



# STATE MINING AND GEOLOGY BOARD

DEPARTMENT OF CONSERVATION

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ARNOLD  
SCHWARZE  
NEGGER  
GOVERNOR

Approval Date: March 11, 2010

## CONFORMED MINUTES

### THE STATE MINING AND GEOLOGY BOARD

**Draft**

Conducted a Regular Business Meeting on:

Thursday, January 14, 2010

10:00 A. M.

(\*\*or immediately following the Geohazards Committee Meeting)

Grand Salon II & III  
Hyatt Regency Suites-Palm Springs  
285 N. Palm Canyon Drive  
Palm Springs, California 92262

## AGENDA

For questions regarding this Agenda, please contact the SMGB office by telephone at (916) 322-1082, or by facsimile at (916) 445-0738. This Notice and associated staff reports can be accessed electronically at the SMGB's Internet web site at: <http://www.consrv.ca.gov/smgb/> (note: Agenda reports should be available electronically approximately one week prior to the scheduled meeting/hearing date).

The SMGB requests that all lengthy comments be submitted in writing in advance of the meeting date. To ensure that the SMGB has the opportunity to fully preview written material, comments should be received in the SMGB office no later than 15 days prior to the scheduled meeting date, and must indicate the Agenda Item to which it relates. For written material in excess of two pages, or that contains large maps, photos, foldouts, or other documents requiring special handling, please submit 12 copies. The SMGB will not reproduce these types of documents. Comments on Agenda Items will be accepted by electronic mail, and are subject to the same conditions set forth for other written submissions.

Individuals are responsible for presenting their own projects at the meeting.

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[NOTE: Times are approximate. The chairman may alter the hearing start time or agenda item order during the meeting.]

**I. Call to Order (Chairman Garner)**

**II. Roll Call and Declaration of a Quorum**

The meeting was called to order at 10:55 A. M. by Chairman Garner, with all members present, except Members Lane and Lund, and a quorum was declared.

**III. Director's Report (Luther, Department of Conservation) [Information]**

On behalf of Director Bridgett Luther, Chief Deputy Director Derek Chernow, reported on the following:

- The recently appointed new members of the SMGB have all been confirmed by the Senate Rules Committee.
- An off-site strategic planning meeting was held by DOC.
- The Department will be working with the Executive Officer to kick-off discussions for reviewing and considering updating the Surface Mining and Reclamation Act (SMARA).

**•Office of Mine Reclamation Report (O'Bryant) [Information]**

On behalf of Dennis O'Bryant, Assistant Director, Office of Mine Reclamation (OMR), Jim Pompy reported on the following activities:

- OMR's Lead Agency Review Team (LART) continues in its efforts to review certain SMARA lead agencies. The LART is reviewing the overall performance of SMARA lead agencies. LART has completed field work for seven counties, and reports for three counties. Two more counties are anticipated to be completed this year, with Alameda County being next.
- DOC was sued by the operator of the New Era Mine, located in Butte County. The judge threw the case out and awarded DOC attorney fees. The judge also indicated that the County relied on insubstantial information and the operator will be required to have a permit to mine, approved reclamation plan and a financial assurance. A 15-Day Notice to the County has been issued by OMR. The mine is not currently operating, although the County is requesting that the operator winterize the site.

**•State Geologist's Report (Parrish) [Information]**

On behalf of Dr. John Parrish, State Geologist and Director of the California Geological Survey, Derek Chernow reported on the following activities:

- CGS will be celebrating its 150<sup>th</sup> anniversary in 2009, with events scheduled for later this year.

**IV. Chairman's Report (Garner) [Information]**

No report provided.

**V. Executive Officer's Report (Testa) [Information]**

Executive Officer Stephen Testa summarized the following recent and upcoming activities of the SMGB:

- While CGS will be celebrating its 150th anniversary, year 2010 is also the SMGB's 125<sup>th</sup> anniversary.
- Willard Fuller, mining geologist, and a founding member of the SMGB in the mid-1970s when the SMGB was reinstated, recently passed away.



- All 2009 surface mining inspections for which the SMGB serves as a SMARA lead agency have been completed and the SMGB can anticipate considering acceptance of such reports in upcoming meetings.
- An Amended Reclamation Plan for the Richmond Quarry, located in the City of Richmond, was received and is under review. The SMGB serves as a SMARA lead agency for the City of Richmond, and can anticipate considering approval of the amended reclamation plan at its scheduled February regular business meeting.
- Discussion of administrative protocol for placement of operators on the AB 3098 List, and removal and re-instatement of operators, will be discussed at the February regular business meeting, following an information report to be provided by OMR.
- A public complaint pertaining to the City of Lake Elsinore was received in early December 2009, and subsequently forwarded to OMR.
- The SMGB, following the granting of a vested right in September 2009, can anticipate considering annual production limitations for Western Aggregate, LLC surface mining operation located in the Yuba Goldfields at the SMGB's February regular business meeting and special public hearing.
- Four designation considerations are in progress: rulemaking for termination of designation of certain sectors in the Claremont-Upland Production-Consumption (P-C) Region, addressing comments submitted for the Palm Springs P-C Region, and scheduling of public hearings to receive stakeholder comments on proposed designated sectors within the Bakersfield and San Bernardino P-C Regions.
- The SMGB's annual report is due to the legislature by end of year. A draft report has been completed, and will be forwarded to the SMGB for review and comment prior to finalization. The annual report encompasses from mid-2000 to present.

**V. Ex-Parte Communication Disclosure [Information]**

[Board Members will identify any discussions they may have had requiring disclosure pursuant to Public Resources Code Sections 663.1 and 663.2.]

- Member Licari stated he had discussion with Adam Harper with the California Construction and Industrial Materials Association (CalCIMA) pertaining to SB 275, and encouraged CalCIMA to support inclusion of mining engineers.
- Bly-Chester stated she had discussion with Adam Harper with CalCIMA, among others, pertaining to her re-appointment status with the SMGB.

**VII. Good of the Meeting [Information]**

[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 SMGB should fill out a speaker card and present it to the Secretary so that the Chair can determine the number of persons who wish to speak. Speakers are limited to three minutes except by special consent of the Chairman.]

- Paulie Telson and Sharon Gallina both expressed concerns over the City of Lake Elsinore's SMARA program and oversight for the Pacific Aggregates surface mining operation.
- Ken Seumalo, Director of Public Works, expressed the City's desire to address the public comments received, and act appropriately.



**VIII. Consent Items [Action]**

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

1. Approval of Minutes, November 12, 2009, Regular Business Meeting.

Board Member Bly-Chester moved to approve the minutes. Board Member Wyatt seconded and the motion carried with a unanimous voice vote.

2. Approval of an Interim Management Plan and Revised Financial Assurance Cost Estimate for Wheatland Clay Pit (CA Mine ID #91-58-0007), Gladding, McBean Company (Operator), Richard Hutchens (Agent), Yuba County.

Board Member Bly-Chester moved to approve the Interim Management Plan. Board Member Wyatt seconded and the motion carried with a unanimous voice vote.

**IX. Continued Business [Action]**

[These business items have been continued from a previous meeting/hearing.]

No continued business was discussed.

**X. New Business [Action]**

3. Consideration to Defer Determination of Limitation of Vested Rights, Western Aggregates, LLC (CA Mine ID #91-58-0001), Kerry Shapiro (Agent), Western Aggregates, LLC (Operator), Yuba County.

Executive Officer Testa summarized the need for the SMGB to follow up with its earlier decision to defer consideration of limiting annual production for Western Aggregates, LLC vested rights to its February 11, 2010, meeting, since the SMGB was not meeting in northern California in January, 2010.

Board Member Licari moved to approve deferring the determination until the SMGB's February 11, 2010, regular business meeting. Board Member Baca seconded and the motion carried with a unanimous voice vote, with Member Tepel abstaining.

4. Approval of Site Closure for Carquinez Straits Marine Sand Mining Operation (CA Mine ID #91-38-0008), CEMEX (Operator), Ronald Wilson (Agent), San Francisco Bay Conservation and Development Commission (BCDC).

Executive Officer Testa reported that the SMGB is the SMARA lead agency for marine dredging operations located within the jurisdiction of BCDC. CEMEX has terminated its marine sand mining operation for Carquinez Straits. The SMGB is considering approval of site closure pursuant to PRC Section 2773.1(c) and CCR Section 3805.

- A summary of the marine sand mining operation was provided by Will Arcand, Senior Engineering Geologist with the SMGB.

Board Member Baca moved to approve closure. Board Member Tepel seconded and the motion carried with a unanimous voice vote



5. Approval of Site Closure for Alcatraz Sand Shoal Marine Sand Mining Operation (CA Mine ID #91-38-0009), CEMEX (Operator), Ronald Wilson (Agent), San Francisco Bay Conservation and Development Commission (BCDC).

Executive Officer Testa reported that the SMGB is the SMARA lead agency for marine dredging operations located within the jurisdiction of BCDC. CEMEX has terminated its marine sand mining operation for Alcatraz Sand Shoal. The SMGB is considering approval of site closure pursuant to PRC Section 2773.1(c) and CCR Section 3805.

- A summary of the marine sand mining operation was provided by Will Arcand, Senior Engineering Geologist with the SMGB.

Board Member Baca moved to approve closure. Board Member Tepel seconded and the motion carried with a unanimous voice vote

6. Approval of Site Closure for Suisun Bay Middleground Marine Sand Mining Operation (CA Mine ID #91-38-0010), CEMEX (Operator), Ronald Wilson (Agent), San Francisco Bay Conservation and Development Commission (BCDC).

Executive Officer Testa reported that the SMGB is the SMARA lead agency for marine dredging operations located within the jurisdiction of BCDC. CEMEX has terminated its marine sand mining operation for Suisun Bay Middleground. The SMGB is considering approval of site closure pursuant to PRC Section 2773.1(c) and CCR Section 3805.

- A summary of the marine sand mining operation was provided by Will Arcand, Senior Engineering Geologist with the SMGB.

Board Member Baca moved to approve closure. Board Member Tepel seconded and the motion carried with a unanimous voice vote

7. Election of Vice Chair of the State Mining and Geology Board Pursuant to Public Resources Code Section 669.

Executive Officer Testa reported that the SMGB's Bylaws require that the SMGB's Vice Chair be elected by members of the SMGB at its first regularly scheduled regular business meeting of each calendar year. The selection of the SMGB's Vice Chair is solely at the SMGB member's discretion, and the Executive Officer makes no recommendation.

Board Member Bly-Chester moved to elect Member Wyatt as Vice Chair. Board Member Tepel seconded and the motion carried with a unanimous voice vote

8. Adoption of 2010 SMGB Meeting Calendar.

Executive Officer Testa stated that eleven regular business meetings are proposed, with exception to the routinely scheduled August break. In April and November, the regular business meetings are scheduled to be held on the third Thursday of the month due to scheduling conflicts. Furthermore, none of the proposed meeting dates conflict with select annual meetings for certain organizations including the American Institute of Professional Geologists, American Association of Petroleum Geologists, Association of Environmental and Engineering Geologists, and the Geological Society of America.

Board Member Licari moved to adopt the 2010 meeting calendar. Board Member Wyatt seconded and the motion carried with a unanimous voice vote



**XI. Special Reports and Department Presentations [Possible Action]**

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

9. Report on County of San Bernardino Program as a Lead Agency under the Surface Mining and Reclamation Act. [Information]

Executive Officer Testa reported that San Bernardino County (County) is one of the largest mining counties, and the largest SMARA lead agency in the state. Following receipt of complaints from the United States Forest Service, alleging inadequate performance of the County in fulfilling its obligations and responsibilities as a lead agency pursuant to SMARA, the SMGB heard from the county in December 2007. Issues relating to staffing and inadequate resources to implement an effective SMARA program were raised. At the SMGB's invitation, the County will update the SMGB as to the progress it has made since 2007. The information provided by the County was for the SMGB's information. No recommendations were set forth by the Executive Officer at the time.

- George Kenline, Geologist with the County of San Bernardino, summarized the County's SMARA program and the progress it has made during the past two years in improving such program.

No action was taken by the SMGB.

10. Report on the Mountain Pass Mine (CA Mine ID #91-36-0002), Molycorp Minerals, LLC. (Operator), Scott Honan (Agent), San Bernardino County. [Information]

Executive Officer Testa stated that Rare Earth Elements (REE) are a collection of about 17 chemical elements used for a variety of purposes, and California hosts a world class deposit of REE at Mountain Pass, San Bernardino County. At the initial recommendation of Member Licari at the SMGB's regular business meeting held on November 12, 2009, Scott Hanan, Agent for Molycorp Minerals, was invited to make a presentation to the SMGB. The information provided was for the SMGB's general information. No recommendations were set forth by the Executive Officer at the time.

- Scott Honan, Environmental Manager with Molycorp Minerals, LLC, made a presentation to SMGB and summarized the overall surface mining operation, and the importance of Rare Earth Elements.

No action was taken by the SMGB.

11. Inspection reports pursuant to PRC Section 2772(b) for the following surface mining operations may be presented for SMGB acceptance consideration as being in accordance with the SMGB's requirements:

- Atkinson Pit I (CA Mine ID #91-19-0004), City of Compton.
- Super Creek Quarry (CA Mine ID #91-33-0003), City of Desert Hot Springs.
- Garnet Pit (CA Mine ID #91-33-0031), City of Palm Springs.
- Hanson Alcatraz, Presidio, Point Knox (CA Mine ID #91-38-0001), BCDC.
- Hanson Point Knox South (CA Mine ID #91-38-0002), BCDC.
- Hanson Point Knox Shoal (CA Mine ID #91-38-0003), BCDC.
- Hanson Alcatraz South Shoal (CA Mine ID #91-38-0004), BCDC.
- Hanson Suisun Bay (CA Mine ID #91-38-0005), BCDC.
- Hanson Suisun Bay Middleground (CA Mine ID #91-38-0006), BCDC.
- Jerico Suisun Bay Middleground (CA Mine ID #91-38-0007), BCDC.





- CEMEX Carquinez Straits (CA Mine ID #91-38-0008), BCDC.
- CEMEX Alcatraz Sand Shoal (CA Mine ID #91-38-0009), BCDC.
- CEMEX Suisun Bay Middleground (CA Mine ID #91-38-00010), BCDC.
- Morris Tug & Barge Marine Oyster Shell Mining (CA Mine ID #91-38-00011), BCDC.
- San Francisco Marina Dredging Operation (CA Mine ID #91-38-0012), BCDC.

Executive Officer Testa summarized the overall status of inspections performed during 2009, reporting that all inspections have been completed, and the SMGB can anticipate considering acceptance of the resultant reports over the next several months.

- Will Arcand, Senior Engineering Geologist and inspector for the SMGB, presented a summary of each inspection report outlined above.
- Member Licari indicated that the inspection reports, the information contained within them, and how they are formatted, are very well done and comprehensive, and should be made available as examples in some form accessible to lead agencies, industry and consultants.

Board Member Tepel moved to accept the inspection reports. Board Member Bly-Chester seconded and the motion carried with a unanimous voice vote.

## **XII. SMGB Committee Reports [Information and Possible Action]**

- Geohazards Committee (Chairperson Bly-Chester)
  - Alquist-Priolo Technical Advisory Committee (Chairperson Tepel)
- No report provided.
- Surface Mining and Standards Committee (Chairperson Lund)
  - No report provided.
- Minerals and Geologic Resources Committee (Chairperson Tepel)
  - No report provided.
- Policy and Legislation Committee (Chairperson Baca)
  - No report provided.

## **XIII. Continuing Business [Information]**

[This item is provided as an opportunity for any SMGB member to receive information on or any items of continuing interest to the SMGB.]

No continued business items were discussed.

## **XIV. New Business [Information]**

[This item is provided as an opportunity for any SMGB member to bring any item of new business to the SMGB's attention for further discussion and further action.] Items to be discussed:

No new business discussed.



**XV. Executive Session (Closed to the Public) [Possible Action]**

[The SMGB will discuss information from its legal counsel on pending litigation and may take appropriate actions based on this information. This session is being held under Government Code, Section 11126.] Items to be discussed:

- a). Brunius vs. SMGB, Case # PC 20010449, El Dorado County Superior Court.
- b). Kibbe Area Planning and Protection Association; Forest Tull vs. SMGB; A. Teichert & Sons, Inc.; and DOES 1010, Case No. 34-2007-00882657-CU-WM-GOS, Sacramento County Superior Court.
- c). An un-named case where there is potentially significant exposure to litigation against the Board.

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

SMGB's Legal Counsel, Mr. Richard Thalhammer, Deputy Attorney General, announced that the SMGB met in closed session to discuss pending litigation but the SMGB took no actions.

**XVI. Announcements of Future Meetings**

February 11, 2009, was announced as the next meeting, and the City of Marysville as the location.

**XVII. Adjournment**

The meeting was adjourned at 2:30 P.M.

**APPROVED**

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Erin Garner, Chairman

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Stephen M. Testa, Executive Officer

