



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, March 12, 2015

10:00 A.M.

(or immediately following the Policy and Legislation Committee)

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 (Kracov)

II. Pledge of Allegiance

III. Roll Call and Declaration of a Quorum

The meeting was called to order at 10:35 A. M. by Chairman Kracov, with Members Anderson, Gavric, Kenline, Noushkam, and Potter present, and Members Landregan, Lane, and Mendez absent, and a quorum was declared.

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

Director Mark Nechodom, reported on the following:

- Complimented the SMGB on the rapid turnaround of the Strategic Plan, and offered DOC assistance as needed with all four Goals.
- The Lead Agency Review and Assistance (LARA) process is close to being finalized, and should result in better relationships with lead agencies due to a more streamlined process that more closely resembles standard audit practices.

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

Tim McCrink, CGS, reported on the following on behalf of State Geologist Dr. John Parrish:

- CGS is looking forward to the opportunity to present an overview of the California Earthquake Early Warning System at a future meeting of the board's choosing.
- CGS under the Alquist-Priolo Fault Zone program will be releasing four new Fault Evaluation Reports (FER) in June which will cover five quadrangle maps in southern California, and two in northern California. The exact release date is unknown at this time.

Member Noushkam inquired about which quadrangle maps would be released in June, and the order in which they would be released. Mr. McCrink stated that the southern California quadrangles will be Mescal Creek and Mount San Antonio; Indio and Themal Canyon; and Whittier. Northern California will be Emerald Bay and Fallen Leaf Lake.

• Office of Mine Reclamation Report (Perez) [Information]

Assistant Director of OMR, Pat Perez, reported on the following:

- Attendance at the SMARA lead agency workshop in San Bernardino far exceeded expectations, with 60 attendees on day one, and 40-50 on day two. Another workshop will be held in Amador County on April 23-24, and one in central California sometime this summer.



- DOC is co-sponsoring the Sierra Club's 3rd biennial conference on April 20-21 in Sacramento. Director Nechodom and Natural Resources Secretary Laird will deliver keynote speeches.
- OMR has hired a new Environmental Scientist, and has promoted Ian Stevenson to Supervising Senior Engineer. OMR anticipates to be fully staffed by this fall.

Vice Chair Anderson commended Mr. Perez on improving OMR's outreach to lead agencies. Members Noushkam and Gavric expressed an interest in the schedule of upcoming workshops. Member Kenline thanked Mr. Perez and OMR staff for the workshop and found it very helpful.

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

- Recognition of Distinguished Service for Ignacio (Nash) Gonzalez
 - Members Gavric, Kenline, Noushkam and Vice Chair Anderson expressed their appreciation for Mr. Gonzalez's guidance, patience and sense of decorum during some of the more contentious issues before the SMGB.
 - Executive Officer Testa commended Mr. Gonzalez for his service to the SMGB; for being fair and for giving the public a chance to be heard.

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

Executive Officer Testa reported on the following:

- An update of the status of various designation rulemakings was provided noting that the San Luis Obispo-Santa Barbara P-C Region designations packet was completed and had been submitted to the Office of Administrative Law (OAL) on February 17, 2015. The Stockton-Lodi P-C Region rulemaking was completed and awaiting final designation maps from CGS.
- Proposed designation, and termination of designation, for Temescal Valley P-C Region is anticipated to be received from the State Geologist in April or May.
- Designation reports for the San Gabriel and Palm Springs P-C Regions are being finalized but require final proofing and formatting.
- The Amended Reclamation Plan and Final Environmental Impact Report for Western Aggregates, surface mining operation in the County of Yuba are completed and ready for SMGB approval consideration anticipated for the SMGB's next scheduled regular business meeting.
- Review of the County of Riverside's response to the SMGB's 45-Day Notice to Correct Deficiencies issued in November 2014 is underway.
- An overview of the Alquist-Priolo Earthquake Fault Zoning Technical Advisory Committee efforts is scheduled to be provided at the SMGB's next scheduled regular business meeting.

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 reported.

VIII. Public Comment Period [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 Public Comment 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, February 12, 2015, Regular Business Meeting.
 - Member Potter noted the reference to Executive Session should be deleted, as no Executive Session was held. She expressed concern as to whether the minutes accurately reflect what was conducted at the meeting, and inquired as to whether it was appropriate for the minutes to be approved with amendments without coming back to the board. Counsel stated that it was acceptable for the minutes to be approved with noted amendments and kept in the SMGB's office as part of the official record.
 - Vice Chair Anderson stated that the minutes should be amended to reflect the discussion regarding Weber Creek.

Member Potter moved to approve the minutes with the noted amendments. Vice Chair Anderson seconded and the motion carried with a 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]

2. Adoption of 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 made a formal presentation and noted that at its November 14, 2013, regular business meeting, the SMGB accepted 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 in the North San Francisco Bay Production – Consumption Region, Sonoma, Napa, Marin, and Southwestern Solano Counties, California. 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 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. The SMGB will consider 1) adopting the revised designation, and termination of designation, of mineral lands of regional significance within the North San Francisco Bay Production-Consumption Region, California, and 2) direct the Executive Officer to proceed with rulemaking.

- Vice Chair Anderson inquired whether the sectors to be removed from designation were due to urbanization. Executive Officer Testa noted that it was for conservation purposes.

Member Noushkam moved to adopt the resolution and directed the Executive Officer to proceed with rulemaking. Member Kenline seconded and the motion carried with a unanimous roll call vote.

3. Acceptance of the 2014 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 Department of Conservation for Calendar Reporting Year 2014 is \$4,525,820 from \$4,444,287; this amount represents an increase of \$81,533 over the amount requested for Calendar Reporting Year 2013. The annual Fee for 2014 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 1.8%. The tables provided in the staff report are the new fees figures that are established pursuant to PRC 2207. Estimating the funds to be collected in Calendar Year 2013 from set fees described in CCR Sections 3698 and 3699 to be \$2,747,208, the amount of fees to be collected for the 2014 Calendar Reporting Year is \$2,797,279. The SMGB is being asked to accept that the fees have been calculated in accordance with PRC 2208 and the SMGB's regulations.

- Assistant Director Perez provided a brief overview of the process and requested such consideration be continued.

Continued.

4. Approval of the State Mining and Geology Board's Strategic Plan.

Executive Officer Testa noted that the SMGB's Strategic Plan was initially adopted on March 13, 1997, the SMGB's Strategic Plan has been periodically reviewed and re-adopted in November 2000, March 2007, November 2010, and most recently in July 2013. The Plan presents a Mission Statement supported by six Goals. Each of the Goals is sustained by a list of Strategies for achieving those Goals. The Strategies in turn require specific Objectives (tasks) to be performed. Streamlining and revision was discussed in February during the P&L Committee – comments received were incorporated as appropriate. The SMGB will discuss its updated Strategic Plan for approval consideration at its next scheduled regular business meeting.

- Chairman Kracov summarized the changes made to the SMGB's Strategic Plan.
- Member Noushkam offered suggestions for tracking progress and meeting each goal's deadline.



- Member Gavric requested a visual timeline for each goal and its due date, with quarterly review of status.

Member Potter moved to approve the Strategic Plan with the noted amendments. Vice Chair Anderson seconded and the motion carried with a unanimous roll call vote.

5. Review and Establishment of the Board's Committees.

Executive Officer Testa noted that the SMGB appoints committees to assist in its work. Committees are created by a majority affirmative vote of the total authorized membership of the SMGB (i.e., 5 members). Currently, the SMGB has the following four continuing Committees, which were approved at the SMGB's regular business meeting in 2013. The four Committees under consideration are:

- Geohazards
- Minerals & Geologic Resources to be changed to Mineral Conservation & Reclamation
- Policy & Legislation to be changed to Policy & Administration
- Surface Mining Standards to be changed to Board Lead Agency Standards

It was also noted that Committee members are appointed by the SMGB's Chairperson, and serve at the pleasure of the Chairperson. The Chairperson may also serve as an ex-officio member of each committee, and may vote on committee issues. The Bylaws do not limit the committee members' terms, define special requirements, or limit the size of the committees; however, a committee may not constitute a quorum of the SMGB (5 members) including the Chairman, when sitting as ex-officio member.

- Vice Chair Anderson expressed interest in the Mineral Conservation committee.
- Members Potter and Gavric expressed interest in the Geohazards committee.
- Member Noushkam expressed interest in the Lead Agency Standards committee.
- Chairman Kracov outlined his thoughts on committee membership and structure, however, the final decision will be made at a later time.
- Counsel provided a brief explanation of the Bagley-Keene requirements pertaining to committees.

Member Potter moved to accept the changes to the structure and naming of the committees. 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.]

6. Information Report on the Office of Mine Reclamation Lead Agency Review and Assistance (LARA) Program.

Executive Officer Testa noted that the DOC offered to provide an overview of its revised Lead Agency Review and Assistance (LARA) program.

- Assistant Director Perez provided an overview of the revised program including history, purpose, major program elements, and specific revisions to be implemented.
- Member Noushkam inquired about the process for dealing with a lead agency that has improved since review, but not to the level at which they should; Mr. Perez stated that those



issues would have to be dealt with on a situational basis depending on the issue. Member Noushkam also inquired whether there was a way ensure that a lead agency maintains a competent, knowledgeable team to manage the SMARA program; Mr. Perez stated that lead agency staffing levels and budget constraints are a local issue and not under his control; however, OMR would do what it could to provide continuing educational opportunities for lead agencies.

- Member Potter inquired about a unified database accessible by counties, and OMR, to ensure all parties were working from the most current set of documents.

No action taken.

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

- Bear Creek Quarry (CA Mine ID No. 91-09-0001), County of El Dorado
- Diamond Quarry (CA Mine ID No. 91-09-0003), County of El Dorado
- Timm Mine (CA Mine ID No. 91-09-0006), County of El Dorado
- Snows Quarry (CA Mine ID No. 91-09-0012), County of El Dorado
- Sperbeck Quarry (CA Mine ID No. 91-58-0006), County of Yuba
- Wheatland Clay Pit (CA Mine ID No. 91-58-0007), County of Yuba
- Dantoni Pit (CA Mine ID No. 91-58-0011), County of Yuba
- Parks Bar Quarry (CA Mine ID No. 91-58-0013), County of Yuba

Member Kenline moved to accept the inspection reports, with exception to Timm Mine and Wheatland Clay Pit which were deferred. Board Member Noushkam 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 Anderson)
- Policy and Legislation Committee (Chairperson Kracov)
- Surface Mining and Standards Committee (Chairperson Kenline)

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:

- Chairman Kracov inquired about the filing deadline for Form 700s.
- Member Potter asked clarification regarding the reimbursement process.
- Member Kenline inquired about backfill regulations and possibly agendizing for a future meeting.



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.

Note: In addition, the SMGB may consider matters which fall under Government Code Sections 11126(e)(2)(B) and 11126(e)(2)(C).

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

April 9 was announced as the date of the next scheduled meeting, with Sacramento as the location.

XVIII. Adjournment

The meeting was adjourned at 4:00 p.m.

APPROVED



Gideon Kracov, Chairman



Stephen M. Testa, Executive Officer

