



STATE MINING AND GEOLOGY BOARD

DEPARTMENT OF CONSERVATION

801 K Street • Suite 2015 • Sacramento, California 95814

Policy and Legislation Committee

George Kenline, Chair; Jelisaveta Gavric, Negar Noushkam

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CONFORMED MINUTES

THE POLICY AND LEGISLATION COMMITTEE OF THE STATE MINING AND GEOLOGY BOARD

Conducted a Meeting on:

Thursday, November 13, 2014

9:30 A.M.

(Or immediately following the Geohazards Committee)

LOCATION:

**City Council Chambers
Palm Springs City Hall
3200 E. Tahquitz Canyon Way
Palm Springs, CA 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 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 (Kenline)

The meeting was called to order at 9:30 A.M.

II. Roll Call and Declaration of a Quorum

The meeting was called to order at 10:15 A. M. by Chairman Kenline, with Member Gavric present and Member Noushkhram absent.

III. Consent Items [Action]

[All the items appearing under this section will be acted upon by the committee by one motion and without discussion; however, any committee 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, March 13, 2014, Committee Meeting.

Board Member Gavric moved to approve the minutes. Chairman Kenline seconded and the motion carried with a unanimous roll call vote.

IV. Continued Business [Action]

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

No continued business conducted.

V. New Business [Action]

2. Discussion of Observations and Recommendations Pertaining to the State Mining and Geology Board's 2013-2014 Annual Report.

Executive Officer Testa noted that existing law requires various written reports to be prepared and submitted by State and local agencies to the Legislature and the Governor. The SMGB is legislatively mandated to prepare annual reports to the Legislature pursuant to SMARA. The Executive Officer has prepared the SMGB's annual report for 2013-2014. This report is being considered for approval by the SMGB, prior to being finalized and distributed, as appropriate. The



Committee is considering proposed conclusions and recommendations to be incorporated in the report, and for recommendation to the whole SMGB.

- Commented Member Gavric commented on language and asked for clarification.

Committee Member Gavric moved for the Committee to recommend approval of the observations and recommendations to the whole SMGB. Committee Chairman Member Kenline seconded and the motion carried with a unanimous voice vote.

3. Discussion of Conflict of Interest Pursuant to Public Resources Code Section 2774(b) and California Code of Regulations Section 3504.5(c).

Executive Officer Testa noted that pursuant to SMARA, all surface mining operations must be inspected by their respective lead agency. The SMGB currently serves as the lead agency under SMARA for 46 individual surface mining operations, including operations located in three counties (Alpine County, El Dorado County and Yuba County), 8 San Francisco Bay marine dredging operations, and 8 cities that do not have mining ordinances. In review of the SMARA database, potential conflicts of interest have been identified which contradict CCR Section 3504.5(c) which states "*A surface mine inspection shall not be performed by any person who holds a financial interest in or has been employed by the surface mining operation in any capacity, including as a consultant or as a contractor, during the year preceding the inspection.*" A review of all surface mining operations statewide commenced in 2011. To date, a total of 93 surface mining operations within 19 counties have been identified where the SMARA lead agency has a potential financial interest (i.e., either as an operator or property owner). SMGB staff has initiated conduct of annual inspections at three of the surface mining operations where a financial interest has been confirmed. Under these circumstances, inspections are performed by SMGB staff and upon acceptance as complete by the SMGB, such inspection reports are forwarded to the respective SMARA lead agency. The operator is invoiced appropriately and is responsible for the cost of conducting such inspections. The local lead agency, however, maintains its overall role pursuant to SMARA, and thus is responsible for subsequent compliance and enforcement actions, as deemed necessary and appropriate. Guidance is being requested by SMGB staff in addressing inspection of financial conflict sites.

- Chairman Kenline expressed the importance of this matter being addressed.
- Will Arcand, Senior Engineering Geologist with the SMGB, provided a summary of financial interest conflict sites statewide, and noted staff has not looked at cities that may have financial interest conflict sites within their jurisdictions, and that the SMGB currently inspects three financial conflict sites within two counties.

Committee Member Gavric moved for the Committee to forward this matter to the whole SMGB for consideration of a legislative amendment to provide clarity as to the intent of SMARA in reference to financial conflict sites. Committee Chairman Member Kenline seconded and the motion carried with a unanimous voice vote.

VI. 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 Committee 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 discussed.



VII. Continuing Business [Information]

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

No continued business was discussed.

VIII. New Business [Information]

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

No new business was offered.

IX. Announcements of Future Meetings

The next meeting of the Policy and Legislation Committee was not scheduled.

X. Adjournment

The Committee meeting was adjourned at 9:50 A.M.

APPROVED

George Kenline, Committee Chairman

Stephen M. Testa, Executive Officer

