

ORDINANCE NO. 1421

AMADOR COUNTY ORDINANCE CODE

Chapter 7.36

SURFACE MINING AND RECLAMATION

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7.36.010 Purpose. This chapter is adopted pursuant to the Surface Mining and Reclamation Act of 1975, being Chapter 9 (commencing with Section 2710) of Division 2 of the Public Resources Code (PRC) and in compliance with the provisions set forth by the State Board of Mines and Geology, being Section 3500 et seq. of Chapter 8, Title 14 of the California Code of Regulations (CCR).

7.36.020 Findings.

A. The board of supervisors hereby finds and declares that 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. Each county is required to adopt ordinances for the review and approval of permits for mining operations and plans for reclamation of mined lands within its jurisdiction.

B. The board further finds that the reclamation of mined lands as provided in this chapter will permit the continued mining of materials and will provide for the protection and subsequent beneficial use of the mined and reclaimed land.

C. The board further finds that 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.

D. The provisions of the California Surface and Mining Act of 1975 (PRC Section 2710 et seq.), PRC Section 2207, and the California Code of Regulations (Section 3500 et seq.) implementing the Act, as either 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.

7.36.030. Definitions. As used in this chapter:

A. "Area of regional significance" means an area designated by the State Mining and Geology Board, pursuant to Public Resources Code 2790, 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 permanent loss of minerals that are of more than local significance.

B. "Area of statewide significance" means an area designated by the State Mining and Geology Board, pursuant to PRC Section 2790, 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. "Exploration" or "prospecting" means that search for minerals by geological, geophysical, geochemical and other techniques, including, but not limited to, sampling, assaying, drilling, or any surface or underground works needed to determine the type, intent, or quantity of minerals present in total amounts of less than one thousand cubic yards in any one location of one acre or less.

D. "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.

E. "Interim management plan" is the plan which the operator of an idle mine shall submit in accordance with PRC 2770 (h) (1) to (i) and gain approval for, in order to assure that the site shall be maintained in compliance with the approved reclamation plan, use permit, and applicable conditions, until the mine operation is resumed or the mine is fully reclaimed in accordance with the approved reclamation plan.

F. Intermittent Operation: A surface mine that is operated only periodically, where one or more years of inactivity between operating periods may occur because needs for the minerals produced at such mine may be supplied from stockpiles, market conditions may require only an intermittent supply of these minerals, or physical conditions may preclude continuous operations. An example of the latter could be the natural build-up of a gravel bar in a stream or river. Intermittent operations must be identified in the determination of vested rights, use permit, and/or reclamation plan.

G. "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.

H. "Minerals" 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.

I. "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, excluding stockpiles as defined in this chapter.

J. "Operator" means any individual, firm, association, corporation, organization, or partnership, or any city, county, district, or the state or any department or agency thereof who is engaged in surface mining operations himself, or who contracts with others to conduct operations on his behalf, except a person who is engaged in surface mining operations as an employee with wages as his sole compensation.

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

L. "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, resoiling, revegetation, soil compaction, stabilization, or other measures.

M. "Reclamation plan" means the plan required by the Surface Mining and Reclamation Act of 1975, and meeting all the requirements thereof, administrative guidelines and regulations adopted pursuant thereto, Public Resources Code 21000 et seq. ("CEQA"), and ordinances of Amador County adopted in accordance therewith.

N. "Stockpile" means a volume of stored mined material which is residual or secondary material extracted during a surface mining operation and which has a demonstrated future economic value sufficient to warrant its protection and preservation.

O. "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 methods, dredging and quarrying, borrow pitting, streambed skimming, segregation and stockpiling of mined materials (and recovery of the same) or surface work incident to an underground mine. Surface mining operations include, but are not limited to:

1. In place distillation, retorting or leaching;
2. The producing and disposal of mining wastes;
3. Prospecting and exploratory activities.

7.36.040. Scope.

A. The provisions of this chapter shall apply to all surface mining operations, as defined by PRC Section 2735 and CCR Section 3501, in the unincorporated area of Amador County including to the extent allowed by law surface mining operations on federal land. California Coastal Commission v. Granite Rock Company (1987) 480 US 572 establishes limited County jurisdiction over an operation on federal land. Such limited jurisdiction allows environmental regulation, including the imposition of conditions to mitigate the environmental impacts of such an operation, but does not allow the County to prohibit such an operation by refusing to issue a permit therefor or otherwise through application of the County's land use laws.

B. The provisions of this chapter are not applicable to:

1. 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.
2. Excavations or grading conducted for farming or on-site construction or for the purpose of restoring land following a flood or natural disaster.
3. 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 grading, construction, landscaping, or related land improvements have been approved by Amador County and any other public agency in accordance with any other applicable provisions of state law and County adopted plans and ordinances, including, but not limited to, the California Environmental Quality Act (CEQA; PRC Section 21000 et seq.).
 - b. The County's or other lead agency's approval of the construction project included consideration of the on-site excavation and on-site earthmoving activities pursuant to the CEQA.
 - c. The approved construction project is consistent with the General Plan, and with the zoning district 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 actively pursued.
4. 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 other on-site recovery of mined materials, subject to all of the following conditions:
 - a. The plant site is located on lands designated for industrial or commercial uses in the General Plan.
 - b. The plant site is located on lands zoned industrial or commercial, or are contained within a zoning category intended exclusively for industrial activities and the landowner indicates the minerals processing structures and/or equipment have post-mining uses consistent with the zoning.
 - c. None of the minerals being processed are being extracted from within the plant 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.

5. Prospecting for, or the extraction of, minerals for commercial purposes and the removal of overburden in total amounts of less than one thousand cubic yards in any one location of one acre or less;

6. Flood control activity being conducted as described in Attorney General's Opinion No. 95-502 (November 25, 1995).

7.36.050. Use Permit Required. Any person, except those exempt by having demonstrated to the satisfaction of the County as having a vested right, shall, prior to the commencement of mining operations, obtain a use permit as provided in Chapter 19.56 of this Code. A person shall be deemed to have such vested rights if, prior to January 1, 1976, he has, 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 therefor. Expenses incurred in obtaining the issuance of a permit for a particular operation shall not be deemed liabilities for work or materials. Inactivity after January 1, 1976, of a surface mining operation in which the operator has a vested right shall not by itself cause the lapse of the vested right.

7.36.060. Reclamation Plan - Submission and Approval. All active or idle mining operations shall have approval by the Planning Commission of a reclamation plan as defined in this chapter including completion of all financial assurance requirements in accordance with PRC Sections 2770(a) and 2773.1. Any person who is determined to hold a vested right to conduct surface mining operations shall submit and obtain approval of a reclamation plan for all operations proposed to be conducted after January 1, 1976. 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 (January 1, 1976).

7.36.070. Reclamation Plan Exemption. Nothing in this chapter shall be construed as requiring the filing of a reclamation plan for or the reclamation of mined lands which were disturbed by surface mining operations conducted prior to January 1, 1976.

7.36.080. Blank

7.36.090. Reclamation Plan - Review Fee. The fee for review, approval, monitoring and enforcement of reclamation plans, amendments to reclamation plans, verification of the amounts of financial assurances, and interim management plans required by this chapter shall be the amount specified by Board of Supervisors resolution.

7.36.100. Reclamation Plan and Use Permit - Number Required for Noncontiguous Parcels. Applicants having a surface mining operation which involves separate, noncontiguous parcels of land may file one use permit and/or reclamation plan for the entire operation covering each parcel of land.

7.36.110. Reclamation Plan and Use Permit - Run with the land. Reclamation plans and use permits issued pursuant to this chapter shall run with the land affected thereby and shall be binding on all successors, heirs, and assigns of the permittee. Failure of landowners within ninety (90) days from cessation of operations to assume responsibility for mines where their lessee-permittee(s) have ceased surface mining operations shall be cause for revocation of the use permit and enforcement of the reclamation plan. All persons who lease their land to an operator or otherwise allow a second party to be an operator thereon shall acknowledge his/her responsibilities pursuant to this section and this chapter in a document or memorandum which shall be recorded by the County along with the use permit and reclamation plan.

7.36.120. Reclamation Plan and Use Permit - Financial Assurances. To guarantee mine site reclamation, use permit condition compliance or CEQA mitigation and monitoring, surety bonds, irrevocable letters of credit, trust funds, or other forms of financial assurances adopted for use by the

State Mining and Geology Board in accordance with PRC Section 2773.1(a)(1) and Section 2773.1(e) in an amount determined by a professional with the qualifications of the type approved by the State Mining and Geology Board are required to be approved as part or condition of any reclamation plan and/or use permit required by this chapter. Financial assurance must be submitted by the Planning Department to the State Department of Conservation for review 45 days prior to formal approval by the Planning Commission. If the operator is not the landowner, a copy of the cost estimates (together with any supporting documentation) shall also be forwarded to the landowner 45 days prior to formal approval by the Planning Commission. Any changes or amendments required by the County as a result of the comments from the State must be completed prior to commencement of operations.

Nothing in this section shall require financial assurances in the reclamation plan for the removal of structures otherwise lawfully permissible after completion of mining activities, unless removal is required as a condition of the use permit.

Financial assurances shall be made payable to "County of Amador and the State Department of Conservation." Financial assurances shall not be of a type which can lapse at the discretion of the operator and shall be written so as to stay in force until an amended financial assurance amount is approved by the County and provided by the operator or the reclamation has been completed to the satisfaction of the County.

If a mining operation is sold, or ownership is otherwise transferred including reversion to an underlying fee owner, the existing financial assurance shall remain in force and shall not be released by the Planning Department until new financial assurances are secured by the new owner or operator and have been approved by the Planning Commission, in accordance with PRC Section 2773.1(c). Financial assurances shall be released upon written notifications by the Planning Department, which shall be forwarded to the operator and property owner and the State Department of Conservation, that the reclamation or other performance guaranteed conditions of the use permit and CEQA mitigation program have been completed in accordance with the approved reclamation plan, in accordance with PRC Section 2773.1(c) and other use permit conditions. Any disagreements shall be referred to the Planning Commission utilizing the appeal process in Title 19 of this Code.

By July 1 of each year, the Planning Department shall submit to the State Department of Conservation for each active or idle mining operation a copy of any substantial amendments to the operation use permit or reclamation plan, as applicable, or a statement that there have been no changes during the previous year.

7.36.130. Reclamation Plan - Required Information and Documents. Pursuant to PRC Section 2772, the reclamation plan required by this chapter shall include at least the following information and documents:

- A. The name and address of the operator and the names and addresses of any persons designated by the operator as agents for the service of process;
- B. The anticipated quantity and type of minerals for which the surface mining operation is to be conducted;
- C. The proposed dates for the initiation and termination of such operation, including any intermittent operations which may occur;
- D. The maximum anticipated depth of the surface mining operation;
- E. The size and legal description of the lands that will be affected by the surface mining operation, a map that includes the boundaries and topographic details of such lands, a description of the general geology of the area, a detailed description of the geology of the area in which surface mining is to be conducted, the location of all streams, roads, railroads and utility facilities within, or adjacent to, such lands, the location of all proposed access roads to be constructed in conducting such operation, and the names and addresses of the owners of all surface and mineral interests of such lands;
- F. A description of and plan for the type of surface mining to be employed and a time schedule that will provide for the completion of surface mining on each segment of the mined lands, including periods of intermittent operations identified in the project description so that reclamation can be initiated at the

earliest possible time on those portions of the mined lands that will not be subject to further disturbance by the surface mining operation. Each phase of reclamation shall be specifically described, including periods of intermittent operations identified in the project description, in the reclamation plan and shall include: the beginning and expected ending dates for each phase; all reclamation activities required; criteria for measuring completion of specific reclamation activities; and, estimated costs for completion of each phase of reclamation;

G. A description of the proposed use or potential uses of mined lands after reclamation and evidence that all owners of a possessory interest in the land have been notified of the proposed use or potential uses;

H. A description of the manner in which reclamation, adequate for the proposed use or potential uses will be accomplished, including:

1. A description of the manner in which contaminants will be controlled, and mining waste will be disposed; and
2. A description of the manner in which rehabilitation of affected streambed channels and streambanks to a condition minimizing erosion and sedimentation will occur;
3. A description of the reclamation methods and procedures and how each meets or exceeds the respective reclamation standards regulations adopted by the State Mining and Geology Board in accordance with PRC Section 2773, otherwise known as the Reclamation Standards, CCR Section 3700 et seq.

I. An assessment of the effect of implementation of the reclamation plan on future mining in the area;

J. A signed statement that the person submitting the plan, and the landowner if different from the applicant, accepts responsibility for reclaiming the mined lands in accordance with the reclamation plan;

K. Site-specific criteria shall be established for evaluating compliance with the approved reclamation plan, including topography, revegetation, and sediment and erosion control;

L. An estimate of the cost of reclaiming the site in accordance with all the provisions of the reclamation plan at any time during the first year of operation under that plan, formulated to allow for annual revisions of the reclamation costs. Said cost estimates shall be submitted in a format capable of being reviewed and understood by the Planning Commission and be expressed in terms of the cost for hours of labor, supplies, materials, and equipment to perform the work as if the County were to have to complete the reclamation at the end of the reporting year.

7.36.140. Review procedures. Pursuant to PRC Section 2770 (d), the County's review of reclamation plans is limited to whether the plan substantially meets the applicable requirements of PRC Sections 2772, 2773, 2773.1 and this ordinance. Reclamation plans and financial assurances determined to substantially meet these requirements shall be approved by the County.

Proposed reclamation plans, amendments to reclamation plans, interim management plans for idle mines, or financial assurances which do not meet the requirements of this chapter must be returned to the applicant or operator within 60 days of receipt. The applicant or operator shall either revise the proposed reclamation plan or financial assurances to address any identified deficiencies or, file an appeal in accordance with the appeal procedures in Title 19 of this Code. The plan or financial assurances must then be submitted by the Planning Department to the State Department of Conservation for review 30 days prior to formal approval by the County (45 days if the financial assurance estimate is included in the tentative reclamation plan).

Whenever mining operations are proposed in the 100-year floodplain of any stream as shown in Zone A of the Flood Insurance Rate Maps issued by the Federal Emergency Management Agency, and within one mile, upstream or downstream, of any state highway bridge, the Planning Department shall also notify the State Department of Transportation that the application has been received.

Applications for new or revised mining use permits and reclamation plans shall be circulated to state

agencies through the state clearinghouse for review by state responsible and trustee agencies. Any changes or amendments required as a result of the comments from the various state agencies must be either completed prior to approval by the County or, the applicant must have exhausted any available administrative remedies with the state agencies. The time taken to complete the review process may be increased if additional time is needed to complete review under the CEQA.

7.36.150. Review procedure - Generally.

A. An applicant shall submit all information requested on the standard application form, adopted by the County.

B. Processing and issuance of use permit and reclamation plan applications shall follow the procedures for use permits as specified in Chapter 19.56 of this Code and shall require at least one public hearing. In addition to the required findings in Chapter 19.56, such applications must be found to be in accordance with the purposes and provisions of this chapter and the requirements of CEQA prior to approval. Any proposal for intermittent operations as defined in this Chapter must have been approved as part of the use permit and/or reclamation plan to avoid the mine becoming an idle mine as defined in this Chapter.

C. Whenever feasible, use permits and reclamation plans and their accompanying environmental documents shall be processed concurrently before the Technical Advisory Committee and Planning Commission, and if appealed, before the Board of Supervisors. However, complicated environmental documents and reclamation plans may cause hearings and decisions on the various stages of a use permit application to be separated into manageable phases. For example, the exploratory stage and operational stage may be separated into distinct phases of the application. Tiered, focused, or program environmental documents as described in the State CEQA Guidelines may be utilized by the County in the processing of these incremental phases of a surface mining use permit application.

Conceptual or tentative reclamation plans may be reviewed as part of the CEQA and use permit hearing process which are not completed to the degree of specificity necessary for a future final or issued reclamation plan. These conceptual or tentative reclamation plans shall be specific enough for the Planning Commission to make decisions on the use permit and the State Department of Conservation to review and make recommendations which adequately take into account the impact on the environment and, which meet the state criteria and standards in effect at the time for reclamation plans. Conditionally approved use permits and conditionally approved reclamation plans may be approved by the County which may not be issued and mining not commenced until said conditions have been met or satisfactory assurances agreed to by the County; including any mitigation monitoring plan as required by the CEQA. When a substantial change, as determined by the lead agency, has been proposed to a tentative or conceptual reclamation plan which the Department of Conservation has reviewed, the reclamation plan shall be submitted to the State Department of Conservation for an additional review. No surface mining operation shall ever commence without a full and complete approved reclamation plan in place.

D. Staff Reports - State Department of Conservation Notification - Findings - Annual Status Reports to the State. The Planning Department shall prepare a staff report with recommendations for consideration by the Planning Commission. Said staff report shall describe the disposition of the major issues raised by the State for the Planning Commission's review; in particular when the staff's position is at variance with the recommendations and objections raised in the State's comments on the tentative reclamation plan. The staff report shall address, in detail, why specific comments and suggestions were not accepted. In any final decision made by the County with regards to the reclamation plan which is at variance with the State recommendations, the County shall prepare findings in support of that decision and forward a copy of said findings to the State Department of Conservation prior to any appeal period expiration or CEQA statute of limitations having passed.

The Planning Department shall forward a copy of each approved use permit for surface mining operations and/or approved reclamation plan, and a copy of the approved financial assurances to the State Department of Conservation.

7.36.160. Plans, Reports, Applications are Public Record. 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 Land Use Director after review by the County Counsel that the release of such

information, or part thereof, would reveal trade secrets, location of deposits, 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 State Department of Conservation and to persons authorized by the operator and by the owner, and shall be returned to the operator and owner following review of the application by the Planning Commission.

7.36.170. Periodic review requirements.

A. Annual reports. The operator of any surface mining operation not exempt from this chapter shall forward every year not later than the anniversary date established by the State Department of Conservation, upon forms furnished by the State, an annual report which meets the requirements of PRC Section 2207. A copy of the annual report shall be provided to the Planning Department within the same time-frame.

B. Annual inspection. The County shall cause an annual inspection to be conducted of all surface mining operations. The first inspection shall occur within 6 months of receipt of the first annual report, or 6 months following commencement of surfacing mining operations pursuant to a new use permit, whichever comes first. Subsequent inspections shall occur at least once every 12 months thereafter. The inspection shall be conducted using the "Surface Mining Inspection Report" form supplied by the State Department of Conservation. The inspection can be conducted by either County staff or private consultant approved by County. Private consultants shall be qualified to make inspections in accordance with PRC Section 2774 (b). The inspection may not be conducted by a person who has been employed by or has contracted with the surface mining operation in any capacity in the previous 12 months. Operators have the choice of the two methods of inspection, and operators shall be responsible for all costs of the inspection.

If an operator opts for inspection by a private consultant, the consultant shall be approved by the Planning Department. Operators opting for consultant inspection shall notify the Planning Department of their choice prior to the consultant doing the inspection. After the consultant's estimated fees have been agreed to by the Planning Department and reported to the operator, the operator shall have 14 days to provide 100% of the estimated costs to the Planning Department to be placed in a deposit account created by the County for that purpose. If the operator does not provide the required deposit within the 14 day time period, the inspection shall be caused to be conducted by the Planning Department at operator expense. Any uncommitted funds remaining in the deposit after the termination of consultant's contract shall be immediately refunded to the operator.

Any operator who does not provide the required inspection fees by the time specified by the Planning Department or prevents or impedes the actual inspection in any manner, is considered in violation of his/her use permit and the provisions of this chapter, and subject to the use permit revocation or other enforcement provisions of this chapter; including but not limited to administrative penalties.

C. Review of financial assurances. The financial assurances required by this chapter shall be subject to annual review and, if appropriate, adjustment to account for new lands disturbed by surface mining operations, anticipated sales of minerals for the following year, inflation, completed reclamation of lands accomplished in accordance with the approved reclamation plan, or other factors related to the cost of reclamation. The annual review of financial assurances shall be conducted during the annual inspection procedure.

At the time of the annual inspection, the mine operator shall make available to the inspector an updated reclamation cost estimate using the guidelines and format established by previous reclamation cost estimates.

7.36.180. Amendments to Plan. Amendments to an approved reclamation plan may be submitted detailing proposed changes from the original plan. Substantial deviations from the original plan shall not be undertaken until such amendment has been filed and approved, in the same manner as established herein for an original application; provided, minor amendments may be recommended by the Land Use Director after consultation with the Board of Supervisors Agriculture and Natural Resources Committee. Said Committee recommendations shall be placed on the consent agenda for approval by the full Board of Supervisors.

The foregoing notwithstanding, in emergency situations where irreversible physical damage to the environment may occur, an operator may take such action which is necessary to prevent such damage and shall forthwith report the taking of the action to the County.

Applications for an amendment are subject to review fees based upon the actual costs of County review. An interim management plan for an idle mine is considered an amendment. The annual review of financial assurances is not considered an amendment.

7.36.185. Interim Management Plans.

A. Within 90 days after a surface mining operation which is required by law to have an approved reclamation plan becomes idle, the operator shall submit to the Planning Department a proposed Interim Management Plan (IMP). The proposed IMP shall fully comply with the requirements of SMARA, including but not limited to all use permit conditions, and shall provide measures the operator will implement to maintain the site in a stable condition, taking into consideration public health and safety. The proposed IMP shall be processed as an amendment to the Reclamation Plan. IMP's shall not be considered a project for the purposes of environmental review.

B. Financial assurances for idle operations shall be maintained as though the operation were active, or as otherwise approved through the idle mine's IMP.

C. Upon receipt of a complete proposed IMP, the Planning Department shall forward the IMP to the State Department of Conservation for review. The IMP shall be submitted to the State Department of Conservation at least 30 days prior to approval by the Planning Commission.

D. Within 60 days of receipt of the proposed IMP, or a longer period mutually agreed upon by the Planning Department and the operator, the Planning Commission shall review and approve or deny the IMP in accordance with this Chapter. The operator shall have thirty (30) days, or a longer period mutually agreed upon by the operator and the Planning Director, to submit a revised IMP. The Planning Commission shall approve or deny the revised IMP within sixty (60) days of receipt. If the Planning Commission denies the revised IMP, the operator may appeal that action to the Board of Supervisors.

E. The IMP may remain in effect for a period not to exceed five years, at which time the Planning Commission may renew the IMP for another period not to exceed five years, or require the surface mining operator to commence reclamation in accordance with its approved Reclamation Plan.

7.36.190. Appeal and Variance Procedure. Any decision of the Planning Commission or the Planning Department required by this chapter may be appealed in the manner set forth in Chapter 19.56 of this Code. Variances must be processed in accordance with Chapter 19.52 of this Code.

An applicant whose request for a use permit to conduct surface mining operations in an area of statewide or regional significance has been denied by county action, or any person who is aggrieved by the granting of a use permit to conduct surface mining operations in an area of statewide or regional significance, may appeal to the State Mining and Geology Board in accordance with the provisions of PRC Section 2775.

7.36.200. Enforcement. The provisions of this chapter shall be enforced by the Planning Department and the County's Code Enforcement division

7.36.210. Revocation of Plan. The approval of the reclamation plan may be revoked by the Planning Commission pursuant to the procedures for revoking use permits described in Chapter 19.56 of this Code under the following conditions:

A. A violation of the provisions of this chapter or of the approved reclamation plan has occurred as determined by the Land Use Director;

B. Notice by personal service or certified mail has been given the operator, allowing thirty days from

receipt of such notice to correct violations;

C. The operator fails to correct violations within the above notice period;

D. An order has been given the operator, delivered by personal service or certified mail. The order requires the operator to comply, or if the operator does not have an approved reclamation plan, cease all further mining activities and commence reclamation as required or directed in the order. The order defines the nature of the noncompliance, specifies a reasonable time for compliance, and sets a date for a public hearing.

E. Not sooner than 30 days after the date of the order, a public hearing is held by the Planning Commission for which ten days' notice has been given pursuant to Government Code Section 6061 and at least ten days' written notice has been given to the operator, and the Board of Supervisors may uphold, modify or reject the Planning Commission's determinations and may revoke the plan or otherwise take action to enforce the plan's provisions.

7.36.220. Penalties for Noncompliance. As an alternative to revoking the approval of a reclamation plan, an operator still in noncompliance after the effective date of an order as described in this chapter is subject to an order imposing an administrative penalty in accordance with PRC Section 2774.1, assessed from the original date of noncompliance. The Planning Commission may issue an order setting administrative penalties, which shall become effective upon issuance thereof. Payment shall be made to the Planning Department, unless the operator files an appeal with the Board of Supervisors within 30 days. Such an appeal would be scheduled and heard by the Board of Supervisors in the manner set forth in Chapter 19.56 of this Code. If after hearing, the Board affirms the order, the operator shall pay the administrative penalties set by the Board's order within 30 days of the service of that order.

7.36.230. Unlawful Operation a Nuisance. The conducting of any surface mining operation which requires a reclamation plan, financial assurance, and/or a use permit pursuant to this chapter without such an approved reclamation plan, financial assurance, and/or use permit is unlawful and constitutes a public nuisance, and an action or proceeding for abatement, removal, or injunction may be commenced by the County.

7.36.240. Enforcement of Violation. Notwithstanding the foregoing, a violation of this chapter, including but not limited to operation without an approved reclamation plan, financial assurance, annual inspection or continued operation with a revoked reclamation plan, may be enforced by the County by the use of any legal or equitable remedy the county may have. In addition, any use permit required by this chapter may be revoked pursuant to the provisions of Chapter 19.56 of this Code.

The foregoing ordinance was duly passed and adopted as an urgency ordinance, to take effect immediately, by the Board of Supervisors of the County of Amador at a regular meeting thereof, held on the 10th day of September, 1996, by the following vote:

AYES: Stephanie A. Moreno, Edward T. Bamert, John C. Begovich, Louis D. Boitano, and Richard P. Vinson

NOES: None

ABSENT: None


Stephanie A. Moreno
Chairman, Board of Supervisors

ATTEST:

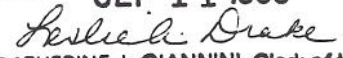
LISA BAKER-DALMAU, Clerk of the
Board of Supervisors, Amador County,
California


Lisa M. Baker-Dalman
Deputy

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

ATTEST:

SEP 11 1996


CATHERINE J. GIANNINI, Clerk of the
Board of Supervisors, Amador County,
California.