



STATE MINING AND GEOLOGY BOARD

DEPARTMENT OF CONSERVATION

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CONFORMED MINUTES

THE STATE MINING AND GEOLOGY BOARD

Conducted a Regular Business Meeting on:

Thursday, June 14, 2012

10:00 A. M.

LOCATION:

Assembly Hearing Room #444

State Capitol

Sacramento, California 95814

AMENDED 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 requires that all lengthy comments be submitted in writing in advance of the meeting date where this matter is to be decided. To ensure that the SMGB has the opportunity to fully preview written material, comments should be received in the SMGB office located at 801 K Street, Sacramento, CA, 95814, no later than 5:00 P.M., 15 calendar days prior to the scheduled meeting date, and must identify the Agenda Item to which it relates. For written materials in excess of two pages, or that contains large maps, photos, foldouts, or other documents requiring special handling, please submit 15 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.

New submittals received after 15 calendar days prior to the scheduled meeting date will be marked as late, and the SMGB will decide whether new submittals will be considered or not during the public hearing. Late submittals, received by the SMGB at least 48 hours prior to the scheduled meeting, will be included in a late document submittal listing. Late submittals, received after 48 hours prior to

the scheduled meeting, will not be included on the late document submittal list. The SMGB would accept a two-page written summary of testimony, or final comments based on, and limited to, review of the SMGB's packet and/or Executive Officer's report, at the time of the public hearing. Such two-page summaries would be included as part of the administrative record before the SMGB. This policy does not apply to quasijudicial proceedings (i.e., appeals, petitions, etc.) where administrative procedures for the submittal of documents are set forth in statute and regulation.

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

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

I. Call to Order (Baca)

II. Pledge of Allegiance

III. Roll Call and Declaration of a Quorum

The meeting was called to order at 9:50 A. M. by Acting Chairman Baca, and a quorum was declared.

IV. Director's Report (Nechodom, Department of Conservation) [Information]

On behalf of the Director of the Department of Conservation, Marni Weber, reported on the following:

- Director Nechodom plans to maintain a separate budgetary line item for the SMGB.
- The SMGB will not be eliminated and the Director expressed congratulations to the SMGB, with the goal of making the SMGB a valued asset.
- The status of Assembly Bill 1609 and 2509 was provided.
- The Director requested to speak to the SMGB in Closed Session to address staffing and DOC-SMGB relationship issues at a future SMGB's meeting. Acting Chairman Baca indicated that the SMGB will consult with its legal counsel to identify limits, if any, of such discussions.

- State Geologist's Report (Parrish) [Information]

No information report was provided.

- Office of Mine Reclamation Report (Pompy) [Information]

Assistant Director and Chief of the Office of Mine Reclamation (OMR), Jim Pompy, reported on the following:

- A status of operators taking advantage of SB 108 was provided. SB 108 allows for a mechanism for surface mining operations considered abandoned to be considered for idle or active status. About ten surface mining operations are being considered at this time.
- Filling of a vacant Senior Engineering Geologist position will soon be decided. The individual selected will be responsible for managing the Compliance Unit.
- Changes to the inspection form used during conduct of mine inspections have been made and will be field tested in the near future. The SMGB can anticipated reviewing and considering such changes in the fall 2012.



- Discussion of compliance issues pertaining to the McLaughlin Mine, located in the Counties of Napa, Yolo and Lake, continue between the operator and OMR.

V. Chairman's Report (Baca) [Information]

No Chairman's report provided.

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

Executive Officer Testa reported on the following:

- Comments received in regard to the preliminary Alquist-Priolo Earthquake Fault Zone Maps were forwarded to the State Geologist for consideration.
- A preliminary Seismic Hazards Map for the Lick Observatory Quadrangle, Santa Clara County, was issued in April. A public hearing is being held in July by the Executive Officer to receive public comment. Any comments received will be forwarded to the State Geologist. The SMGB can anticipate receiving an overview of this preliminary map at its next scheduled meeting.
- The Executive Officer is involved in coordinating and co-hosting a geosciences technology workshop pertaining to hydraulic fracturing. The workshop is being held by the American Association of Petroleum Geologist at the Colorado School of Mines in Golden, Colorado. An invitation to attend and participate has been extended to the Director, Oil and Gas Supervisor and State Geologist.

VII. 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 John Lane indicated discussions were held with the Director of The Sierra Fund regarding proposed Assembly Bill 1609.

VIII. 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.]

No Good of the Meeting information was provided.

IX. 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, Committee of the State Mining and Geology Board, March 8, 2012, Regular Business Meeting.

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

2. Approval of Minutes, May 10, 2012, Regular Business Meeting.



Board Member Lane moved to approve the minutes. Board Member Gavric seconded and the motion carried with a unanimous voice vote.

3. Approval of a Revised Financial Assurance Cost Estimate, Timm Mines (CA Mine ID No. 91-09-0006), Cole McGowan (Operator), Maybelle Timm Eley (Agent), County of El Dorado.

Board Member Gavric moved to approve the revised financial assurance cost estimate. Board Member Barry seconded and the motion carried with a unanimous voice vote.

X. Continued Business [Action]

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

XI. New Business [Action]

4. **Public Hearing:** Consideration of an Order to Comply Issued by the Department of Conservation to the McLaughlin Mine (CA Mine ID #91-28-0003), Karl Burke (Agent), Homestake Mining Company (Operator), Counties of Lake and Napa, for Failure to Correct Violations Pursuant to the Surface Mining and Reclamation Act (Public Resources Code Section 2710 et seq.).

Deferred.

5. Consideration for Exemption from the Requirements of the Surface Mining and Reclamation Act (SMARA, Public Resources Code Section 2710 et seq.), Pursuant to Section 2714(f), for the Proposed East Area I Property, Limoneira Company and Teague Construction (Operator), City of Santa Paula, County of Ventura.

Executive Officer Testa stated that SMARA allows for a one-time exemption from SMARA for certain surface mining operations should the SMGB finds that the operation is 1) of an infrequent nature, and 2) involve only minor surface disturbances, pursuant to PRC 2714(f). On May 18, 2012, Jane Frakas and John Hecht, Consultant with Sespe Consulting, and on behalf of The Limomeira Company and Teague Construction, submitted a request for a one-time exemption from SMARA for the Proposed East Area I Property, located in Ventura County. The purpose of the project is to complete mass grading associated with development of a 500-acre area, and will include offsite exportation of excess material to be used in the local market. The East Area I property will require extensive grading and onsite earthmoving of a 500 acre are in order to prepare the site for construction of structures, infrastructure and roads. About 350 acres will require over-excavation and recompaction for development purposes, with 150 acres of this area containing 20 to 25% rock eight inches or larger in maximum dimension which will need to be removed from the site. The estimated volume of material anticipated to be excavated and removed from the site is on the order of 140,000 to 340,000 tons, out of a total of about 540,000 tons to be generated for the project. The primary obstacle is the absence of a grading/construction permit. The proposed project is authorized by a local lead agency, albeit not all permits have been attained. The SMGB has the statutory authority to consider and grant such an exemption under certain conditions. The SMGB is considering granting a one-time exemption for this project.

- John Hecht, President of Sespe Consulting, provided an overview of the project.



- Executive Officer Testa clarified the differences between the construction exemption under PRC Section 2714(b) and a one-time exemption request under PRC Section 2714(f).

Board Member Wyatt moved to conditionally grant a one-time exemption from SMARA for this project under its authority provided by Public Resources Code Section 2714(f), pending that a construction permit for the areas to be mined is obtained prior to conducting surface mining operations, and compliance with any and all permit conditions set forth by the City of Santa Paula and County of Ventura, and any other agencies that have jurisdiction over any aspect of this project. Board Member Gavric seconded and the motion carried with a unanimous voice vote. Acting Chairman Baca recused himself.

6. Discussion on the Use of State Highways for the Transport of Mineral Materials as Part of the Local Agency Permitting Process.

Deferred.

XII. Special Reports and Department Presentations [Possible Action]

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

7. Report on the State Mining and Geology Board's Annual Mine Fees Survey under the Surface Mining and Reclamation Act (SMARA). [OMR]

Executive Officer Testa stated that the SMGB has been considering the equity of the current reporting fee schedule and directed the Executive Officer to develop a survey to provide documentation as to whether such mine fees are equitable. An eight-question survey of mine operators throughout the state was conducted of all 1,355 mining operations during the period of December 2011 and February 2012; the survey included eight questions and was forwarded to 1,255 mine operators with 419 responding. Results were compiled and tabulated, and provided as SMGB Information Report 2012-09. Several scenarios and options have previously been discussed by the Policy and Legislation Committee on several occasions in 2011 and 2012. It was subsequently determined that calculation of mine fees on the basis of production remained the most reasonable approach, and raising the statutory cap for specific mine operations would provided a means to achieve equity in mine fees among small, medium and large mining operations. The Committee also determined that raising the statutory cap for total revenues was not desirable at this time. In March, the Committee requested that various site specific cap scenarios be evaluated.

- Melody Williamson, analyst with the Office of Mine Reclamation Reporting, Compliance and Review Unit provided a summary of the results of the survey of California mine operators satisfaction with annual mining fees. In addition, several different mine site specific cap fee scenarios were discussed (\$8,000, \$12,000 and \$15,000).

Member Gavric moved for the SMGB to 1) recommend that the Department of Conservation (DOC) amend Public Resources Code 2207(d) which establishes a single mining operation cap not to exceed \$4,000, to a new cap of \$8,000, and raise the minimum single mining operation fee from \$100 to \$500, and 2) direct the Executive Officer to publish the SMGB's *Information Report 2012-09 titled "A survey of California Surface Mining Operations: Satisfaction with Annual Mining Operation*



Reporting Fees” on the SMGB’s website. Member Lane seconded and the motion was unanimously approved.

8. Office of Mine Reclamation, Lead Agency Review Team (LART) Report for:

- County of Mariposa
- County of Madera

Executive Officer Testa stated that the Department of Conservation, Office of Mine Reclamation (OMR) Lead Agency Review Team (LART) has completed its lead agency review report for the County of Mariposa. Eight surface mining operations are reported to exist within the jurisdiction of the County. Five are characterized as active, one idle, and two closed with no intent to resume. The commodities produced include dimension stone, aggregate, fill dirt, silica and gold. In review of the LART report for the County of Mariposa, several deficiencies are reported including, but not limited to, out-of-date financial assurances cost estimates, out-of-date financial assurance mechanisms, lack of adequate documentation demonstrating approval of reclamation plans, absence of Interim Management Plans (IMPs) and demonstration of issuance of a Conditional Use Permit, inconsistencies in submitting inspection reports, inadequate inspection reports, and failure to enforce SMARA. The Executive Officer has reviewed the LART report, and has made a recommendation for the SMGB to issue a 45-Day Notice to Correct Deficiencies to the County, in which case, a public hearing would be held in no less than 45 days from the date the Notice was issued. Executive Officer Testa indicated that the LART report for the County of Madera was deferred.

- Ben Shelton with LART provided an overview of the County of Mariposa SMARA program.

Board Member Lane moved to direct the Executive Officer to issue a 45-Day Notice to Correct Deficiencies to the County of Mariposa. Board Member Barry seconded and the motion carried with a unanimous voice vote.

9. Acceptance of Inspection reports pursuant to PRC Section 2774(b) for the following surface mining operations as being in accordance with the SMGB’s requirements:

- Weber Creek Quarry (CA Mine ID #91-09-0002), County of El Dorado.
- Diamond Quarry (CA Mine ID #91-09-0003), County of El Dorado.
- Chile Bar Slate Mine (CA Mine ID #91-09-0004), County of El Dorado.
- Lawyer Borrow Pit (CA Mine ID #91-09-0010), County of El Dorado.
- Snows Road Pit (CA Mine ID #91-09-0012), County of El Dorado.
- Teichert Hallwood (CA Mine ID #91-58-0006), County of Yuba.
- Dantoni Pit (CA Mine ID #91-58-0011), County of Yuba.
- Teichert Marysville (CA Mine ID #91-58-0019), County of Yuba.
- Simpson Lane (CA Mine ID #91-58-0025), County of Yuba.

Board Member Wyatt moved to accept the inspection reports. Board Member Reding seconded and the motion carried with a unanimous voice vote.

XIII. SMGB Committee Reports [Information and Possible Action]



- Geohazards Committee (Chairperson Lane)
 - Alquist-Priolo Technical Advisory Committee (Executive Officer Testa)
- Minerals and Geologic Resources Committee (Chairperson Wyatt)
- Policy and Legislation Committee (Chairperson Baca)
- Surface Mining and Standards Committee (Executive Officer Testa)

Policy and Legislation Committee Chairman Baca provided a summary of the Committee's morning discussion pertaining to annual mine fees.

XIV. 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 discussed.

XV. 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 was offered.

XVI. 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. Pending Litigation to which the SMGB is a party:
 - 1. Dutra Materials vs. SMGB, Chevron Products Company Real Party in Interest, Case No. N10-0388, Contra Costa Superior Court.
 - 2. A. Teichert and Sons, Inc. v. SMGB, Western Aggregates, LLC. Real Party in Interest, Case No. 34-2010-80000528, Sacramento County Superior Court.
 - 3. William Calvert, Elfriede Calvert and the Yuba Goldfields Access Coalition v. SMGB, Western Aggregates, LLC. Real Party in Interest, Case No. 34-2010-80000530, Sacramento County Superior Court.
- B. Possible Litigation involving the SMGB.
- C. Staff Performance and Compensation.

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

Deputy Attorney Rick Thalhammer announced that the SMGB met in Executive session and took no action.

XVII. Announcements of Future Meetings

August 9, 2012, was announced as the next meeting, and the City of Sacramento as the location.

XVIII. Adjournment

The meeting was adjourned at 12:30 P.M.

APPROVED



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Brian Baca, Acting Chairman

Stephen M. Testa, Executive Officer

