



Publication Date: Friday, April 7<sup>th</sup>, 2023

# OFFICIAL NOTICE OF PUBLIC MEETING

## THE STATE MINING AND GEOLOGY BOARD

**Will Conduct a Regular Business Meeting on:**

**Thursday, April 20<sup>th</sup>, 2023, at 10:00 a.m.**

**This meeting will be held via video conference and will be recorded.**

To avoid any background noises while the meeting is in session, we ask that you mute your device. To join the meeting, please download the latest version of MS Teams by visiting their website at <https://aka.ms/getteams> or install the MS Teams app on your phone. After installing MS Teams on your device click on the [Microsoft Teams Meeting](#) link to join the meeting (**Meeting ID: 284 909 438 941 and Passcode: kGP6ih**). You may also join us by phone by dialing (916) 318-8892 and entering the Phone Conference ID Number: **472 676 695#**.

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## **PUBLIC MEETING AGENDA**

1. **Call to Order (Sheingold)**
2. **Pledge of Allegiance**
3. **Roll Call and Declaration of a Quorum**
4. **Review of the Agenda (Sheingold)**
5. **Department Reports**
  - Department of Conservation Report (Tiffany)
  - Division of Mine Reclamation Report (Campbell)
  - California Geological Survey Report (TBD)
6. **Chair Report (Sheingold)**
7. **Executive Officer Report (Schmidt)**
8. **Geologist Report (Fry, Jones)**
9. **Board Committee Reports**
  - Policy and Administration (Chair Landregan)
  - Geohazards (Chair Zafir)
  - Mineral Conservation (Chair Anderson)
  - SMARA Compliance (Chair Kenline)
10. **Ex-Parte Communication Disclosure**

Board Members will identify any discussions they may have had requiring disclosure pursuant to Public Resources Code (PRC) Sections 663.1 and 663.2.
11. **Public Comment Period**

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. Speaker testimony is limited to three minutes except by special consent of the Chair.
12. **Consent Items**

All the items appearing under this section will be acted upon by the Board by one motion and without discussion; however, any Board member wishing to discuss any item may request the Chair to remove the item from the Consent Calendar and consider it separately.

  - A. Consideration and Approval of Minutes for the Regular Business Meeting held on:

March 23<sup>rd</sup>, 2023
13. **Regular Business Items**
  - A. Consideration and adoption of the 2022 Annual Mine Fee Schedule pursuant to PRC section 2207.

- B. Consideration and approval of the Garnet Pit's (Mine ID# 91-33-0031) amended reclamation plan.
- C. Consideration and approval of the Board's draft language for proposed regulations pursuant to PRC 2714 (f).

**14. Presentations, Reports, and Informational Items**

- A. Gem Hill Quarry Project (Pozzolan) - Desirea Haggard, P.E., Director of Environmental Affairs, Cement Division, CalPortland

**15. Executive Session (Closed to the Public)**

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

**16. Announcements and Future Meetings**

**17. Adjournment**

# THE STATE MINING AND GEOLOGY BOARD

## **THE BOARD**

The State Mining and Geology Board (Board) serves as a regulatory, policy, and appeals body representing the State's interests in the reclamation of mined lands, geology, geologic and seismologic hazards, and the conservation of mineral resources.

The Board was established in 1885 as the Board of Trustees to oversee the activities of the State Mineralogist and the California Division of Mines and Geology (now the California Geological Survey). It is second oldest Board in California. Today's Board has nine members appointed by the Governor and confirmed by the State Senate, for four-year terms. By statute, Board members must have specific professional backgrounds in geology, mining engineering, environmental protection, groundwater hydrology and rock chemistry, urban planning, landscape architecture, mineral resource conservation, and seismology, with one member representing the general public.

## **Mission Statement**

The mission of the Board is to provide professional expertise and guidance, and to represent the State's interest in the development, utilization, and conservation of mineral resources, the reclamation of mined lands and the development and dissemination of geologic and seismic hazard information to protect the health and welfare of the people of California.

## **STATUTORY AND REGULATORY AUTHORITY**

The Board is an independent entity within the Department of Conservation under the Natural Resources Agency and is granted responsibilities and obligations under the following acts:

### Surface Mining and Reclamation Act of 1975

Under this Act, Public Resources Code Sections 2710 et seq. and its regulations at 14 California Code of Regulations Section 3500 et seq., the Board provides a comprehensive surface mining and reclamation policy to assure that adverse environmental impacts are minimized, and mined lands are reclaimed. SMARA also encourages the production, conservation, and protection of the State's mineral resources.

### Alquist-Priolo Earthquake Fault Zoning Act

Under this Act, Public Resources Code Section 2621 through Section 2630, and its regulations at 14 California Code Regulations Section 3600 et seq., the Board is authorized to represent the State's interests in establishing guidelines and standards for geological and geophysical investigations and reports produced by the California Geological Survey, public sector agencies, and private practitioners. The Board is also authorized to develop specific criteria through regulations to be used by Lead Agencies in complying with the provisions of the Act to protect the health, safety, and welfare of the public.

### Seismic Hazards Mapping Act

Under this Act, Public Resources Code Section 2690 through Section 2699.6 and its regulations at 14 California Code of Regulations Section 3720 et seq. the Board is authorized to provide policy and guidance through regulations for a statewide seismic hazard mapping and technical advisory program to assist cities, counties, and State agencies in fulfilling their responsibilities for protecting the public health and safety from the effects of strong ground shaking, liquefaction or other ground failure, landslides and other seismic hazards caused by earthquakes, including tsunami and seiche threats.

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**State Mining and Geology Board  
715 P Street, MS 1909  
Sacramento, CA 95814**



Agenda Item No. 12A

April 20<sup>th</sup>, 2023

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## Consideration and Approval of Minutes for the March 23, 2023, Regular Business Meeting

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### **INTRODUCTION:**

Approve the Conformed Minutes for the State Mining and Geology Board's March 23<sup>rd</sup>, 2023, Regular Business Meeting.

### **SUGGESTED MOTION:**

*Board Chair and Members, in light of the information before the State Mining and Geology Board today, I move that the Board approve the Conformed Minutes for the March 23<sup>rd</sup>, Regular Business Meeting.*

Respectfully submitted:

A handwritten signature in blue ink, consisting of several loops and a long horizontal stroke.

---

Jeffrey Schmidt,  
Executive Officer



**\*\*\* DRAFT \*\*\***

**CONFORMED MINUTES**

**THE STATE MINING AND  
GEOLOGY BOARD**

**Will Conduct a Regular Business Meeting on:**

**Thursday, March 23<sup>rd</sup>, 2023, at 10:00 a.m.**

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## **PUBLIC MEETING AGENDA**

- 1. Call to Order (Sheingold)**  
Meeting was called to order at 10:01 a.m. by Chair Sheingold.
- 2. Pledge of Allegiance**
- 3. Roll Call and Declaration of a Quorum**  
Roll was called with Members Kappmeyer, Kenline, Landregan, Los Huertos, Zafir and Chair Sheingold present and a quorum was declared. Vice Chair Anderson joined the meeting at 11:29 a.m. during agenda item 13C.
- 4. Review of the Agenda (Sheingold)**  
Chair Sheingold made his general announcements and mentioned that agenda item 13B will be deferred to the next board meeting. Member Kenline announced that he will be recusing himself from agenda item 13A.
- 5. Department Reports**
  - Department of Conservation Report (Jeff Newton, CGS)  
Jeff Newton provided the report for the department. He mentioned that recruitment for the State Geologist is ongoing, and applications have been received. Jeff shared the California Geological Survey's organization chart that showed the division's growth.
  - Division of Mine Reclamation Report (Cameron Campbell, DMR)  
Reporting Unit Manager, April Balestreri reported that the Division of Mine Reclamation is in the process of making changes to their programs, including the addition of the SMARA Technical Unit (STU). April reported that they have 2 in-person Inspection Workshops scheduled, the first one will be in August in Oceanside (San Diego County) and the second will be in November in Sacramento.
  - California Geological Survey Report (TBD)  
Associate State Geologist, Jeremy Lancaster presented a slideshow on the 2023 Statewide Landslide Response and provided a brief program update. Seismic Hazard Program is scheduled to release the preliminary Seismic Hazard Zone and Alquist-Priolo Earthquake Fault zone maps on May 18<sup>th</sup>. The Mineral Resources Program staff is working with SMGB staff to update the Guidelines for Classification and Designation of Mineral Lands. Jeremy provided an update on the new Burned Watershed Geohazards Program staffing, which is being led by Supervising Engineering Geologist, Don Lindsay.
- 6. Chair Report (Sheingold)**  
Chair Sheingold reported that he continues to meet with board staff on a regular basis.
- 7. Executive Officer Report (Schmidt)**  
Executive Officer, Jeffrey Schmidt reported the following:
  - CGS and board staff are working together to update the Mineral Classifications and Designation of Mineral Lands Guidelines. He thanked Fred Guis, Jeff Newton, and Brenda Callen for agreeing to help.
  - Announced the collaboration with California Construction and Industrial Materials Association.
  - Jeffrey mentioned that CalcIMA and the board will be hosting a Speaker Series on mining related issues starting in April.

- Jeffrey informed the board that Mallory and himself are scheduled for UAV Training in April to become licensed drone operators.

#### **8. Geologist Report (Fry, Jones)**

Paul Fry reported the following for Mallory and himself:

- Currently completing the Inspection Reports and Financial Assurance reviews for 2022 inspection cycle. The board oversees 39 mines and are about two thirds of the way through the inspection reports.
- Collaborated with the City of Jurupa Valley, Department of Toxic Substance Control, and Santa Anna Regional Water Quality Control Board to address issues at Pyrite Quarry.
- We continue to work with department staff to complete the Mining Ordinance Guidance Document and anticipate having it ready for review at our April meeting.
- Coordinated with DOC staff and will now be a part of the department's New Employee Orientation (NEO) series moving forward.
- Collaborated with CGS to update the mineral classifications and designation guidelines that are over 20 years old.
- Paul presented at DMR's Mine Inspector Workshop on February 15<sup>th</sup>.
- Finalized the draft language for 2714 (f).

#### **9. Board Committee Reports**

- Policy and Administration (Chair Landregan)  
Chair Landregan reported that a joint Policy and Administrative Committee and SMARA Compliance Committee meeting was held on February 16<sup>th</sup> and discussed climate opportunities in minerals, mining, and reclamation. Chair Landregan mentioned that several local agencies were present, and the meeting was more of a workshop and listening session.
- Geohazards (Chair Zafir)  
Chair Zafir had nothing to report but requested a meeting in April or May.
- Mineral Conservation (Chair Anderson)  
Chair Anderson was unavailable to provide a report.
- SMARA Compliance (Chair Kenline)  
Chair Kenline reported that the SMARA Compliance Committee had a joint meeting with the Policy and Administration Committee on February 16<sup>th</sup>, he mentioned a couple important items that were discussed, and stated that Member Landregan covered the hot topics at the meeting.

#### **10. Ex-Parte Communication Disclosure**

There were no Ex-Parte disclosures.

#### **11. Public Comment Period**

California Mining Organizer, Jared Naimark with Earthworks mentioned that he submitted written comments from Earthworks and the Center for Biological Diversity to the board. His comments are in response to the board's discussion on critical minerals at the February 16<sup>th</sup> meeting.

## **12. Consent Items**

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- A. Consideration and Approval of Minutes for the Regular Business Meeting held on:
  - ❖ Member Landregan motioned, and Member Kenline seconded the approval of the December 15, 2022, minutes. Motion passed with a unanimous roll call vote.

## **13. Regular Business Items**

- A. Consideration and Approval of the Metropolitan Water District's Master Reclamation Plan.
  - Prior to Paul Fry's PowerPoint update on the Metropolitan Water District's Master Reclamation Plan, Member Kenline announced that he is recusing himself from this discussion and would rejoin the meeting after.
    - ❖ Member Los Huertos motioned and Member Landregan seconded approval of the Metropolitan Water District's reclamation plan provided that the links are updated. Motion passed with a unanimous roll call vote.
- B. Consideration and Approval of the Board's draft Mining Ordinance Guidance Document.
  - ❖ Agenda item deferred.
- C. Consideration and Approval of the Board's draft language for proposed regulations pursuant to PRC 2714 (f).
  - Board Members provided feedback and changes to PRC 2714 (f).
    - ❖ Chair Sheingold suggested that board staff consider all feedback and changes to PRC 2714 (f) and bring it back before the board at the next meeting.

## **14. Presentations, Reports, and Informational Items**

There were no Presentations, Reports, or Informational Items.

## **15. Executive Session (Closed to the Public)**

There was no Executive Session.

## **16. Announcements and Future Meetings**

Jeffrey announced that the next board meeting is scheduled for April 20<sup>th</sup>. Member Landregan requested that we follow up on scheduling the next Climate Opportunities meeting and Chair Sheingold mentioned that we also consider setting up a Geohazards meeting.

## **17. Adjournment**

- Member Zafir motioned and Member Kappmeyer seconded adjournment. Chair Sheingold called a unanimous roll call vote and meeting was adjourned at 11:50 a.m.

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**State Mining and Geology Board  
715 P Street, MS 1909  
Sacramento, CA 95814**

Agenda Item No. 13A

April 20, 2023

**Consideration and adoption of the 2022 Annual Mine Fee Schedule pursuant to PRC section 2207.**

**INTRODUCTION:** Public Resources Code (PRC) Section 2207(d) requires the State Mining and Geology Board (Board) to impose, by regulation, an annual reporting fee on, and method for collecting annual fees from each active and idle surface mining operation. Furthermore, the maximum fee for any single mining operation may not exceed ten-thousand dollars (\$10,000) annually and may not be less than one-hundred dollars (\$100) annually. These amounts shall be adjusted for cost of living as measured by the California Price Index (CPI).

**BACKGROUND AND DISCUSSION:** PRC Section 2207(d)(2)(A) states that a schedule of fees shall be adopted to cover the Department of Conservation’s (Department) cost in carrying out the Surface Mining and Reclamation Act of 1975 (SMARA) as reflected in the Governor’s proposed Budget. Additionally, PRC Section 2207(d)(3) outlines the amount of revenue to be generated by the fee schedule. The total revenue generated by the reporting fees may not exceed, and may be less than, the amount of eight million dollars (\$8,000,000). This amount shall be adjusted for the cost of living beginning with the 2017-2018 Fiscal Year (FY) and annually thereafter.

Cost of Living Adjustments (COLA) are addressed in the California Code of Regulation Section 3698 and allow for increases to help maintain adequate funding for the SMARA programs within the Department. The COLA, or rate of inflation, is measured by the CPI. For reporting year 2022, the COLA pushes the maximum fee beyond the statutorily mandated \$10,000 to \$11,751.

Moreover, if the Director of the Department determines that the revenue collected in the preceding FY was greater or less than the cost to implement PRC Section 2207 and SMARA, the Board shall adjust the fees to compensate for the over collection or under collection of revenues.

PRC Section 2207(d)(4)(A) requires the reporting fee revenue be deposited in the Mine Reclamation Account (MRA) for carrying out the provisions of PRC Section 2207 and SMARA. Those provisions include “classification and designation of areas with mineral resources of statewide or regional significance, reclamation plan and financial assurance review, mine inspection, and enforcement.”

The Department’s anticipated needs and projected revenues for the 2023-2024 FY are summarized below:

**MINE RECLAMATION ACCOUNT REVENUE NEEDS:** (rounded to the nearest thousand dollar)

<b><u>FY 2023-2024</u></b>	
\$ 5,632,000	Department of Conservation Budget Request
\$ 141,000	Potential General Salary Increases
\$ 113,000	Other Post Employment Employee Benefits
\$ 72,000	Supplemental Pension Payments
\$ 339,000	Pro Rata (Statewide Overhead)
<b>\$ 6,297,000</b>	<b>Subtotal</b>
\$ 945,000	Reserve for Economic Uncertainties
<b>\$ 7,242,000</b>	<b>TOTAL Revenue Need</b>

**Other Revenue (not from Mine Operator Annual Fees)**

\$ 1,250,000	Beginning Balance as of July 1, 2023 (projection)
\$ 179,000	SMGB Lead Agency Fees (projection)
\$ 45,000	Investment Interest & Penalties (projection)
<b>\$ 1,474,000</b>	<b>Subtotal (other revenue)</b>

**Summary**

\$ 7,242,000	TOTAL Revenue Need
-\$ 1,474,000	Subtotal (other revenue)

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**\$ 5,768,000**

**Mine Reclamation Account Revenue Need for 2023-2024 FY**

The fee schedule calculation considers revenues collected from current and prior years, the revenue needs that the Department is authorized to collect, the amount projected to be collected from those operators expected to be at a fixed fee, and the amount projected to be collected from mine operations subject to the maximum fee amount of \$11,751.

To meet the requirements of PRC Section 2207(d)(2)(A) the proposed 2022 Annual Mine Fee Schedule sets the fee for the highest three tiers of production at the maximum amount of \$11,751 (\$10,000 plus COLA), an increase of \$1,175 from the previous year. This differs from the 2021 Annual Fee Schedule which only had the highest tier subject to the maximum fee within each production category.

The first-tier fee in each production category is proposed to be \$3,226 (Fee Codes D, J, and P), which is an increase of \$2,168 compared to the 2021 fee.

The second-tier fee in each production category is proposed to be \$5,347 (Fee Codes E, K, and Q), which is an increase of \$3,796 compared to the 2021 fee.

The third-tier fee in each production category is proposed to be \$8,226 (Fee Codes F, L, and R), which is an increase of \$4,683 compared to the 2021 fee.

The fourth-tier fee in each production category is proposed to be \$11,751 (Fee Codes G, M, and S), which is an increase of \$5,416 compared to the 2021 fee.

The fifth-tier fee in each production category is proposed to be \$11,751 (Fee Codes H, N, and T), which is an increase of \$2,761 compared to the 2021 fee.

The sixth-tier fee in each production category is proposed to be \$11,751 (Fee Codes I, O, and U), which is an increase of \$1,175 compared to the 2021 fee.

Lastly, for newly permitted and not operational or closed mining operations (Fee Codes A, B, and C) there is a COLA increase of \$17, for a proposed fee of \$168.

Attachments to this report illustrate the fee schedule changes and include (1) the proposed 2022 Annual Fee Schedule and (2) a comparison of the 2021 Annual Fee Schedule versus the proposed 2022 Annual Fee Schedule.

Both attachments can be viewed and download from the following link:

<https://doc.box.com/s/ggbbamhhj3t6un70h0zz156a20ckfpzq>



**EXECUTIVE OFFICER RECOMMENDATION:** Adopt the proposed 2022 Annual Mine Fee Schedule pursuant to PRC section 2207, as discussed and presented today.

**SUGGESTED MOTION:**

*Board Chair and Members, considering the information before the State Mining and Geology Board today, I move that the State Mining and Geology Board adopt the proposed 2022 Annual Mine Fee Schedule pursuant to Public Resources Code Section 2207, as discussed and presented today.*

Respectfully submitted:



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Jeffrey Schmidt,  
Executive Officer

Attachments:

- 1 – Proposed 2022 Annual Fee Schedule
- 2 – 2021 Annual Fee Schedule vs Proposed 2022 Annual Fee Schedule Comparison



Agenda Item No. 13B

April 20, 2023

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## **Consideration and Approval of the Garnet Pit's (CA Mine ID# 91-33-0031) Amended Reclamation Plan.**

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### **INFORMATION AND BACKGROUND:**

Under the Surface Mining and Reclamation Act of 1975 (SMARA, Public Resources Code Section (PRC) 2710 et seq.), a surface mining operation must have a permit, a reclamation plan and financial assurances approved by its respective lead agency.

Granite Construction (Granite) is the operator of the Garnet Pit in Palm Springs, CA. The State Mining and Geology Board (Board) is the SMARA Lead Agency for this operation, as the City of Palm Springs does not have a local mining ordinance.

Granite is proposing to amend their approved reclamation plan. The nature and scope of the reclamation plan amendment (RPA) is described in the RPA submittal letter<sup>1</sup>:

“The proposed RPA makes a single change to the current reclamation plan: the RPA eliminates the current revegetation requirement for the mine floor and interior slopes. This change would achieve two objectives: (1) it would facilitate earlier final closure of the mine; and (2) avoid wasteful effort to establish vegetation that would be destroyed by post-closure inert debris engineered fill operation (“IDEFO”) activities. No other changes are proposed. For clarity, IDEFO activities would be conducted only after the mine is fully reclaimed and closed out of the SMARA regulatory program; the RPA does not propose to conduct IDEFO activities as part of the mine’s reclamation.

With respect to post-mining IDEFO activities, Granite and Chandler Garnet, LLC (“Chandler”) have submitted required documents and obtained the authorizations necessary to operate the site as an IDEFO following its closure, including LEA notification, operations plan, and Waste Discharge Requirements. The City of Palm Springs has also been notified of and concurs with this post-mining use. These documents are attached to this letter for your reference. By properly backfilling the mine with clean inert debris, Granite and Chandler will be able to eliminate the open pit, restore the site to match surrounding topography, and condition the site to serve as habitat for several species, including the endangered fringe-toed lizard.

The proposed RPA is suitable for treatment as an administrative minor amendment under SMARA and the SMGB’s regulations. The RPA would not increase the disturbance area or depth of mining, would not extend the current termination date, would not substantially affect the approved end use, and would not introduce inconsistencies with previously adopted environmental determinations. As noted, the RPA facilitates earlier closure of the mine, and allow the mine to transition to a beneficial IDEFO operation.”

The Board is considering approval of the RPA pursuant to PRC sections 2770, 2772 and 2772.1 and other associated regulations.

### **MRP REVIEW TIMELINE:**

The timeline below summarizes the Board’s review of the RPA:

- August 8, 2022: Granite initially submits the RPA to Board staff for review. Board staff recommended that the RPA submittal include additional documentation for the IDEFO activities conducted at the operation.

- October 26, 2022: Board staff conducted site visit for the purpose of the annual inspection and to review the proposed reclamation plan amendment. Board staff coordinated the site visit with the City of Palm Springs (City) and the California Department of Fish and Wildlife (CDFW) to discuss the proposed reclamation plan amendment. Staff representing both the City and CDFW attended the site visit.
- October 31, 2022: The City submits a letter to the Board indicating that “the City has determined that no additional planning entitlements are required in order for the IDEFO and reclamation efforts to proceed.”
- December 12, 2022: Granite submits to the Board a complete RPA.
- December 23, 2022: Board submits to the Department of Conservation’s Division of Mine Reclamation (DMR) the RPA for review.
- February 21, 2023: DMR provides to the Board correspondence indicating that they reviewed the RPA and will not be commenting on the submittal.
- March 15, 2023: The Board submits to DMR the 30-day notice of intent to approve the RPA during the Board’s April regular business meeting.

**SUPPORTING DOCUMENTATION:**

The reclamation plan amendment and supporting documents are provided for your review and can be accessed here: <https://doc.box.com/s/8re4j51mbeadp5v1jq8cf5q5hbmsljmi>

1. Administrative Minor Reclamation Plan Amendment, Garnet Pit – CA Mine ID 91-33-0031, Second Revised Submittal,” by Everview, dated December 21, 2022.
2. “Garnet Rock Pit, Amended Reclamation Plan, Amendment #3,” by Granite, dated December 2022.
3. “Riverside County Lead Enforcement Agency Notification, CalRecycle Form 169,” dated June 29, 2022.
4. “Inert Debris Engineered Fill Operation Plan for Chandler Garnet LLC, 5400 N. Indian Canyon Drive, Palm Springs, CA”, by Associates Environmental, dated June 27, 2022.
5. “Adopted Waste Discharge Requirements Order R7-2022-0010,” Colorado River Basin Regional Water Quality Control Board, dated June 27, 2022.
6. “Granite Construction-Garnet Pit, Inert Debris Engineer Fill Operations,” by the City of Palm Springs, dated October 31, 2022.
7. “Submittal of Reclamation Plan Amendment #3,” by the Board, date December 23, 2022.
8. “Garnet Pit RPA”, by DMR, dated February 21, 2023.
9. “Notice of Intent to Approve Reclamation Plan Amendment #3,” by the Board, dated March 15, 2023.

**EXECUTIVE OFFICER RECOMMENDATION:** The Executive Officer recommends that the Board approve the reclamation plan amendment for the Garnet Pit.

**SUGGESTED MOTION:**

*Board Chair, in light of the information before the Board today, I move that the Board approve the reclamation plan amendment for the Garnet Pit in accordance with the Surface Mining and Reclamation Act of 1975.*

Respectfully submitted:

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Jeffrey Schmidt,  
Executive Officer



Agenda Item No. 13C

April 20, 2023

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## **Consideration and approval of the Board's draft language for proposed regulations pursuant to PRC 2714 (f)**

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### **BACKGROUND:**

The State Mining and Geology Board (Board) represents the State's interest in the development, utilization, and conservation of the mineral resources of the State and the reclamation of mined lands. The Board determines, establishes, and maintains an adequate surface mining and reclamation policy for the State.

The "(f) exemption" allows the State Mining and Geology Board (Board) to exempt certain surface mining operations from the Surface Mining and Reclamation Act that are of an "infrequent nature" and "involve only minor surface disturbances."

SMARA includes several exemptions for construction, farming, timber, and flood control purposes, amongst others. One of the exemptions in SMARA allows the Board to exempt certain surface mining operations that are of an infrequent nature and that involve only minor surface disturbances.

The Board's authority to determine this exemption has been in the SMARA statutes since it was initially enacted in 1975. Currently, the Board is limited with useful guidance criteria for the (f) exemption process.

As a result, the Board directed staff to develop regulations that clarify and make specific the process the Board would follow to exempt and operation from the SMARA under Public Resource Code section 2714(f).

### **STATUTORY AND REGULATORY AUTHORITY:**

PRC Section 672: The board shall represent the state's interest in the development, utilization, and conservation of the mineral resources of the state and the reclamation of mined lands, as provided by law, and federal matters pertaining to mining, and shall determine, establish, and maintain an adequate surface mining and reclamation policy.

PRC Section 2714(f): This chapter does not apply to any...other surface mining operation that the board determines to be of an infrequent nature and that involve only minor surface disturbances.

PRC Section 2755: The board shall adopt regulations that establish state policy for the reclamation of mined lands in accordance with Article 1 (commencing with Section 2710) of this chapter and pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

PRC Section 2758(c): Such policy shall include objectives and criteria for determining the circumstances, if any, under which the approval of a proposed surface mining operation by a lead agency need not be conditioned on a guarantee assuring reclamation of the mined lands.

PRC Section 2759: The state policy shall be continuously reviewed and may be revised. During the formulation or revision of the policy, the board shall consult with, and carefully evaluate the recommendations of, the supervisor, any district technical advisory committees, concerned federal, state, and local agencies, educational institutions, civic and public interest organizations, and private organizations and individuals.

**DISCUSSION:**

The Board conducted Pre-Rulemaking Workshops on March 24, 2022, and August 18, 2022, to discuss the purpose of the proposed regulatory action and concepts for draft regulatory language. Over 80 persons participated in the Workshops including, Local Lead Agency staff, mine operators, mining industry consultants and association representatives, other State Agency staff, and members of the public. Additional comments from Board members and the public were received during the Board’s regular business meeting on March 23, 2023.

The proposed regulatory language considers the comments received and reflects feedback from stakeholders that require the SMARA Lead Agency is notified of an operator request for an exemption, entail the project proponent file a request for exemption with the Board and supporting information, ensure the Board maintains discretion while determining a potential exemption, define the hearing procedure for the exemption process, and describe the effect of the exemption if approved.

**EXECUTIVE OFFICER RECOMMENDATION:**

Approve the proposed regulatory language text, as discussed today, and direct Board staff to proceed with beginning the formal rulemaking process with the Office of Administrative Law.

**SUGGESTED MOTION:**

*Board Chair, in light of the information before the Board today, I move that the Board approve the proposed regulatory language for the PRC section 2714(f) exemption, and direct Board staff to proceed with beginning the formal rulemaking process with the Office of Administrative Law.*

Respectfully submitted:



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Jeffrey Schmidt,  
Executive Officer

Attachments:

1 –Proposed Regulatory Language for PRC section 2714(f)

**Title 14. Natural Resources**

**Division 2. Department of Conservation**

**Chapter 8. Mining and Geology**

**Subchapter 1. State Mining and Geology Board**

**Article 17. Surface Mining Operations of Infrequent Nature That Involve Minor Surface Disturbances**

**14 CCR § 4050**

**§ 4050 Purpose of Regulations.** The regulations contained in this article set forth the procedures that the State Mining and Geology Board shall use for the determination of exemptions pursuant to Public Resources Code section 2714(f).

**§ 4051 Pre-submittal Consultation.** The State Mining and Geology Board shall consult with the project proponent, the SMARA lead agency with jurisdiction, and the land use lead agency with jurisdiction while considering an exemption requested under Public Resources Code section 2714(f).

**§ 4052 Eligibility for Exemption.** Only a surface mining operation that the State Mining and Geology Board determines to be of an infrequent nature and that involves only minor surface disturbances shall be eligible for the exemption.

**§ 4053 Filing a Request for a Determination of Exemption.** A request for exemption under Public Resources Code section 2714(f) shall be initiated by filing a request for determination of exemption with the State Mining and Geology Board. The request for determination of exemption shall include the following information:

- a) Name, address, telephone number, and email address of the applicant and any agent for contact of service;
- b) Name, address, telephone number, and email address of the subject property owner(s);
- c) Name, address, telephone number, and email address of the mineral rights owner(s);
- d) Name, address, telephone number, and email address of any lessee or lien holder to the surface mining operation;
- e) Name, address, telephone number, and email address for the land use lead agency with jurisdiction;
- f) Name, address, telephone number, and email address for the SMARA lead agency with jurisdiction;
- g) Name, address, telephone number, email address, and California mine identification number for each mining operation located within 60 miles of the proposed surface mining operation;
- h) Name, address, telephone number, and email address of the owners of properties contiguous to the surface mining operation;
- i) A map indicating the location, the latitude and longitude, and the boundaries and the limits of the surface mining operation;
- j) A legal description of such property comprising the surface mining operation, including township and range, metes and bounds, parcel numbers, or other descriptive methods to specifically identify such property;
- k) The land use lead agency permit application and/or the approved permit and conditions of approval for the surface mining operation including California Environmental Quality Act and/or National Environmental Policy Act review documentation prepared for the surface mining operation;

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- l) Copies of any other permits associated with the surface mining operations and a statement regarding the current status of required permits which have not yet been obtained;
- m) Lead agency staff reports concerning the approval or impacts of the project and meeting minutes of any public hearings related to the lead agency's consideration or approval of the permit to conduct the surface mining operation;
- n) The time frame planned for the proposed surface mining operations, including the start date and the estimated schedule of completion;
- o) Approximate volume and the nature and type of material to be removed from the surface mining operation;
- p) Approximate volume of the topsoil proposed to be disturbed by the surface mining operation;
- q) Approximate volume of the overburden proposed to be disturbed by the surface mining operation;
- r) Approximate volume of residual mining waste proposed to remain onsite following the surface mining operation;
- s) Documentation of the funding and insurance to complete restoration of mined lands resulting from the surface mining operation;
- t) Engineered grading plans showing current topography and proposed final elevations of mined lands; and,
- u) A declaration or affidavit attesting to the true and accurate nature of the materials and information provided pursuant to this section.

**§ 4054 Initial Review of a Request for a Determination of Exemption.** The State Mining and Geology Board's Executive Officer shall initially evaluate whether the request for determination of exemption contains the minimum information specified in Section 4053 of this article and shall also determine if the request for exemption is complete within thirty days of receipt of the filing. If the State Mining and Geology Board's Executive Officer determines that the request for exemption does not contain sufficient information to meet the requirements of Section 4053, the request shall be rejected and the deficiencies in the request shall be identified by the State Mining and Geology Board's Executive Officer in written correspondence to the applicant. The applicant shall address the deficiencies and may resubmit the request for a determination of exemption.

**§ 4055 Administrative Record.** The administrative record before the State Mining and Geology Board shall consist of the documents specified in section 4053, State Mining and Geology Board staff reports, related materials other persons may have submitted to the State Mining and Geology Board during its consideration of the request for exemption, and any other materials the staff of the State Mining and Geology Board considered in reviewing the request.

**§ 4056 Public Hearing.** No determination of exemption shall be made by the State Mining and Geology Board without a public hearing and an opportunity for the applicant, the lead agency, any interested persons, and the public to comment. The public hearing shall be held by the State Mining and Geology Board within ninety days of the Executive Officer's determination that the request is complete and, at its discretion, within the county where the exemption is claimed or within the county of the State Mining and Geology Board's offices (County of Sacramento).

**§ 4057 Hearing Procedures.**

(a) The public hearing should proceed in the following manner:

- (1) Review of the Executive Officer's informational report and the administrative record;

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- (2) Statements on behalf of the applicant;
- (3) Statements on behalf of the land use and SMARA lead agency;
- (4) Statements on behalf of the public;
- (5) Rebuttal on behalf of the applicant;
- (6) Rebuttal on behalf of the land use and SMARA lead agency;
- (7) Rebuttal on behalf of the public;

(8) Board deliberations. The Board may ask questions of Board staff, the applicant, the land use and SMARA lead agency and members of the public as part of its deliberations. The State Mining and Geology Board shall upon a motion determine by a vote whether the project is exempt from SMARA pursuant to Public Resources Code section 2714(f). The determination shall identify the specific facts that support or deny the exemption. The Board may also, within its discretion, choose to continue the request to a future Board meeting.

(9) Motion to close the public hearing.

(b) Notwithstanding the above, the Chair of the State Mining and Geology Board, may in the exercise of discretion, determine the order of the proceedings, provide for additional testimony, or provide for additional rebuttal.

(c) The Chair of the State Mining and Geology Board may impose reasonable time limits upon statements and presentations and may accept written statements in lieu of oral statements. Written statements shall be submitted at least five business days prior to the hearing.

**§ 4058 Following the Public Hearing.** Within ten days following the public hearing, the State Mining and Geology Board's Executive Officer shall notify the applicant and the lead agency, by certified mail, of the determination of exemption. Notification of the final determination of the State Mining and Geology Board shall also be posted to the State Mining and Geology Board's website.

**§ 4059 Effect of a Determination of Exemption.** Under Public Resources Code section 2714(f), a determination of exemption by the State Mining and Geology Board exempts a surface mining operation from SMARA (Public Resources Code sections 2710 et. Seq.). The applicant shall notify the State Mining and Geology Board within thirty days of any future modification to the surface mining operation. The State Mining and Geology Board may conduct periodic inspections of the surface mining operation. The State Mining and Geology Board shall notify the operator and the Lead Agency at least five days prior to conducting an inspection of the surface mining operation. If surface mining operations are modified or conducted inconsistent with the submitted documents under 14 California Code of Regulations section 4053, the State Mining and Geology Board may, within its discretion, hold a public hearing to reconsider its prior determination of exemption.

Reference: [Public Resource Code section 2714\(f\)](#)