



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, April 10, 2014

10:00 A.M.

LOCATION:

Assembly Hearing Room #444
State Capitol
Sacramento, California 95814

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 (Gonzalez)

II. Pledge of Allegiance

III. Roll Call and Declaration of a Quorum

The meeting was called to order at 11:30 A. M. by Chairman Gonzalez, with Members Gavric, Kenline, Lane and Noushkam present, and a quorum was declared.

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

Chief Deputy Director, Jason Marshall, provided the following on behalf of the Director:

- The DOC has made progress in budget discussions with the Department of Finance, noting a \$550,000 reduction in the Mine Reclamation Account and split between three programs.

Member Noushkam requested that the Department provide the board with a general overview of the program budget allocations.

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

Dr. John Parrish, State Geologist, reported on the following:

- Summarized recent earthquake activity in California, notably, a 5.1 magnitude earthquake situated in the city of La Habra.
- The Earthquake Early Warning System framework should be completed by the end of July and technical details completed by end of year.

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

Acting Assistant Director of the Office of Mine Reclamation (OMR), Dr. John Parrish, reported on the following:

- OMR is preparing for the 2013 reporting season. Courtesy reminder letters and the 2013 fee schedule will be forwarded to operators by the end of April.

Chairman Gonzalez asked if a courtesy letter could be sent to Lead Agencies as well regarding completing and filing their inspection reports in a timely manner.

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

No Chairman's report provided.

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

Executive Officer Testa reported on the following:



- Rulemaking for both the Palm Springs and San Bernardino Production-Consumption (P-C) Regions is near completion.
- Public Notice Publications are in preparation for the Santa Barbara-San Luis Obispo and Stockton-Lodi P-C Regions.
- A public hearing is being scheduled to receive comments on the proposed designation, and termination of designation, for the North San Francisco Bay P-C Region.
- The SMGB continues to receive comments on the Preliminary Earthquake Fault Zoning Map for the Azusa Quadrangle and Hollywood Quadrangle. The comment period for the Azusa Quadrangle ended April 8; whereas, comments will be received by the SMGB for the Hollywood Quadrangle up to May 15. On March 26, the Executive Officer observed two trenches in the vicinity of the proposed Millennium Project in the City of Hollywood.
- Certain lead agencies were to forward a set of their latest round of inspection reports to the SMGB for review and comment. The only County that responded to this was Madera; whereas, six other Counties have not. The Executive Officer plans to contact these lead agencies and remind them of this commitment.
- Follow-up on complaints and previous request of the SMGB for the Lead Agency Review Team (LART) reports for the County of Siskiyou and County of Riverside remain outstanding.

Member Noushkam inquired as to the status of the OMR Lead Agency Review Team (LART) report for Siskiyou County and Riverside County. Concern was expressed since the SMGB's interest was derived from a public complaint received in early 2013. Dr. Parrish indicated that the report for the County of Riverside had just gone out for review; whereas, there was some uncertainty as to when County of Siskiyou received the preliminary LART report for their review. Dr. Parrish stated that a status and chronology of events, and when the LART reports can be anticipated to be received by the SMGB, will be forwarded to the Executive Officer.

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.]

No Ex-parte communications were announced.

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.]

- John Hecht, with Sespe Consulting, discussed the County of Los Angeles's efforts in updating their General Plan and the impact it will have on designated mineral resources.
- Dr. Sandy Figuers, Geological Engineer, expressed concern in regards to due diligence issues and inappropriate characterization of what is deemed an active fault. Executive Officer Testa was directed to follow up with Dr. Figuers, and bring this matter back to the SMGB if appropriate.

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, March 13, 2014 Regular Business Meeting.

Board Member Gavric moved to approve the minutes. Board Member Kenline 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.]

2. **Public Hearing:** Review of the Order of Administrative Penalties Assessed to One Surface Mining Operation Pursuant to Public Resources Code Section 2774.2 and Title 14, California Code of Regulations, Section 3900, et seq.

- Public Hearing Case No. 91-240021-12-AP:
Valley Sand & Gravel (CA Mine ID #91-24-0021),
County of Merced.

Executive Officer Testa noted that the SMGB received a petition for an appeal of the administrative penalties issued by the DOC OMR for the Valley Sand & Gravel surface mining operation. This consideration was continued from the SMGB's February 2014 hearing pursuant to PRC Section 2774.1(c) for failure to submit an annual report to the DOC as required by PRC Section 2207. The Administrative Record was identified by the Executive Officer. Pursuant to CCR Section 3910, following the public hearing, the SMGB shall determine 1) whether the alleged violations cited in the Director's order are supported by substantial evidence in light of the whole record before it, and consider whether to affirm, modify, or set aside, in whole or in part, the administrative penalty issued by the Director.

Board Member Kenline moved to uphold the Director's Order of Administrative Penalties via default. Board Member Lane seconded and the motion carried with a unanimous voice vote.

XI. New Business [Action]

3. **Public Hearing:** Review of the Order of Administrative Penalties Assessed to One Surface Mining Operation Pursuant to Public Resources Code Section 2774.2 and Title 14, California Code of Regulations, Section 3900, et seq.

- Public Hearing Case No. 91-350003-12-AP:
San Juan Pit (CA Mine ID #91-35-0003),
County of San Benito.

This item was rescinded.

4. Acceptance of the 2013 Annual Fee Schedule for Mines Subject to the Surface Mining and Reclamation Act (SMARA; Public Resources Code Sections 2710 et seq. and 2207).

Executive Officer Testa noted that annually, the SMGB reviews the Fee Schedule, which is set in statute under PRC 2207, and calculated in a manner consistent with the SMGB's regulations CCR Sections 3698 and 3699. The amount requested by the DOC for Calendar Reporting Year 2013 is \$4,444,287; this amount represents an increase of \$63,784 over the amount requested for Calendar Reporting Year 2012. The annual Fee for 2013 as calculated will increase, and the base fees that are mentioned in statute will be adjusted using a Consumer Price Index (Cost of Living Adjustment; COLA) for 2011 which was about 1.5%. The tables provided are the new fees figures that are



established pursuant to PRC 2207. Funds to be collected in Calendar Year 2012 from set fees described in CCR Sections 3698 and 3699 are estimated to be \$2,774,052, the amount of fees to be collected for the 2013 Calendar Reporting Year are estimated to be \$2,814,318. The SMGB is being asked to accept that the fees have been calculated in accordance with PRC 2208 and the SMGB's regulations.

Board Member Lane moved to accept the 2013 Annual Mine Fee Schedule. Board Member Noushkam seconded and the motion carried with a unanimous voice vote.

5. Re-Adoption of Regulatory Language for Designation, and Termination of Designation, of Mineral Resources Areas of Statewide or Regional Significance for the Palm Springs Production-Consumption Region, County of Riverside, California.

Executive Officer Testa noted that the SMGB, based on recommendations from the State Geologist, considers mineral resource areas to be designated as being of statewide or regional significance. The State Geologist recommended designation of newly classified mineral resource lands, and termination of designation of select mineral resource lands previously designated in the Palm Springs Production-Consumption (P-C) Region, Riverside County. Such recommendations were accepted by the SMGB in April 2008. The SMGB adopted the proposed regulatory language at its December 13, 2012, regular business meeting, amending CCR Section 3550.15 for the designation, and termination of designation, of mineral resources areas for the Palm Springs P-C Region, and directing the Executive Officer to complete the rulemaking. Following adoption by the SMGB, changes in the proposed regulatory language for designation and termination of designation of certain mineral lands within the Palm Springs P-C Region, were made. The SMGB is reconsidering re-adoption of such language prior to approval consideration by OAL.

Board Member Gavric moved to adopt Resolution 2014-03 pertaining to the proposed designations and termination of designations. Board Member Kenline seconded and the motion carried with a unanimous voice vote.

6. Re-Adoption of Regulatory Language for Designation, and Termination of Designation, of Mineral Resources Areas of Statewide or Regional Significance for the San Bernardino Production-Consumption Region, San Bernardino and Riverside Counties, California.

Executive Officer Testa noted that the SMGB, based on recommendations from the State Geologist, considers mineral resource areas to be designated as being of statewide or regional significance. The State Geologist previously recommended designation of newly classified mineral resource lands, and termination of designation of select mineral resource lands previously designated in the San Bernardino Production-Consumption (P-C) Region, San Bernardino and Riverside Counties. Such recommendations were accepted by the SMGB in July 2010. At its February 13, 2012, regular business meeting, the SMGB adopted the proposed regulations amending CCR Section 3550.8 for the designation, and termination of designation, of mineral resources areas for the San Bernardino P-C Region, and directing the Executive Officer to complete the rulemaking. Following adoption by the SMGB, changes in the proposed regulatory language for designation and termination of designation of certain mineral lands within the San Bernardino P-C Region, were made. The SMGB is reconsidering re-adoption of such language prior to approval consideration by OAL.

Board Member Gavric moved to adopt Resolution 2014-04 pertaining to the proposed designations and termination of designation. Board Member Noushkam seconded and the motion carried with a unanimous voice vote.



7. Consideration of the State Mining and Geology Board's Revised Inspection Guidelines. Executive Officer Testa noted that inspection of a surface mining operation is required not less than once each calendar year to determine if the surface mining operation is in compliance with the requirements of PRC Chapter 9, commencing with Section 2710. Inspection Form MRRC-1, as referred to in CCR Section 3504.5(g), was last revised in April 1997. The DOC develops the inspection form; whereas, the SMGB approves the form. On July 11, 2013, the SMGB approved revised Inspection Form MRRC-1. On November 14, 2002, the SMGB adopted *Surface Mine Inspection Guidelines (Guidelines)*. Since approval of revised Inspection Form MRRC-1, an effort to revise the SMGB's *Guidelines* in a manner to be structurally compatible with the revised Inspection Form MRRC-1 was undertaken. Revised *Guidelines* were developed, and was before the Surface Mining Standards Committee for review and comment, prior to such *Guidelines* being considered by the whole SMGB, in February of this year. The draft revised *Guidelines* were developed by SMGB staff with the cooperation of the DOC OMR. The *Guidelines* recognizes that those who conduct surface mine field inspections will have specific professional expertise, but may not be fully knowledgeable in all facets of surface mine inspections, the requirements of the SMARA, and the SMGB's regulations and reclamation standards. The *Guidelines* are intended for use by SMGB and DOC staff in carrying out its responsibilities under PRC Section 2774(b) regarding the inspection of surface mines. The extent to which the *Guidelines* are employed should be at the discretion of the individual inspector in addressing the circumstances particular to each mine site. The SMGB is considering approval of the revised SMGB Inspection Guidelines.

Board Member Kenline moved to approve the SMGB's revised Inspection Guidelines. Board Member Gavric seconded and the motion carried with a unanimous voice vote.

8. Approval of the State Mining and Geology Board's Designation Report No. 12 titled "*Designation of Regionally Significant Aggregate Resources in the San Gabriel Valley Production-Consumption Region.*"

Executive Officer Testa stated that designation is the formal recognition by the SMGB of lands containing mineral resources of regional or statewide economic significance that are needed to meet the demands of the future. On January 1, 2014, regulations set forth by the SMGB for the designation of regionally significant aggregate resources in the San Gabriel Valley Production-Consumption (P-C) Region, Los Angeles County, were enacted. Upon such regulations becoming effective, the SMGB's Report No. 3R titled "*The Designation of Regionally Significant Aggregate Resources in the San Gabriel Valley Production-Consumption Region, Los Angeles County*" was prepared, and being provided to the SMGB for review and consideration prior to approval consideration.

No action taken.

XII. Special Reports and Department Presentations [Possible Action]

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

9. Acceptance of Inspection Reports as Performed and Completed Pursuant to PRC Section 2774(b) for the following Surface Mining Operations:

- Sonora Pit (CA Mine ID No. 91-26-0037), County of Mono
- Long Valley Mineral Mining Site (CA Mine ID No. 91-26-0046), County of Mono
- Hanson Alcatraz, Presidio, Point Knox (CA Mine ID No. 91-38-0001), BCDC, San Francisco
- Hanson Point Knox Shoal (CA Mine ID No. 91-38-0002), BCDC, San Francisco
- Hanson Point Knox South (CA Mine ID No. 91-38-0003), BCDC, San Francisco



- Hanson Alcatraz South (CA Mine ID No. 91-38-0004), BCDC, San Francisco
- Hanson Suisun Bay (CA Mine ID No. 91-38-0005), BCDC, San Francisco
- Hanson Middleground Shoal (CA Mine ID No. 91-38-0006), BCDC, San Francisco
- Jerico Suisun Bay Middleground Shoal (CA Mine ID No. 91-38-0007), BCDC, San Francisco
- Morris Tug and Barge Oyster (CA Mine ID No. 91-38-0011), BCDC, San Francisco
- Priest Grade Pit (CA Mine ID No. 91-55-0008), County of Tuolumne

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

Chairman Gonzalez recognized Erin Garner in regards to an upcoming inspection workshop in Santa Clara County. Mr. Garner stated that as a result of feedback received by OMR from lead agencies, he volunteered to put together the workshop so lead agencies can learn to adequately perform inspections.

XIII. SMGB Committee Reports [Information and Possible Action]

- Geohazards Committee (Chairperson Lane)
 - Chairman Lane summarized the public hearing held on March 12, 2014, in the City of Azusa, to receive comments on the preliminary Alquist-Priolo Earthquake Fault Zones map for the Azusa Quadrangle.
 - Chairman Lane also noted discussion of the need for an Alquist-Priolo Earthquake Fault Zoning Act Model for affected lead agencies.
- Alquist-Priolo Technical Advisory Committee (Executive Officer Testa)
- Minerals and Geologic Resources Committee (Chairperson Kenline)
- Policy and Legislation Committee (Chairperson Kenline)
- Surface Mining and Standards Committee (Chairperson Barry)

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 continuing business was 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:

- Member Gavric requested that AB 1961 be added to the SMGB's listing of pending legislation. This bill notes new priorities for planning and may limit ability to access mineral resources.

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:

- i. 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.
 4. Joe & Yvette Hardesty v. SMGB, & DOES 1-100 Inclusive, Case No. 34-2010-80000594, Sacramento County Superior Court.
 5. Discussion of Superior Court cases, A. Teichert & Son, Inc. v. California State Mining and Geology Board, no. 34-80000528 and Calvert, et al. v. California State Mining and Geology Board, no. 34-2010-80000530.
- ii. Possible Litigation involving the SMGB.
 - iii. Executive Officer Performance Evaluation.

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

Deputy Attorney General Chris Tiedemann announced that the SMGB met in Executive Session and took no action.

XVII. Announcements of Future Meetings

May 8, 2014 was announced as the date of the next meeting, with Sacramento as the location.

XVIII. Adjournment

The meeting was adjourned at 2:00 p.m.

APPROVED

Ignacio Gonzalez, Chairman

Stephen M. Testa, Executive Officer

