

KINGS COUNTY

**SURFACE MINING AND
RECLAMATION ORDINANCE**

Kings County Code of Ordinances

Chapter 15
Article XI

ORDINANCE NO. 558

Effective

March 6, 1997

KINGS COUNTY SURFACE MINING AND RECLAMATION ORDINANCE

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SURFACE MINING AND RECLAMATION ORDINANCE

Chapter 15 Article XI

Surface Mining and Reclamation

Section 15-211. Purpose and Intent

The County of Kings recognizes that the extraction of minerals is essential to the continued economic well-being of the County of Kings and to the needs of 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, and property values. The County of Kings also recognizes 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 therefor may vary accordingly.

The purpose and intent of this Article is to ensure the continued availability of important mineral resources, while regulating surface mining operations as required by California's Surface Mining and Reclamation Act of 1975 (Public Resources Code Sections 2710 et seq.), as amended, hereinafter referred to as "SMARA", Public Resources Code (PRC) Section 2207 (relating to annual reporting requirements), and State Mining and Geology Board regulations (hereinafter referred to as "State regulations") for surface mining and reclamation practice (California Code of Regulations [CCR], Title 14, Division 2, Chapter 8, Subchapter 1, Sections 3500 et seq.), to ensure that:

- (a) 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.
- (b) The production and conservation of minerals are encouraged, while giving consideration to values relating to recreation, watershed, wildlife, range and forage, and aesthetic enjoyment.
- (c) Residual hazards to the public health and safety are eliminated.

Section 15-212. Definitions.

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

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.

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.

Borrow Pits. Excavations created by the surface mining of rock, unconsolidated geologic deposits or soil to provide material (borrow) for fill elsewhere.

Compatible Land Uses. 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.

Conditional Use Permit. A zoning permit required for surface mines pursuant to the Kings County Zoning Ordinance, which is required in addition to the Reclamation Plan and Financial Assurance Plan required by this Ordinance and SMARA.

Haul Road. A road along which material is transported from the area of excavation to the processing plant or stock pile area of the surface mining operation.

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.

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 but impact intensive industrial, and commercial.

Mined Lands. 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.

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, but excluding geothermal resources, natural gas, and petroleum.

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.

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.

Stream Bed Skimming. Excavation of sand and gravel from stream bed deposits above the mean summer water level or stream bottom, whichever is higher.

Surface Mining Operations. 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 include, but 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).

Section 15-213. Incorporation by Reference.

The provisions of SMARA (Public Resources Code Section 2710 et seq.), Public Resources Code Section 2207, and State regulations found at Title 14 CCR section 3500 et seq., as those provisions and regulations may be amended from time to time, are made a part of this Article by reference with the same force and effect as if the provisions therein were specifically and fully set out herein. When the provisions of this Article are more restrictive than correlative State provisions, this Article shall prevail.

Section 15-214. Scope.

Except as provided in this Article, no person shall conduct surface mining operations unless a permit, Reclamation Plan, and financial assurances for reclamation have first been approved by the Kings County Planning Commission. Any applicable exemption from this requirement does not automatically exempt a project or activity from the application of other regulations, ordinances or policies of the County of Kings, including but not limited to, the application of CEQA, the requirement of Conditional Use Permit or other permits, the payment of development impact fees, or the imposition of other dedications and exaction as may be permitted under the law. The provisions of this Article shall apply to all lands within the County of Kings, public and private.

This Article shall not apply to the following activities, subject to the above referenced exceptions:

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

(b) Onsite excavation and onsite earthmoving activities which are an integral and necessary part of a construction project that are undertaken to prepare a site for irrigation, 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, the California Environmental Quality Act ("CEQA", Public Resources Code, Division 13, §21000 et seq.).

(2) Approval by Kings County of the construction project included consideration of the onsite excavation and onsite earthmoving activities pursuant to CEQA.

(3) The approved construction project is consistent with the general plan or zoning of the site.

(4) 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.

(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 of Kings County 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 County of Kings.

(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 1,000 cubic yards in any one location of one acre or less.

(e) 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.

(f) 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 disturbance.

(g) The solar evaporation of sea water or bay water for the production of salt 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, 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, 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 on land owned or leased, 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 Conservation shall provide an annual report to the Department of Conservation by the date specified by the Department of Conservation on these mining activities.

(2) Nothing in this 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 Public Resources Code section

2774.1, if it is determined that a surface mine operator, acting under contract with the Department of Water Resources or Reclamation Board on lands other than those owned or leased, or upon easements or right-of-ways 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 conjunction with timber operation of forest management on land owned by the same person or entity. This exception is limited to excavations and grading that is conducted adjacent to timber operations or forest management roads and shall not apply to onsite excavations 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 Section 3706 of Subchapter 1 of Chapter 8 of Division 2 of Title 14 of the Code of California Regulations and, upon closure of the site, the person closing the site implements, where necessary, revegetation measures and post closure 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 operations 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 of the Public Resources Code (commencing with Section 3000).

(2) The operations are consistent with any general plan or zoning provisions 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.

Section 15-215. Vested Rights.

No person who obtained a vested right to conduct surface mining operations prior to January 1, 1976, shall be required to secure a permit to mine, so long as

the vested right continues and as long as no substantial changes have been made in the operation except in accordance with SMARA, State regulations, and this Article. Where a person with vested rights has continued surface mining in the same area subsequent to January 1, 1976, he shall obtain Kings County 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-Act mining, the Reclamation Plan shall call for reclamation proportional to that disturbance caused by the mining after January 1, 1976.

All other requirements of State law and this Article shall apply to vested mining operations.

Section 15-216. Process.

(a) Applications for surface mines shall be made as part of the application process for a conditional use permit pursuant to the Kings County Zoning Ordinance. All such applications shall include a proposed Reclamation Plan and a proposed Financial Assurance Plan and shall be made on forms provided by the Planning Department. Said application shall be filed in accord with this Article and procedures for filing a conditional use permit pursuant to the Kings County Zoning Ordinance. The forms for Reclamation Plan applications shall require, at a minimum, each of the elements required by SMARA and State regulations, and any other requirements deemed necessary to facilitate an expeditious and fair evaluation of the proposed Reclamation Plan, to be established at the discretion of the Planning Director. As many copies of the conditional use permit application as may be required by the Planning Director shall be submitted to the Planning Department.

(b) As many copies of a Reclamation Plan application as may be required shall be submitted in conjunction with all applications for conditional use permits for surface mining operations. For surface mining operations that are exempt from a conditional use permit pursuant to this Article, the Reclamation Plan application shall include information concerning the mining operation that is required for processing the Reclamation Plan. All documentation for the Reclamation Plan shall be submitted to the Kings County Planning Department at one time.

(c) Applications shall include all required environmental review forms and information prescribed by the Planning Director.

(d) Upon completion of the environmental review procedure and filing of all documents required by the Planning Director, consideration of the conditional use permit, Reclamation Plan and Financial Assurance Plan for the proposed or existing surface mine shall be completed pursuant to Article 19 of the Kings County Zoning Ordinance at a public hearing before the Planning Commission, and pursuant to Section 2774 of the Public Resources Code.

(e) Within thirty (30) days of acceptance of an application for a conditional use permit for surface mining operations, including a Reclamation Plan and a Financial Assurance Plan, as complete, the Planning Department shall notify the State Department of Conservation of the filing of the application(s). Whenever mining operations are proposed in the 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, 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.

(f) The Planning Department shall process the application(s) through environmental review pursuant to the California Environmental Quality Act (Public Resources Code Sections 21000 et seq.) and the Kings County environmental review guidelines.

(g) Subsequent to the appropriate environmental review, the Planning Department shall prepare a staff report with recommendations for consideration by the Planning Commission.

(h) The Planning Commission shall hold at least one noticed public hearing on the conditional use permit, Reclamation Plan and Financial Assurance Plan.

(i) Prior to final approval of a Reclamation Plan or financial assurances (as provided in this Article), or any amendments to an existing Reclamation Plan or existing financial assurances, the Planning Commission shall certify to the State Department of Conservation that the Reclamation Plan and/or financial assurance complies with the applicable requirements of State law, and submit the plan, assurance, or amendments to the State Department of Conservation for review. The Planning Commission may conceptually approve the Reclamation Plan and financial assurance before submittal to the State Department of Conservation. If a conditional use permit is being processed concurrently with the Reclamation Plan, the Planning Commission may simultaneously also conceptually approve the conditional use permit. However, the Planning Commission may defer action on the conditional use permit until taking final action on the Reclamation Plan and

financial assurances. If necessary to comply with permit processing deadlines, the Planning Commission may conditionally approve the conditional use permit with the condition that the conditional use permit shall not become effective for the mining operations until cost estimates for financial assurances have been reviewed by the State Department of Conservation and final action has been taken on the Reclamation Plan and financial assurances.

Pursuant to Public Resources Code section 2774(d), the State Department of Conservation shall be given 30 days to review and comment on the Reclamation Plan and 45 days to review and comment on the financial assurance. The Planning Commission shall evaluate written comments received, if any, from the State Department of Conservation during the comment periods. Staff shall prepare a written response describing the disposition of the major issues raised by the State for the Planning Commission's approval. In particular, when the Planning Commission's position is at variance with the recommendations and objections raised in the State'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 Planning Commission shall be promptly forwarded to the operator/applicant.

(j) The Planning Commission shall then take action to approve, conditionally approve, or deny the conditional use permit, Reclamation Plan, and the financial assurances pursuant to Public Resources Code section 2770(d).

(k) The Planning Department shall forward a copy of each approved conditional use permit for mining operations, approved Reclamation Plan, and approved financial assurances to the State Department of Conservation. 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 the conditional use permit or Reclamation Plan amendments, as applicable, or a statement that there have been no changes during the previous year.

Section 15-217. Standards for Reclamation.

(a) All Reclamation Plans shall comply with the provisions of SMARA and the State regulations adopted pursuant thereto (see Title 14 CCR section 3500 et seq). Reclamation Plans approved after January 15, 1993, Reclamation Plans for proposed new mining operations, and any substantial amendments to previously approved Reclamation Plans, shall also comply with the requirements for reclamation performance standards set forth in Title 14 of the California Code of Regulations.

(b) The County of Kings may impose additional performance standards as developed either in review of individual projects, as warranted, or through the formulation and adoption of county wide performance standards.

(c) Reclamation activities 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 be done on an annual basis, in stages compatible with continuing operations, or on completion of all excavation, removal, or fill, as approved by the County. Each phase of reclamation shall be specifically described in the Reclamation Plan and shall include (a) the beginning and expected ending dates for each phase; (b) all reclamation activities required; (c) criteria for measuring completion of specific reclamation activities; and (d) estimated costs for completion of each phase of reclamation.

Section 15-218. Statement of Responsibility.

The person submitting the Reclamation Plan shall sign a statement accepting responsibility for reclaiming the mined lands in accordance with the Reclamation Plan. Said statement shall be kept by the Planning Department in the mining operation's permanent record. Upon sale or transfer of the operation, the new operator shall submit a signed statement of responsibility to the Planning Department for placement in the permanent record.

Section 15-219. Findings for Approval.

(a) Conditional Use Permits (Site Approvals). In addition to any findings required by the County of Kings Code of Ordinances, conditional use permits for surface mining operations shall include a finding that the project complies with the provisions of SMARA and the State regulations adopted pursuant thereto.

(b) Reclamation Plans. For Reclamation Plans, the following findings shall be required:

(1) That the Reclamation Plan complies with SMARA and with any other applicable provisions of State law;

(2) That the Reclamation Plan complies with applicable requirements of State regulations (see Title 14 CCR §3500-3505, and §3700-3713).

(3) That the Reclamation Plan and potential use of reclaimed land pursuant to the plan are consistent with this Article and the Kings County General Plan and any applicable resource plan or element, and the Kings County Zoning Ordinance.

(4) That the Reclamation Plan has been reviewed pursuant to CEQA and the Kings County environmental review guidelines, and all significant adverse impacts from reclamation of the surface mining operations are mitigated to the maximum extent feasible.

(5) That 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 environment, topography, and other resources, or that suitable off-site development will compensate for related disturbance to resource values.

(6) 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 applicable resource plan, and zoning ordinance.

(7) That a written response to the State Department of Conservation has been prepared, describing the disposition of major issues raised by that Department. Where the County of Kings position is at variance with the recommendations and objections raised by the State Department of Conservation, said response shall address, in detail, why specific comments and suggestions were not accepted.

Section 15-220. Financial Assurances.

(a) To ensure that reclamation will proceed in accordance with the approved Reclamation Plan, the Planning Commission shall require as a condition of approval security which will be released upon satisfactory performance. The applicant may post security in the form of a surety bond, trust fund, irrevocable letter of credit from an accredited financial institution, or other method acceptable to the County of Kings and the State Mining and Geology Board as specified in State regulations, and which the County of Kings reasonably determines are adequate to perform reclamation in accordance with the surface mining operation's approved Reclamation Plan. Financial assurances shall be made payable to the County of Kings and the State Department of Conservation.

(b) 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 habit, restoration of water bodies and water quality, slope stability and erosion and drainage control, disposal of hazardous materials, and other measures, if necessary.

(c) Cost estimates for the financial assurance shall be submitted to the Planning Department for review and approval prior to the operator securing financial assurances. The Planning Director shall forward a copy of the cost estimates, together with any documentation received supporting the amount of the cost estimates, to the State Department of Conservation for review. If the State Department of Conservation does not comment within 45 days of receipt of these estimates, it shall be assumed that the cost estimates are adequate, unless the County of Kings has reason to determine that additional costs may be incurred. The Planning Director shall have the discretion to approve the financial assurance if it meets the requirements of this Article, SMARA, and State regulations.

(d) The amount of the financial assurance shall be based upon 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. Cost estimates should be prepared by a California registered Professional Engineer and/or other similarly licensed and qualified professional retained by the operator and approved by the Planning Director. The estimated amount of the financial assurance shall be based on an analysis of physical activities necessary to implement the approved Reclamation Plan, the unit costs for each of these activities, the number of units of each of these activities, and the actual administrative costs. 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. A contingency factor of ten percent (10%) shall be added to the cost of financial assurances.

(e) 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 of Kings or State Department of Conservation may need to contract with a third party commercial company for reclamation of the site.

(f) 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).

(g) 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. The financial assurances shall include estimates to cover reclamation for existing conditions and anticipated activities during the upcoming year, excepting that the permittee may not claim credit for reclamation scheduled for completion during the coming year.

(h) Revisions to financial assurances shall be submitted to the Planning Director each year prior to the anniversary date for approval of the financial assurances. The financial assurance shall cover the cost of existing disturbance and anticipated activities for the next calendar year, including any required interim reclamation. If revisions to the financial assurances are not required, the operator shall explain, in writing, why revisions are not required.

Section 15-221. Interim Management.

(a) Within 90 days of a surface mining operation becoming 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 conditional 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 submitted on forms provided by the Planning Department, and shall be processed as an amendment to the Reclamation Plan. An Interim Management Plan 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 Director and the operator, the Planning

Commission shall review and approve or deny the IMP in accordance with this Article. 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. Any revised IMP shall be submitted to the State Department of Conservation for review. 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.

Section 15-222. Annual Report Requirements.

Surface mining operators shall forward an annual surface mining report to the State Department of Conservation and to the Kings County Planning Department on a date established by the State Department of Conservation, upon forms furnished by the State Mining and Geology Board and prepared pursuant to, and in compliance with, the provisions set forth in Public Resources Code section 2207. New mining operations shall file an initial surface mining report and any applicable filing fees with the State Department of Conservation within 30 days of permit approval, or before commencement of operations, whichever is sooner. Any applicable fees, together with a copy of the annual inspection report, shall be forwarded to the State Department of Conservation at the time of filing the annual surface mining report.

Section 15-223. Inspections.

The Planning Department shall arrange for inspection of a surface mining operation within six months of receipt of the Annual Report required in Section 15-222, to determine whether the surface mining operation is in compliance with the approved conditional use permit and/or Reclamation Plan, approved financial assurances, and State statutes and regulations. In no event shall less than one inspection be conducted in any calendar year. Said inspections may be made 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, or other qualified specialists, as selected by the Planning Director. All inspections shall be conducted using a form approved and provided by the State Mining and Geology Board.

The Planning Department shall notify the State Department of Conservation within thirty (30) days of completion of the inspection that said inspection has been conducted, and shall forward a copy of said inspection notice and any supporting documentation to the mining operator. The operator shall be solely responsible for the reasonable cost of such inspection.

Section 15-224. Violations and Penalties.

If the Planning Director, based upon an annual inspection or otherwise confirmed by an inspection of the mining operation, determines that a surface mining operation is not in compliance with this Article, the applicable conditional use permit, any required permit and/or the Reclamation Plan, the County of Kings shall follow the procedures set forth in Public Resources Code sections 2774.1 and 2774.2 concerning violations and penalties, as well as those provisions of the Kings County Zoning Ordinance for revocation and/or abandonment of a conditional use permit which are not preempted by SMARA.

Section 15-225. Appeals.

Any person aggrieved by an act or determination of the Planning Department in the exercise of the authority granted herein, shall have the right to appeal to the Planning Commission or the Board of Supervisors, whichever is the next higher authority in the same manner as provided for in Article 19 of the Kings County Zoning Ordinance. An appeal shall be filed on forms provided by the Planning Department, within fifteen (15) calendar days after the rendition, in writing, of the appealed decision.

Section 15-226. Fees.

The County of Kings shall establish such fees as it deems necessary to cover the reasonable costs incurred in implementing this Article and the State statutes and regulations, including but not limited to, processing of applications, annual reports, inspections, monitoring, enforcement and compliance. Such fees shall be paid by the operator, as required by the County of Kings, at the time of filing of the conditional use permit application, Reclamation Plan application, and at such other times as are determined by the County of Kings to be appropriate in order to ensure that all reasonable costs of implementing this Article are borne by the mining operator.

Section 15-227. Mineral Resource Protection.

Mine development is encouraged in compatible areas before encroachment of conflicting uses. Mineral resource areas that have been classified by the State Department of Conservation's Division of Mines and Geology or designated by the State Mining and Geology Board, as well as existing surface mining operations that remain in compliance with the provisions of this Article, shall be protected from intrusion by incompatible land uses that may impede or preclude mineral extraction or processing, to the extent possible for consistency with the Kings County General Plan.

In accordance with Public Resources Code section 2762, the Kings County General Plan and resource maps will be updated to reflect mineral information (classification and/or designation reports) within 12 months of receipt from the State Mining and Geology Board of such information. Land use decisions within the County of Kings will be guided by information provided on the location of identified mineral resources of regional significance. Conservation and potential development of identified mineral resource areas will be considered and encouraged. Recordation on property titles of the presence of important mineral resources within the identified mineral resource areas may be encouraged as a condition of approval of any development project in the impacted area. Prior to approving a use that would otherwise be incompatible with mineral resource protection, conditions of approval may be applied to encroaching development projects to minimize potential conflicts.

Section 15-228. Severability.

If any section, subsection, sentence, clause or phrase of this Article is for any reason held to be invalid or unconstitutional by the decision of a court of competent jurisdiction, it shall not affect the remaining portions of this Article.

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