

ORDINANCE NO. 534

AN ORDINANCE OF THE CITY OF IRWINDALE
REPLACING CHAPTER 17.63 "MINING PERMITS AND
RECLAMATION PLANS" WITH A NEW CHAPTER ON
SURFACE MINING AND RECLAMATION CONSISTENT WITH
THE SMARA MODEL ORDINANCE

WHEREAS, Ordinance No. 356 was adopted in 1981, consistent with the requirements of the Surface Mining and Reclamation Act of 1975 (Public Resources Code Sections 2710, et seq.) hereafter referred to as "SMARA";

WHEREAS, with the adoption of Ordinance No. 356, codified in Chapter 17.63 of the Irwindale Municipal Code, the City is the lead agency under SMARA for approving Surface Mining operations and Reclamation plans within the City, in accordance with the requirements of SMARA;

WHEREAS, the State Legislature has amended the terms of SMARA approximately seventeen (17) times since it was enacted in 1975, making it difficult for local agencies under SMARA to maintain up-to-date ordinances consistent with the terms and provisions of SMARA;

WHEREAS, on or about May 18, 1998, the City was sent a notice from the State Mining and Geology Board (the "Board") of deficiencies in Ordinance No. 356 as a result of the numerous changes to the requirements of SMARA. The Board's notice provided that the City has 90 days to submit a revised Ordinance in accordance with SMARA;

WHEREAS, upon receipt of a revised Ordinance from the City, the Board has 60 days to review the revised Ordinance for certification;

WHEREAS, unless the City revises Ordinance No. 356 in accordance with the existing requirements of SMARA, the Board will assume full authority for reviewing and approving Reclamation plans submitted to the City of Irwindale, until such time as a revised Ordinance is adopted and submitted to the Board for review; and

WHEREAS, this Ordinance addresses any and all purported deficiencies with Ordinance No. 356 and is consistent with the policies of SMARA, the Model SMARA Ordinance and State law.

NOW, THEREFORE, the City Council of the City of Irwindale does hereby ordain as follows:

Section 1. Chapter 17.63 of the Irwindale Municipal Code of the City of Irwindale, entitled "Mining Permits and Reclamation

Plans" is hereby deleted in its entirety and replaced with the following new Chapter 17.63:

Chapter 17.63

SURFACE MINING AND RECLAMATION PLANS

Sections

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- 17.63.020 Definitions
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17.63.010 Purpose and Intent.

A. The City Council recognizes that the extraction of minerals is essential to the continued economic well-being of the City and to the needs of society. The City Council also recognizes 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 that surface mining takes place in diverse areas where the geologic, topographic, climatic, biological and social conditions are significantly different, causing Reclamation operations and Reclamation specifications to vary accordingly.

B. The purpose and intent of this Chapter 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", and State Mining and Geology Board regulations (hereinafter referred to as "State regulations") for surface mining and reclamation practices (California Code of Regulations [CCR], Title 14, Division 2, Chapter 8, Subchapter 1, Sections 3500 et seq.), to ensure that:

(1) Adverse environmental effects are prevented or minimized and mined lands are reclaimed to a usable condition and are readily adaptable for alternative land uses.

(2) The production and conservation of minerals are encouraged, while giving consideration to values relating to recreation, watershed, wildlife, range and forage, aesthetics and enjoyment.

(3) Residual hazards to the public health and safety are eliminated.

17.63.020 Definitions. For purposes of this Chapter, the following words and terms shall have the following meanings:

A. "Area of Regional Significance" means an area designated by the State Mining and Geology Board which is known to contain a deposit of minerals, the extraction of which is judged to be of prime importance in meeting future needs for minerals in a particular region of the State within which the minerals are located and which, if prematurely developed for alternate incompatible land uses, could result in the premature loss of minerals that are of more than local significance.

B. "Area of Statewide Significance" means an area designated by the Board which is known to contain a deposit of minerals, the extraction of which is judged to be of prime importance in meeting future needs for minerals in the State and which, if prematurely developed for alternate incompatible land uses, could result in the permanent loss of minerals that are of more than local or regional significance.

C. "Board" means the State Mining and Geology Board.

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

E. "Compatible Land Uses" means land uses inherently compatible with mining and/or that require a minimal amount of public or private investment in structures and 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 are not limited to, very low density residential, geographically extensive but low-impact industrial, recreational, agricultural, silvicultural, grazing, and open space.

F. "Exploration" or "Prospecting" means the search for minerals by geological, geophysical, geochemical or other techniques, including, but not limited to, sampling, assaying, drilling, or any surface or underground works needed to determine the type, extent, or quantity of materials present.

G. "Haul Road" means 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.

H. "Idle" means 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.

I. "Incompatible Land Uses" means land uses inherently incompatible with mining and/or that require public or private investment in structures, land improvements, and landscaping and that may prevent mining because of the greater economic value of the land and its improvements. Examples of such uses may include, but are not limited to, high density residential, low density residential with high unit value, public facilities, geographically limited but impact intensive industrial, and commercial.

J. "Mined Lands" means the surface, subsurface, and ground water of an area in which Surface Mining Operations will be, are being, or have been conducted, including private ways and roads appurtenant to any such area, land excavations, workings, mining waste, and areas in which structures, facilities, equipment, machines, tools, or other materials or property which result from, or are used in, Surface Mining Operations, are located.

K. "Minerals" means any naturally occurring chemical element or compound, or groups of elements and compounds, formed from inorganic processes and organic substances, including, but not limited to, coal, peat, and bituminous rock, but excluding geothermal resources, natural gas, and petroleum.

L. "Mining Waste" means the residual of any soil, rocky mineral, liquid, vegetation, equipment, machines, tools, or other materials or property directly resulting from or displaced by, Surface Mining Operations, and any other liquid or solid waste that may result from Surface Mining Operations.

M. "Operator" means any person who is engaged in Surface Mining Operations, or who contracts with others to conduct operations on said party's behalf, except a person who is engaged in Surface Mining Operations as an employee with wages as his/her sole compensation.

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

O. "Permit" means any formal authorization from, or approved by the City, the absence of which would preclude surface mining operations.

P. "Person" means any individual, firm, association, corporation, organization or partnership, and any governmental agency.

Q. "Reclamation" means the combined process of land treatment that maximizes post-mining land uses compatible with zoning and the general plan, and 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 as rapidly as is reasonably feasible to a usable condition which is readily adaptable for alternate land uses and creates 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.

R. "SMARA" means the Surface Mining and Reclamation Act of 1975, and all amendments thereto, as set forth in Public Resources Code Sections 2710 et seq., and all regulations thereunder (14 CCR §3500 et seq.).

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

T. "Surface Mining Operations" means all, or any part of, the process involved in the mining of minerals on Mined Lands by removing overburden and mining directly from the mineral deposits, open-pit mining of Minerals naturally exposed, mining by the auger method, dredging and quarrying, or surface work incident to an underground mine. Surface Mining Operations include, but are not limited to, in place distillation or retorting or leaching, the production and disposal of Mining Waste, Exploration or Prospecting, Borrow pitting, streambed skimming, and segregation and stockpiling of mined materials (and recovery of same).

17.63.030 Compliance with SMARA.

All Operators and Persons conducting or seeking to conduct Surface Mining Operations shall comply with the provisions of SMARA and State regulations thereunder (14 CCR §3500 et seq.), as such statutes and regulations may be amended from time to time, except that when the provisions of this Chapter are more restrictive, this Chapter shall prevail. Copies of SMARA and the State regulations are on file in the City Clerk's office for public review.

17.63.040 Scope.

Except as provided in this Chapter, no Person shall conduct Surface Mining Operations unless all use Permits, a Reclamation Plan, and all financial assurances for Reclamation, have first been approved by the City. 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 City, including but not limited to, the application of the California Environmental Quality Act, Public Resources Code Sections 21000 et seq. ("CEQA"), the requirements of other required approvals or permits, the payment of development impact fees, or the imposition of other dedications and exactions as may be permitted under any federal, State or local law. The provisions of this Chapter shall apply to all lands within the City, public and private. Subject to the aforementioned exceptions, this Chapter shall not apply to the following activities:

(1) Excavation or grading conducted for farming or onsite construction or for the purpose of restoring land following a flood or natural disaster.

(2) 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 the construction of structures, landscaping, or other land improvements, including all related excavation, grading, compaction, or the creation of fills, road cuts, and embankments, whether or not surplus materials are exported from the site, subject to all of the following conditions:

(a) All required permits for the construction, landscaping, or related land improvements have been approved by the appropriate public agency in accordance with applicable provisions of State law and locally adopted plans and ordinances, including, but not limited to, CEQA.

(b) The City's approval of the construction project included consideration of the onsite excavation and onsite earthmoving activities pursuant to CEQA.

(c) The approved construction project is consistent with the general plan and applicable zoning for the site.

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

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

(a) The plant site is located on lands designated for industrial or commercial uses under the City's general plan;

(b) The plant site is located on lands zoned quarry, industrial or commercial, or are contained within a zoning

category intended exclusively for industrial activities by the City;

(c) None of the Minerals being processed are being extracted onsite; and

(d) All Reclamation work has been completed pursuant to an approved Reclamation plan for any Mineral extraction activities that occurred onsite after January 1, 1976.

(4) Prospecting for, or the extraction of, Minerals for commercial purposes and the removal of Overburden in total amounts of less than 1,000 cubic yards in any one location of one acre or less.

(5) Surface Mining Operations that are required by federal law in order to protect a mining claim, if those operations are conducted solely for that purpose.

(6) Any other Surface Mining Operations that the Board determines to be of an infrequent nature and which involve only minor surface disturbances.

(7) The solar evaporation of sea water or bay water for the production of salt and related minerals.

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

(9) Road construction and maintenance for timber or forest operations if the land is owned by the same person or entity, and if the excavation is conducted adjacent to timber or forest operation roads. This exemption is only applicable if slope stability and erosion are controlled in accordance with Board regulations and, upon closure of the site, the Person closing the site implements, where necessary, revegetation measures and postclosure uses in consultation with the Department of Forestry and Fire Protection. This exemption does not apply to onsite excavation or grading that occurs within 100 feet of a Class One watercourse (as defined under State Law) or 75 feet of a Class Two watercourse (as defined under State Law), or to excavations for materials that are, or have been, sold for commercial purposes.

17.63.050 Vested Rights.

No Person who obtained a vested right to conduct Surface Mining Operations at a particular site prior to January 1, 1976, shall be required to secure a Permit to conduct such operations at said facility, as long as the vested right continues and as long as no substantial changes have been made in the operation, except those changes made and approved in accordance with SMARA, State

regulations, and this Chapter. Where a Person with vested rights continues Surface Mining Operations in the same area subsequent to January 1, 1976, such Person shall obtain City approval of a Reclamation plan covering the mined lands disturbed by such subsequent surface mining. In those cases where an overlap exists (either horizontally and/or vertically) between pre- and post-SMARA mining, the Reclamation plan shall provide for Reclamation proportional to that disturbance caused by the mining after the effective date of SMARA (January 1, 1976). All other requirements of State law and this Chapter shall apply to vested Surface Mining Operations.

17.63.060 Process.

A. Applications for a use Permit or a Reclamation plan for Surface Mining Operations shall be made on forms provided by the Planning Department. Said applications shall be filed in accordance with this Chapter and all procedures established by the City Planner. The forms for Reclamation plan applications shall require, at a minimum, each of the elements deemed necessary to facilitate an expeditious and fair evaluation of the proposed Reclamation plan, as determined by the City Planner.

B. The Reclamation plan application shall be submitted in conjunction with the application for a use Permit for Surface Mining Operations. For any Reclamation plan application that is not submitted simultaneously with an application for a use Permit, or for any proposed amendment to a Reclamation plan, the Reclamation plan application shall include all information concerning the mining operation required for the processing of the Reclamation plan. All documentation for the Reclamation plan shall be submitted to the City at one time.

C. Applications for a use Permit or a Reclamation plan shall include all required environmental review forms and information prescribed by the City Planner.

D. Upon completion of the environmental review and filing of all documents required by the City Planner, consideration of any use Permit or Reclamation plan for the proposed or existing Surface Mine Operation shall be completed pursuant to this Code 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 use Permit for Surface Mining Operations and/or a Reclamation plan, as complete, the Planning Department shall notify the State Department of Conservation of the filing of the application(s). Whenever Surface 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) and conduct any necessary environmental review pursuant to CEQA and any City environmental review guidelines.

G. Subsequent to completion of all 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 use Permit and/or the Reclamation plan.

I. Prior to final approval of a Reclamation plan, or any financial assurances (as provided in this Chapter), or any amendments to the Reclamation plan or existing financial assurances, the Planning Commission shall certify to the State Department of Conservation that the Reclamation plan and/or the financial assurances comply with the applicable requirements of State law, and shall submit the Reclamation plan, any financial assurances, or any amendments thereto, to the State Department of Conservation for review. The Planning Commission may conceptually approve the Reclamation plan and financial assurances before submittal to the State Department of Conservation. If a use Permit is being processed concurrently with the Reclamation plan, the Planning Commission may simultaneously also conceptually approve the use Permit. However, the Planning Commission may defer action on the use Permit until taking final action on the Reclamation plan and financial assurances. If necessary to comply with any permit processing deadlines, the Planning Commission may conditionally approve the use Permit with the condition that the Planning Department shall not issue the use Permit for the Surface Mining Operation 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.

J. 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 assurances. The Planning Commission shall evaluate written comments received, if any, from the State Department of Conservation during the comment periods. City 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 varies from 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 applicant and/or Operator.

K. The Planning Commission shall then take action to approve, conditionally approve, or deny the use permit and/or Reclamation plan, and to approve the financial assurances pursuant to Public Resources Code Section 2770(d).

L. The Planning Department shall forward a copy of each approved use Permit for Surface Mining Operations and/or approved Reclamation plan, and a copy of the approved financial assurances, to the State Department of Conservation. 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 use Permit and/or Reclamation plan amendments, whatever is applicable, or a statement that there have been no changes from the previous year.

17.63.070 Standards for Reclamation.

(a) All Reclamation plans shall comply with the specific requirements of SMARA (PRC §2772 and §2773) and applicable State regulations (14 CCR §3500-3505). 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 all reclamation performance standards, and requirements under the State regulations (14 CCR §3700-3713).

(b) The City may impose additional performance standards as developed either in reviewing individual projects, as warranted, or through the formulation and adoption of City 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 upon completion of all excavation, removal, or fill, as approved by the City. Each phase of Reclamation shall be specifically described in the Reclamation plan and shall include (a) the beginning and expected end 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.

17.63.080 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. Such statements shall be kept by the Planning Department. At or prior to the sale or transfer of the Surface Mining Operation, any new Operator shall submit a signed statement of responsibility to the Planning Department accepting responsibility for reclaiming the mined lands in accordance with the Reclamation plan.

17.63.090 Findings for Approval.

A. Use Permit Approvals. In addition to any other findings required by this Code, use Permits for Surface Mining Operations shall include a finding that the project complies with the provisions of SMARA and the State regulations thereunder.

B. Reclamation Plans. No Reclamation plan is to be approved unless the following findings have been made:

(a) The Reclamation plan complies with SMARA, Sections 2772 and 2773, and any other applicable provision.

(b) The Reclamation plan complies with applicable State Regulations (CCR §3500-3505, and §3700-3713).

(c) The Reclamation plan and potential uses of reclaimed land pursuant to the plan, are consistent with this Chapter, the City's General Plan and any applicable resource plan or element.

(d) The Reclamation plan has been reviewed pursuant to CEQA and the City's environmental review, and all significant adverse impacts from Reclamation of the Surface Mining Operations will be mitigated to the maximum extent feasible.

(e) The land and/or other 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.

(f) The Reclamation plan will restore the mined lands to a usable condition which is readily adaptable for alternative land uses consistent with the General Plan and any applicable resource plan.

(g) A written response to the State Department of Conservation has been prepared, describing the disposition of major issues raised by that Department. Where the City's position varies from the recommendations or any objections raised by the State Department of Conservation, the City's response shall address, in detail, why specific comments and suggestions by that Department were not accepted.

17.63.100 Financial Assurances.

A. To ensure Reclamation proceeds in accordance with the approved Reclamation plan, all Reclamation plans shall include a provision providing for financial assurances with security that will not be released until the City has provided written approval of satisfactory completion of the Reclamation plan. The applicant may provide security in the form of a surety bond, trust fund, irrevocable letter of credit from an accredited financial institution, or other method of security acceptable to the City and

the State Mining and Geology Board, as specified in the State regulations, and in an amount the City reasonably determines is adequate to perform Reclamation in accordance with the approved Reclamation plan. Financial assurances shall be made payable to the City of Irwindale 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, requirements for adequate and appropriate fill material, grading and compaction requirements, restoration of aquatic or wildlife habitat, restoration of water bodies and water quality, slope stability and erosion and drainage control, disposal of hazardous materials, and other measures, if necessary.

C. Cost estimates for the financial assurance shall be submitted to the Public Works Department for review and approval prior to the time the Operator secures financial assurances. The Public Works 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 City determines additional costs may be incurred. The Public Works Director shall have the discretion to approve the financial assurances if they meet the requirements of this Chapter, SMARA, and applicable 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 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 professionals retained by the Operator and approved by the Public Works Director. The estimated cost of Reclamation 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 and landscaping requirements, requirements for adequate and appropriate fill material, grading and compaction requirements, 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 are not limited to, labor, equipment, materials, mobilization of equipment, administration, and a reasonable profit by a commercial operator other than the Operator of the Surface Mining Operation. A

contingency factor of ten percent (10%) shall be added to the cost of Reclamation.

E. In projecting the costs of Reclamation, it shall be assumed that the Surface Mining Operation has been abandoned by the Operator and that the City or State Department of Conservation must contract with an independent third party to initiate and complete all remaining Reclamation.

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 shall be adjusted annually to account for new lands disturbed by Surface Mining Operations, adjustments and corrections in financial assurances previously approved, 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, including any necessary interim Reclamation, excepting that the Operator may not claim credit for Reclamation scheduled for completion during the coming year.

H. The Operator shall submit written revisions to financial assurances to the Public Works Director each year thirty (30) days prior to the anniversary date of the initial financial assurances approved by the City. If written revisions to the financial assurances are not provided, the Operator shall explain, in writing, thirty (30) days prior to such anniversary date, why revisions were not necessary. The Public Works Director may request further revisions and/or explanation from the Operator if the submission is found to be inadequate.

17.63.110 Interim Management Plans.

A. Within 90 days of a Surface Mining Operation becoming Idle, the Operator shall submit to the Public Works Department a proposed Interim Management Plan (IMP). The proposed IMP shall comply with all requirements of SMARA, including but not limited to all 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 Public Works and/or Planning Departments, and shall be processed as an amendment to the Reclamation plan. IMPs shall not be considered a project for purposes of environmental review.

B. Financial assurances for Idle Surface Mining Operations shall be maintained as though the operations were active.

C. Upon receipt of a complete proposed IMP, the City Planner 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 City Planner and the Operator, the Planning Commission shall review and approve or deny the IMP in accordance with this Chapter. The Operator shall have thirty (30) days, or a longer period mutually agreed upon by the Operator and the Planning Director, to submit a revised IMP. The Planning Commission shall approve or deny the revised IMP within sixty (60) days of receipt. If the Planning Commission denies the revised IMP, the Operator may appeal such action in writing to the City Council within fifteen (15) days of the Planning Commission's action.

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 Operator to commence Reclamation in accordance with the approved Reclamation Plan.

17.63.120 Annual Report Requirements.

Operators shall forward annual surface mining reports to the State Department of Conservation and to the Public Works Department on a date established by the State Department of Conservation, and on forms furnished by the State Mining and Geology Board. 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.

17.63.130 Inspections.

The Public Works Department shall arrange for the inspection of a Surface Mining Operation within six (6) months of receipt of the annual surface mining report required in Section 17.63.120, to determine whether the Surface Mining Operation is in compliance with its Permits, the approved Reclamation plan, the approved financial assurances and State 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, experienced in land reclamation and who has not been employed by the Surface Mining Operation in any capacity during the previous 12 months, or other qualified specialists, as selected by the Public Works Director. All inspections shall be conducted using a form approved and provided by the State Mining and Geology Board. The Public Works 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 Operator. The Operator shall be solely responsible for all reasonable cost of the inspection, and shall either pay the costs directly, and/or, shall promptly reimburse the City for such costs.

17.63.140 Violations and Penalties.

If the Public Works Director, based upon an annual inspection or other information which is confirmed by an inspection of the Surface Mining Operation, determines that a Surface Mining Operation is not in compliance with this Chapter, applicable permits, and/or the Reclamation plan, the City may 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 this Municipal Code for revocation and/or abandonment of any applicable Permit.

17.63.150 Appeals.

Any person aggrieved by an act or determination of the Public Works Director and/or the City Planner in the exercise of the authority granted in this Chapter, shall have the right to appeal to the Planning Commission. Any appeal shall be filed in writing within fifteen (15) calendar days of the Public Works Director and/or City Planner's determination.

17.63.160 Fees.

The City shall establish such fees as it deems necessary to cover the reasonable costs incurred in implementing this Chapter and the State 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 City, at the time of filing of the permit application, Reclamation plan application, financial assurance information, Notice of Completion of Inspection, or at such other times as determined by the City to be appropriate in order to ensure that all reasonable costs of implementing this Chapter are borne by the Operator.

17.63.170 Mineral Resource Protection.

A. 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 Chapter, shall be protected from intrusion by incompatible land uses that may impede or preclude mineral extraction or processing, to the extent consistent with the City's General Plan.

B. In accordance with Public Resources Section 2767, the City's General Plan and resource maps will be updated to reflect mineral information (classification and/or designation reports) within 12 months of the City's receipt of this information from the State Mining and Geology Board. Land use decisions within the City will, in part, 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 title to property 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 uses that would otherwise be incompatible with mineral resource protection, conditions of approval may be applied to proposed encroaching uses to minimize potential conflicts.

17.63.180 Severability.

If any section, subsection, subdivision, paragraph, sentence, clause or phrase in this Chapter, or any part thereof, is held invalid or unconstitutional, such decision shall not affect the validity of the remaining sections or portions of this Chapter or part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase of this Chapter irrespective of the fact that any one or more sections, subdivisions, paragraphs, sentences, clauses or phrases may be declared invalid or unconstitutional.

Section 2. Certification. The City Clerk shall certify to the passage and adoption of this Ordinance by the City Council of the City of Irwindale and shall cause a summary of this Ordinance to be published in accordance with Government Code Section 36933.

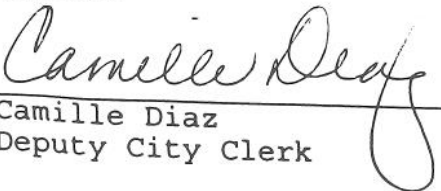
Section 3. Effective Date. This Ordinance shall take effect thirty (30) days after its passage.

/ / /

PASSED, APPROVED and ADOPTED on the 28th day of January, 1999.


Manuel E. Almazan, Mayor

Attest:


Camille Diaz
Deputy City Clerk

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss.
CITY OF IRWINDALE)


I, Camille Diaz, Deputy City Clerk of the City of Irwindale, do hereby certify that the foregoing Ordinance No. 534, was duly introduced at a regular meeting of the City Council held on the 14th day of January, 1999 ; and was duly approved and adopted at second reading, at their regular meeting held January 28, 1999 , by the following vote of the council:

AYES: COUNCILMEMBERS: Miranda, Castellanos, Tapia, Mayor Almazan

NOES: COUNCILMEMBERS: None

ABSENT: COUNCILMEMBERS: Chavez

ABSTAIN: COUNCILMEMBERS:


Camille Diaz, Deputy City Clerk