

AUG 17 1998

BOARD OF SUPERVISORS, COUNTY OF SIERRA, STATE OF CALIFORNIA
STATE MINING and GEOLOGY BOARD

IN THE MATTER OF)
AMENDING AND UPDATING)
CHAPTER 14, SECTION 12)
OF THE SIERRA COUNTY)
CODE RELATED TO SURFACE)
MINING AND RECLAMATION)

ORDINANCE NO. 869

THE BOARD OF SUPERVISORS OF THE COUNTY OF SIERRA ORDAINS as follows:

The Sierra County Code is hereby amended by updating Chapter 14, Section 12 as follows:

Chapter 14, Section 12 - Surface Mining and Reclamation

Surface mining operations and the reclamation of mined lands are subject to the requirements of this section. This section supplements and should be reviewed in conjunction with the California Surface Mining and Reclamation Act of 1975 (§2710 *et seq.* of the California Public Resources Code), which contains additional information and requirements applicable to surface mining operation and reclamation. The processing of materials mined on-site (e.g. ore, gravel plants, etc.) and the retail sales of such mined and processed materials from the mine site is permitted, by this section subject to the conditions of the special use permit.

14.12.001 Findings

The Board of Supervisors hereby finds and declares that:

- (a) 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.
- (b) The reclamation of mined lands as provided for in this subchapter will permit the continued mining of minerals and will provide for the protection and subsequent beneficial use of the mined and reclaimed land.
- (c) Surface mining takes place in diverse areas where the geologic, topographic, climatic, biological, and social conditions are significantly different and that the reclamation operations and specifications therefore may vary accordingly.

14.12.002 Purpose and Intent

It is the intent of the Board of Supervisors to create and maintain effective and comprehensive surface mining and reclamation policies and regulations to properly carry out the requirements of the California Surface Mining and Reclamation Act of 1975 (§2710 *et seq.* of the California Public Resources Code) hereinafter referred to as "SMARA," California Public Resources Code §2207, and the California Code of Regulations adopted pursuant thereto (14 Cal. Code of Regs., §3500 *et seq.*) to ensure that:

- (a) Adverse environmental and other effects of surface mining operations will be prevented or minimized and that the reclamation of mined lands will provide for the beneficial, sustainable, long-term productive use of the mined and reclaimed lands; and
- (b) The production and conservation of minerals will be encouraged, while eliminating hazards to public health and safety and avoiding or minimizing adverse effects on the environment, including but not limited to geologic subsidence, air pollution, water quality degradation, damage to biological resources, flooding, erosion, degradation of scenic quality, and noise pollution.

14.12.003 Definitions

The definitions set forth in this section shall govern the construction of this chapter.

- (a) Area of Regional Significance. An area designated by the State Mining and Geology Board which is known to contain a deposit of minerals, the extraction of which is judged to be of prime importance in meeting future needs for minerals in a particular region of the State within which the minerals are located and which, if prematurely developed for alternate incompatible land uses, could result in the premature loss of minerals that are of more than local significance.
- (b) Area of Statewide Significance. An area designated by the Board which is known to contain a deposit of minerals, the extraction of which is judged to be of prime importance in meeting future needs for minerals in the State and which, if prematurely developed for alternate incompatible land uses, could result in the permanent loss of minerals that are of more than local or regional significance.
- (c) Borrow Pits. Excavations created by the surface mining of rock, unconsolidated geologic deposits or soil to provide material (borrow) for fill elsewhere.
- (d) Compatible Land Uses. Land uses inherently compatible with mining and/or that require a minimum public or private investment in structure, 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.
- (e) Haul Road. A road along which material is transported from the area of excavation to the processing plant or stockpile area of the surface mining operation.
- (f) Idle. Surface mining operations curtailed for a period of one year or more, 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.
- (g) Incompatible Land Uses. 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 by impact intensive industrial, and commercial.

- (h) Mined Lands. The surface, subsurface, and ground water 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.
- (i) Minerals. 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, by excluding geothermal resources, natural gas, and petroleum.
- (j) Operator. Any person who is engaged in surface mining operations, or who contracts with others to conduct operations on his/her behalf, except a person who is engaged in surface mining operations as an employee with wages as his/her sole compensation.
- (k) Reclamation. 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, resoiling, revegetation, soil compaction, stabilization, or other measures.
- (l) Stream Bed Skimming. Excavation of sand and gravel from streambed deposits above the mean summer water level or stream bottom, whichever is higher.
- (m) Surface Mining Operations. All, or any part of, the process included 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 include, by are not limited to, in-place distillation or retorting or leaching, the production and disposal of mining waste, prospecting and exploratory activities, borrow pitting, streambed skimming, and segregation and stockpiling of mined materials (and recovery of same).

14.12.004 Incorporation of SMARA and State Regulations

The provisions of the California Surface Mining and Reclamation Act of 1975 (§2710 *et seq.* of the California Public Resources Code), California Public Resources Code §2207, and the

California Code of Regulations implementing the Act (14 Cal. Code of Regs, §3500 *et seq.*), and 14 Cal. Code of Regulations, Article 9, Chapter 8, §3700 *et seq.* ("Reclamation Standards"), hereinafter also referred to as "State Regulations," as those provisions may be amended from time to time, are made a part of this subchapter by reference with the same force and effect as if the provisions therein were fully set forth here, excepting that when the provisions of this subchapter are more restrictive than correlative State provisions, this subchapter shall prevail.

14.12.005 Permit and Reclamation Plan Required

No person shall conduct surface mining operations or permit another person to conduct surface mining operations on his/her property unless a special use permit and reclamation plan have first been approved pursuant to this section and Section 15.28(Special Use Permits), except as otherwise provided in subsections (F) (Exceptions) and (Q) (Vested Rights) of this section. special use permit and reclamation plan approval are required for all surface mining operations in all zones where surface mining is allowed; and shall be required for the expansion or substantial change of operation of any surface mine for which such expansion or changes have not been previously approved. Reclamation plan approval is also required for those portions of existing surface mining operations which claim to have vested rights pursuant to California Public Resources Code §2776, unless otherwise exempted from SMARA by its provisions.

14.12.006 Exceptions

The provisions of this section shall not apply to any of the following activities:

- (a) Excavations or grading conducted for farming or onsite construction or for the purpose of restoring land following a flood or natural disaster.
- (b) Onsite excavation and onsite earthmoving activities that 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:
 - 1. All required permits for the construction, landscaping, or related land improvements have been approved by a public agency in accordance with applicable provisions of state law and locally adopted plans and ordinances, including, but not limited to, Division 13 (commencing with Section 21000).
 - 2. The lead agency's approval of the construction project included consideration of the onsite excavation and onsite earthmoving activities pursuant to Division 13 (commencing with Section 21000).
 - 3. The approved construction project is consistent with the general plan or zoning of the site.

4. All reclamation work has been completed pursuant to the approved reclamation plan for any mineral extraction activities that occurred onsite after January 1, 1976.
- (c) Operation of a plant site used for mineral processing, including associated onsite structures, equipment, machines, tools, or other materials, including the onsite stockpiling and onsite recovery of mined materials, subject to all of the following conditions:
1. The plant site is located on lands designated for industrial or commercial uses in the applicable county or city general plan.
 2. The plant site is located on lands zoned industrial or commercial, or are contained within a zoning category intended exclusively for industrial activities by the applicable city or county.
 3. None of the minerals being processed are being extracted onsite.
 4. All reclamation work has been completed pursuant to the approved reclamation plan for any mineral extraction activities that occurred onsite after January 1, 1976.
- (d) Prospecting for, or the extraction of, minerals for commercial purposes and the removal of overburden in total amounts of less than 1000 cubic yards in any one location of one acre or less, with the written consent of the surface right owner and consistent with applicable law.
- (e) Surface mining operations that are required by Federal law in order to protect a mining claim, if such operations are conducted solely for that purpose.
- (f) Such other surface mining operations which the State Mining and Geology Board determines to be of an infrequent nature and which involve only minor surface disturbances.
- (g) Solar evaporation of sea water or bay water for the production of salt and related minerals.
- (h) Emergency excavations or grading conducted by the Department of Water Resources or the Reclamation Board for the purpose of averting, alleviating, repairing, or restoring damage to property due to imminent or recent floods, disasters, or other emergencies.
- (i) 1. Surface mining operations conducted on lands owned or leased, or upon which easements or rights-of-way have been obtained, by the Department of Water Resources for the purpose of the State Water Resources Development System or flood control, and surface mining operations on lands owned or lease, or upon which easements or rights-of-way have been obtained, by the Reclamation Board for the purpose of flood control if the Department of Water Resources adopts, after submission to and

consultation with, the Department of Conservation, a reclamation plan for lands affected by these activities, and those lands are reclaimed in conformance with the standards specified in regulations of the board adopted pursuant to this chapter. The Department of Water Resources shall provide an annual report to the Department of Conservation by the date specified by the Department of Conservation on their mining activities.

2. Nothing in the subdivision shall require the Department of Water Resources or the Reclamation Board to obtain a permit or secure approval of a reclamation plan from any city or county in order to conduct surface mining operations specified in paragraph (1). Nothing in this subdivision shall preclude the bringing of an enforcement action pursuant to Section 2774.1, if it is determined that a surface mine operator, acting under contract with the Department of Water Resources or the Reclamation Board on lands other than those owned or leased, or upon which easements or rights-of-way have been obtained, by the Department of Water Resources or the Reclamation Board, is otherwise not in compliance with this chapter.
- (j)
1. Excavations or grading for the exclusive purpose of obtaining materials for roadbed construction and maintenance conducted in connections with timber operations or forest management on land owned by the same person or entity. This exemption is limited to excavation and grading that is conducted adjacent to timber operation or forest management roads and shall not apply to onsite excavation or grading that occurs within 100 feet of a Class One watercourse or 75 feet of a class Two watercourse, or to excavation for materials that are, or have been, sold for commercial purposes.
 2. This exemption shall be available only if slope stability and erosion are controlled in accordance with subdivision (f) of Section 3704 and subdivision (d) of Sections 3706 of Title 14 of the California Code of Regulations and, upon closure of the site, the person closing the site implements, where necessary, revegetation measures and postclosure uses in consultation with the Department of Forestry and Fire Protection.
- (k)
- Excavations, grading, or other earthmoving activities in an oil or gas field that are integral to, and necessary for, ongoing operation for the extraction of oil or gas that comply with all of the following conditions:
1. The operations are being conducted in accordance with Division 3 (commencing with Section 3000).
 2. The operations are consistent with any general plan or zoning applicable to the site.
 3. The earthmoving activities are within oil or gas field properties under a common owner or operator.

4. No excavated materials are sold for commercial purposes.

An exception under this section does not necessarily exempt a project or activity from other regulations or permit requirements of this zoning ordinance or the Sierra County Code.

14.12.007 Application Contents

As required by section 14.12.008 following.

14.12.008 Reclamation Plan Requirements

- (a) **State standards.** All reclamation plans shall conform to minimum statewide performance standards required pursuant to the California Public Resources Code §2772(c) (14 Cal. Code of Regulations, Article 9, Chapter 8, §3700 *et seq.*), as adopted by the State Surface Mining and Geology Board, including but not limited to wildlife habitat, backfilling, revegetation, drainage, agricultural land reclamation, equipment removal, stream protection, topsoil salvage, and waste management.
- (b) **Information on site and surroundings.** The reclamation plan shall also address specific characteristics of the site and surface mine to be reclaimed, such as type of overburden, soil stability, topography, geology, climate, stream characteristics, and principal mineral commodities, and the character of the surrounding area.
- (c) **General application information.** The reclamation plan shall include the information and materials specified by the list of "Required Application Contents for Surface Mining Permits and Reclamation Plans" furnished by the Planning Department.
- (d) **Information on reclamation phasing.** Each phase of reclamation shall be specifically described in the reclamation plan and shall include:
 1. The beginning and expected ending dates for each phase;
 2. All reclamation activities required;
 3. Criteria for measuring completion of specific reclamation activities; and
 4. Estimated costs as provided by subsection (J) below.

14.12.009 Application Processing

Proposed reclamation plans for surface mines shall be processed as follows:

- (a) **Referral of application.** Within 30 days of the acceptance of a special use permit and/or reclamation plan application for a surface mining operation, the Planning Department shall refer the applications and plans to the following:

1. The Director of the State of California Department of Conservation shall be notified of the filing of all surface mining permit applications, reclamation plans and the associated CEQA document. The Department of Conservation shall have 30 days to prepare written comments on the reclamation plan, if the director of the Department of Conservation so chooses.
 2. Whenever mining operations are proposed in a 100-year flood plain of any stream, as shown in Zone A of the Flood Insurance Rate Maps issued by the Federal Emergency Management Agency (FEMA), and within one mile, upstream of downstream, of any state highway bridge, the Planning Department shall also notify the California Department of Transportation that the application has been received.
- (b) **Authority for action on reclamation plans and financial assurances.** The Planning Commission shall be the granting authority for review and approval of a reclamation plan, financial assurance and special use permit for mining operations when filed.
- (c) **Public hearing.** Each application for a special use permit and/or reclamation plan for a surface mine shall be subject to at least one public hearing. If applications for a special use permit and a reclamation plan are submitted by the same applicant for the same site, the granting authority may consider and decide upon both applications in one public hearing.
- (d) **Hearing notice.** Notice of a public hearing on a permit or reclamation plan for a surface mine shall be given as specified in Government Code Section 65091.
- (e) **Procedure for approval.** Special use permits for surface mining operations shall be processed and approved as provided by Sections 15.28 *et seq.*, which may occur at the same time as reclamation plan. The approval of a reclamation plan, amendment to a reclamation plan, or financial assurances (as provided by subsection (K)), shall also occur as follows:
1. **Certification to State.** Prior to the final approval of a reclamation plan, financial assurances or any amendments to a reclamation plan or existing financial assurances, the granting authority shall:
 - A. Certify to the director of the California Department of Conservation that the reclamation plan and/or financial assurance complies with the applicable requirements of the State regulations; and
 - B. Submit the plan, assurances, or amendments to the director of the California Department of Conservation for review.
 2. **Conceptual approval.** The granting authority may conceptually approve a reclamation plan and financial assurance before submittal to the director of the California Department of Conservation.

3. **Deferral of action.** The granting authority may defer action on a surface mining special use permit until taking final action on a reclamation plan and financial assurance. The granting authority may approve the special use permit for surface mining with the condition that surface mining operations shall not commence until financial assurances have been reviewed by the director of the California Department of Conservation, and final action has been taken on the reclamation plan and financial assurances.
4. **Response to State comments.** The granting authority shall evaluate the written comments provided by the California Department of Conservation during the 45 day comment period. The Planning Department shall prepare a written response describing the disposition of the major issues raised by the State for approval by the granting authority. In particular, when the granting authority's position is different than the recommendations and objections raised by the Department of Conservation, (or any other "responsible" or trustee agency) where comments have been based upon those agencies' statutory or regulatory authority, 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 granting -authority shall be promptly forwarded to the operator/applicant.
5. **Final approval.** The granting authority shall then approve, conditionally approval or deny the special use permit and/or reclamation plan pursuant to §2774 of the California Public Resources Code, and to approve the financial assurances as provided by §2773.1 of the California Public Resources Code.
6. **Findings for approval.** In approving a special use permit for a surface mining operation, the granting authority shall make all findings required for special use permits by Section 15.28, and a finding that the project complies with the provisions of applicable State regulations. In approving a reclamation plan, the granting authority shall first find that:
 - A. The reclamation plan complies with §2772, §2773, and §2773.1 of the California Public Resources Code and any other applicable provisions;
 - B. The reclamation plan complies with applicable requirements of the State regulations (14 Cal. Code of Regulations, §3500 *et seq.*, and 14 Cal. Code of Regulations, §3700 *et seq.*);
 - C. The reclamation plan and potential use of reclaimed land pursuant to the reclamation plan are consistent with this zoning ordinance, the Sierra County General Plan, and any applicable resource plan;
 - D. The reclamation plan has been reviewed pursuant to the California Environmental Quality Act ("CEQA," California Public

Resources Code §21000 *et seq.*) and all significant adverse impacts from reclamation of the surface mining operations are mitigated to the maximum extent feasible;

- E. The land and/or resources such as water bodies to be reclaimed will be restored to a condition that is compatible with and blends in with the surrounding natural environmental, topography, and other resources;
 - F. That the reclamation plan will restore the mined lands to a usable condition which is readily adaptable for alternative land uses consistent with the general plan and any applicable resource plan; and
 - G. A written response to the director of the California Department of Conservation has been prepared as provided by subsection (I) 5.d above.
7. **Referral to State.** The Planning Department shall forward a copy of each approved special use permit for surface mining operations and/or approved reclamation plan, and a copy of the financial assurances to the California Department of Conservation.

14.12.010 Phasing of Reclamation

Reclamation activities shall be phased with respect to the mining operation and shall be initiated at the earliest possible time on those portions of the mined lands that will not be subject to further disturbance. Interim reclamation may also be required for mined lands that have been disturbed and that may be disturbed again in future operations. Reclamation may occur on an annual basis, in stages compatible with continuing operations, or on completion of all excavation, removal, or fill, or as approved by the County.

14.12.011 Financial Assurances for Reclamation Plans

In order to ensure that reclamation will proceed in accordance with the approved reclamation plan, appropriate security for performance shall be required by the granting authority as a condition of reclamation plan approval. The applicant shall post security as provided by statewide regulations adopted by the State Mining and Geology Board. Financial assurances shall be made payable to the County and the California Department of Conservation and to the Department of Agriculture, United State Forest Service where mining occurs on National Forest System Lands.

- (a) **Scope of assurances.** Financial assurances will be required to ensure compliance with elements of the reclamation plan including but not limited to revegetation and landscaping requirements; restoration of aquatic or wildlife habitat; restoration of water bodies and water quality; slope stability and erosion and drainage control; disposal of hazardous materials; and other mitigation measures. Financial assurances for such elements of the plan shall be monitored by the Planning Department.

(b) Amount of assurances.

1. The amount of financial assurances shall be based on the estimated costs of reclamation for the years or phases stipulated in the approved reclamation plan, including any maintenance of reclaimed areas as may be required, subject to adjustment for the actual amount required to reclaim lands disturbed by surface mining activities since January 1, 1976, and new lands to be disturbed by surface mining activities in the upcoming year, as provided by subsection (K)3 below.
2. A licensed engineer shall prepare cost estimates and/or other qualified professionals retained by the operator and approved by the Planning Director. The estimated amount of financial assurance shall be based on an analysis of physical activities necessary to carry out the approved reclamation plan, the unit costs for each activity, the number of units of each activity, and the actual administrative costs.
3. Financial assurances to ensure compliance with revegetation, restoration of water bodies, restoration of aquatic or wildlife habitat, and any other applicable element of the approved reclamation plan shall be based upon cost estimates that include but may not be limited to labor, equipment, materials, mobilization of equipment, administration, and reasonable profit by a commercial operator other than the permittee.
4. 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) Adjustments to assurances. 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 completed in accordance with the approved reclamation plan. The financial assurances shall include estimates to cover reclamation for existing conditions and anticipated activities during the next calendar year, provided that the permittee may not claim credit for reclamation scheduled for completion during the coming year. Proposed adjustments to financial assurances shall be submitted to the Planning Director each year prior to the anniversary date for approval of the financial assurances. If adjustments to the financial assurances are not required, the operator shall explain, in writing, why adjustments are not required.

(d) Term and release of assurances. The financial assurances shall remain in effect for the duration of the surface mining operation and any additional period until reclamation is completed (including any maintenance required). The financial assurances shall be released upon satisfactory performance.

(e) Authority for Memorandum of Understanding. The County may enter into a Memorandum of Understanding with the United States Forest Service,

Department of Agriculture or the Bureau of Land management, Department of the Interior when the reclamation of a site occurs on Federal lands to enable the responsible agencies to cooperatively administer the financial assurance and other aspects required under Public Resources Code 2710 et seq. and 2207 as deemed appropriate.

14.12.012 Periodic Review and Inspection Required

Whenever the granting authority approves or conditionally approves a permit or reclamation plan for a surface mine, it shall adopt a condition of approval requiring periodic inspection of the site and surface mining operation by the Departments of Public Works, Health, and Planning.

- (a) **Timing of inspection.** The Planning Department shall arrange for inspection within six months of receipt of the annual report required by subsection (M) following. In no event shall less than one inspection be conducted in any calendar year.
- (b) **Purpose of inspection.** The periodic inspection shall be required to determine whether the surface mining operation is in compliance with the approved conditional use permit and/or reclamation plan, financial assurances, and the State Regulations.
- (c) **Inspection personnel.** Required inspections may be, made by a California 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, or other qualified specialists selected by the Planning Director and retained by the County.
- (d) **Inspection forms.** All inspections shall be conducted using forms provided by the California State Mining and Geology Board.
- (e) **State notification of inspection.** The Planning Department shall notify the California Department of Conservation within 30 days of completion of the inspection that the inspection has been conducted, and shall forward a copy of the inspection notice and any supporting documentation to the mine operator. The mine operator shall be solely responsible for the reasonable cost of the inspection.
- (f) **Refusal of inspection.** Failure by the permittee to allow a required inspection shall constitute grounds for revocation of the permit pursuant to Section 15.28.050 (Permit Revocation).

14.12.013 Annual Reports

The following annual reports are required:

- (a) **County report to State.** By July 1, of each year, the Planning Department shall submit to the California Department of Conservation a copy of any special use permit or reclamation plan amendments, as applicable, for each active or idle

mining operation, or a statement that there have been no changes during the previous year.

- (b) **Report by surface mine operators.** Surface mining operators shall forward an annual status report to the California Department of Conservation and the Planning Department on a date established by the California Department of Conservation, on forms furnished by the State Mining and Geology Board.

14.12.014 Interim Management Plans (IMPS) for Idle Operations

Within 90 days of a surface mining operation becoming idle (as defined by Section (C)), the operator shall submit, and the Planning Department shall process, a proposed interim management plan (IMP) as provided by this subsection.

- (a) **Content of IMP.** The proposed IMP shall comply with the requirements of California Public Resources Code §2770(h), and shall describe measures the operator will implement to maintain the site in compliance with SMARA, including but not limited to all conditions of the special use permit for surface mining and/or the reclamation plan.

- (b) **Processing of IMP.** A proposed IMP shall be processed as an amendment to the approved reclamation plan, and shall not be considered a "project" for purposes of environmental review, pursuant to California Public Resources Code §2770(h).

1. **Referral to State.** Upon receipt of a complete proposed IMP, and at least 45 days prior to action on the IMP by the granting authority pursuant to subsection (M)2.b. following, the Planning Department shall forward the IMP to the California Department of Conservation for review.

2. **Approval or denial of IMP.** Within 60 days of receipt of a proposed IMP, or longer period mutually agreed upon by the Planning Director and the operator, the granting authority shall review and approve or deny the IMP in accordance with this section. In the event of a denial, the operator shall have 30 days (or longer period mutually agreed upon by the Planning Director and the operator) to submit a revised IMP. The granting authority shall approve or deny the revised IMP within 60 days of receipt. The denial of a revised IMP by the granting authority may be appealed as provided by Section 15.36 (Appeal of Planning Commission Decision) or Section 12.12.070 (Administrative Procedure).

- (c) **Continuation of financial assurances.** Financial assurances for idle operations shall be continued as provided by the reclamation plan or as otherwise approved through the IMP for the idle mine.

- (d) **Duration of IMP.** An IMP may remain in effect for a maximum of five years, at which time the granting authority may renew the IMP for a maximum of another five years, or require the surface mining operator to commence reclamation in accordance with the approved reclamation plan.

14.12.015 Site Development and Operational Requirements

Surface mining operations shall satisfy the following requirements:

- (a) **Surface mining practices.** The state guidelines for surface mining and reclamation practices contained in the California Code of Regulations are hereby incorporated into this section as though they were fully set forth here. The state regulations shall be the minimum acceptable practices to be followed in surface mining operations.
- (b) **Buffer and screening required.** A noise and/or visual buffer or screen shall be provided along any road rights-of-way and along any property lines as required by conditions of approval, where the granting authority determines that adjacent incompatible uses exist (e.g., schools, parks, or other public or private incompatible uses).

14.12.016 Amendments and Transfers of Ownership

- (a) Amendments to an approved reclamation plan may be submitted to the Planning Director, detailing proposed changes from the original plan. Deviations from the original plan that are determined by the Planning Director to be substantial shall not be undertaken until such amendments have been reviewed and approved by the granting authority for the original reclamation plan, through the same procedure used for the initial approval.
- (b) 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 section.

14.12.017 Vested Rights

- (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 permit pursuant to this section unless the continued operation of the mining activity falls into any one of the categories listed in subsection (E) of this section, in which case special use permits and reclamation plans are required.
- (b) A person shall be deemed to have vested rights as described in subsection (Q) 1 above if, before January 1, 1976, he or she had in good faith and in reliance upon a permit or other authorization (if such 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.
- (c) Nothing in this section shall be construed as requiring the filing of a reclamation plan for, or the reclamation of mined lands on which surface mining operations were commenced and terminated before January 1, 1976. However, it is

recommended that mining operators prepare reclamation plans to address unreclaimed portions of ongoing mining operations which were disturbed before January 1, 1976 and not disturbed since.

14.12.018 Public Records

- (a) Reclamation plans, reports, applications, and other documents submitted pursuant to this section are public records, unless it can be demonstrated to the satisfaction of the Planning Director that the release of such information, or part thereof, would reveal production, reserves, or rate of depletion, and is entitled to protection as proprietary information.
- (b) The granting authority shall identify such proprietary information as a separate part of the application. Proprietary information shall be made available only to the Director, Department of Conservation and to persons authorized in writing by the operator and by the owner. A copy of all reclamation Plans, reports, applications, and other documents submitted pursuant to this subchapter shall be furnished to the Director, Department of Conservation by the granting authority.

14.12.019 Violations and Penalties

If the Planning Director determines, based upon an annual or other inspection that a surface mining operation is not in compliance with this section, the approved special use permit, any other required permit, and/or the reclamation plan, the County shall follow the procedures set forth in California Public Resources Code §2774.1 and §2774.2 concerning violations and penalties, as well as the provisions of Chapter 15.44 (Administration and Enforcement) that are not preempted by SMARA.

Introduced at a regular meeting of the Board of Supervisors held on the 7th day of July, 1998, and passed and adopted by the Board of Supervisors of the County of Sierra, State of California, on the 21st day of July, 1998, by the following roll call vote, to-wit:

AYES: Supervisors Gutman, Luchessi, Nunes, Mitchell and Whitley
NOES: None
ABSTAINED: None
ABSENT: None

COUNTY OF SIERRA



PATRICIA WHITELY
CHAIRMAN, BOARD OF SUPERVISORS

ATTEST:

APPROVED AS TO FORM:



MARY J. JUNG
CLERK OF THE BOARD



JAMES A. CURTIS
COUNTY COUNSEL

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

AUG 11 1998

ATTEST: _____
MARY J. JUNG

COUNTY CLERK AND EX-OFFICIO
CLERK OF THE BOARD OF SUPERVISORS
IN AND FOR SIERRA CO.
CALIFORNIA


DEPUTY