

ORDINANCE NUMBER SCC 95-6

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SHASTA TO REPEAL SHASTA COUNTY CODE CHAPTER 18.04 AS ADOPTED BY ORDINANCE 494-213 AND RECODIFIED BY ORDINANCE NUMBER 90-1, AND TO ADOPT A REVISED SHASTA COUNTY CODE CHAPTER 18.04

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

SECTION 1. The existing Shasta County Code Chapter 18.04, as originally adopted under Shasta County Code Sections Number 4950 through 4962, by Ordinance Number 494-213, effective July 30, 1981, and recodified as Sections 18.04.010 through 18.04.130 by Ordinance Number 90-1, effective May 23, 1990, is repealed in its entirety.

SECTION 2. A revised Shasta County Code Chapter 18.04 is adopted to read as follows:

Chapter 18.04

SURFACE MINING AND RECLAMATION

Sections:

- 18.04.010 Purpose and Intent
- 18.04.020 Applicability and Exemptions
- 18.04.030 Definitions
- 18.04.040 Incorporation of SMARA and other State Regulations
- 18.04.050 Mineral Resource Management Policies
- 18.04.060 Vested Mining Operations
- 18.04.070 Use Permits
- 18.04.080 Reclamation Plans
- 18.04.090 Minor Modifications to Reclamation Plans
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- 18.04.110 Interim Management Plans
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18.04.010 Purpose and Intent

A. The purpose of this chapter is to implement and supplement the Surface Mining And Reclamation Act (SMARA) (Public Resources Code Section 2710 et seq.) 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 the 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. (PRC § 2774 (a))

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 assure that:

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. The 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. (PRC § 2711 and 2712)
4. Surface mining operations that comply with applicable ordinances and policies are recognized and protected.

18.04.020 Applicability and Exemptions

A. This chapter shall apply to all surface mining operations in Shasta County, except as exempted in Section B.

B. This chapter does not apply to any of the following activities:

1. Excavations or grading conducted for farming or on-site construction or for the purpose of restoring land following a flood or natural disaster.

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2. On-site excavation and on-site earthmoving activities which are an integral and necessary part of a construction project that are undertaken to prepare a site for construction of structures, landscaping, or other land improvements, including the related excavation, grading, compaction, or the creation of fills, road cuts, and embankments, whether or not surplus materials are exported from the site, subject to all of the following conditions:
 - a. All required permits for the construction, landscaping, or related land improvements have been approved by the County in accordance with applicable provisions of state law and County adopted plans and ordinances, including, but not limited to the California Environmental Quality Act (CEQA).
 - b. The County's approval of the construction project included consideration of the on-site excavation and on-site earthmoving activities pursuant to CEQA.
 - c. The approved construction project is consistent with the general plan or zoning of the site.
 - d. Surplus materials shall not be exported from the site unless and until actual construction work has commenced and shall cease if it is determined that construction activities have terminated, have been indefinitely suspended, or are no longer being actively pursued.
3. Operation of a plant site used for mineral processing, including associated on-site structures, equipment, machines, tools, or other materials, including the on-site stockpiling and on-site recovery of mined materials, subject to all of the following conditions:
 - a. The plant site is located on lands designated for industrial uses in the general plan.
 - b. The plant site is located on lands zoned industrial.
 - c. None of the minerals being processed are being extracted on-site.
 - d. All reclamation work has been completed pursuant to the approved reclamation plan for any mineral extraction activities that occurred on-site after January 1, 1976.
4. Prospecting for, or the extraction of, minerals for commercial purposes and the removal of overburden in total amounts of less than 1,000 cubic yards in any one location of one acre or less.
5. Surface mining operations that are required by federal law in order to protect a mining claim, if those operations are conducted solely for that purpose.

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6. Any other surface mining operations that the State Mining and Geology Board determines to be of an infrequent nature and which involve only minor surface disturbances.
7. Surface mining operations and emergency excavations or grading conducted by the Department of Water Resources or the Reclamation Board as specified in PRC Sections 2714 (h) and (i). (PRC § 2714)
8. In addition to the exemptions listed above, any surface mining operation that does not involve either the removal of a total of more than 1000 cubic yards of minerals, ores, and overburden, or involve more than one acre in any one location, shall be exempt from the provisions of this chapter. (14 CCR § 3505 (a))
9. An exemption under this ordinance does not automatically exempt a project or activity from the application of other regulations, ordinances or policies of the County, including, but not limited to, application of CEQA (Public Resources Code Sections 21000 et seq.), the requirement of use permits or other permits, or the payment of development impact fees or the imposition of other deductions and exactions as may be permitted under the law.

18.04.030 Definitions

"CEQA" means the California Environmental Quality Act, Public Resources Code Section 21000 et seq.

"CCR" means the California Code of Regulations.

"Compatible land use" means land uses inherently compatible with mining and/or that require a minimum public or private investment in structures, land improvements, and which may allow mining because of the relative economic value of the land and its improvements. Examples of such uses may include, but shall not be limited to, very low density residential, geographically extensive but low impact industrial, recreational, agricultural, silvicultural, grazing, and open space. (14 CCR § 3675) Compatible land uses also include uses that are compatible with the permitted uses and uses requiring a use permit in the Mineral Resource (MR) District, Shasta County Code Chapter 17.12.

"County" means the County of Shasta, State of California.

"Farming" means Agriculture as defined in Section 17.02.055 of the Shasta County Code.

"Idle" means to curtail for a period of one year or more surface mining operations by more than 90 percent of the operation's previous maximum annual mineral production, with the intent to resume those surface mining operations at a future date. (PRC § 2727.1)

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"Incompatible land use" means land uses inherently incompatible with mining and/or that require public or private investment in structures, land improvements and landscaping and that may prevent mining because of the greater economic value of the land and its improvements. Examples of such uses may include, but shall not be limited to, high density residential, low density residential with high unit value, public facilities, geographically limited but impact intensive industrial and commercial. (14 CCR § 3675) Incompatible land uses also include uses that are incompatible with the permitted uses or incompatible with the uses requiring a use permit in the Mineral Resource (MR) District, Shasta County Code Chapter 17.12.

"Lead Agency" The County of Shasta is defined as the lead agency for the purposes of this chapter, and has the primary responsibility for enforcing SMARA (PRC 2774.1(f))

"Mined lands" includes the surface, subsurface, and groundwater of an area in which surface mining operations will be, are being, or have been conducted, including private ways and roads appurtenant to any such area, land excavations, workings, mining waste, and areas in which structures, facilities, equipment, machines, tools, or other materials or property which result from, or are used in, surface mining operations are located. (PRC § 2729)

"Mineral" means any naturally occurring chemical element or compound, or groups of elements and compounds, formed from inorganic processes and organic substances, including, but not limited to, coal, peat, and bituminous rock, but excluding geothermal resources, natural gas, and petroleum. (14 CCR § 3501). For the purpose of this Chapter, minerals shall also include, but not be limited to sand, gravel, aggregate, cinders, diatomaceous earth, shale, limestone, flagstone, decorative stone, and rip-rap.

"Mining waste" includes the residual of soil, rock, mineral, liquid, vegetation, equipment, machines, tools, or other materials or property directly resulting from, or displaced by, surface mining operations. (PRC § 2730)

"Minor modification" means a minor revision of a reclamation plan that is either not a "project", or if a project, is one that is ministerial, presents no possible significant environmental effects, or is statutorily or categorically exempt, pursuant to CEQA.

"On-site construction" means a construction activity authorized by a County building permit or grading permit, located on the same parcel as the excavation or grading.

"Operator" means any person who is engaged in surface mining operations, himself or herself, or who contracts with others to conduct operations on his or her behalf, except a person who is engaged in surface mining operations as an employee with wages as his or her sole compensation. (PRC § 2731) 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.

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"Overburden" means soil, rock, or other materials that lie above a natural mineral deposit or in between mineral deposits, before or after their removal by surface mining operations. (PRC § 2732)

"Permit" means any authorization from, or approval by, the County, the absence of which would preclude surface mining operations. (PRC § 2732.5)

"Person" means any individual, firm, association, corporation, organization, or partnership, or any city, county, district, of the state or any department or agency thereof. (14 CCR § 3501)

"PRC" means the State of California Public Resources Code.

"Reclamation" means the combined process of land treatment that minimizes water degradation, air pollution, damage to aquatic or wildlife habitat, flooding, erosion, and other adverse effects from surface mining operations, including adverse surface effects incidental to underground mines, so that mined lands are reclaimed to a usable condition which is readily adaptable for alternate land uses and create no danger to public health or safety. The process may extend to affected lands surrounding mined lands, and may require backfilling, grading, re-soiling, revegetation, soil compaction, stabilization, or other measures. (PRC § 2733)

"SMARA" means the Surface Mining and Reclamation Act of 1975 and subsequent amendments, Public Resources Code Section 2710 et seq.

"Surface mining operations" means all, or any part of, the process involved in the mining of minerals on mined lands by removing overburden and mining directly from the mineral deposits, open-pit mining of minerals naturally exposed, mining by the auger method, dredging and quarrying, or surface work incident to an underground mine. Surface mining operations shall include, but are not limited to:

1. In-place distillation or retorting or leaching.
2. The production and disposal of mining waste.
3. Prospecting and exploratory activities. (PRC § 2735)

Surface mining operations shall also include the creation of borrow pits, stream bed skimming, segregation and stockpiling of mined materials (and recovery of same). (14 CCR § 3501)

18.04.040 Incorporation of SMARA and other State Regulations

The provisions of the California Surface Mining and Reclamation Act of 1975 (Public Resources Code, Division 2, Chapter 9, Section 2710 et seq.), Public Resources Code, Division 2, Chapter 9, Section 2207, and the California Code of Regulations implementing the act (CCR Title 14, Division 2, Chapter 8, Subchapter 1, Article 1, Article 6, Sections 3675 and 3676, Article 9 and Article 11) as those provisions may

be amended from time to time, are made a part of this Chapter by reference with the same force and effect as if the provisions therein were specifically and fully set out herein, excepting that when the provisions of this Chapter are more restrictive than conflicting state provisions, this Chapter shall prevail.

18.04.050 Mineral Resource Management Policies

- A. Public Resources Code Sections 2762, 2763 and 2764 and Chapter 14 California Code of Regulations Section 3676, and subsequent amendments regarding mineral classification studies and general plan mineral resource management policies are incorporated into this Division.
- B. Upon the request of an operator or other interested person and payment by the requesting person of the estimated cost of processing the request, the County having jurisdiction shall amend its general plan, or prepare a new specific plan or amend any applicable specific plan, that shall, with respect to the continuation of the existing surface mining operation for which the request is made, plan for future land uses in the vicinity of, and access routes serving, the surface mining operation in light of the importance of the minerals to their market region as a whole, and not just their importance to the County's area of jurisdiction. (PRC 2764 (a)).

18.04.060 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 PRC Section 2770, shall apply to operations conducted after January 1, 1976, or to be conducted.

Nothing in this chapter shall be construed as requiring the filing of a reclamation plan for, or the reclamation of, mined lands on which surface mining operations were conducted prior to January 1, 1976. (PRC § 2776).

- B. Any person with an existing surface mining operation who has vested rights pursuant to PRC 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

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documents needed to substantially meet the requirements of PRC 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. (PRC § 2770 (b))

- C. Where 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. In those cases 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. (14 CCR § 3505 (b)).
- 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 forms provided by the Planning Division. In addition to the information required on the Planning Division master application form, the application for determination of vested rights 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 horizontal boundaries and acreage of the area for which the determination of vested rights is requested.
 - 3. Copies of any permits and/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.
- F. The horizontal boundaries of the vested rights shall be determined by the Planning Director based on information presented by the operator to substantiate the vested right. The Planning Director shall evaluate the information presented by the operator. Additional information may be requested by the Planning Director if he or she determines it is needed to evaluate the possible vested rights. The Planning Director shall inform the operator in writing of his or her determination, including the factual findings supporting the decision. The decision of the Planning Director shall include an approved map or plan showing the extent of vested rights. No public notice is required for this determination, which is not subject to CEQA.
- G. Prior to acknowledging a vested right, the Planning Director shall make the finding that the subject surface mining operation conforms to the standard for vested rights in PRC Section 2776.

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- H. The decision of the Planning Director shall be appealable to the Planning Commission. An appeal of the Planning Director's decision shall be filed in the Planning Division within 10 days of the date of the Planning 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 decisions.

18.04.070 Use Permits

- A. Pursuant to Shasta County Code Section 17.88.020, a use permit shall be required for a surface mining operation which is not determined to be vested. A use permit shall also be required for the expansion of a surface mining operation beyond the boundaries of the vested area.
- B. The aspects of a surface mining operation that are subject to the requirements of a use permit, such as hours of operations, noise, dust, fencing and purely aesthetic considerations are not subject to regulation under SMARA. SMARA applies only to surface mining reclamation and related requirements. (Authority PRC § 2757)

18.04.080 Reclamation Plans

- A. Except as provided in this chapter, no person shall conduct surface mining operations unless a use permit is obtained from, a reclamation plan has been submitted to and approved by, and financial assurances for reclamation have been approved by, the County for the operation pursuant to this chapter. (PRC § 2770 (a)).
- B. The County's review of reclamation plans is limited to whether the plan substantially meets the applicable requirements of PRC Sections 2772 and 2773, and the County surface mining ordinance adopted pursuant to subdivision (a) of PRC Section 2774. Reclamation plans determined to substantially meet these requirements shall be approved by the County for purposes of this chapter. Except as specified in subdivision PRC Section 2770 (e) or (i), unless the operator has filed on or before July 1, 1990, an appeal pursuant to subdivision (e) with regard to non-approval of the reclamation plan, and that appeal is pending before the State Mining and Geology Board, the continuation of the surface mining operation is prohibited until a reclamation plan is approved by the County. (PRC § 2770 (d)).
- C. The following standards shall apply to all reclamation plans:
 - 1. State policy shall apply to the conduct of surface mining operations and shall include, but shall not be limited to, measures to be employed by the County in specifying grading, backfilling, re-soiling, revegetation, soil compaction, and other reclamation requirements, and for soil erosion control, water quality and watershed control, waste disposal, and flood control. (PRC § 2756)
 - 2. The reclamation plan shall be applicable to a specific piece of property or properties, shall be based upon the character of the surrounding area and such

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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. (PRC § 2773 (a))

3. All reclamation plans shall 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. (PRC § 2773 (b))
 4. The County may impose additional performance standards developed either in review of individual projects, as warranted, or through the formulation and adoption of County-wide performance standards.
- D. The reclamation plan shall be filed with the County on a form provided by the County, by any person who owns, leases, or otherwise controls or operates on all, or any portion of any, mined lands, and who plans to conduct surface mining operations thereon. The reclamation plan shall include the information and documents required under PRC § 2772 and 14 CCR § 3502 as listed in the checklist provided by the Planning Division. Application shall also include environmental review information required under CEQA as prescribed by the Planning Director.
- E. Reclamation plans shall be processed and approved, conditionally approved, or denied according to the process prescribed in Shasta County Code Section 17.92.020 including a public hearing, except where preempted by the Public Resources Code.
1. Reclamation plans determined not to substantially meet the requirements of PRC Sections 2772 and 2773, and the County surface mining ordinance adopted pursuant to subdivision (a) of PRC Section 2774, shall be returned to the operator within 60 days. The operator has 60 days to revise the plan to address identified deficiencies, at which time the revised plan shall be returned to the County for review and approval. (PRC § 2770 d)
 2. Prior to County approval, reclamation plans shall be forwarded to the Department of Conservation and other state agencies pursuant to Section 18.04.130. (Authority PRC § 2774 (c) through (e)) The County shall certify to the Director of the Department of Conservation that the reclamation plan complies with the applicable requirements of Article 1 (commencing with Section 3500) of Chapter 8 of Division 2 of Title 14 of the California Code of Regulations, as in effect at the time the reclamation plan is submitted to the Director of the Department of Conservation for review. (PRC § 2774 (c))
- F. The decision on a reclamation plan may be appealed according to the process prescribed in Shasta County Code Section 17.92.030.
- G. Prior to approving a reclamation plan, the approving body shall make the following findings):

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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 and/or the recommended condition of approval, and the appropriate environmental determination has been adopted.
2. The reclamation plan complies with the requirements of the state Surface Mining and Reclamation Act of 1975 (SMARA), specifically PRC 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. That the reclamation plan has been forwarded to the Department of Conservation pursuant to Section 18.04.130.
4. The reclamation plan complies with the purpose, intent, and requirements of Chapter 18.04, Surface Mining and Reclamation, of the Shasta County Code.
5. The proposed goal of reclamation is consistent with the General Plan policies and the Zone District for the area.

H. If the surface mining operation for which a reclamation plan has been approved is not substantially commenced within 2 years of the approval date of the reclamation plan, the reclamation plan shall be null and void. An extension of time for an additional year may be granted by the original approving body provided the operator submits a request prior to the expiration of the reclamation plan. Extension of time shall not be granted to extend the date of completion of the reclamation plan.

18.04.090 Minor Modifications to Reclamation Plans

- A. Minor modifications to reclamation plans may be approved by the Planning 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;

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4. To allow minor technological and/or administrative changes in methods used to achieve reclamation;
 5. To allow measures to be taken which will ensure and/or maintain public safety (e.g. fences, gates, signs, or hazard removal) provided it does 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 reclamation plan.
 8. A minor modification shall not include changing the end use of the land.
- B. Applications for a minor modifications shall be made on forms provided by the Planning Division. The information required for a minor modification shall be listed on a checklist provided by the Planning Division. Said applications shall be filed with the Planning Division.
- C. Prior to approval of a minor modification, the Planning Director shall make the following findings:
1. The minor modification is consistent with the approved reclamation plan and does not represent a significant change to the approved reclamation plan for the subject surface mining operation.
 2. The minor modification is either not a "project", or if a project, is one that is ministerial, presents no possible significant environmental effects, or is statutorily or categorically exempt, pursuant to CEQA.
 3. The minor modification is consistent with the requirements of Section 18.04.090 A.
- D. The Planning 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 Planning Director regarding a minor modification of a reclamation plan 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 Planning Director shall send a copy of an approved minor modification to the Department of Conservation.

18.04.100 Reserved

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18.04.110 Interim Management Plans

- A. Within 90 days of a surface mining operation becoming idle, the operator shall submit to the County for review and approval, an interim management plan. The review and approval of an interim management plan shall not be considered a project for purposes of CEQA. The approved interim management plan shall be considered an amendment to the surface mining operation's approved reclamation plan. 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. (PRC § 2770 (h)(1))
- B. An application for an interim management plan shall be submitted to the Planning Division on the forms provided and shall contain all of the information listed on the completeness checklist provided by the Planning Division.
- C. Prior to County approval, interim management plans shall be submitted for review by the Department of Conservation pursuant to Section 18.04.130. (Authority PRC § 2774 (c) through (e))
- D. The Planning Director may approve an interim management plan without a public notice or public hearing if the Planning Director determines that the interim management plan does not require significant changes to the reclamation plan. The decision of the Planning Director shall be appealable to the Planning Commission within 5 calendar days of the decision. The decision of the Planning Commission shall be appealable to the Board of Supervisors within 5 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 County shall do one of the following:
 - 1. Renew the interim management plan for another period not to exceed five years, if the County 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. (PRC § 2770 (h)(2)).
- F. The financial assurances shall remain in effect during the period that the surface mining operation is idle. If the surface mining operation is still idle after the expiration of its interim management plan, the surface mining operation shall commence reclamation in accordance with its approved reclamation plan. (PRC § 2770 (h)(3)).
- 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, so long as the plan satisfies the requirements of this subdivision, and so notify the operator in writing. Otherwise, the County shall notify the operator in writing of any deficiencies in the 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. (PRC § 2770 (h)(4)).

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- H. The County shall approve or deny approval of the revised interim management plan within 60 days of receipt. If the County denies approval of the revised interim management plan, the operator may appeal that action to the Planning Commission, which shall schedule a public hearing within 45 days of the filing of the appeal, or any longer period mutually agreed upon by the operator and the Planning Commission. (PRC § 2770 (h)(5)). 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 County, or an appeal is pending before the Planning Commission or the Board of Supervisors, a surface mining operation which remains idle for over one year after becoming idle as defined in Section 2727.1 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. (PRC § 2770 (h)(6)).
- J. Any enforcement action which may be brought against a person for operating without an approved reclamation plan, financial assurance, or interim management plan, shall be held in abeyance pending review pursuant to PRC Section 2770 subdivision (b), (c), (d), or (h) or the resolution of an appeal filed with the State Mining and Geology Board pursuant to subdivision (e), or with the Planning Commission pursuant to subdivision (h). (PRC § 2770 (h)(1) through (6)) The action of the Planning Commission may be appealed to the Board of Supervisors within 10 days of said action.

18.04.120 Financial Assurances

- A. The County's review of financial assurances is limited to whether the financial assurances substantially meet the applicable requirements of PRC Section 2773.1 and this chapter, but, in any event, the County shall require that financial assurances for reclamation 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 PRC Section 2770 (e) or (i), unless the operator has filed on or before January 1, 1994, an appeal pursuant to PRC Section (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. (PRC § 2770 d)
- 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 PRC 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.

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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. (PRC § 2773.1 (a))
 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.
 - (a) 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, 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 PRC 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. (PRC § 2770 d)
- D. Prior to County approval, financial assurances shall be forwarded to the Department of Conservation pursuant to Section 18.04.130. (PRC § 2774 (c) through (e))

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- E. The decision to approve financial assurances, both with respect to the form and amount thereof, shall be made by the Planning Director. The financial assurance estimates shall be based on an approved reclamation plan. The Planning 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. (PRC § 2773.1 (c))
- 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 Planning 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).
 - 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. (PRC § 2773.1 (b) (1) through (4))

18.04.130 State Review of Reclamation Plans, Interim Management Plans, Financial Assurances and Amendments.

- A. Prior to approving a surface mining operation's reclamation plan, financial assurances, including existing financial assurances reviewed by the County pursuant to subdivision (c) of Section 2770, or any amendments, the County shall submit the plan, assurances,

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or amendments to the Director of the Department of Conservation for review. (PRC § 2774 (c))

- B. The Director of the Department of Conservation shall have 45 days to prepare written comments, 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 45-day 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. (PRC § 2774 (d))
- 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 (and determined complete) 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 PRC Section 2774.4. (PRC § 2774 (e))
- D. Whenever surface mining operations are proposed 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 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 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. (PRC § 2770.5)

18.04.140 **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. (PRC § 2779)
- 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.

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18.04.150 Annual Inspections and Reports

- A. Annual Reports. Surface mining operators shall forward an annual status report to the Director of the Department of Conservation and to the County on a date established by the Director of the Department of Conservation upon forms furnished by the State Mining and Geology Board. (PRC § 2207 (a) through (g))
- B. The County shall conduct an inspection of a surface mining operation within six months of receipt by the County of the surface mining operation's report, solely to determine whether the surface mining operation is in compliance with this chapter. In no event shall the County inspect a surface mining operation less than once in any calendar year. The County may cause such an inspection to be conducted by a state-registered geologist, state-registered civil engineer, state-licensed landscape architect, or state-registered forester, who is experienced in land reclamation and who has not been employed by the mining operation in any capacity during the previous 12 months. 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. The County shall notify the Director of the Department of Conservation within 30 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 operations, if any, are inconsistent with this chapter. If the surface mining operation has a review of its reclamation plan, financial assurances, or an interim management plan pending, or an appeal pending before the State Mining and Geology Board or the County Board of Supervisors, the notice shall so indicate. The County shall forward to the operator a copy of the notice, a copy of the completed inspection form, and any supporting documentation, including, without limitation, any inspection report prepared by the geologist, civil engineer, landscape architect, or forester. (PRC § 2774 (b))

18.04.160 Record Keeping

- A. Record Keeping. The County shall establish and maintain in-house measures and procedures to ensure organized record-keeping and monitoring of surface mining reclamation under its jurisdiction. The County shall forward a copy of each permit and approved reclamation plan to the Department of Conservation. (14 CCR § 3504)
- B. Reclamation plans, reports, applications, and other documents submitted pursuant to this chapter are public records, unless it can be demonstrated to the satisfaction of the County that the release of that information, or part thereof, would reveal production, reserves, or rate of depletion entitled to protection as proprietary information. The County shall identify such proprietary information as a separate part of the application. Proprietary information shall be made available only to the Director of the Department of Conservation and to persons authorized in writing by the operator and by the owner. (PRC § 2778 (a))

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- C. A copy of all reclamation plans, reports, applications, and other documents submitted pursuant to this chapter shall be furnished to the Director of the Department of Conservation by the County on request. (PRC § 2778 (b))

18.04.170 Abandoned Mine Reclamation

- A. The County hereby establishes a mine reclamation program for the purpose of administering funds received from the state under the Surface Mining Control and Reclamation Act of 1977, or through amendments to the federal general mining laws (30 United States Code Sections 1, 12A, 16, 161, and 162, and 602, et seq.). (PRC § 2796 (a)).
- B. There is hereby created by the County, an abandoned mine reclamation fund. The money in the fund may be expended, upon appropriation by the state Legislature and grant to the County, as required by federal legislation amending the federal general mining laws, and for the following purposes prescribed in PRC Section 2796 (b)(1) and (2).
- C. The expenditure of money from the abandoned mine reclamation fund shall reflect the priorities as specified in federal statute and in PRC Section 2796 (d).

18.04.180 Enforcement

- A. If, after conducting the annual inspection or otherwise confirmed by an inspection of the mining operation, the Planning Director finds that the surface mining operation is not in compliance with the approved reclamation plan, the provisions of this ordinance, or SMARA, the Planning Director may notify the operator and the owner of the subject property of that violation by personal service or certified mail. If the violation continues beyond 30 days after the date of issuance of the notice of violation, the Planning Director may issue an order by personal service or certified mail requiring compliance or, if the operator does not have an approved reclamation plan, to cease all further mining activities. Said order shall specify which aspects of the surface mine's activities or operations are inconsistent with the approved reclamation plan, the provisions of this ordinance, or SMARA; shall specify a time for compliance which the Planning Director determines is reasonable, given the seriousness of the violation and any good faith efforts to comply with applicable requirements; shall set a date for a public hearing before the Planning Commission no sooner than 30 days after the date of issuance of the order; and shall not take effect until the operator has been provided a public hearing concerning the violation, unless it is determined by the Planning Director that the violation presents an immediate threat to public health or safety requiring immediate corrective action pending a Planning Commission hearing, and the operator has been given adequate notice and an opportunity to be heard by the Planning Director prior to the effective date of his or her order. (Authority PRC § 2774.1 (a) and (b))
- B. At the hearing, the Planning Commission shall determine whether or not the operator is complying with the approved reclamation plan or the provisions of this ordinance and may affirm, modify or set aside the order issued by the Planning Director. The decision

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of the Planning Commission may be appealed within 5 calendar days to the Board of Supervisors.

- C. Any operator who fails to comply with an order issued by the Planning Director after the order's effective date, unless set aside by the Planning Commission or Board of Supervisors, or who fails to submit a report to the Director of the Department of Conservation or County as required by PRC Section 2207, shall be subject to an order by the Planning Director imposing an administrative penalty of not more than five thousand dollars (\$5,000) per day, assessed from the original date of the Planning Director's notice of violation or noncompliance with PRC Section 2207. In determining the amount of the administrative penalty, the Planning Director shall take into consideration the nature, circumstances, extent, and gravity of the violation or violations, any prior history of violations, the degree of culpability, economic savings, if any resulting from the violation, and any other matters justice may require. An order imposing an administrative penalty shall become effective upon issuance and payment shall be made to the County within 30 days, unless the operator petitions the Board of Supervisors for review of the order prior to the date on which the penalty payment is due. Said order shall be served by personal service or by certified mail upon the operator.
- D. If the operator petitions the Board of Supervisors in a timely manner for review of the order imposing an administrative penalty, the operator shall be notified by personal service or certified mail as to whether the Board of Supervisors will review the order and if so when the matter has been set for public hearing, or consider the order final as previously issued. If it determines to consider the petition on its merits, the Board of Supervisors may affirm, modify, or set aside, in whole or in part, by its own order, any order of the Planning Director imposing an administrative penalty. Any order of the Board of Supervisors shall become effective upon issuance thereof and shall be served by personal service or by certified mail upon the operator. Payment of an administrative penalty specified in the Board of Supervisor's order shall be made to the County within 30 days of service of the order.
- E. If a new mining operation commences without an approved reclamation plan, the County may initiate civil actions and proceedings pursuant to the General Enforcement provision of Shasta County Code Section 1.12, which may include abatement, injunctive actions and civil penalties.

18.04.190 Fees

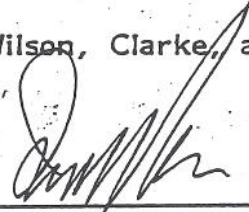
The County shall establish such fees as it deems necessary to cover the reasonable costs incurred in implementing this chapter and the applicable state laws, including processing of applications, annual reports, inspections, monitoring, enforcement and compliance. Such fees shall be paid by the operator of the surface mining operation as required by the County at the time of filing of the reclamation plan application, and at such other times as are determined by the County to be appropriate in order to ensure that all reasonable costs of implementing this chapter are borne by the mine operators.

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SECTION 3. This ordinance shall be in full force and effect from and after 30 days after its passage. The clerk shall cause this ordinance to be published by law.

DULY PASSED AND ADOPTED this 15th day of August, 1995, by the Board of Supervisors of the County of Shasta, by the following vote:

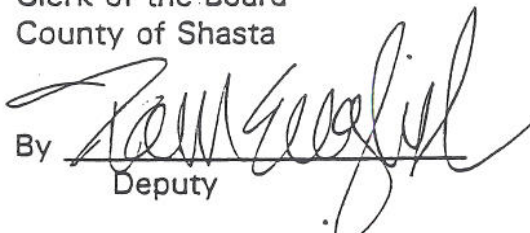
AYES: Supervisors Fust, Sullivan, Wilson, Clarke, and Dickerson.
NOES: None
ABSENT: None



IRWIN FUST, Chairman
Board of Supervisors
County of Shasta, State of California

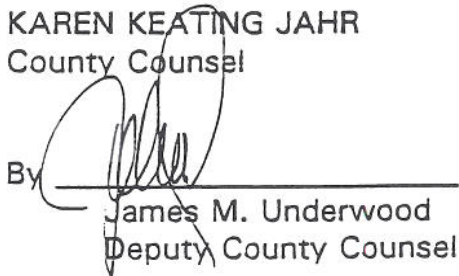
ATTEST:

CAROLYN TAYLOR
Clerk of the Board
County of Shasta

By 
Deputy

APPROVED AS TO FORM

KAREN KEATING JAHR
County Counsel

By 
James M. Underwood
Deputy County Counsel

This instrument is a correct copy
of the original on file in this office.

ATTEST: AUG 17 1995

Clerk of the Board
Supervisors of the County of Shasta, State of California
By 