

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE
COUNTY OF GLENN AMENDING PROVISIONS OF THE
GLENN COUNTY CODE RELATING TO SURFACE MINING
AND RECLAMATION

* * *

The Board of Supervisors of the County of Glenn ordains as follows:

SECTION 1. Section 21.04.010 of the Glenn County Code is amended to read:

21.04.010 Authority and purpose.

- A. The Surface Mining and Reclamation Act of 1975, Public Resources Code Section 2710 et seq., (SMARA), authorizes and directs local agencies to adopt ordinances establishing procedures for the review and approval of reclamation plans and the issuance of permits to conduct surface mining operations. The purpose of this chapter is to implement and supplement SMARA, and to that end the Board of Supervisors finds and declares that:
1. The extraction of minerals is essential to the continued economic well-being of Glenn County and to the needs of the society, and that the reclamation of mined lands is necessary to prevent or minimize adverse effects on the environment and to protect the public health and safety.
 2. The reclamation of mined lands as provided in this chapter will permit the continued mining of minerals and will provide for the protection and subsequent beneficial use of the mined and reclaimed land.
 3. Surface mining takes place in diverse areas where the geologic, topographic, climatic, biological, and social conditions are significantly different and that reclamation operations and the specifications therefore may vary accordingly.
- B. It is the intent of the Board of Supervisors to create and maintain an effective and comprehensive surface mining and reclamation policy with regulation of surface mining operations so as to achieve the following:
1. Adverse environmental effects are prevented or minimized and that mined lands are reclaimed to a usable condition which is readily adaptable for alternative land uses.
 2. Production and conservation of minerals are encouraged, while giving consideration to values relating to recreation, watershed, wildlife, range and forage, and aesthetic enjoyment.
 3. Residual hazards to the public health and safety are eliminated.
 4. Surface mining operations that comply with applicable ordinances and policies are recognized and protected.
- C. This chapter shall be reviewed and revised as necessary to promote consistency with state policy, as expressed in SMARA.

SECTION 2. Section 21.04.043 is added to the Glenn County Code, to read:

21.04.043 Director defined.

“Director” means the Director of the Glenn County Resource, Planning and Development Department.

SECTION 3. Section 21.04.065 is added to the Glenn County Code, to read:

21.04.065 Minor modification defined.

“Minor modification” means an amendment to a reclamation plan involving insignificant changes that do not require further review under CEQA.

SECTION 4. Section 21.04.075 of the Glenn County Code is amended to read:

21.04.075 Operator defined.

“Operator” means any person engaged in surface mining operations, himself, or who contracts with others to conduct operations on his behalf, except a person who is engaged in surface mining operations as an employee with wages as his sole compensation. “Operator” also means any person who permits others to conduct surface mining operations on his or her property and who receives a financial benefit therefrom. “Operator” includes any person defined as an operator under “state policy.”

SECTION 5. Section 21.04.082 is added to the Glenn County Code, to read:

21.04.082 Person defined.

“Person” means any individual, firm, association, corporation, organization, or partnership, or any city, district, or other local public agency.

SECTION 6. Section 21.04.200 is added to the Glenn County Code, to read:

21.04.200 Vested mining operations.

A. No person who has obtained a vested right to conduct surface mining operations prior to January 1, 1976, shall be required to secure a use permit pursuant to this chapter as long as the vested right continues and as long as no substantial changes are made in the operation except in accordance with this chapter. A person shall be deemed to have vested rights if, prior to January 1, 1976, he or she has, in good faith and in reliance upon a permit or other authorization, if the permit or other authorization was required, diligently commenced surface mining operations and incurred substantial liabilities for work and materials necessary therefore. Expenses incurred in obtaining the enactment of an ordinance in relation to a particular operation or the issuance of a permit shall not be deemed liabilities for work or materials.

The reclamation plan required to be filed under subdivision (b) of Public Resources Code Section 2770 shall apply to operations conducted after January 1, 1976.

Nothing in this chapter shall be construed as requiring the filing of a reclamation plan for, or the reclamation of, mined lands for surface mining operations conducted prior to January 1, 1976.

- B. Any person with an existing surface mining operation who has vested rights pursuant to Public Resources Code Section 2776 and who does not have an approved reclamation plan shall submit a reclamation plan to the county. If a reclamation plan application was not on file by March 31, 1988, the continuation of the surface mining operation is prohibited until a reclamation plan is submitted to the county. For purposes of this chapter, reclamation plans may consist of all or the appropriate sections of any plans or written agreements previously approved by the county or another agency, together with any additional documents needed to substantially meet the requirements of Public Resources Code Sections 2772 and 2773 and the county surface mining ordinance, provided that all documents which together were proposed to serve as the reclamation plan are submitted for approval to the county in accordance with this chapter.
- C. If a person with vested rights continues surface mining in the same area subsequent to January 1, 1976, he or she shall obtain an approval of a reclamation plan covering the mined lands disturbed by such subsequent surface mining. Where an overlap exists (in the horizontal and/or vertical sense) between pre- and post-SMARA mining, the reclamation plan shall call for reclamation proportional to that disturbance caused by the mining after the effective date of the SMARA.
- D. Any area where surface mining operations have taken place subsequent to January 1, 1976, shall be subject to the requirements for reclamation, even if that area was originally disturbed prior to January 1, 1976.
- E. An operator may request a determination of vested rights for a surface mining operation by submitting an application to the county on a form provided by the director. In addition to the information required by the application form, the application shall include the following information:
1. An aerial photograph of the site taken prior to January 1, 1976, if available, showing the area for which a vested rights determination is requested.
 2. A site map showing the boundary line and acreage of the area for which vested rights are claimed.
 3. Copies of any permits or other authorizations for the subject surface mining operation.
 4. Other documentation to establish that the surface mining operations were diligently commenced and substantial liabilities for work and materials necessary therefore were incurred prior to January 1, 1976.
- F. Vested rights shall be determined by the director based on information presented by the operator to substantiate the vested right. The director shall evaluate the information presented by the operator and shall inform the operator in writing of his or her determination. Such determination may occur in consultation with the planning commission. The decision of the director shall include an approved map or plan showing the extent of vested rights. No public notice is required for this determination.
- G. Prior to acknowledging a vested right, the director shall make the finding that the subject surface mining operation conforms to the standard for vested rights set forth in Public Resources Code Section 2776.
- H. The decision of the director shall be appealable to the planning commission. An appeal of the director's decision shall be filed in the Resource, Planning and Development Department within 10 days of the date of the director's determination. The decision of the planning commission shall be appealable to the board of supervisors. An appeal of the planning commission's decision shall be filed with the clerk of the board of supervisors. Appeals shall be filed within 10 calendar days of the dates of the respective decision.

SECTION 7. Section 21.04.300 of the Glenn County Code is amended to read:

21.04.300 Permit required.

No person shall conduct a surface mining operation, or substantially change an existing or previously approved operation, or expand a surface mining operation beyond the boundaries of any area in which vested rights to mine exist, without first obtaining a conditional use permit from the county for such a surface mining operation. The reclamation plan required by SMARA and this chapter shall be included in each such use permit, and the right to conduct surface mining operations pursuant to the permit is contingent upon the prior filing with the county of adequate financial assurances to secure the completion of the reclamation plan.

SECTION 8. Section 21.04.305 is added to the Glenn County Code, to read:

2.04.305 Reclamation plan standards.

Each reclamation plan shall:

- A. Include measures specified by the county to implement state policy on grading, backfilling, resoiling, revegetation, soil compaction, other reclamation requirements, and measures for soil erosion control, water quality and watershed control, waste disposal, and flood control.
- B. Be applicable to a specific piece of property or properties, shall be based upon the character of the surrounding area and such characteristics of the property as type of overburden, soil stability, topography, geology, climate, stream characteristics, and principal mineral commodities, and shall establish site-specific criteria for evaluating compliance with the approved reclamation plan, including topography, revegetation, and sediment and erosion control.
- C. Be subject to the reclamation performance standards in 14 CCR § 3700 through 3713. These standards shall apply to each mining operation, but only to the extent that they are consistent with the planned or actual subsequent use or uses of the mining site.
- D. Include any additional performance standards developed either in review of individual projects, as warranted, or through the formulation and adoption of countywide performance standards.

SECTION 9. Section 21.04.310 of the Glenn County Code is repealed.

SECTION 10. Section 21.04.310 is added to the Glenn County Code, to read:

21.04.310 Activities excepted.

The provisions of this chapter do not apply to any activities excepted from the application of SMARA pursuant to Public Resources Code Section 2714.

SECTION 11. Section 21.04.400 of the Glenn County Code is amended to read:

21.04.400 Submittal of application.

Application for a conditional use permit for surface mining and approval of a reclamation plan shall be submitted by, or with the written approval of, the landowner, on forms provided by the director. The reclamation plan shall constitute a part of the permit application, and shall include both operations and reclamation proposals.

SECTION 12. Section 21.04.500 of the Glenn County Code is amended to read:

21.04.500 Filing of application.

- A. When all required information related to the application has been submitted to the technical advisory committee together with the fees as adopted by the board of supervisors and checked and found acceptable, the committee shall accept the application as being properly filed.
- B. The committee shall then notify the Department of Conservation of the filing, and shall furnish the department with copies of the application, plan and other related documents, and the committee may request that the department furnish technical assistance in its review of the reclamation plan.
- C. The fees required for determinations under this chapter shall be as adopted by the board of supervisors in the county book of administrative policies and procedures.
- D. Whenever surface mining operations are proposed in the one-hundred-year floodplain for any stream, as shown in Zone A of the Flood Insurance Rate Maps issued by the Federal Emergency Management Agency, and within one mile, upstream or downstream, of any state highway bridge, the resource, planning and development department upon receiving the application for the issuance or renewal of a permit to conduct the surface mining operations shall notify the Department of Transportation that the application has been received. The Department of Transportation shall have a period of not more than forty-five days to review and comment on the proposed surface mining operations with respect to any potential damage to the state highway bridge from the proposed surface mining operations. The planning commission shall not issue or renew the permit until the Department of Transportation has submitted its comments or until forty-five days from the date the application for the permit was submitted, whichever occurs first.

SECTION 13. Section 21.04.510 of the Glenn County Code is repealed.

SECTION 14. Section 21.04.510 is added to the Glenn County Code, to read:

21.04.510 Public hearing.

- A. The application for the conditional use permit shall be processed and approved, conditionally approved, or denied according to the processes prescribed in Chapter 19.20, Conditional Use Permit, of this code.
- B. The decision on a conditional use permit may be appealed according to the process prescribed in Chapter 19.20, Appeals, of this code.
- C. Prior to approving a reclamation plan, the approving body shall find that:
 1. The project has been reviewed pursuant to CEQA and the county's environmental review guidelines, all adverse impacts related to the reclamation plan have been mitigated by the plan or the recommended conditions of approval, and the appropriate environmental determination has been adopted.
 2. The reclamation plan complies with the requirements of SMARA, specifically Public Resources Code Sections 2772 and 2773, and the Reclamation Standards specified in California Code of Regulations, Title 14, Division 2, Chapter 8, Subchapter 1, Article 9, Sections 3700 through 3713.
 3. The reclamation plan has been forwarded to the Department of Conservation pursuant to Section 21.04.740.

4. The reclamation plan complies with the purpose, intent, and requirements of Chapter 21.04, Surface Mining and Reclamation, of the Glenn County Code.
5. The proposed goal of reclamation is consistent with the general plan policies and the zone district for the area.

SECTION 15. Section 21.04.520 of the Glenn County Code is repealed.

SECTION 16. Section 21.04.525 of the Glenn County Code is repealed.

SECTION 17. Section 21.04.600 of the Glenn County Code is repealed.

SECTION 18. Section 21.04.610 of the Glenn County Code is amended to read:

21.04.610 Appeal--Board of supervisors action.

Within ten days of the board of supervisors actions on an appeal related to a site in an area of statewide or regional significance, an aggrieved person may file a written appeal with the State Mining and Geology Board, as provided in the act.

SECTION 19. Section 21.04.700 of the Glenn County Code is repealed.

SECTION 20. Section 21.04.700 is added to the Glenn County Code, to read:

21.04.700 Minor modifications to reclamation plans.

- A. Minor modifications to reclamation plans may be approved by the director without public notice or consultation with the Department of Conservation. A minor modification to a reclamation plan may be approved only if it meets the following standards:
 1. To allow the minor recontouring of final topography effecting no more than ten percent of the site, provided that slope stability is maintained and substantiated;
 2. To allow minor modification or addition of site access including new on-site roads and encroachments directly from the site to a public road, but not including new off-site roads;
 3. To allow a minor substitution in the reclamation plan such as a substitution in the type and/or number of plant species, minor change in topsoil treatment, etc., provided it does not substantially alter the intended end-use described in the approved reclamation plan;
 4. To allow minor technological or administrative changes in methods used to achieve reclamation;
 5. To allow measures to be taken which will ensure or maintain public safety (e.g. fences, gates, signs, or hazard removal), provided such measures do not substantially alter the intended end-use described in the approved reclamation plan;
 6. To allow minor modifications to a previously approved phasing plan.
 7. To allow compliance with the requirements of other public agencies, provided the requirements are not inconsistent with the approved conditional use permit.
 8. A minor modification shall not include changing the end use of the land.
- B. Applications for a minor modification shall be made on a checklist form provided by and filed with the resource, planning and development department.
- C. Prior to approval of a minor modification, the director shall make the following written findings which shall include the reasons for the findings.

1. The minor modification is consistent with the approved conditional use permit and does not represent a significant change to the approved reclamation plan for the subject surface mining operations.
 2. The minor modification is not subject to CEQA.
- D. The director shall approve, conditionally approve, or disapprove an application for a minor modification within 45 days of accepting the application as complete, and give notice by mail of the decision, including any conditions of approval, to the applicant.
- E. The decision of the director regarding a minor modification of a conditional use permit shall be appealable to the planning commission within 5 calendar days of said decision. The decision of the planning commission regarding the appeal shall be appealable to the board of supervisors within 5 calendar days of said decision.
- F. Within 30 days of final action, the director shall send a copy of an approved minor modification to the Department of Conservation.

SECTION 21. Section 21.04.710 of the Glenn County Code is amended to read:

21.04.710 Idle mines.

- A. Within 90 days of a surface mining operation becoming idle, the operator shall submit to the department of resource, planning and development for review and approval, an interim management plan. The review and approval of an interim management plan shall not be considered a project within the meaning of the California Environmental Quality Act.
- B. The approved interim management plan shall be considered an amendment to the surface mining operation's approved reclamation plan, for purposes of this chapter. The interim management plan shall provide measures the operator will implement to maintain the site in compliance with this chapter, including, but not limited to, all permit conditions.
- C. Prior to county approval, interim management plans shall be submitted for review to the Department of Conservation for a 45-day review period.
- D. The director may approve an interim management plan without a public notice or public hearing if the director determines that the interim management plan does not require significant changes to the reclamation plan. The decision of the director shall be appealable to the planning commission within five calendar days of the decision. The decision of the planning commission shall be appealable to the board of supervisors within five calendar days of the decision.
- E. The interim management plan may remain in effect for a period not to exceed five years, at which time the director shall do one of the following:
1. Renew the interim management plan for another period not to exceed five years, if the director finds that the surface mining operator has complied fully with the interim management plan;
 2. Require the surface mining operator to commence reclamation in accordance with its approved reclamation plan.
- F. In any event, financial assurances required shall remain in effect during the period the surface mining operation is idle. If the surface mining operation is still idle after expiration of its interim management plan, the surface mining operation shall commence reclamation in accordance with its approved reclamation plan.
- G. Within 60 days of the receipt of the interim management plan or a longer period mutually agreed upon by the county and the operator, the county shall review and approve the plan in accordance with this chapter and so notify the operator in writing of any deficiencies in

the plan. The operator shall have thirty days, or a longer period mutually agreed upon by the operator and the county, to submit a revised plan. The operator shall have 30 days, or a longer period mutually agreed upon by the operator and the county, to submit a revised plan.

- H. The director shall approve or deny approval of the revised interim management plan within 60 days of receipt. If the director denies approval of the revised interim management plan, the operator may appeal the action to the planning commission which shall schedule a public hearing to be held within 45 days of the filing of the appeal or any longer period mutually agreed upon by the operator and the planning commission. The action of the planning commission may be appealed to the board of supervisors within 10 days of said action.
- I. Unless review of an interim management plan is pending before the director, or an appeal is pending before the planning commission, a surface mining operation which remains idle for over one year after becoming idle as defined in this chapter without obtaining approval of an interim management plan shall be considered abandoned and the operator shall commence and complete reclamation in accordance with the approved reclamation plan.

SECTION 22. Section 21.04.720 of the Glenn County Code is repealed.

SECTION 23. Section 21.04.720 is added to the Glenn County Code, to read:

21.04.720 Financial assurances.

- A. Financial assurances are required to secure performance of the reclamation plan approved for each surface mining operation to which this chapter applies and shall be sufficient to perform reclamation of lands remaining disturbed. Financial assurances determined to substantially meet these requirements shall be approved by the county for purposes of this chapter. Except as specified in Public Resources Code Section 2770(e) or (i), unless the operator has filed on or before January 1, 1994, an appeal pursuant to Public Resources Code Section 2770(e) with regard to non-approval of financial assurances, and that appeal is pending before the State Mining and Geology Board, the continuation of the surface mining operation is prohibited until financial assurances for reclamation are approved by the county.
- B. The county shall require financial assurances of each surface mining operation to ensure reclamation is performed in accordance with the surface mining operation's approved reclamation plan, as follows:
 - 1. Financial assurances may take the form of surety bonds, irrevocable letters of credit, trust funds, or other forms of financial assurances specified by the State Mining and Geology Board pursuant to Public Resources Code Section 2773.1(e), which the county reasonably determines are adequate to perform reclamation in accordance with the surface mining operation's approved reclamation plan.
 - 2. The financial assurances shall remain in effect for the duration of the surface mining operation and any additional period until reclamation is completed.
 - 3. The amount of financial assurances required of a surface mining operation for any one year shall be adjusted annually to account for new lands disturbed by surface mining operations, inflation, and reclamation of lands accomplished in accordance with the approved reclamation plan.
 - 4. The financial assurances shall be made payable to the county and the Department of Conservation. Financial assurances that were approved by the county prior to January

1, 1993, and were made payable to the State Geologist shall be considered payable to the Department of Conservation for purposes of this chapter. However, if a surface mining operation has received approval of its financial assurances from a public agency other than the county, the county shall deem those financial assurances adequate for purposes of this section, or shall credit them toward fulfillment of the financial assurances required by this section, if they are made payable to the public agency, the county, and the Department of Conservation and otherwise meet the requirements of this section. In any event, if the county and one or more public agencies exercise jurisdiction over a surface mining operation, the total amount of financial assurances required by the county and the public agencies for any one year shall not exceed that amount which is necessary to perform reclamation of lands remaining disturbed. For purposes of this paragraph, a "public agency" may include a federal agency.

5. Estimates for financial assurances shall include descriptions of the tasks to be performed, identification of equipment, labor and materials requirements, definition of units costs, total cost per task, total direct cost of reclamation, and administrative costs including costs of supervision, profit and overhead, contingencies and mobilization. Additional required information may include a site plan showing the present limits of the disturbed area to be reclaimed, and other information necessary to verify the estimate. In projecting the costs of financial assurances, it shall be assumed without prejudice or insinuation that the surface mining operation could be abandoned by the operator and, consequently, that the county or state may need to contract with a third-party commercial company for reclamation of the site.
- C. Financial assurances determined not to substantially meet the requirements of Public Resources Code Section 2773.1 shall be returned to the operator within 60 days. The operator has 60 days to revise the financial assurances to address identified deficiencies, at which time the revised financial assurances shall be returned to the county for review and approval.
- D. Prior to county approval, financial assurances shall be forwarded to the Department of Conservation pursuant to Section 21.04.740.
- E. The decision to approve financial assurance estimates and mechanisms shall be made by the director. The financial assurance estimates shall be based on an approved reclamation plan. No public notice or public hearing is required. The decision to approve financial assurance estimates and mechanisms is not subject to CEQA. The director's decision is appealable to the Planning Commission within 10 calendar days of the decision. The decision of the planning commission is appealable to the Board of Supervisors within 10 calendar days of the decision.
- F. Financial assurances shall no longer be required of a surface mining operation, and shall be released, upon written notification by the county, which shall be forwarded to the operator and the Director of the Department of Conservation, that reclamation has been completed in accordance with the approved reclamation plan. If a mining operation is sold or ownership is transferred to another person, the existing financial assurances shall remain in force and shall not be released by the county until new financial assurances are secured from the new owner and have been approved by the county in accordance with Section 2770.
- G. If the county, following a public hearing, determines that the operator is financially incapable of performing reclamation in accordance with its approved reclamation plan, or has abandoned its surface mining operation without commencing reclamation, the director shall do all of the following:

1. Notify the operator by personal service or certified mail that the county intends to take appropriate action to forfeit the financial assurances and specify the reasons for so doing.
2. Allow the operator 60 days to commence or cause the commencement of reclamation in accordance with its approved reclamation plan and require that reclamation be completed within the time limits specified in the approved reclamation plan or some other time period mutually agreed upon by the county and the operator.
3. Proceed to take appropriate action to require forfeiture of the financial assurances if the operator does not substantially comply with paragraph 2, above.
4. Use the proceeds from the forfeited financial assurances to conduct and complete reclamation in accordance with the approved reclamation plan. In no event shall the financial assurances be used for any other purpose. The operator is responsible for the costs of conducting and completing reclamation in accordance with the approved reclamation plan which are in excess of the proceeds from the forfeited financial assurances.

SECTION 24. Section 21.04.730 of the Glenn County Code is amended to read:

21.04.730 Annual reports and inspection.

- A. As a condition of approval of the permit and reclamation plan, a schedule for annual inspections of the site shall be established to evaluate continuing compliance with the permit and reclamation plan.
- B. The resource, planning and development department shall conduct an inspection of a surface mining operation within six months of receipt by the resource, planning and development department of the surface mining operation's report submitted pursuant to this chapter, solely to determine whether the surface mining operation is in compliance with this chapter. In no event shall the resource, planning and development department inspect a surface mining operation less than once in any calendar year.
- C. All inspections shall be conducted using a form developed by the Department of Conservation and approved by the State Mining and Geology Board. The operator shall be solely responsible for the reasonable cost of the inspection.
- D. The resource, planning and development department shall notify the Department of Conservation within thirty days of completion of the inspection that the inspection has been conducted. The notice shall contain a statement regarding the surface mine's compliance with this chapter, shall include a copy of the completed inspection form, and shall specify which aspects of the surface mining operation, if any, are inconsistent with this chapter.
- E. If the surface mining operation has an appeal pending in the case of a surface mining operator with vested rights, a review of existing financial assurances pending, or an appeal pending, the notice shall so indicate.
- F. The resource, planning and development department shall forward to the operator a copy of the notice and any supporting documentation, including, without limitation, any inspection report prepared by the geologist, civil engineer, landscape architect, or forester.

SECTION 25. Section 21.04.740 is added to the Glenn County Code, to read:

21.04.740 State review.

- A. Prior to approving a surface mining operation's use permits, financial assurances, including existing financial assurances reviewed by the county pursuant to subdivision (c) of Public

Resources Code Section 2770, the county shall submit the plan, assurances, or amendments to the Director of the Department of Conservation for review.

- B. The Director of the Department of Conservation shall have 30 days to prepare written comments for use permits and amendments and 45 days for review of financial assurances and amendments, if the Director of the Department of Conservation so chooses. The county shall evaluate written comments received from the Director of the Department of Conservation during the comment period. The county shall prepare a written response describing the disposition of the major issues raised. In particular, when the county's position is at variance with the recommendations and objections raised in the Director of the Department of Conservation's comments, the written response shall address, in detail, why specific comments and suggestions were not accepted. Copies of any written comments received and responses prepared by the county shall be forwarded to the operator.
- C. The county shall notify the Director of the Department of Conservation of the filing of an application for a permit to conduct surface mining operations within 30 days of such an application being filed with the county. By July 1 of each year, the county shall submit to the Director of the Department of Conservation for each active or idle mining operation a copy of any permit or reclamation plan amendments, as applicable, or a statement that there have been no changes during the previous year. Failure to file with the Director of the Department of Conservation the information required under this section shall be cause for action under Public Resources Code Section 2774.4.
- D. Whenever a permit application proposes surface mining operations in the 100-year flood plain for any stream, as shown in Zone A of Flood Insurance Rate Maps issued by the Federal Emergency Management Agency, and within one mile, upstream or downstream, of any state highway bridge, the county shall notify the Department of Transportation that the application has been received. The Department of Transportation shall have a period of not more than 45 days to review and comment on the proposed surface mining operations with respect to any potential damage to the state highway bridge from the proposed surface mining operations. The county shall not issue or renew the permit until the Department of Transportation has submitted its comments or until 45 days from the date the application for the permit was submitted, whichever occurs first.

SECTION 26. Section 21.04.780 is added to the Glenn County Code, to read:

21.04.780 Transferability.

- A. Whenever one operator succeeds to the interest of another in any uncompleted surface mining operation by sale, assignment, transfer, conveyance, exchange, or other means, the successor shall be bound by the provisions of the approved reclamation plan and the provisions of this chapter.
- B. Financial assurances provided by the operator's successor to the county and the Department of Conservation shall have been approved, and the financial assurance mechanism shall be in place prior to the continuation of surface mining operations.

SECTION 27. Section 21.04.800 of the Glenn County Code is amended to read:

21.04.800 Permit revocation.


Following a hearing held pursuant to Chapter 19.20, the commission may revoke a permit on a finding of noncompliance with any term or condition of the permit, this chapter or SMARA.

SECTION 28. The Board of Supervisors finds and determines that substantial evidence does not exist that the action taken hereunder will or may cause a significant effect on the environment.

SECTION 29. This ordinance shall take effect on and after 30 days after its passage, and before the expiration of 15 days after its passage this ordinance, or a summary of it, shall be published once in a newspaper of general circulation in the County of Glenn.


This ordinance was passed by the Board of Supervisors by the following vote on March 18, 1997:

AYES: Supervisors Bungarz, Freeman, Mudd, Harris and Hansen (Chairman)
NOES: None
ABSENT OR ABSTAIN: None.



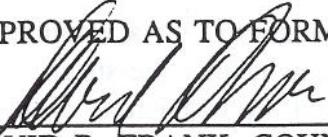
CHAIRMAN, Board of Supervisors
Glenn County, California

ATTEST:



CAROLYN DAVIS, COUNTY CLERK-RECORDER
and ex officio Clerk, Board of Supervisors,
Glenn County, California

APPROVED AS TO FORM:

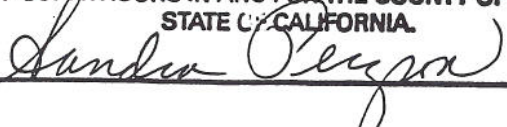


DAVID R. FRANK, COUNTY COUNSEL
Glenn County, California

THE FOREGOING INSTRUMENT IS A CORRECT COPY
OF THE ORIGINAL ON FILE IN THIS OFFICE.

ATTEST: March 31 19 97

CAROLYN DAVIS
COUNTY CLERK AND EX-OFFICIO CLERK OF THE BOARD
OF SUPERVISORS IN AND FOR THE COUNTY OF GLENN,
STATE OF CALIFORNIA.

By 

DEPUTY

ORDINANCE NO. 1171

* * *

AN URGENCY ORDINANCE BY THE BOARD OF SUPERVISORS
OF THE COUNTY OF GLENN AMENDING TITLE 21,
CHAPTER 21.04, SURFACE MINING AND RECLAMATION
BY ADDING SECTION 21.04.600 AND
AMENDING 21.04.610 OF THE GLENN COUNTY CODE
TO TAKE EFFECT IMMEDIATELY

The Board of Supervisors of the County of Glenn Make the Following Findings in Support of the Adoption of this Urgency Ordinance as Follows:

SECTION I: The Board of Supervisors finds these amendments to an ordinance of the County of Glenn is adopted as an Urgency Ordinance pursuant to California Government Code Sections 25123 and 25131 and that Government Code Section 25123 requires that an Urgency Ordinance shall be passed by a four-fifths vote of the Board of Supervisors, and

SECTION II: The Board of Supervisors finds that these amendments to Glenn County Code, Title 21, Chapter 21.04, *Surface Mining and Reclamation*, are necessary and required for the immediate preservation of the public peace, health, or safety because unless the additional section is adopted there is no procedure to guide the holding of an appeal hearing of a planning commission decision to the Board of Supervisors under Chapter 21.04; and

SECTION III: The Board of Supervisors finds there is no reference in Glenn County Code, Title 21, Chapter 21.04, *Surface Mining and Reclamation*, which would direct the County to follow appeal procedures contained in another Glenn County Code Chapter or subsection or the Administrative Manual; and

SECTION IV: The Board of Supervisors finds that unless the addition and clarification are adopted as an addition to and amendment of Chapter 21.04, neither the county, the an appellant and/or an respondent have a clear, fair, and equitable process to follow in preparing for, holding or participating in an appeal hearing before the Board of Supervisors; and

SECTION V: The Board of Supervisors finds that the Administrative Manual, Title 3- *Conduct of Public Hearings and Appeals Therefrom*, Chapter 3.02- *Procedural Rules*, Chapter 3.04- *Hearing Rules*, Chapter 3.06- *Appeal Rules*, Chapter 3.08- *Magnetic Tapes* is outdated and against current public policy as it directs Glenn County's boards, commissions

and committees to conduct hearings and appeals pursuant to procedures that treat the appellant and respondent like parties to a lawsuit, requires members of boards, commissions and committees to file affidavits under penalty of perjury if challenged and mandate other procedural requirements that are only appropriate in a civil trial, and not appropriate for a hearing or appeal hearing before an elected or appointed public body. Many of the procedural requirements contained in Title 3 have been eliminated or prohibited by passage of subsequent statutes, decisions rendered by later case law or clarifications set forth Attorney General Opinions, since these chapters were originally adopted, at a time when the County Clerk also served as the Clerk of the Court; and

SECTION VI: The Board of Supervisors finds that the Administrative Manual, Title 3- *Conduct of Public Hearings and Appeals Therefrom*, Chapter 3.02- *Procedural Rules*; Chapter 3.04- *Hearing Rules*; Chapter 3.06- *Appeal Rules*; Chapter 3.08- *Magnetic Tapes* are outdated, and places an unfair procedural burden on the applicant and the public, and in terms of an appeal proceeding, places an unfair procedural burden on the applicant and the appellant. The Board further finds Title 3 as currently written does not encourage participation in the hearing or appeal process.

Therefore, the Board of Supervisors of Glenn County of the State of California, ordains that Section 21.04.600 be added to Title 21, Public Resources; Chapter 21.04.; entitled "*Surface Mining and Reclamation*" as follows:

21.04.600 Appeal of Planning Commission Action.

- A. Any aggrieved person or entity adversely affected by a formal action under the "Surface Mining and Reclamation Act" (SMARA) of the Glenn County Planning Commission, may appeal such action by filing a written notice thereof with the Clerk of the Board of Supervisors within ten (10) calendar days after the action of the Planning Commission.
- B. Within thirty calendar days from the date of filing the appeal, the clerk of the board shall schedule the date for the hearing.
- C. The hearing shall be held within sixty calendar days from the date of filing the appeal. Notice of hearing shall be given as required by the California Government Code.
 1. The board of supervisors may continue such hearing for one additional meeting, to be held within thirty days, any further continuances shall be with the consent of the appellant.
- D. The board of supervisors shall hear the matter de novo (a new hearing);
 1. The written documents relied on by the planning commission to take the action

and the minutes of the hearing(s) before the planning commission shall be a part of the board's record at the appeal hearing on the matter.

2. As part of the hearing de novo the Board shall hear such additional relevant evidence as may be offered.

E. Appeal Hearing - Procedure and Order of Presentation

1. Staff Report(s)
2. Open the Public Hearing on the matter.
 - (a) Appellant's Presentation.
 - (b) Respondent's Presentation.
 - (c) Additional Public Testimony in favor of the appeal.
 - (d) Additional Public Testimony opposed to the appeal.
 - (e) Respondent's Rebuttal (if any).
 - (f) Appellant's Rebuttal (if any).
 - (g) Close the Public Hearing.
 - (h) Discussion of the matter by the Board of Supervisors.

F. Decision of the Board of Supervisors.

1. Affirm, reverse or modify, in whole or in part, the order, requirement, decision, recommendation, interpretation, or ruling of the planning commission appealed from, or make and substitute such other or additional decision(s) or determination(s) as it may find warranted under the laws and facts as follows:
 - (a) Ask the staff to prepare written findings for the board to adopt at the next regularly scheduled Board Meeting setting forth the reasons for their decision sustaining, reversing or modifying the decision of the planning commission; or
 - (b) May adopt a motion as a result of the hearing which is recorded in the minutes and may incorporate by reference all or part of the proposed findings in the staff report which the board relied on to reach their

decision; and the Clerk of the Board shall transmit a copy of the decision to the appellant and the applicant, if different than the appellant.

Therefore, the Board of Supervisors of Glenn County of the State of California, ordains that the "title" of Section 21.04.610 be amended as follows:


21.04.610 Appeal from Action of the Board of Supervisors. Appeal- Board of Supervisors action.

THE FOREGOING ORDINANCE was introduced and adopted at a regular meeting of the Board of Supervisors on March 15, 2004 by the following vote:

AYES: Supervisors Bungarz, Freeman, McGowan, and Amaro (Chairman)

NOES: None

ABSENT OR ABSTAIN: Supervisor Hansen (Absent)


CHAIRMAN, Board of Supervisors
Glenn County, California

ATTEST:


VINCE T. MINTO, COUNTY CLERK
and ex officio Clerk, Board of Supervisors
Glenn County, California

APPROVED AS TO FORM:


BELINDA BLACKETER, COUNTY COUNSEL
Glenn County, California

THE FOREGOING INSTRUMENT IS A CORRECT COPY
OF THE ORIGINAL ON FILE IN THIS OFFICE.

ATTEST: April 5, 2005

VINCE T. MINTO

4 COUNTY CLERK AND EX-OFFICIO CLERK OF THE BOARD
OF SUPERVISORS IN AND FOR THE COUNTY OF GLENN,
STATE OF CALIFORNIA

By Jandy Smith, Asst.
DEPUTY