



STATE MINING AND GEOLOGY BOARD

DEPARTMENT OF CONSERVATION

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OFFICIAL NOTICE OF PUBLIC MEETING

THE STATE MINING AND GEOLOGY BOARD

Conducted a Regular Business Meeting on:

Thursday, November 10, 2016

9:30 A.M.

LOCATION:

**California State Capitol
Assembly Hearing Room #444
Sacramento, California 95814**

For questions or comments regarding this Agenda, please contact the SMGB office by telephone at (916) 322-1082, or electronically at smbg@conservation.ca.gov. This Notice and associated staff reports can be accessed electronically at the SMGB's web site at: <http://www.consrv.ca.gov/smgb/>.



1. Call to Order (Potter)

2. Pledge of Allegiance

3. Roll Call and Declaration of a Quorum

The meeting was called to order at 9:37 a.m. with Chair Kracov absent, and a quorum was declared.

4. Review of the Agenda (Kracov)

5. Department Reports

- **Director's Report**

Deputy Director, Jason Marshall, reported on the following:

- The budget process continues, and things look good for the proposals put forward.
- They are seeing more crossover between divisions within the department.
- In regards to rulemaking, he encourages the Board to continue the "pre-rulemaking" process as a means of getting input before starting the official rulemaking.

- **State Geologist's Report**

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

- On November 18-19 he will attend the Consortium of Strong Motion Instrumentation (COSMOS) annual meeting in San Francisco.
- CGS will be moving from the Menlo Park campus over the next 6-8 months.
- On December 8-9 CGS will be hosting a fault displacement workshop at the Menlo Park office.

- **Office of Mine Reclamation Report**

Assistant Director, Pat Perez, reported on the following:

- Introduced three new hires in the reporting unit; they have begun interviewing for the remaining two administrative positions.
- The LARA program has begun, and the first two candidates are the City of San Bernardino and the City of Rialto.
- Three pre-rulemaking workshops for the inspection guidelines are scheduled for November 22 in Sacramento; November 30 in Santa Ana; and December 6 in Redding.

6. Chairman's Report (Kracov)

7. Executive Officer's Information Report (Schmidt)

- The report will now be called the SMGB Objectives Workplan, in order to align it with the Strategic Plan.
- Designation Reports and their status are now in a table; report No. 14 has been completed and will come back to the Board for approval.

8. Senior Engineering Geologist's Report (Arcand)

- Focus has pivoted to inspections, with 25 remaining for 2016.
- Working on processing the FACE backlog.

- Working on RFP/RFQ for an on-call CEQA contractor.

9. AGPA SMARA Reform Rulemaking Report (Lash)

- Mr. Lash presented an overview of the progress of the various rulemaking packages.
- The FACE Form rulemaking package is back before the Board today, having addressed the comments presented previously.
- Pre-rulemaking for package #3, Annual Inspections, will begin pending Board approval.

10. Ex-Parte Communication Disclosure

No ex-parte disclosures.

11. Public Comment Period

No public comments.

12. Consent Items

All the items appearing under this section will be acted upon by the SMGB by one motion and without discussion; however, any SMGB 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.

A. Approval of Minutes, October 13, 2016 Regular Business Meeting.

B. Approval of a Revised Financial Assurance Cost Estimate for the Hallwood Plant (CA Mine ID #91-58-0006), Teichert Aggregates (Operator), Michael Smith (Agent), County of Yuba.

C. Approval of a Revised Financial Assurance Cost Estimate for the Parks Bar Quarry (CA Mine ID #91-58-0013), Nordic Industries (Operator), Jens Karlshoej (Agent), County of Yuba. **This item was removed from consent.**

Member Anderson moved to approve the Financial Assurance Cost Estimate with the addition of a line item to cover monitoring surface tension, for a cost of \$4,000 annually. Member Noushkam seconded and the motion carried with a unanimous roll call vote.

D. Approval of a Revised Financial Assurance Cost Estimate for the Marysville Plant (CA Mine ID #91-58-0019), Teichert Aggregates (Operator), Michael Smith (Agent), County of Yuba.

E. Approval of Inspection Reports as Performed and Completed Pursuant to Public Resources Code (PRC) Section 2774(b) for the following Surface Mining Operations:

- Bear Creek Quarry (CA Mine ID #91-09-0001), County of El Dorado.
- Lawyer Pit (CA Mine ID #91-09-0010), County of El Dorado.
- Marin Quarry (CA Mine ID #91-09-0015), County of El Dorado.

Member Anderson moved to approve the consent items. Member Landregan seconded and the motion carried with a roll call vote, with Member Zafir abstaining.

13. Consideration and Approval of Preliminary Rulemaking Package #2, for Financial Assurance Cost Estimate Form (PRC Section 2773.1(a)(4)).

Ian Stevenson with OMR gave a brief presentation on this rulemaking package which addressed previous comments and concerns.

Member Anderson suggested that on page 2 under Wage Rates, “where applicable” be added.

Member Kenline moved to approve the FACE-1 form and instructions and directed staff to initiate rulemaking. Member Noushkam seconded and the motion carried with a unanimous roll call vote.

- 14.** Consideration and Approval of Initiation of Rulemaking Process for Package #3, Annual Inspections (CCR Title 14, Division 2, Chapter 8, Subchapter 1, Article 1, Section 3504.5). Nicholas Lash presented the rulemaking package and the proposed timeline.

Member Lane moved to initiate the pre-rulemaking process. Member Noushkam seconded and the motion carried with Member Anderson voting against.

- 15.** Consideration and Approval of Request for Exemption from SMARA per PRC Section 2714(f) for the Sycamore Road Agricultural Mining Project, Ventura County and consideration of CEQA categorical exemption (CCR Title 14, Chapter 3, Article 18, Sections 15304, 15305). John Hecht with Sespe Consulting presented an overview of the project and the reason for the exemption request.

Member Noushkam moved to approve the exemption request. Member Kenline seconded and the motion carried with a 5-2 roll call vote, with Members Lane and Zafir voting against the motion.

- 16.** Consideration and Approval of SMGB 2017 Meeting Calendar.

Member Landregan moved to adopt the 2017 Meeting Calendar. Member Zafir seconded and the motion carried with a unanimous roll call vote.

17. Special Reports and Presentations

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

- A. Consideration and Possible Action of Draft SMGB 2015-2016 Annual Report under PRC Section 2717.

No Action Taken.

- B. Consideration and Possible Action to update Draft SMGB Strategic Plan.

No Action Taken.

- C. Consideration and Possible Action regarding Executive Officer evaluation process.

Member Noushkam moved to accept the EO Evaluation Process. Member Lane seconded and the motion carried with a unanimous roll vote.

19. SMGB Committee Reports

- Geohazards Committee (Chair Potter)
- Minerals Conservation and Reclamation Committee (Chair Kenline)
- Board Policy and Administration Committee (Chair Landregan)
- Board Lead Agency Standards Committee (Chair Lane)

20. Executive Session (Closed to the Public)

The SMGB will discuss information from its legal counsel on personnel matters and pending litigation and may take appropriate actions based on this information. This session is being held under Government Code, Section 11126.

Possible Items to be discussed:

Pending Litigation to which the SMGB, or its officials, are a party:

- A. Dutra Materials v. SMGB, Chevron Products Company, Real Party in Interest (Contra Costa County Superior Court Case No. N10-0388; First District Court of Appeal Case No. A147277)
- B. Teichert and Sons, Inc. v. SMGB, Western Aggregates, LLC, Real Party in Interest (Sacramento County Superior Court Case No. 34-20108000528; Third District Court of Appeal Case No. C082333)
- C. Joe & Yvette Hardesty v. SMGB (Sacramento County Superior Court Case No. 34-2010-80000594; Third District Court of Appeal Case No. C079617)
- D. Joe & Yvette Hardesty et al. v. SMGB (Sacramento County Superior Court Case No. 34-2012-80001070)
- E. Daniel Tankersly v. Will Arcand et al. (United States District Court, Eastern District of California Case No. 2:10cv-02414-KJMKJN)

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

Deputy Attorney General, Chris Tiedemann, reported that Executive Session was held and no action was taken.

21. Announcements of Future Meetings

January 12, 2017 was announced as the date of the next meeting, with Sacramento as the location.

22. Adjournment

The meeting was adjourned at 4:02 p.m.

APPROVED

Gideon Kracov, Chair

Jeffrey Schmidt, Executive Officer