

1 **BOARD OF SUPERVISORS, COUNTY OF LAKE, STATE OF CALIFORNIA**

2 **ORDINANCE NO. 2533**

3 **AN ORDINANCE UPDATING AND AMENDING CHAPTER 24 OF THE**
4 **LAKE COUNTY CODE CONCERNING SURFACE MINING AND RECLAMATION**

5 **THE BOARD OF SUPERVISORS OF THE COUNTY OF LAKE, STATE OF**
6 **CALIFORNIA, ORDAINS AS FOLLOWS:**

7 **Section 1:** Chapter 24 of the Lake County Code is hereby amended to read as
8 follows:

9 **“Chapter 24**

10 **SURFACE MINING AND RECLAMATION**

11 **Sec. 24-1. Purpose and Intent.**

12 1.1. This chapter is adopted pursuant to the California Surface Mining and
13 Reclamation Act of 1975, as amended, which is set forth at Public Resources Code Sections
14 2710 et seq. (hereinafter referred to as ‘SMARA’), Public Resources Code Section 2207,
15 relating to annual reporting requirements, and the State Mining and Geology Board
16 regulations (hereinafter referred to as ‘State regulations’) for surface mining and reclamation
17 practice. (California Code of Regulations (hereinafter ‘CCR’), Title 14, Division 2, Chapter 8,
18 Subchapter 1, Sections 3500 et seq.)

19 1.2. The Board hereby finds and declares that the extraction of minerals is
20 essential to the continued economic well-being of the County and to the needs of society and
21 that the reclamation of mined lands is necessary to prevent or minimize adverse effects on
22 the environment and to protect the public health and safety.

23 1.3. The Board further finds that the reclamation of mined lands as provided
24 in this chapter will permit the continued mining of minerals and will provide for the protection
25 and subsequent beneficial use of the mined and reclaimed land.

26 1.4. The Board further finds that surface mining takes place in diverse areas
27 where the geologic, topographic, climatic, biological, and social conditions are significantly
28 different and that reclamation operations and the specifications therefore vary accordingly.

1 1.5. The Board further finds that gravel extraction from the creeks of Lake
2 County is a mining activity in the County for which special consideration must be given to
3 minimize the adverse effects of the environment.

4 **Sec. 24-2. Definitions.**

5 2.1. For purposes of this chapter, the following words and phrases are used
6 as herein defined:

- 7 (a) Area of Regional Significance. An area designated by the State
8 Mining and Geology Board which is known to contain a deposit of
9 minerals, the extraction of which is judged to be of prime importance
10 in meeting future needs for minerals in a particular region of the
11 State within which the minerals are located and which, if
12 prematurely developed for alternate incompatible land uses, could
13 result in the premature loss of minerals that are of more than local
14 significance.
- 15 (b) Area of Statewide Significance. An area designated by the State
16 Mining and Geology Board which is known to contain a deposit of
17 minerals, the extraction of which is judged to be of prime
18 importance in meeting future needs for minerals in the State and
19 which, if prematurely developed for alternate incompatible land
20 uses, could result in the permanent loss of minerals that are of
21 more than local or regional significance.
- 22 (c) Board. The Board of Supervisors of the County of Lake.
- 23 (d) Compatible Land Uses. Land uses inherently compatible with
24 mining and/ or that require a minimum public or private investment
25 in structures, land and its improvements. Examples of such uses
26 may include, but shall not be limited to, very low density residential,
27 geographically extensive but low impact industrial, recreational,
28 agricultural, silvicultural, grazing, and open space.

- 1 (e) Commission. The Planning Commission of the County of Lake.
- 2 (f) Department. The Community Development Department of the
- 3 County of Lake.
- 4 (g) Director. The Director of the Community Development
- 5 Department of the County of Lake.
- 6 (h) Gravel Extraction. The removal of aggregate streambed deposits
- 7 within the active channel of a stream, or the removal of aggregate
- 8 from a flood control facility.
- 9 (i) Idle. Surface mining operations curtailed for a period of one year
- 10 or more, by more than 90 percent of the operation's previous
- 11 maximum annual mineral production, with the intent to resume
- 12 those surface mining operations at a future date.
- 13 (j) Incompatible Land Uses. Land uses inherently incompatible with
- 14 mining and/or that require public or private investment in
- 15 structures, land improvements, and landscaping and that may
- 16 prevent mining because of the greater economic value of the land
- 17 and its improvements. Examples of such uses may include, but
- 18 shall not be limited to, high density residential, low density
- 19 residential with high unit value, public facilities, geographically
- 20 limited but impact intensive industrial, and commercial.
- 21 (k) Mined Lands. The surface, subsurface, and groundwater of an
- 22 area in which surface mining operations will be, are being, or have
- 23 been conducted, including private ways and roads appurtenant to
- 24 any such area, land excavations, workings, mining waste, and
- 25 areas in which structures, facilities, equipment, machines, tools, or
- 26 other materials or property which result from, or are used in,
- 27 surface mining operations.

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1 (l) Minerals. Any naturally occurring chemical element or compound,
2 or groups of elements and compounds, formed from inorganic
3 processes and organic substances, including, but not limited to,
4 coal, peat, and bituminous rock, but excluding geothermal
5 resources, natural gas, and petroleum.

6 (m) Minimum Standards for Administrative Gravel Permits shall mean
7 that:

8 (1) Gravel extraction shall occur no deeper than one foot
9 above thalweg or one foot above the water level at low flow
10 (5 cfs); whichever is higher.

11 (2) Extraction shall occur on the gravel bar at a slope of no
12 less than 2% from the vertical extraction limit sloping
13 upwards to the stream bank.

14 (3) Days and hours of operation shall be established to
15 minimize impacts to adjacent land uses.

16 (4) Creek bank vegetation shall not be unduly disturbed.

17 (5) Gravel extraction shall occur only during no flow or low flow
18 periods.

19 (6) Gravel extraction shall only take place within the active
20 channel of a stream or from a flood control facility.

21 (7) All applicable local, state and federal agency regulations
22 shall be met.

23 (n) Operator. Any person who is engaged in surface mining
24 operations, or who contracts with others to conduct operations on
25 his/her behalf, except a person who is engaged in surface mining
26 operations as an employee with wages as his/her sole
27 compensation.

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- 1 (o) Overburden. Soil, rock, or other materials that lie above a natural
2 mineral deposit or in between deposits, before or after their
3 removal, by surface mining operations.
- 4 (p) Person. Any individual, firm, association, corporation,
5 organization, or partnership, or any city, county, district, or the
6 state or any department or agency thereof.
- 7 (q) Reclamation. The combined process of land treatment that
8 minimizes water degradation, air pollution, damage to aquatic or
9 wildlife habitat, flooding, erosion, and other adverse effects from
10 surface mining operations, including adverse surface effects
11 incidental to underground mines, so that mined lands are
12 reclaimed to a usable condition which is readily adaptable for
13 alternate land uses and create no danger to public health or
14 safety. The process may extend to affected lands surrounding
15 mined lands, and may require backfilling, grading, resoiling,
16 revegetation, soil compaction, stabilization, or other measures.
- 17 (r) SMARA. The Surface Mining and Reclamation Act of 1975,
18 as amended, which is set forth at Public Resources Code Section
19 2710 et seq.
- 20 (s) Stream Mile. The distance upstream from the mouth, confluence,
21 or County-line as mapped in the Aggregate Resource
22 Management Plan.
- 23 (t) Surface Mining Operations. All, or any part of, the process
24 involved in the mining of minerals on mined lands by removing
25 overburden and mining directly from the mineral deposits, open-pit
26 mining of minerals naturally exposed, mining by the auger
27 method, dredging and quarrying, or surface work incident to an
28 underground mine. Surface mining operations include, but are not

1 limited to, in place distillation or retorting or leaching, the
2 production and disposal of mining waste, prospecting and
3 exploratory activities, borrow pitting, gravel extraction, and
4 segregation and stockpiling of mined materials (and recovery of
5 same).

6 (u) Use Permit or Permit to Mine. A use permit issued pursuant to
7 the Lake County Zoning Ordinance.

8 (v) Thalweg. A line joining the deepest points along a stream, i.e.,
9 the low point of the low flow channel.

10 **Sec. 24-3. Scope.**

11 3.1. The provisions of this chapter shall apply to the unincorporated areas of
12 Lake County.

13 3.2. The provisions of this chapter are not applicable to:

14 (a) Excavations or grading conducted for the purpose of restoring
15 land following a flood or natural disaster or for farming. The
16 exemption for farming, (excavations or grading that is wholly
17 integral and necessary to the conduct of agricultural activities),
18 does not apply to the exportation of mineral materials, including
19 overburden, from a parcel or contiguous parcels that is in excess
20 of 1,000 cubic yards.

21 (b) Onsite excavation and onsite earthmoving activities which are an
22 integral and necessary part of a construction project that are
23 undertaken to prepare a site for construction of structures,
24 landscaping, or other land improvements, including the related
25 excavation, grading, compaction, or the creation of fills, road cuts,
26 and embankments, whether or not surplus materials are exported
27 from the site, subject to all of the following conditions:

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1 (1) All required permits for the clearing of native vegetation,
2 grading, construction, landscaping, or related land
3 improvements have been approved by a public agency in
4 accordance with applicable provisions of state law and
5 locally adopted plans and ordinances, including, but not
6 limited to, the California Environmental Quality Act
7 (hereinafter 'CEQA', Public Resources Code, Division 13,
8 §21000 et seq.).

9 (2) The County's approval of the construction project included
10 consideration of the onsite excavation and onsite
11 earthmoving activities pursuant to CEQA.

12 (3) The approved construction project is consistent with the
13 County's General Plan or zoning of the site.

14 (4) Surplus materials shall not be exported from the site unless
15 and until actual construction work has commenced and
16 shall cease if it is determined that construction activities
17 have terminated, have been indefinitely suspended, or are
18 no longer being actively pursued.

19 (c) Operation of a plant site used for mineral processing, including
20 associated onsite structures, equipment, machines, tools, or other
21 materials, including the onsite stockpiling and onsite recovery of
22 mined materials, subject to all of the following conditions:

23 (1) The plant site is located on lands designated for industrial
24 or commercial uses in the County's General Plan.

25 (2) The plant site is located on lands zoned industrial or
26 commercial, or is contained within a zoning category
27 intended exclusively for industrial activities by the County.

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1 (3) None of the minerals being processed are being extracted
2 onsite.

3 (4) All reclamation work has been completed pursuant to the
4 approved reclamation plan for any mineral extraction
5 activities that occurred onsite after January 1, 1976.

6 (d) Prospecting for, or the extraction of, minerals for commercial
7 purposes and the removal of overburden in total amounts of less
8 than 1,000 cubic yards in any one location of one acre or less,
9 including materials removed pursuant to an administrative gravel
10 permit.

11 (e) Surface mining operations that are required by federal law in order
12 to protect a mining claim, if those operations are conducted solely
13 for that purpose.

14 (f) Any other surface mining operations that the State Mining and
15 Geology Board determines to be of an infrequent nature and
16 which involve only minor surface disturbances.

17 (g) Emergency excavations or grading conducted by the California
18 Department of Water Resources or Reclamation Board for the
19 purpose of averting, alleviating, repairing, or restoring damage to
20 property due to imminent or recent floods, disasters, or other
21 emergencies.

22 (h)(1) Excavations or grading for the exclusive purpose of obtaining
23 materials for roadbed construction and maintenance conducted in
24 connection with timber operations or forest management on land
25 owned by the same person or entity. This exemption is limited to
26 excavation and grading that is conducted adjacent to timber
27 operation or forest management roads and shall not apply to
28 onsite excavation or grading that occurs within 100 feet of a Class

1 One watercourse or 75 feet of a Class Two watercourse, or to
2 excavation for materials that are, or have been, sold for
3 commercial purposes.

4 (h)(2) This exemption shall be available only if slope stability and
5 erosion are controlled in accordance with subdivision (f) of Section
6 3704 and subdivision (d) of Section 3706 of Title 14 of the
7 California Code of regulations and, upon closure of the site, the
8 person closing the site implements, where necessary,
9 revegetation measures and postclosure uses in consultation with
10 the Department of Forestry and Fire Protection.

11 (i) The removal of silt, sediment, and other materials from a flood
12 control facility by the Department of Water Resources, State
13 Reclamation Board, Department of Public Works, Special Districts
14 Administration, Lake County Flood Control and Water
15 Conservation District, or other public entity, or its designee,
16 pursuant to 14 CCR § 3505(a)(2).

17 **Sec. 24-4. Aggregate Resource Management Plan.**

18 4.1. The Department shall cause to be prepared, and updated as necessary,
19 an Aggregate Resource Management Plan (ARMP) which shall be an element of the Lake
20 County General Plan. The ARMP shall contain:

- 21 (a) An inventory of existing and potential mining sites;
22 (b) A discussion of types and methods of mining and processing
23 methods;
24 (c) An analysis of the aggregate supply versus the demand in Lake
25 County;
26 (d) Management policies for aggregate mining and reclamation; and
27 (e) A program environmental impact report so as to enable the
28 issuance of permits to mine and approval of reclamation plans

1 without additional environmental review, except as may be
2 required by an application that exceeds the scope of the ARMP.

3 4.2. Except as provided herein, all permits to mine, administrative gravel
4 permits, reclamation plans, financial assurances, and amendments to an approved
5 reclamation plan shall be consistent with the ARMP.

6 **Sec. 24-5. Administrative Gravel Permits.**

7 5.1. Notwithstanding any other provision of this code, the Community
8 Development Director, or his designee, and the Deputy Director of the Department of Public
9 Works, Water Resources Division or his designee, acting jointly, may issue administrative gravel
10 permits for gravel extraction provided that:

- 11 (a) The Deputy Director of the Department of Public Works, Water
12 Resources Division, or his designee, deems that the operation is
13 clearly beneficial for flood or erosion control or habitat restoration
14 purposes;
- 15 (b) The Community Development Director, or his designee, determines
16 that no significant adverse environmental effects would result;
- 17 (c) No such permit shall allow gravel extraction in excess of 1,000 cubic
18 yards in any one location of one acre or less, or involve extraction in
19 an area greater than one acre;
- 20 (d) No such permit shall be inconsistent with the Aggregate Resource
21 Management Plan;
- 22 (e) No such permit shall allow gravel extraction contrary to the minimum
23 standards for administrative gravel permits;
- 24 (f) No such permit shall be issued until the requirements of Section 5.2
25 have been met;
- 26 (g) When applicable, the requirements of Sections 5.3 and 5.4 have
27 been met; and

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1 (h) Notwithstanding the foregoing, the Deputy Director of the
2 Department of Public Works, Water Resources Division, may
3 approve gravel extraction exceeding the minimum standards for
4 administrative gravel permits, as defined in subsection 2.1(m), if he
5 determines that such a deviation is necessary for flood control
6 purposes to protect lives and property.

7 5.2. No person shall conduct gravel extraction operations involving the
8 extraction of more than 50 cubic yards and less than a 1000 cubic yard of aggregate without first
9 obtaining an administrative gravel permit from the Department. A fee or fees, as established by
10 ordinance of the Board of Supervisors to recover the administrative costs of processing the
11 administrative gravel permit shall be paid to the Department at the time of filing. Applications for
12 an administrative gravel permit shall be made on forms provided by the Department. Within 30
13 days of application, the Department shall either:

- 14 (a) Approve the permit; or
15 (b) If applicable, mail a notice pursuant to Section 5.3 informing the
16 public that it intends to approve a permit; or
17 (c) Request additional information from the applicant, including, but not
18 limited to detailed site maps, and studies to determine whether such
19 an application meets the criteria set forth in Section 5.1 above; or
20 (d) Deny the requested permit.

21 5.3. No such administrative gravel permit shall be issued on creeks
22 designated in this chapter or the ARMP as being over-extracted, downcut, or environmentally
23 sensitive unless:

- 24 (a) Notice of said permit application is mailed not less than ten (10)
25 days prior to the intended issuance date, to the owners of all
26 property contiguous to the proposed extraction site and
27 contiguous to the creek for a distance of 700 feet up and down
28 stream from the property line of the proposed extraction site, as

1 shown on the last equalized assessment roll informing said
2 owners that they may file with the Department a written protest to
3 the issuance of the subject permit;

4 (b) Notice of said permit application is mailed not less than ten (10)
5 days prior to the intended issuance date to persons or
6 organizations who have requested such notices; and

7 (c) No written protests are received from owners, persons or
8 organizations notified herein within ten (10) days of the date of
9 mailing of the required notice protesting the findings and
10 conclusions justifying the issuance of the permit.

11 5.4. If one or more written protests are received from a property owner,
12 person or organization notified hereunder within ten (10) days of the date of mailing of
13 notification, the administrative permit shall be deemed appealed to the Commission. The
14 appeal hearing shall be scheduled for the next available regular meeting of the Commission
15 and shall be noticed in the manner provided for in Section 5.3 above.

16 5.5. The following creeks are designated as being over-extracted or downcut:

- 17 (1) Adobe Creek below Highland Creek and Adobe Creek dams;
18 (2) Kelsey Creek, from Clear Lake to stream mile 10.04;
19 (3) Middle Creek, excluding the engineered flood control channel;
20 (4) Scotts Creek; and
21 (5) North Fork of Cache Creek below Indian Valley Reservoir.

22 5.6. The following creeks are designated as being environmentally sensitive:

- 23 (1) Middle Creek between stream miles 0 and 2.5 and between
24 stream miles 5.87 and 6.70;
25 (2) Clover Creek between stream miles 0.71 and 2.49;
26 (3) Manning Creek between stream miles 0.85 and 2.95;
27 (4) Upper Kelsey Creek;
28 (5) St. Helena Creek upstream of stream mile 1.58;

1 (6) Putah Creek between stream miles 13.9 and 15.81 and upstream
2 of stream mile 20.4; and

3 (7) Seigler Canyon Creek.

4 **Sec. 24-6. Vested Rights.**

5 6.1. No person who obtained a vested right to conduct surface mining
6 operations prior to January 1, 1976 shall be required to secure a permit to mine, so long as
7 the vested right continues and as long as no substantial changes have been made in the
8 operation except in accordance with SMARA, State regulations, and this chapter. Where a
9 person with vested rights has continued surface mining in the same area subsequent to
10 January 1, 1976, he shall obtain County approval of a reclamation plan covering the mined
11 lands disturbed by such subsequent surface mining. In those cases where an overlap exists
12 (in the horizontal and/or vertical sense) between pre-SMARA and post-SMARA mining, the
13 reclamation plan shall call for reclamation proportional to that disturbance caused by the
14 mining after the effective date of SMARA (January 1, 1976).

15 6.2. All other requirements of State law and this chapter shall apply to vested
16 mining operations.

17 **Sec. 24-7. Permit, Reclamation Plan Requirements, and Review Procedure.**

18 7.1. Except as provided in this chapter, no person shall conduct surface
19 mining operations unless a permit to mine, reclamation plan, and financial assurances for
20 reclamation have first been approved by the County or an administrative gravel permit has
21 been approved. Any applicable exemption from this requirement does not automatically
22 exempt a project or activity from the application of other regulations, ordinances or policies of
23 the County, including, but not limited to, the application of CEQA, the requirement of a
24 grading permit, minor use permit or other permits, conditions of an extraordinary use
25 agreement, the payment of development impact fees, or the imposition of other dedications
26 and exactions as may be permitted under the law. The provisions of this chapter shall apply
27 to all lands within the unincorporated County, both public and private.

28 7.2 Application for a permit to mine and reclamation plan for surface mining

1 or land reclamation projects shall be made on forms provided by the Department. Said
2 application shall be filed in accordance with this chapter and procedures to be established by
3 the Community Development Director. The forms for reclamation plan applications shall
4 require, at a minimum, each of the elements required by SMARA (§§2772-2773) and State
5 regulations, and any other requirements deemed necessary to facilitate an expeditious and
6 fair evaluation of the proposed reclamation plan, to be established at the discretion of the
7 Director. As many copies of the permit to mine and reclamation plan applications as may be
8 required by the Director shall be submitted to the Department. A fee or fees as established
9 by ordinance of the Board of Supervisors to recover the administrative costs of processing
10 the permit to mine and reclamation plan shall be paid to the County of Lake at the time of
11 filing.

12 7.3 As many copies of a reclamation plan application as may be required
13 shall be submitted in conjunction with all applications for a permit to mine for surface mining
14 operations. All documentation for the reclamation plan shall be submitted to the County at
15 one time.

16 7.4. Applications shall include all required environmental review forms and
17 information prescribed by the Community Development Director. Information required shall
18 include a surface mining operations map and a final reclamation map prepared by either:

- 19 (a) A state registered geologist;
- 20 (b) A state-registered professional engineer;
- 21 (c) A state-licensed landscape architect;
- 22 (d) A certified professional in erosion and sediment control; or
- 23 (e) Other qualified professional acceptable to the Director.

24 Applications shall also include:

- 25 (a) A cost estimate for financial assurances; and
- 26 (b) Other information needed to meet the requirements of Section 24-
27 9 below to provide adequate financial assurances.

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1 7.5. Statement of Responsibility. The person submitting the reclamation plan
2 shall also sign a statement accepting responsibility for reclaiming the mined lands in
3 accordance with the reclamation plan. Said statement shall be kept by the Department in the
4 mining operations permanent record. Upon sale or transfer of the operation, the new
5 operator shall submit a signed statement of responsibility to the Department for placement in
6 the permanent record.

7 7.6. Within thirty (30) days of the filing of an application for a permit to mine
8 for surface mining operations and/or a reclamation plan, the Department shall notify the State
9 Department of Conservation of the filing of the application(s) so that the review provided for
10 by Section 24-10 below may be completed. Except for administrative gravel permit
11 applications, whenever mining operations are proposed in the 100-year flood plain of any
12 stream, as shown in Zone A of the Flood Insurance Rate Maps issued by the Federal
13 Emergency Management Agency, and within one mile, upstream or downstream, of any state
14 highway bridge, the Department shall also notify the State Department of Transportation that
15 the application has been received.

16 7.7. The Department shall:

- 17 (a) Conduct an environmental review of the application as required by
18 CEQA and pursuant to the County's Environmental Protection
19 Guidelines;
20 (b) Review the application for consistency with the ARMP; and
21 (c) Determine the adequacy of the proposed financial assurances.

22 7.8. Subsequent to the State review period provided for by Section 24-10
23 below, and the environmental review provided for by Section 7.7 above, the Department shall
24 prepare a staff report to the Commission reporting and making recommendations on:

- 25 (a) Comments, if any, of the Director of the Department of
26 Conservation;
27 (b) Appropriate environmental actions and approvals;
28 (c) Consistency of the application with the ARMP;

1 (d) The adequacy of the financial assurances proposed by the
2 applicant; and

3 (e) Such other information as appropriate.

4 7.9. Upon completion of the staff report, provided for by Section 7.8 above,
5 the Department shall schedule a public hearing before the Commission for purposes of
6 considering the appropriate environmental actions, the proposed permit to mine, the
7 reclamation plan, and the financial assurances. Said hearing shall be noticed in a manner as
8 required by the Lake County Zoning Ordinance for the permit to mine.

9 7.10. The Commission shall hold at least one noticed public hearing on the
10 permit to mine and/or reclamation plan.

11 7.11. Pursuant to Public Resources Code Section 2774(d), the Commission
12 shall evaluate written comments received, if any, from the State Department of Conservation
13 during the comment periods. The Department's staff report shall contain a response
14 describing the disposition of the major issues raised by the State for the Commission's
15 approval. If the Commission's actions are at variance with the recommendations and
16 objections raised in the State's comments, the Commission's actions shall include a written
17 response which addresses in detail why specific comments and suggestions were not
18 accepted. Copies of any written comments received and responses prepared by the
19 Commission shall be forwarded to the operator.

20 7.12. At the conclusion of the public hearing, the Commission may approve,
21 conditionally approve or deny the permit to mine, the reclamation plan and the financial
22 assurances pursuant to Section 24-9. A reclamation plan shall not be approved unless the
23 Commission finds that:

24 (a) The reclamation plan complies with the requirements of Public
25 Resources Code Sections 2772 and 2773;

26 (b) The reclamation plan complies with the applicable requirements of
27 the State regulations found at 14 CCR Sections 3500 through
28 3505 and 3700 through 3713;

- 1 (c) The reclamation plan and potential use of reclaimed land pursuant
2 to the plan are consistent with this chapter and the ARMP;
- 3 (d) The reclamation plan will restore the mined lands to a usable
4 condition which is readily adaptable for alternative land uses
5 consistent with the County's General Plan; and
- 6 (e) When applicable, a written response to the State Department of
7 Conservation pursuant to Section 7-11 above has been prepared.

8 7.13. Decisions of the Commission may be appealed to the Board of
9 Supervisors pursuant to Section 21-58.30 of the Lake County Code.

10 7.14. The Department shall forward a copy of each approved permit to mine
11 for mining operations and/or approved reclamation plan, and a copy of the approved financial
12 assurances to the State Department of Conservation. By July 1 of each year, the
13 Department shall submit to the State Department of Conservation for each active or idle
14 mining operation a copy of the permit to mine or reclamation plan amendments, as
15 applicable, or a statement that there have been no changes during the previous year.

16 **Sec. 24-8. Standards for Reclamation.**

17 8.1. All reclamation plans shall comply with the provisions of SMARA, (Public
18 Resources Code Sections 2772 and 2773), the State regulations (14 CCR Sections 3500 –
19 3505), and the ARMP. Reclamation plans approved after January 15, 1993, reclamation
20 plans for proposed new mining operations, and any amendments to previously approved
21 reclamation plans, shall also comply with the requirements for reclamation performance
22 standards (14 CCR Sections 3700 – 3713).

23 8.2 The County may impose additional performance standards as developed
24 either in review of individual projects, as warranted, or through the formulation and adoption
25 of Countywide performance standards.

26 8.3. Reclamation activities shall be initiated at the earliest possible time on
27 those portions of the mined lands that will not be subject to further disturbance. Interim
28 reclamation may also be required for mined lands that have been disturbed and that may be

1 disturbed again in future operations. Reclamation may be done on an annual basis, in stages
2 compatible with continuing operations, or on completion of all excavation, removal, or fill, as
3 approved by the County. Each phase of reclamation shall be specifically described in the
4 reclamation plan and shall include:

- 5 (a) The beginning and expected ending dates for each phase;
- 6 (b) All reclamation activities required;
- 7 (c) Criteria for measuring completion of specific reclamation activities;
- 8 and,
- 9 (d) Estimated costs for completion of each phase of reclamation.

10 **Sec. 24-9. Financial Assurances.**

11 9.1. To ensure that reclamation will proceed in accordance with the approved
12 permit to mine and reclamation plan, the Commission shall require, as a condition of
13 approval, financial assurances which shall remain in effect for the duration of the surface
14 mining operations and any additional period until reclamation is completed and any other
15 term or condition of the permit to mine has been completed to the satisfaction of the
16 Community Development Director. The applicant may propose security in the form of a
17 surety bond, trust fund, irrevocable letter of credit from an accredited financial institution, or
18 other method acceptable to the Commission and the State Mining and Geology Board as
19 specified in State regulations, and which the Commission reasonably determines is adequate
20 to perform reclamation in accordance with the surface mining operations approved by the
21 reclamation plan. Financial assurances shall be made payable to the County of Lake and the
22 State Department of Conservation.

23 9.2 Financial assurances shall be required to ensure compliance with the
24 permit to mine and with the elements of the reclamation plan, including but not limited to,
25 revegetation and landscaping requirements, restoration of aquatic or wildlife habitat,
26 restoration of water bodies and water quality, slope stability and erosion and drainage control,
27 disposal of hazardous materials, and other measures, if necessary.

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1 9.3. Cost estimates for the financial assurances shall be submitted to the
2 Department for review and recommendation to the Commission. The Department shall
3 forward a copy of the cost estimates, together with any documentation received supporting
4 the amount of the cost estimates, to the Director of the Department of Conservation pursuant
5 to Section 24-10 below for review. If the Director of the Department of Conservation does not
6 comment within 45 days of receipt of these estimates, it shall be assumed that the cost
7 estimates are adequate, unless the County has reason to determine that additional costs may
8 be incurred.

9 9.4. The amount of the financial assurances shall be based upon the
10 estimated costs of reclamation for the years or phases stipulated in the approved reclamation
11 plan, including any maintenance of reclaimed areas as may be required, subject to
12 adjustment for the actual amount required to reclaim lands disturbed by surface mining
13 activities in the upcoming year. Cost estimates shall be prepared by a California registered
14 professional engineer and/or other similarly licensed and qualified professional retained by
15 the operator and approved by the Community Development Director. The estimated amount
16 of the financial assurances shall be based on an analysis of physical activities necessary to
17 implement the approved reclamation plan, the unit costs for each of these activities, the
18 number of units of each of these activities, and the actual administrative costs. Financial
19 assurances to ensure compliance with revegetation, restoration of water bodies, restoration
20 of aquatic or wildlife habitat, and any other applicable element of the approved reclamation
21 plan shall be based upon cost estimates that include but may not be limited to labor,
22 equipment, materials, mobilization of equipment, administration, and reasonable profit by a
23 commercial operator other than the permittee. A contingency factor of ten percent (10%)
24 shall be added to the cost of financial assurances.

25 9.5. In projecting the costs of financial assurances, it shall be assumed,
26 without prejudice or insinuation, that the surface mining operation could be abandoned by the
27 operator and, consequently, the County or State Department of Conservation may need to
28 contract with a third party commercial company for reclamation of the site.

1 9.6. The amount of financial assurances required of a surface mining
2 operation for any one year shall be adjusted annually to account for new lands disturbed by
3 surface mining operations, inflation, and reclamation of lands accomplished in accordance
4 with the approved reclamation plan. The financial assurances shall include estimates to
5 cover reclamation for existing conditions and anticipated activities during the upcoming year,
6 excepting that the permittee may not claim credit for reclamation scheduled for completion
7 during the coming year.

8 9.7. The annual revisions to financial assurances shall be submitted by the
9 operator to the Community Development Director each year prior to the anniversary date of
10 the initial approval of the financial assurances. The financial assurances shall cover the cost
11 of existing disturbance and anticipated activities for the next calendar year, including any
12 required interim reclamation. If revisions to the financial assurances are not required, the
13 operator shall explain, in writing, why revisions are not required. The Community
14 Development Director shall have the authority to approve the annual adjustments to the
15 financial assurances if they meet the requirements of this chapter, the ARMP, SMARA, and
16 State regulations; however, said determination shall be submitted to the Commission for its
17 approval if the Community Development Director and operator do not agree as to the
18 appropriate amount of the financial assurances.

19 **Sec. 24-10. State Review.**

20 10.1. Prior to the approval of a surface mining operations reclamation plan,
21 financial assurances, including existing financial assurances reviewed by the County
22 pursuant to subdivision (c) of Public Resources Code Section 2770, or any amendments, the
23 Department shall submit the plan, assurances or amendments to the Director of the
24 Department of Conservation for review in compliance with the requirements of Public
25 Resources Code Section 2774(c).

26 If the Director of the Department of Conservation does not comment
27 within thirty (30) days from the date of receipt of a reclamation plan or plan amendments or
28 forty-five (45) days from the date of receipt of the financial assurances documents, the

1 Department may assume that the submission is in compliance with State requirements.

2 **Sec. 24-11. Public Records.**

3 11.1. Reclamation plans, reports, applications, and other documents submitted
4 pursuant to this chapter are public records unless it can be demonstrated to the satisfaction of
5 the County that the release of such information, or part thereof, would reveal production,
6 reserves, or rate of depletion entitled to protection as proprietary information. The County shall
7 identify such proprietary information as a separate part of each application. A copy of all
8 permits, reclamation plans, reports, applications, and other documents submitted pursuant to
9 this chapter, including proprietary information, shall be furnished to the Director of the
10 Department of Conservation by the County, upon request. Proprietary information shall be
11 made available to persons other than the Director of the Department of Conservation only when
12 authorized by the mine operator and by the mine owner in accordance with Section 2778 of the
13 Public Resources Code.

14 **Section 24-12. Periodic Review and Annual Report Requirements.**

15 12.1. The Department shall arrange for inspection of a surface mining
16 operation within six months of receipt of the Annual Report required in Section 12.2 below, to
17 determine whether the surface mining operation is in compliance with the approved permit to
18 mine and/or reclamation plan, approved financial assurances, and State regulations. In no
19 event shall less than one inspection be conducted in any calendar year. Said inspections
20 may be made by a state-registered geologist, state-registered civil engineer, state-licensed
21 landscape architect, or state-registered forester, who is experienced in land reclamation and
22 who has not been employed by the mining operation in any capacity during the previous 12
23 months, or other qualified specialists, as selected by the Community Development Director.
24 All inspections shall be conducted using a form approved and provided by the State Mining
25 and Geology Board.

26 The Department shall notify the State Department of Conservation within
27 thirty (30) days of completion of the inspection that said inspection has been conducted, and
28 shall forward a copy of said inspection notice and any supporting documentation to the

1 mining operator. The operator shall be solely responsible for the reasonable cost of such
2 inspection.

3 12.2. Surface mining operators shall forward an annual surface mining report,
4 as required by Public Resources Code Section 2207, to the State Department of
5 Conservation and to the Department on a date established by the State Department of
6 Conservation, upon forms furnished by the State Mining and Geology Board. New mining
7 operations shall file an initial surface mining report and any applicable filing fees with the
8 State Department of Conservation within 30 days of permit approval, or before
9 commencement of operations, whichever is sooner. Any applicable fees, together with a
10 copy of the annual inspection report, shall be forwarded to the State Department of
11 Conservation at the time of filing the annual surface mining report.

12 **Sec. 24-13. Amendments to an Approved Reclamation Plan.**

13 13.1. Amendments to an approved reclamation plan may be submitted to the
14 Department at any time detailing proposed changes from the original plan. Substantial
15 deviations from the original plan, except as provided in Section 13.2, shall not be undertaken
16 until such amendment has been filed with and approved by the Commission.

17 Amendments to an approved reclamation plan shall be approved by the
18 same procedure as is prescribed for approval of a reclamation plan. The fee for a
19 reclamation plan amendment shall be one-half the standard application fee for a reclamation
20 plan.

21 13.2. Notwithstanding Section 13.1, if the Director determines that a proposed
22 amendment to a reclamation plan: a) clearly lessens the surface mining operation's effect on
23 the environment, including, but not limited to amendments that propose a reduction in the
24 area to be mined; b) is consistent with the ARMP; and c) is necessary to achieve the
25 prescribed or higher post-mining use of the reclaimed land; the Community Development
26 Director may treat the proposed change as a minor modification and may approve, or
27 conditionally approve, the proposed change. The fee for the minor modification shall be one-
28 sixth the standard application fee for a reclamation plan. A copy of the approved minor

1 modification shall be provided to the State Department of Conservation.

2 **Sec. 24-14. Enforcement and penalties.**

3 14.1 The Department shall enforce the provisions of this chapter. Any permit or
4 license of any type issued by any department or officer of the County of Lake, issued in conflict
5 with the provisions of this chapter is hereby declared to be null and void.

6 14.2. (a) The following officers and employees of the Department are
7 hereby given arrest and citation powers pursuant to Section 836.5
8 of the Penal Code:

- 9 (1) Community Development Director;
- 10 (2) Principal Planner;
- 11 (3) Environmental Officer; and
- 12 (4) Zoning Code Compliance Officers.

13 (b) The above-named officers and employees shall enforce the
14 provisions of this chapter and all other laws relating to surface
15 mining operations in the unincorporated areas of the County of
16 Lake.

17 14.3. Violation of any provision of this chapter, or any condition of a permit to
18 mine (use permit) is punishable as:

- 19 (a) An infraction by a fine not exceeding one hundred dollars
20 (\$100.00) for a first violation;
- 21 (b) A fine not exceeding two hundred dollars (\$200.00) for a second
22 violation;
- 23 (c) A fine not exceeding five hundred dollars (\$500.00) for each
24 additional violation; or
- 25 (d) As a misdemeanor by a fine of not more than one thousand
26 dollars (\$1000.00); or
- 27 (e) By imprisonment in the County Jail for a period of not more than
28 six (6) months; or

1 (f) By both such fine and imprisonment; or

2 (g) By the imposition of administrative penalties as set forth in
3 subsection 14.5 below.

4 Each separate day, or any portion thereof, on which any violation occurs
5 shall be deemed to constitute a separate offense punishable as herein provided.

6 14.4. Any surface mining operations, building or structure erected,
7 constructed, altered, enlarged, converted, moved or maintained contrary to the provisions of
8 this chapter and any use of land or buildings operated or maintained contrary to the
9 provisions of this chapter are hereby declared to be public nuisances. The County Counsel,
10 upon order of the Board of Supervisors, shall commence the necessary action or proceedings
11 for the abatement, removal and enjoinder thereof in the manner prescribed by law in the
12 courts which may have jurisdiction to grant such relief as will accomplish such abatement and
13 restraint. The remedies provided for in this section shall be in addition to any other remedy
14 or remedies or penalties provided in this chapter or any other law or chapter.

15 14.5. If the Community Development Director, based upon an annual
16 inspection or otherwise confirmed by an inspection of the mining operation, determines that a
17 surface mining operation is not in compliance with this chapter, the applicable permit to mine,
18 any other required permit and/or the reclamation plan, the Community Development Director
19 may recommend to the Commission that proceedings be initiated to impose administrative
20 penalties pursuant to Public Resources Code Section 2774.1 et seq. If the Commission
21 determines that there are grounds for the imposition of administrative penalties, it shall follow
22 the procedures set forth in Public Resources Code Section 2774.1 et seq.

23 14.6. Revocation of a permit to mine or administrative gravel permit shall be
24 conducted pursuant to Section 60.10 of Chapter 21 of this Code, if the County determines
25 revocation of a permit is warranted.

26 **Sec. 24-15. Nonenforcement Appeals.**

27 15.1. Any person aggrieved by an act or determination of the Commission in the
28 exercise of the authority granted herein shall have the right to appeal to the Board of

1 Supervisors if the act or determination is not the result of an enforcement action. An appeal of a
2 decision by the Commission shall be filed with the Clerk of the Board of Supervisors within
3 seven (7) calendar days of the decision on the prescribed form and accompanied by the
4 applicable fee in the amount to be set by the Board of Supervisors.

5 **Sec. 24-15A. Enforcement Appeals.**

6 15A.1. The Commission shall have the power to hear and decide administrative
7 appeals based on the enforcement or interpretation of the provisions of this chapter. The
8 application and process for administrative appeals shall be as set forth in section 58.10 of
9 Chapter 21 of this Code. Within thirty (30) days of the issuance of an order setting
10 administrative penalties, pursuant to Section 14.5, the operator may appeal such order to the
11 Board of Supervisors.

12 15A.2. Any person who has been issued a written Notice of Violation or Stop
13 Work Order for any violation of a provision of this chapter by a County official or employee
14 authorized to enforce said provisions, may, within seven (7) calendar days of receipt of said
15 Notice of Violation or Stop Work Order, file an administrative appeal in writing to said
16 determination of violation to the Commission after payment of the required fee. Enforcement
17 actions which consist of the issuance of a citation for a violation of this chapter shall not be
18 appealable.

19 15A.3. Upon receipt of such administrative appeal and any required fee, the
20 Commission shall set the matter for hearing at the next available regularly scheduled meeting
21 of the Commission. Notice of the time and place of the hearing shall be provided to the
22 appellant at the time of filing the appeal.

23 15A.4. Within forty-five (45) days after the close of the hearing, the Commission
24 may either sustain the decision being appealed or render such new decision, as it considers
25 appropriate. Notice of the decision of the Commission shall be mailed to the appellant and/or
26 applicant within fifteen (15) calendar days.

27 15A.5. The Commission decisions on all enforcement appeals shall be final.
28 Commission decisions on administrative appeals not initiated by a County enforcement action

1 shall be appealable to the Board of Supervisors in accordance with the provisions of Section
2 58.30 et seq. of Chapter 21 of this Code.

3 **Sec. 24-16. Interim Management Plans.**

4 16.1. Within 90 days of a surface mining operation becoming idle, the operator
5 shall submit to the Department a proposed interim management plan (IMP). The proposed
6 IMP shall fully comply with the requirements of SMARA, including but not limited to all permit
7 to mine conditions, and shall provide measures the operator will implement to maintain the
8 site in a stable condition, taking into consideration public health and safety. IMPs shall not be
9 considered a project for the purposes of environmental review.

10 16.2. Financial assurances for idle operations shall be maintained as though
11 the operation were active.

12 16.3. Upon receipt of a complete proposed IMP, the Department shall forward
13 the IMP to the State Department of Conservation for review. The IMP shall be submitted to
14 the State Department of Conservation at least 30 days prior to approval by the Department.

15 16.4. Within 60 days of receipt of the proposed IMP, or a longer period
16 mutually agreed upon by the Community Development Director and the operator, the
17 Department shall review and approve or deny the IMP in accordance with this chapter. The
18 operator shall have thirty (30) days, or a longer period mutually agreed upon by the operator
19 and the Community Development Director, to submit a revised IMP. The Department shall
20 approve or deny the revised IMP within sixty (60) days of receipt. If the Department denies
21 the revised IMP, the operator may appeal that action to the Commission pursuant to Section
22 58.10 of Chapter 21 of this Code.

23 16.5. The IMP may remain in effect for a period not to exceed five years, at
24 which time the Department may renew the IMP for another period not to exceed five years, or
25 require the surface mining operator to commence reclamation in accordance with its
26 approved Reclamation Plan.

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1 **Sec. 24-17. Fees.**

2 17.1. The Board of Supervisors shall establish such fees as it deems
3 necessary to cover the reasonable costs incurred in implementing this chapter and the State
4 regulations, including but not limited to, processing of applications, annual reports,
5 inspections, monitoring, enforcement and compliance. Such fees shall be paid by the
6 operator, as required by the Department, at the time of filing of the permit to mine application,
7 reclamation plan application, and at such other times as are determined by the Department to
8 be appropriate in order to ensure that all reasonable costs of implementing this chapter are
9 borne by the mining operator.

10 **Sec. 24-18. Mineral Resource Protection.**

11 18.1. Mine development is encouraged in compatible areas before
12 encroachment of conflicting uses. Mineral resource areas that have been classified by the
13 State Department of Conservation's Division of Mines and Geology or designated by the
14 State Mining and Geology Board, as well as existing surface mining operations that remain in
15 compliance with the provisions of this chapter, shall be protected to the extent possible from
16 intrusion by incompatible land uses that may impede or preclude mineral extraction or
17 processing that is consistent with the County's General Plan.

18 18.2. In accordance with Public Resources Code Section 2762, the County's
19 General Plan, resource maps, and the ARMP will be amended to reflect mineral information
20 (classification and/or designation reports) within 12 months of receipt from the State Mining
21 and Geology Board of such information. Land use decisions within the County will be guided
22 by information provided on the location of identified mineral resources of regional
23 significance. Conservation and potential development of identified mineral resource areas will
24 be considered and encouraged. Recordation on property titles of the presence of important
25 mineral resources within the identified mineral resource areas may be encouraged as a
26 condition of approval of any development project in the impacted area. Prior to approving a
27 use that would otherwise be incompatible with mineral resource protection, conditions of
28 approval may be applied to encroaching development projects to minimize potential conflicts.

1 18.3. The Department and the Commission shall comply with the procedures
2 and requirements set forth in Public Resources Code Sections 2762, 2762, and 2764 for
3 mineral resource management including the preparation of a statement of findings before
4 taking an action that would thereafter have the potential for mineral extraction in areas of
5 regional or statewide significance.

6 **Sec. 24-19. Incorporation by Reference.**

7 19.1. The provisions of SMARA, and the State regulations (14 CCR Section
8 3500 et seq.) as those provisions and regulations may be amended from time to time, are
9 made a part of this chapter by reference with the same force and effect as if the provisions
10 therein were specifically and fully set out herein, excepting that when the provisions of this
11 chapter are more restrictive than correlative State provisions, this chapter shall prevail.

12 **Sec. 24-20. Use of Mercury Mining Waste in Off-Site Construction.**

13 20.1. Except as hereinafter provided in subsection 20.2, mercury-mining
14 wastes shall not be used for construction material off the parcels from which they were
15 mined.

16 20.2. Upon application to and permit of the Health Services Department,
17 mercury mining wastes may be used off the parcels from which they were mined if the
18 applicant proves by chemical analysis of the wastes, conducted by a certified laboratory to
19 the satisfaction of the Health Services Department, that the mercury content of the materials
20 to be used does not exceed the background level for mercury at the proposed construction
21 site.

22 20.3. Any violation of the provisions of this section is declared to be a public
23 nuisance and may be abated as provided by law.

24 20.4 Any violation of the provisions of this section is declared to be a
25 misdemeanor. Each day of violation shall be a separate offense.

26 **Sec. 24-21. Severability.**

27 21.1. If any section, subsection, sentence, clause or phrase of this chapter is
28 for any reason held to be invalid or unconstitutional by the decision of a court of competent

1 jurisdiction, it shall not affect the remaining portions of this chapter."

2 **Section 2:** The Board of Supervisors finds that this ordinance is exempt from the
3 California Environmental Quality Act because it falls within the Categorical Exemption Class
4 8.

5 **Section 3:** All ordinances or parts of ordinances or resolutions or parts of
6 resolutions in conflict herewith are hereby repealed to the extent of such conflict and no
7 further.

8 **Section 4:** This ordinance shall take effect on the 4th day of August, 2000,
9 and within fifteen (15) days after adoption of this ordinance, the Clerk to the Board of
10 Supervisors shall publish a summary of the ordinance with the names of those Supervisors
11 voting for and against the ordinance and the Clerk shall post in the office of the Clerk to the
12 Board of Supervisors a certified copy of the full text of the adopted ordinance, along with the
13 names of those Supervisors voting for and against the ordinance.

14 The foregoing Ordinance was introduced before the Board of Supervisors on the 20th
15 day of June, 2000; and passed by the following vote on the 5th, day
16 of July, 2000.

17 AYES: Supervisors Robey, Smith, Lewis, Mackey and Merriman

18 NOES: None

19 ABSENT OR NOT VOTING: None

20 COUNTY OF LAKE



21 *[Signature]*
22 Chair, Board of Supervisors

23 APPROVED AS TO FORM:
24 CAMERON L. REEVES
25 County Counsel



21 The within instrument is a correct
22 copy of the Document on file in
23 this office.

22 ATTEST: 7-5-2000

23 KELLY F. COX
24 ATTEST: KELLY F. COX
25 Clerk of the Board of Supervisors of
the State of California in and for the
County of Lake. Supervisors

26 By: *[Signature]*
27 By: *[Signature]*
28 Deputy

By: *[Signature]*
ROBERT L. BRIDGES
Senior Deputy County Counsel