Report for Big Cut Mine, El Dorado County.

   Will Arcand gave a brief summary presentation of the 2018 inspection of the Big Cut Mine in El Dorado County and provided a brief history of the mine’s issues. Mr. Arcand stated that there were no additional or new violations since the last inspection, and the existing violations have been ongoing since the beginning. He also noted that the owners/operators have removed a significant amount of equipment from the site.

   Informational item only, no action taken.

   B. Dissemination of Department of Conservation Administrative Manual, Section 16030-60, Public Records Act to all Members

   Board members were provided with a copy of the DOC Conservation Administrative Manual (CAM) policies regarding Public Records Act request policies, and were advised that they could contact Board counsel with questions.

   Informational item only, no action taken.

15. Special Reports and Presentations
   Based on this information, the Chair may instruct Board staff to initiate administrative actions.

16. Board Committee Reports
   • Geohazards Committee (Chair Zafir)
     Nothing to report.

   • Minerals Conservation and Reclamation Committee (Chair Kenline)
     Committee Chair Kenline reported that the committee held two workshops with considerable participation to discuss metallic mine backfilling regulations. Due to workload concerns and other priorities, any future discussion to consider comments will be held during a scheduled committee meeting.

     • Kim Delfino, California Program Director, Defenders of Wildlife, stated that she and other environmental groups were skeptical regarding the need to modify the backfill regulations, and suggested a more targeted approach should the Board decide to move forward.

     • Board Policy and Administration Committee (Chair Landregan)
       Nothing to report.
• Board Lead Agency Standards Committee (Chair Anderson)
Nothing to 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.

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

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 v. SMGB (Sacramento County Superior Court Case No. 34-2010-80000594; Third District Court of Appeal Case No. C079617)

C. Joe & Yvette Hardesty et al. v. SMGB (Sacramento County Superior Court Case No. 34-2012-80001070)

D. Hardesty et al. v. SMAQMD et al. (United States District Court, Eastern District of California Case No. 2:10-cv-02414-KJM-KJN)

E. 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

Supervising Deputy Attorney General, David Alderson, reported that Executive Session was held, the Board received legal advice in regards to item 17c, and no action was taken.

18. Announcements and Future Meetings

The next meeting is tentatively scheduled for October 11 in Sacramento.

19. Adjournment

The meeting was adjourned at 2:25 p.m.

APPROVED

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Sandra Potter, Chair  Jeffrey Schmidt, Executive Officer