



# 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, August 14, 2014**

**9:00 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.

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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 (Gonzalez)**

**II. Pledge of Allegiance**

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

The meeting was called to order at 9:10 A. M. by Chairman Gonzalez, with Members Gavric, Kenline, Kracov and Lane present, and Member Nouskham absent, and a quorum was declared.

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

Director, Mark Nechodom, provided the following:

- Effective August 1 a reorganization of OMR was initiated. OMR will be organized around four units. The reorganization is anticipated to correct inappropriate reporting relationships that were noted during an audit by the State Personnel Board.
- The DOC continues to seek a chief for OMR, and the position should be filled in the near future.
- The current complaint filed with the Fair Political Practice Commission (FPPC) is considered an internal personnel matter.
- The DOC implemented measures to balance the Mine Reclamation Account by holding off on hiring in CGS and OMR, and meetings with the EO will be held on a regular basis to stay current on budgetary matters.

Member Gavric commented on SMGB's staffing levels regarding production of board packet materials, among other needs, and inquired as to whether the reorganization included additional staff for the SMGB. Chief Deputy Jason Marshall briefly explained the process of establishing new positions and Budget Change Proposals (BCPs), and noted that the SMGB would need to find a means for paying for such positions. Member Gavric also inquired about the status of the revised internal procedures document mentioned in the findings from the review panel. Director Nechodom stated it is basically a workflow analysis and reflects changes in the Conservation Administrative Manual (CAM), and that a Policy Review Committee has been implemented to look at each division and clarify policy and workflow.

Member Kenline asked if there were enough qualified candidates for the head of OMR position and whether OMR were still accepting applications.

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

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



- For the first time since the Alquist-Priolo Earthquake Fault Zoning Act was established in 1972, there is a solid funding source (Lieu, SB 1155) which provides \$1.33 million by increasing the permitting fees that come to CGS by 30%.
- The Hazard Section at CGS has been realigned into one program under Tim McCrink, and will incorporate the Alquist-Priolo Earthquake Fault Zoning Act, Seismic Hazards Mapping Act and review of hospital and school sites activities all under one program.
- CGS continues to work on a California-centric earthquake early warning system that incorporates public and private entities into a fast and efficient system. Funding is still being pursued. Implementation and construction of the system is anticipated by January 2016.
- The Ian Campbell Award this year is being awarded to former California State Geologist Dr. James Davis, and the Bruce Bolt award is being awarded to Dr. Tony Shakel with CGS.

Chairman Gonzalez inquired about the schedule for existing and new mapping. Dr. Parrish stated there is a tentative schedule which includes a list of 27 mapping areas, with 6 preliminary maps being released over the next six months.

- Office of Mine Reclamation Report (Parrish) [Information]
- Acting Director of OMR, Dr. John Parrish, announced the following:
- Summarized the reorganization of OMR. An organization chart is not currently available on-line but will be made available to the SMGB in the near future.
  - OMR is scheduled to hold a SMARA workshop in the County of Amador on September 24 and 25, 2014.
  - About 126 surface mining operations characterized as idle and did not applied for SB 108 consideration, and current status is unknown. The respective SMARA lead agency is responsible for following up with non-filers, and some lead agencies have seized the respective financial assurances, and taking steps to commenced reclamation

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

Chairman Gonzalez introduced new SMGB Member Gideon Kracov, who fills the public member position. Mr. Kracov is an environmental attorney with his own firm in Los Angeles, and is a former Los Angeles Deputy City Attorney with a fairly diverse practice, representing environmental non-profits, labor unions, solid waste and recycling industries. Mr. Kracov conducts a significant amount of administrative law, municipal law and CEQA, and a fair amount of litigation. Mr. Kracov is the incoming chair of California State Bar Environmental Law section.

#### **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 has been responsive to this request 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.

**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 Lane mentioned a conversation with Ms. Izzy Martin, Director of The Sierra Fund regarding SMGB vacancies.
- Member Kracov mentioned two phone calls. The first was from Robert Silverstein, attorney for Stop the Hollywood Millennium, and Mark Vargas, Los Angeles resident regarding Agenda Item No. 7, who were both in support of keeping the Argyle and Yucca fault strands on the preliminary map. The second call was from Babak Naficy, lawyer for Margarita Proud, regarding Agenda Item No. 8, who discussed whether the designation action is a CEQA project, and also had questions about how the need and demand for mineral resources are calculated. Mr. Naficy indicated this approval is likely to lead to litigation.
- Member Gavric mentioned discussions with Mark Nechodom and Jason Marshall regarding SMGB vacancies and other SMGB matters.

**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.]

- Jim Williamson, rancher in Siskiyou County, reiterated long-standing issues regarding the Timberhitch Mine, and SB108. Mr Williamson is looking for assistance from the SMGB to do an investigation as to why the mine was allowed to proceed under SB 108. There has been problems at this surface mine for 30 years, and there has not been any production since 2002. It is nothing more than a landfill and environmental hazard. Executive Officer Testa stated that the SMGB has not received the LART report on Siskiyou County from OMR, and thus has not followed up on this matter.
- Chairman Gonzalez stated for clarification that it is not the SMGB that allows things like this to happen, but rather a matter between the lead agency and OMR.
- Tom Ferrero, Manager of what was the Compliance Unit and currently the Engineering Geology Unit in OMR, stated that it was called to his attention that there were some documents submitted to the SMGB which were taken from complaints that are being reviewed by the FPPC and the State Personnel Board, which are the appropriate venue, and not with the SMGB. Mr. Ferrero stated it was a lot of lies and claims that Ferrero had a mine that he did not report, and nobody ever asked such information. Ferrero stated that he severed that relationship before coming to OMR. Also, allegations that he whitewashed a report on the Eagle Mountain Mine is completely incorrect, and he recommended that the Eagle Mountain Mine should not SB 108 sanctions and be allowed to have an Interim Management Plan (IMP). Ferrero also stated that all allegations are an attempt at character assassination and will be resolved by the FPPC and State Personnel Board, and he was confident that none of these complaints will pass the laugh test.



**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, April 10, 2014, Regular Business Meeting.

Deferred.

2. Approval of an Interim Management Plan for the Fredericksburg Gravel Pit (CA Mine ID #91-02-0005), Teichert Materials (Operator), Mr. Michael Smith (Agent), County of Alpine.
3. Approval of a Revised Financial Assurance Cost Estimate for the Timm Mine (CA Mine ID #91-09-0006), Lamplight, Inc. (Operator), Mr. Cole McGowan (Agent), County of El Dorado.
4. Approval of an Interim Management Plan (IMP) for the Timm Mine (CA Mine ID #91-09-0006), Lamplight, Inc. (Operator), Mr. Cole McGowan (Agent), County of El Dorado.
5. Approval of an Amended Reclamation Plan and Adoption of a Mitigated Negative Declaration for the Super Creek Quarry (CA Mine ID #91-33-0003), Painted Hills Mining Company (Operator), Mr. Allan Bankus (Agent), City of Desert Hot Springs.

Board Member Kracov moved to approve Agenda Item Nos. 2 and 5. Board Member Kenline seconded and the motion carried with an unanimous roll call vote.

**X. Continued Business [Action]**

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

No continued business was discussed.

**XI. New Business [Action]**

6. Consideration of Comments and Recommendations on the Preliminary Review Map of Proposed Earthquake Fault Zones of January 8, 2014, Azusa Quadrangle, Los Angeles County.

Executive Officer noted that CGS announced release of the Preliminary Map of Proposed Earthquake Fault Zones on January 8, 2014, for the Azusa Quadrangle. The release of the preliminary map commenced the 90-day public comment period. The SMGB conducted a public hearing on March 12, 2014, to receive comments and hear oral technical discussion. The public comment period ended on April 8, 2014. Upon issuance of the preliminary map on January 8, 2014, the 90-day public comment period commenced and ended on April 8. Of the eleven comments received, one was received on May 7, after the comment period ended. All comments however were considered. Comments focused of Unnamed Fault C, Unnamed Fault D, and placement of the southern boundary of the Sierra Madre Fault Zone. The SMGB is considering forwarding comments and recommendations to the State Geologist for consideration prior to finalization of the Alquist-Priolo Earthquake Fault Zoning Map for the Azusa Quadrangle.





- Mr. Jeff Rulon, developer, stated that the process does not follow the science and they cannot monetize the risk/reward. It is very important science is followed instead of conjecture.
- Mr. Eldon Gath, Consulting Geologist, provided an overview of fault investigations conducted, and stated unequivocally that no Holocene faults were observed or existed in Segments C and D, with only radiocarbon data being new.

Board Member Kenline moved to forward the SMGB's comments and recommendations to the State Geologist. Board Member Lane seconded and the motion carried with an unanimous roll call vote.

7. Consideration of Comments and Recommendations on the Preliminary Review Map of Proposed Earthquake Fault Zones of January 8, 2014, Hollywood Quadrangle, Los Angeles County.

Executive Officer Testa noted that CGS announced release of the Preliminary Map of Proposed Earthquake Fault Zones on January 8, 2014, for the Azusa Quadrangle. The accompanying Fault Evaluation Report (FER) titled "*The Hollywood Fault Zone in the Hollywood 7.5' Quadrangle, Los Angeles County, California*" was released on February 14, 2014. The release of the map commenced the 90-day public comment period. The SMGB conducted a public hearing on March 13, 2014, to receive comments and hear oral technical discussion. Due to the release of the accompanying FER-253 report on February 14, 2014, comments were received up to May 15, 2014. Of the fifteen comments received, one was received after May 15, 2014. However, in preparation of this EO's report, all fifteen comments were reviewed and considered. Of the fifteen comments received eight were related to process, six were related to Segment 2, and one was of a general geological nature. With exception to Segment 2, no other areas depicting preliminary earthquake fault zones are in dispute. In review of the comments received, the primary comments of a technical nature pertain to the Argyle and Yucca strands as shown on the preliminary map, and whether such strands as shown on the preliminary fault map exist. Not available at the time the preliminary map was released was ongoing geological investigations, that continue to this day, and have produced additional information which sheds light on where the Hollywood fault, or associated active strands of this fault system, are not present. As previously mentioned, one comment pertained to the general significance of variation in the thickness of alluvial deposits in relation to the ancestral Los Angeles River Channel. The SMGB is considering forwarding comments and recommendations to the State Geologist for consideration prior to finalization of the Alquist-Priolo Earthquake Fault Zoning Map for the Azusa Quadrangle.

- Mike Reader, provided an overview of investigations conducted on and in the vicinity of the Millinneum Project.
- Mr. Jerry Newman, Liner Law, representing Millennium Partners and Champion Realty, owners of sites 1 and 3, stated that when they began seeking entitlements for the project, the City of Los Angeles asked for an investigation of the site as if it were located within an A-P zone; the conclusion reached at that time was that there was no active faulting in the area. Further studies produced positive evidence that there are no active faults on either site, and no fault at all on the Millennium site. Thus, a request that the preliminary map be revised to reflect no active faults, and that the study zone be moved to areas where active faults may be more likely to be found.
- Danny Aleshire, Liner Law, commented on the law and policies that should govern the mapping of the Argyle and Yucca strands. After exhaustive investigative studies performed by the Group Delta geologists showed no signs of active faulting, the State Geologist has no basis for mapping these two strands on an official earthquake fault zone map, and CGS will have breached its own policies and guidelines for establishing earthquake fault zone maps.



- Mr. John Bowman, representing the Boulevard 6200 project, requested that the portion of the Yucca strand that extends into the Boulevard 6200 project be omitted from the final map, as it is not well defined.
- Dr. Ross Hartlett, Senior Geologist with Lettis Consultants, performed an evaluation of evidence for and against active faulting at the Boulevard 6200 site and found insufficient evidence to map a well-defined Yucca Street fault strand.
- Member Gavric expressed appreciation of Dr. Hartlett's willingness to revise his own maps. Science is an evolving process with the data generated by Group Delta, and hoped that spirit carries over to the conclusion of final maps.
- Mr. David Herbst, with Vectis Strategies, expressed his support of the critical role of the SMGB in making recommendations to the State Geologist and the reason a preliminary map is initially released. With care comes good public policy. There are 1000 people living at the 6200 site, and the process works and process matters.

Board Member Gavric moved to forward the SMGB's comments and recommendations to the State Geologist. Board Member Kracov seconded and the motion carried with an unanimous roll call vote.

8. Adoption of New Regulatory Language for Designation of Mineral Lands within the San Luis Obispo-Santa Barbara Production-Consumption Region, California.

Executive Officer Testa noted that at its December 8, 2011 regular business meeting, the SMGB accepted CGS Special Report 215, a classification report on Portland cement concrete-grade (PCC) aggregate in the San Luis Obispo-Santa Barbara Production-Consumption (P-C) Region. This report updated information previously published by the California Division of Mines and Geology (CDMG; now CGS) as Special Report 162 – *Mineral Land Classification: Portland Cement Concrete Aggregate and Active Mines of All Other Mineral Commodities in the San Luis Obispo-Santa Barbara Production-Consumption Region*. At its March 8, 2012 regular business meeting, the SMGB accepted the State Geologist's recommendations for designation of select mineral resource lands in the San Luis Obispo-Santa Barbara Production-Consumption P-C Region. A chronology of past SMGB actions was provided. At its November 14, 2013, regular business meeting, the SMGB also approved the proposed regulation with changes. Also at the November 14, 2013, regular business meeting, the SMGB determined that the mineral deposits comprising Sector C, and all other Sectors, located within the San Luis Obispo-Santa Barbara P-C Region, California, to be of regional significance, and the SMGB's legal counsel, Mr. Rick Thalhammer, reiterated that designation was not deemed a project under CEQA. Such regulatory language was published in the California Regulatory Notice Register on May 16, 2014 (Register 2014, No. 20-Z), and was available for public comment through June 30, 2014. Written comments were received from the County of San Luis Obispo Department of Planning and Building, and members of the public. The SMGB is considering 1) adoption of the proposed regulatory language, and 2) directing its Executive Officer to compile the rulemaking file for submittal to the Office of Administrative Law (OAL) for approval consideration.

Board Member Gavric moved to adopt the proposed regulatory language. Board Member Lane seconded and the motion carried with an unanimous roll call vote.



9. Adoption of Amended Regulatory Language for Designation, and Termination of Designation, of Mineral Lands within the Stockton-Lodi Production-Consumption Region, San Joaquin and Stanislaus Counties, California.

Executive Officer Testa noted that at its May 10, 2012 regular business meeting, the SMGB accepted CGS Special Report 199, a classification report on Portland cement concrete-grade (PCC) aggregate in the Stockton-Lodi Production-Consumption (P-C) Region. At its September 13, 2012, regular business meeting, the SMGB accepted the State Geologist's recommendations. A chronology of past SMGB actions was provided. At its November 14, 2013, regular business meeting, the SMGB approved the regulatory language for designation and termination of designation of mineral resources of regional significance. Such regulatory language was published in the California Regulatory Notice Register on May 30, 2014 (Register 2014, No. 22-Z), and was available for public comment through July 14, 2014. No comments were received during this 45-day public comment period. The SMGB is considering 1) adoption of the proposed regulatory language, and 2) directing its Executive Officer to compile the rulemaking file for submittal to the Office of Administrative Law (OAL) for approval consideration.

Board Member Kenline moved to adopt the proposed regulatory language. Board Member Lane seconded and the motion carried with an unanimous roll call vote.

10. Approval of Amended Regulatory Language for Designation, and Termination of Designation, of Mineral Lands in the North San Francisco Bay Production – Consumption Region, Sonoma, Napa, Marin, and Southwestern Solano Counties, California.

Executive Officer Testa noted that at its November 14, 2013, regular business meeting, the State Mining and Geology Board (SMGB) accepted California Geological Survey (CGS) Special Report 205, titled *“Update of Mineral Land Classification: Aggregate Materials in the North San Francisco Bay Production-Consumption Region, Sonoma, Napa, Marin, and Southwestern Solano Counties, California.”* This report updated information previously presented in a classification report on Portland cement concrete-grade (PCC) aggregate in the North San Francisco Bay Production-Consumption (P-C) Region first published in 1987. At its March 14, 2014, regular business meeting, the SMGB accepted the State Geologist recommendations for designation, and termination of designation, of select mineral resource lands. A chronology of past SMGB actions was provided. Following acceptance by the SMGB, recommendations from concerned federal, state, and local agencies, educational institutions, civic and public interest organizations, and private interest organizations, and private organizations and individuals, was sought. A public comment period was established which commenced on April 4, 2014, and ended on June 4, 2014. In addition, a public hearing was scheduled in the City of Napa to receive public comment. Comments were received which pertained to Sector BB and CC, with the request that these Sectors be considered for termination of designation. This request dated May 7, 2014, reflected a settlement agreement dated December 13, 2013, between Syar Industries and the Westside Association to Save Agriculture (WASA). This settlement agreement prohibits terrace mining along the west side of the Middle Reach of the Russian River on lands owned by Syar Industries. To protect such lands from future terrace mining by subsequent owners, the settlement agreement required that conservation easements be placed on such properties which prohibits mining. In addition, the Sonoma County Aggregate Resources Management Plan no longer allows terrace mining in the Middle Reach of the Russian River. In correspondence dated May 20, 201, it was noted that *“At the May 14 hearing you clarified that portions of Sector B (B-2a, 2b, 2c, 2d, 4d) were to have their designation terminated due to fact that the resource had been previously depleted by mining. The areas around these locations, however, were not designated for terminated. WASA requests all of the areas shown in Exhibit A-1 to the Conservation Easement recorded March 29, 2011 attached be removed from the*





*list of areas considered as a mineral resource on State maps. This would include not only the depleted areas already designated for termination listed above, but also the areas around these parcels within the easement area. This conservation easement area corresponds to all portions of both Sector B-2 and B-4e south of south of Dry Creek, west of the Russian River and north of Sector C-C."* The SMGB will consider 1) approval of the revised designation, and termination of designation, of mineral lands of regional significance within the North San Francisco Bay P-C Region, and 2) directing the Executive Officer to proceed with rulemaking.

Board Member Lane moved to approve the proposed regulatory language. Board Member Gavric seconded and the motion carried with an unanimous roll call vote.

11. 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."*

Deferred.

12. Approval of the State Mining and Geology Board's Designation Report No. 13 titled *"Designation of Regionally Significant Aggregate Resources in the Palm Springs Production-Consumption Region."*

Deferred.

13. Approval of a Checklist for Review of Mineral Resources Management Policies (MRMP).

Executive Officer Testa noted that the State Geologist is required to classify mineral lands within the State according to a schedule and criteria developed by the SMGB pursuant to PRC Section 2761. This section also requires the SMGB to transmit to local governments information on mineral classified lands received from the State Geologist. Local governments are required to incorporate this mineral information into their general plans within 12 months of receiving the information according to policies adopted by the SMGB pursuant to PRC Section 2762. These SMGB policies are contained in Title 14 CCR Sections 3675 and 3676. PRC Section 2762, also, requires local governments to submit their proposed mineral resource management plans to the SMGB for review and comment. According to SMARA, all lead agencies containing classified or designated lands within their jurisdictions must prepare MRMP, not just those containing active or idle mines. These comprise the MRMP lead agencies. A number of ongoing review program issues involving legal opinions, record keeping, interdepartmental coordination, and improved review tools for staff use became apparent during preparation of SMGB Information Report 1007-03 which also included recommendations. The Committee will eventually work toward adoption of a Model MRMP. Although such action is premature at this time, it is recommended that the Model MRMP once deemed acceptable to the Committee is circulated for public comment to various stakeholders (i.e., California State Association of Counties, League of California Cities, California County Planning Directors Association, and California Construction and Industrial Materials Association, among others). The Committee may also wish to consider establishment of a working group comprised of stakeholders to develop a Model MRMP. Upon receipt of public comment, the Committee can then consider recommending to the whole SMGB adoption of the Model MRMP. In any case, four phases are deemed necessary to move this matter forward: 1) Compliance Checklist for Lead Agencies and SMGB, 2) Compliance Status Determination; 3) MRMP Database Compilation, and 4) Draft a Model MRMP. The SMGB is considering approval of the MRMP Checklist.



Board Member Kenline moved to approve the checklist. Board Member Kracov seconded and the motion carried with an unanimous roll call vote.

14. Consideration of a One-Time Exemption from the Surface Mining and Reclamation Act (SMARA) Pursuant to Public Resources Code Section 2714(f) for the Ford Ranch Quarry #3 (Operator, Lawrence A. Ford Family, LLC.), County of Humboldt.

Executive Officer Testa noted that SMARA allows for a one-time exemption for certain surface mining operations should the SMGB determine the operation to be of an infrequent nature and involve only minor surface disturbances. On July 23, 2014, Craig Newman, representing the Lawrence A. Ford Family LLC, submitted a request for a one-time exemption from SMARA for the Ford Ranch Quarry #3, located in the County of Humboldt (County). The subject site is a surface mining operation under the Surface Mining and Reclamation Act (SMARA) (CA Mine ID #91-12-0066). The site has apparently been infrequently used since its approval as a commercial mine under SMARA, and the operator is requesting an exemption from SMARA for any future, albeit limited use. An overview of past operations and activities was provided. The operator believes that the site is exempt from SMARA based on less than one acre of disturbance and less than one thousand cubic yards per year currently and in consideration of anticipated production. The County believes that since the quarry was issued a Conditional Use Permit (CUP) and approved Reclamation Plan dated April 1995, and that some previously stockpiled rock aggregate material was transported offsite for commercial purposes, the timber harvest exemption per PRC Section 2714(j) could not be applied to the limited operations that involved the rock sales. The subject site operated under PRC 2714(f) before it was permitted under SMARA, and will be operated in the future only for onsite ranch road surfacing uses. It is claimed by the County and operator that no environmental or safety hazards exist, and reversion to "own use" is appropriate. Under certain circumstances, the SMGB has the statutory authority to consider and grant an exemption from SMARA pursuant to PRC Section 2714(f).

Board Member Gavric moved to conditionally approve the one-time exemption request. Board Member Kenline seconded and the motion carried with an unanimous roll call vote.

15. Discussion of 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 State Mining and Geology Board (SMGB) is legislatively mandated to prepare annual reports to the Legislature pursuant to the Surface Mining and Reclamation Act of 1975 SMARA. PRC Section 2710 et seq. requires the SMGB to provide an annual report on actions taken pursuant to SMARA. Specifically, PRC Section 2717(a) states "*The board shall submit to the Legislature on December 1st of each year a report on the actions taken pursuant to this chapter during the preceding fiscal year. The report shall include a statement of the actions, including legislative recommendations, that are necessary to carry out more completely the purposes and requirements of this chapter.*" The Executive Officer is in the process of preparing the SMGB's annual report for 2013-2014. Observations and recommendations will need to be considered by the SMGB; such section is being provided for the SMGB's review and consideration, in/out from the SMGB is being requested. No recommendations are being offered by the Executive Officer at this time.

No action taken.

**[Public Hearing Pertaining to Agenda Item No. 16 to Commence at 1:30 P.M.]**



16. **Public Hearing:** Consideration of the State Mining and Geology Board's Adoption of Findings Pertaining to Whether Western Aggregates, LLC's Current Processing Facilities Constitute a Substantial Change of their Overall Surface Mining Operations as a Whole. Western Aggregates, LLC (CA Mine ID #91-58-0001), Kerry Shapiro (Agent), Western Aggregates, LLC (Operator), Yuba County.

Executive Officer Testa noted that the SMGB is the lead agency pursuant to SMARA for the County of Yuba. On August 6, 2009, the SMGB commenced the special public hearing to determine whether Western Aggregates, LLC. (Western) had vested rights for 4,125 acres, which included its current surface mining operations, located in the Yuba Goldfields. At its public hearing held on September 11, 2009, the SMGB accepted the findings set forth by CGS, and determined that substantial evidence existed that demonstrated Western had vested rights for all Sections with exception to Sections 25, 30, and the southwest corner of Section 34. The SMGB at its February 11, 2010, regular business meeting considered limitations in terms of annual production associated with this determination of vested rights, and determined that no limitations or restrictions on annual production would be imposed. On March 10, 2010, the SMGB adopted findings and determination pursuant to California Code of Regulations (CCR) Article 15, Section 3964. Following the determination of the SMGB in granting vested rights to Western, William and Elfriede Calvert (Calvert) and A. Teichert & Son Inc. (Teichert) brought writs of mandate in Superior Court alleging that the SMGB had abused its discretion in granting vested rights to Western. The Court, in its September 13, 2013, ruling concluded that the SMGB did not err in its determination to grant Western vested rights, but noted that the SMGB's findings did not address whether expansion, relocation or other modifications to Western's facilities effected a substantial change in its operations, and thus remanded to the SMGB to consider and make findings on this one issue. Procedurally, following the Court's remand, both parties, Western and Teichert et al, were requested to provide briefs, and both parties also provided responses to the briefs. These briefs and respective responses, and other pertinent documents were provided in the SMGB's packet. The SMGB will consider adoption of findings on this one issue as requested by the Court.

- Mr. Kerry Shapiro, legal counsel for Western Aggregates, stated that the Court has already made several key rulings pertaining to vested rights. While the focus of Western's operations has moved from place to place, the nature of operations has not changed, nor has the basic equipment. Western's facilities are consolidated into a single area versus the portable dredges and aggregate facilities of its predecessor, and Western's processing footprint is comparable to the pre-1976 footprint, and the crushing and sorting facility is, in fact, smaller than the footprint of a single dredge.
- Jerome B. Falk, Jr., Sean Callagy, representing Teichert, stated that this issue was not about prohibiting mining, but whether normal environmental review standards should be applied. Western's activities overall have sufficiently changed over that of its predecessor so as to require CEQA review.
- Manuel A. Boigues, representing the Calverts and the Yuba Access Coalition, stated that this is not just about Teichert vs. Western, there are individual landowners affected as well. The issue is not whether there has been substantial change, which there has, but whether CEQA review should apply.
- Member Kracov appreciated the professionalism and courtesy shown by counsel on both sides.

Board Member Kenline moved to adopt Corrected Supplemental Finding Nos. 54 and 55 as set forth as Exhibit A of "*Western Aggregates LLC's Proposed Findings on Remanded Matter*" dated April 30, 2014, and additional findings, as set forth in SMGB *Resolution Number 2014-08*. Board Member Gavric seconded and the motion carried with a unanimous roll call vote.



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

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

17. Acceptance of Inspection Report as Performed and Completed Pursuant to PRC Section 2774(b) for the following Surface Mining Operation:

- Big Cut Mine (CA Mine ID No. 91-09-00XX), County of El Dorado

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

**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**

Early October, 2014 was announced as the approximate time of the next scheduled meeting, with Riverside County as the location, with the specific time and location to be announced at a later date.

**XVIII. Adjournment**

The meeting was adjourned at 3:55 p.m.

**APPROVED**

