



Santa Lucia Chapter
P.O. Box 15755
San Luis Obispo, CA 93406
(805) 543-8717
www.santalucia.sierraclub.org

June 30, 2014

Mr. Stephen M. Testa, Executive Officer
State Mining and Geology Board
801 K Street, Suite 2015
Sacramento, California 95814
Phone: (916) 322-1082
Fax: (916) 445-0738
Stephen.Testa@conservation.ca.gov

Comments of the Santa Lucia Chapter of the Sierra Club on Title 14: State Mining and Geology Board Proposed Designation for San Luis Obispo–Santa Barbara Production–Consumption (P–C) Region — Notice File No. Z2014–0506–07.

Dear Mr. Testa,

We note, under CEQA Compliance regarding the proposed action, that “The SMGB has determined that this rule making action is not a project as defined in the California Environmental Quality Act (CEQA) and is exempt from the requirements of CEQA, Title 14, CCR, Section 15061 (b)(3).”

As we pointed out in our letter of Nov. 14, 2013, to the SMGB, and as Mr. Babak Naficy, counsel to The Sierra Club Santa Lucia Chapter and Margarita Proud, outlined in his letter of March 28, 2013, the Board has based its position on the issue of CEQA compliance on incorrect assumptions and inapplicable case law. We assume the Board continues to justify its exemption on the basis of its adoption of Resolution 98-01, which is equivalent to the statement “we’re here because we’re here.” We have not seen, and do not see anywhere in the notice of proposed new regulations for designation, the underlying assumptions that allowed the SMGB to arrive at the conclusions memorialized in Resolution 98-01.

We concur with Santa Margarita Proud in pointing out the multiple reasons why “designation of specific areas as containing mineral deposits of statewide or regional significance is in fact akin to a land use designation and is a discretionary project capable of causing significant adverse environmental impacts.”

But for the designation, there would be no prescriptive element imposing procedural duties on lead agencies.

But for the designation, there would be no underlying regulatory scheme put in place intended to make easier and more likely the approval of surface mining in areas that have been designated, and making more difficult and less likely the approval of projects potentially incompatible with mining.

But for the designation, lead agencies within individual counties so designated would not be required to consider future land use projects in light of the importance to their market region as a whole, not just their importance to the lead agency's area of jurisdiction.

But for the designation, counties would not have a ministerial duty to revise their General Plan to reflect designation.

But for the designation, there would be no potential indirect impacts on the environment via the displacement of non-mining related development to other areas.

We commend the SMGB, prior to its adoption of Resolution 98-01, for its long practice of complying with CEQA and preparing Environmental Impact Reports before designating areas as containing mineral deposits of statewide or regional significance. It should continue to do so, as such a designation does not meet the requirements for exemption from CEQA for the reasons set forth above, and the adoption of Resolution 98-01 is insufficient legal basis for the claim of exemption. The proposed new regulations for designation of mineral lands in the San Luis Obispo –Santa Barbara production–consumption region constitute a “project” under CEQA.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Andrew Christie". The signature is fluid and cursive, with a prominent initial "A" and a stylized "C".

Andrew Christie, Chapter Director