



# STATE MINING AND GEOLOGY BOARD

DEPARTMENT OF CONSERVATION

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## OFFICIAL NOTICE OF PUBLIC MEETING

# THE STATE MINING AND GEOLOGY BOARD

**Will Conduct a Regular Business Meeting on:**

**Thursday, September 14, 2017**

**10:00 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](mailto: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/smbg/>.



## PUBLIC MEETING AGENDA

1. **Call to Order (Kracov)**
2. **Pledge of Allegiance**
3. **Roll Call and Declaration of a Quorum**
4. **Review of the Agenda (Kracov)**
5. **Department Reports**
  - Director of Conservation's Report (Bunn)
  - State Geologist's Report (Parrish)
  - Division of Mine Reclamation Report (Perez)
6. **Chairman's Report (Kracov)**
7. **Executive Officer's Information Report (Schmidt)**
8. **Senior Engineering Geologist's Report (Arcand)**
9. **SMARA Reform Rulemaking Report (Lash)**
10. **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.
11. **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 should fill out a speaker card and present it to the Secretary. Speakers are limited to three minutes except by special consent of the Chair.
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 8, 2017 Regular Business Meeting.
13. **Rulemaking Action Items**
  - A. Consideration and Approval of Proposed Amended Regulatory Language and Final Rulemaking Package #3, Inspections (California Code of Regulations, Title 14, Division 2, Chapter 8, Subchapter 1, Article 1, Section 3504.5).
  - B. Consideration and Approval of Proposed Amended Regulatory Language and Final Rulemaking Package #6, Vested Rights Determinations (California Code of Regulations, Title 14, Division 2, Chapter 8, Subchapter 1, Article 15, Sections 3950 -- 3965).

- C. Consideration and Approval of Proposed Amended Regulatory Language and Initial Rulemaking Package #1, Fees Calculation and Schedule (California Code of Regulations, Title 14, Division 2, Chapter 8, Subchapter 1, Article 8, Sections 3697, 3698, and 3699).
- D. Consideration and Approval of Proposed Amended Regulatory Language and Initial Rulemaking Package #5, Financial Assurance Mechanisms (FAMs)-Bond Forms (California Code of Regulations, Title 11, Division 1, Chapter 2, Article 53, Sections 115.1, 115.2, 115.3, 115.4, 115.5).

**14. Additional Action Items**

- A. Consideration and Approval of the Board's Designation Report No. 16, *Updated Designation of Regionally Significant Aggregate Resources in the Stockton-Lodi Production-Consumption Region, San Joaquin and Stanislaus Counties, California.*
- B. Consideration and Approval of Draft Request for Qualifications (RFQ) for CEQA Consultant.
- C. Consideration and Approval of Issuance of Order to Comply to Cal Sierra Development Surface Mining Operation (CA Mine ID #91-58-0003).

**15. Special Reports and Presentations**

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

- A. Informational Report from Department on DOC Maps. (Roth)

**16. Board Committee Reports**

- Geohazards Committee (Chair Potter)
- Minerals Conservation and Reclamation Committee (Chair Kenline)
- Board Policy and Administration Committee (Chair Landregan)
- Board Lead Agency Standards Committee (Vacant)

**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. 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**

**18. Announcement of Future Meetings**

**19. Adjournment**

## **A. THE STATE MINING AND GEOLOGY BOARD**

### **The Board**

The State Mining and Geology Board (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.

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

California is the most geologically diverse and seismically active state in the United States. The Board seeks to help California's residents coexist safely with this dynamic geology and reap the benefits of mineral extraction with a minimum of environmental impact.

### **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 Authority**

The Board operates within the Department of Conservation, under the Natural Resources Agency, and is granted certain responsibilities and obligations under several statutes: Public Resources Code (PRC) Sections: 660-678 and 2207, 2621-2650 (the Alquist-Priolo Earthquake Fault Zoning Act), and 2710-2796 (Surface and Mining Reclamation Act).

### **Surface Mining and Reclamation Act**

The Surface Mining and Reclamation Act of 1975 (SMARA) Public Resources Code Sections 2710 et seq. and its regulations at 14 Cal. Code of Regulations Section 3500 et seq., provide a comprehensive surface mining and reclamation policy to assure that adverse environmental impacts are minimized and mined lands are reclaimed to a usable condition. SMARA also encourages the production, conservation, and protection of the State's mineral resources. Under these statutes and regulations, the Board represents the State's interests in the development, use and conservation of the State's mineral resources, and the reclamation of mined lands as authorized by law. In April of 2016, Governor Brown signed two bills to implement "top to bottom" reforms of SMARA. AB 1142 (Gray) and SB 209 (Pavley) effectively update and improve certain provisions of the Act, giving the Board more authority to oversee and implement SMARA.

### **Alquist-Priolo Earthquake Fault Zoning Act**

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 also is 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

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.

## **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; and, (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. The Executive Officer's Report and 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 public 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. For additional information or assistance, contact the Board's office.

## **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 the Board office at 801 K Street, Sacramento, California, 95814, or by electronic mail to the Board's Executive Officer 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." Because it can be difficult for Board members to carefully review and consider late submittals, the Board retains discretion to determine whether or not it will consider late submittals at the meeting.

Late submittals for general public comment will be provided to the Board along with the full Agenda materials, but will not be uploaded to the Board web site. Copies of documents submitted for general public comment at least three (3) days prior to the meeting will be available in the meeting room, generally at the entrance to the room. The Board regulations pertaining to specific adjudicatory proceedings supersede general statements in these notes regarding Board procedures,

including the time requirements for submission of written materials to the Board (Refer to Section E). If considered, late submittals will be circulated to the Board during 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**

Speaker Cards: All persons desiring to address the Board are required to fill out a speaker card. Cards normally 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 the item being heard by the Board.

Unless otherwise specified in the public notice for a specific item, the Board wishes to limit oral presentations from all parties to three (3) minutes or less per individual. The Board Chair reserves the right to shorten or lengthen the general three (3) minute limit period depending on time constraints and other factors relating to the particular matter being heard.

Providing and operating projectors and other presentation aids are the responsibilities of the speakers. Some equipment may be available at the Board meeting; however, the type of equipment available will vary depending on the meeting location. Owing to software and hardware compatibility issues, provision and operation of laptop computers and projectors for presentations generally will be the responsibility of the individual speakers. To ascertain the availability of presentation equipment, please contact the Board office at least five (5) working days prior to the meeting.

#### **E. BOARD ADJUDICATORY HEARING PROCEDURES**

Adjudicatory matters heard by the Board include Designation Appeals, Reclamation Plan Appeals, Financial Assurances Appeals, Forfeiture of Financial Assurances Proceedings, Administrative Penalty Petitions, Appeals of Orders to Comply with SMARA and Vested Rights Determinations.

Regulations governing the hearing procedures for these adjudicatory proceedings are in the Board's regulations at Title 14 of the California Code of Regulations, Sections 3500-4000. These regulations are posted on the Board internet web site at: <http://www.consrv.ca.gov/smgb/>. The Board regulations pertaining to specific adjudicatory proceedings supersede general statements in these notes regarding Board procedures, including the time requirements for submission of written materials to the Board. The Board generally will prepare and circulate to the parties an agenda and timeline pertaining to specific adjudicatory proceedings.



**F. BOARD REGULAR BUSINESS MEETING SCHEDULE**

Adopted November 10<sup>th</sup>, 2016:

**JANUARY 12, 2017 FULL BOARD & COMMITTEE MEETINGS**

FINAL AGENDA PUBLICATION DATE: DECEMBER 28, 2016  
DOCUMENT CLOSING DATE: JANUARY 9, 2017

**FEBRUARY 8, 2017 FULL BOARD & COMMITTEE MEETINGS**

FINAL AGENDA PUBLICATION DATE: JANUARY 25, 2017  
DOCUMENT CLOSING DATE: FEBRUARY 6, 2017

**MARCH 9, 2017 FULL BOARD & COMMITTEE MEETINGS**

FINAL AGENDA PUBLICATION DATE: FEBRUARY 22, 2017  
DOCUMENT CLOSING DATE: MARCH 6, 2017

**APRIL 13, 2017 FULL BOARD & COMMITTEE MEETINGS**

FINAL AGENDA PUBLICATION DATE: MARCH 29, 2017  
DOCUMENT CLOSING DATE: APRIL 10, 2017

**MAY 11, 2017 FULL BOARD & COMMITTEE MEETINGS**

FINAL AGENDA PUBLICATION DATE: APRIL 26, 2017  
DOCUMENT CLOSING DATE: MAY 8, 2017

**JUNE 8, 2017 FULL BOARD & COMMITTEE MEETINGS**

FINAL AGENDA PUBLICATION DATE: MAY 24, 2017  
DOCUMENT CLOSING DATE: JUNE 5, 2017

**JULY 13, 2017 FULL BOARD & COMMITTEE MEETINGS**

FINAL AGENDA PUBLICATION DATE: JUNE 28, 2017  
DOCUMENT CLOSING DATE: JULY 10, 2017

**AUGUST 10, 2017 FULL BOARD & COMMITTEE MEETINGS**

FINAL AGENDA PUBLICATION DATE: JULY 26, 2017  
DOCUMENT CLOSING DATE: AUGUST 7, 2017

**SEPTEMBER 14, 2017 FULL BOARD & COMMITTEE MEETINGS**

FINAL AGENDA PUBLICATION DATE: AUGUST 30, 2017  
DOCUMENT CLOSING DATE: SEPTEMBER 11, 2017

**OCTOBER 12, 2017 FULL BOARD & COMMITTEE MEETINGS**

FINAL AGENDA PUBLICATION DATE: SEPTEMBER 27, 2017  
DOCUMENT CLOSING DATE: OCTOBER 9, 2017

**NOVEMBER 9, 2017 FULL BOARD & COMMITTEE MEETINGS**

FINAL AGENDA PUBLICATION DATE: OCTOBER 25, 2017  
DOCUMENT CLOSING DATE: NOVEMBER 6, 2017

**DECEMBER 14, 2017 FULL BOARD & COMMITTEE MEETINGS**

FINAL AGENDA PUBLICATION DATE: NOVEMBER 29, 2017  
DOCUMENT CLOSING DATE: DECEMBER 11, 2017