

ORDINANCE 2000-18

(SURFACE MINING AND RECLAMATION)

The Contra Costa County Board of Supervisors ordains as follows (omitting the parenthetical footnotes from the official text of the enacted or amended provisions of the County Ordinance Code):

SECTION I. SUMMARY. This ordinance amends the surface mining and reclamation ordinance to conform to current state guidelines for surface mining operations. [§ 25129]

SECTION II. Section 88-11.202 is amended to read:

88-11.202 Purpose. This chapter effectuates the Surface Mining and Reclamation Act of 1975 ("SMARA") (Public Resources Code Sections 2710 and following), including future amendments there-to, and constitutes the ordinance referred to in Section 2774 therein (Ords. 2000-18 § 2; 79-114).

SECTION III. Section 88-11.208 is amended to read:

88-11.208 Exceptions. The requirements of this chapter do not apply to the following activities when done in full compliance with Division 716 (Grading) and Title 9 (Subdivisions) of this code:

- (1) Excavation or grading conducted for restoring land after natural disaster;
- (2) Surface mining operations required by federal law to protect a mining claim; if conducted solely for that purpose;
- (3) Any surface mining operation that does not involve either the removal of a total of more than 1,000 cubic yards of minerals, ores and overburden or involves less than one acre in any one location (Ords. 2000-18 § 3; 79-114; Pub. Res. C. § 2714).

SECTION IV. Section 88-11.408 is amended to read:

88-11.408 Pre-1976 operations excepted. No reclamation, or reclamation plan approval, is required for lands disturbed by surface mining operations conducted before January 1, 1976, and which have not since been disturbed by surface mining operations. (Ords. 2000-18§ 4; 79-114; Pub. Res. C. § 2776).

SECTION V. Section 88-11.808 is amended to read:

88-11.808 Application procedure.

(a) General. Applications shall be on forms (or with face sheets) provided or approved by the Director of Community Development and shall be made and processed as provided in Section 88-11.604 for land use permits.

ORDINANCE 2000-18

(SURFACE MINING AND RECLAMATION)

(b) Applicant's Responsibility. Applicants are responsible for preparing reclamation plans for submission to the county (Ords. 2000-18 § 5; 79-114; Pub. Res. C. § 2774).

SECTION VI. Section 88-11.810 is amended to read:

88-11.810 Reclamation plan requirements. Every reclamation plan shall address at least the following subjects, in addition to the requirements in Public Resources Code Sections 2772 through 2774 and California Code of Regulations Section 3500 et seq and 3700 et seq (Ords. 2000-18 § 6; 79-114; Pub. Res. C. §§ 2772A).

SECTION VII. Section 88-11.816 is amended to read:

88-11.816 Progressive reclamation. Reclamation of mined areas shall take place as soon as practicable following completion of surface mining operations. When simultaneous or concurrent reclamation is practicable, the reclamation plan shall include a timetable for commencing and completing such reclamation and shall include (a) the beginning and expected ending dates for each phase; (b) all reclamation activities required; (c) criteria for measuring completion of specific reclamation activities; and (d) estimated costs for completion of each phase of reclamation (Ords. 2000-18 § 7; 79-1 14; Pub. Res. C. § 2772(f)).

SECTION VIII. Section 88-11.828 is amended to read:

88-11.828 Revegetation. All lands permanently exposed by mining operations shall be revegetated, except as the Director of Community Development determines this to be technically infeasible or detrimental. Revegetation methods and plant materials utilized shall be appropriate for the site's topographical, soil and climatic conditions. and native species shall be used wherever practicable (Ords. 2000-18 § 8; 79-114).

SECTION IX. Section 88-11.834 is amended to read:

88-11.834 Financial assurances. (a) To ensure that reclamation will proceed in accordance with the approved Reclamation Plan, the County will require, as a condition of approval, security which will be released upon satisfactory performance. The applicant may pose security in the form of a surety bond, trust fund, irrevocable letter of credit from an accredited financial institution, or other method acceptable to the County and the State Mining and Geology Board as specified in State regulations, and which the County reasonably determines are adequate to perform reclamation in accordance with the surface mining operation's approved Reclamation Plan. Financial assurances shall be made payable to the County of Contra Costa and the State Department of Conservation.

ORDINANCE 2000-18

(SURFACE MINING AND RECLAMATION)

(b) Financial assurances will be required to ensure compliance with elements of the Reclamation Plan, including but not limited to, revegetation and landscaping requirements, restoration of aquatic or wildlife 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 Community Development Department for review and approval prior to the operator securing financial assurances. The Director of Community Development will forward a copy of the cost estimates, together with any documentation received supporting the amount of the cost estimates, to the State Department of Conservation for review. If the State Department of Conservation does not comment within 45 days of receipt of these estimates, it shall be assumed that the cost estimates are adequate, unless the County has reason to determine that additional costs may be incurred. The Director of Community Development may approve the financial assurance if it meets the requirements of this Chapter, SMARA, and State regulations.

(d) The amount of the financial assurance shall be based upon the estimated costs of reclamation for the years or phases stipulated in the approved Reclamation Plan, including any maintenance of reclaimed areas as may be required, subject to adjustment for the actual amount required to reclaim lands disturbed by surface mining activities since January 1, 1976, and new lands to be disturbed by surface mining activities in the upcoming year. Cost estimates should be prepared by a California registered Professional Engineer and/or other similarly licensed and qualified professionals retained by the operator and approved by the Director of Community Development. The estimated amount of the financial assurance shall be based on an analysis of physical activities necessary to implement the approved Reclamation Plan, the unit costs for each of these activities, and the actual administrative costs. Financial assurances to ensure compliance with revegetation, restoration of water bodies, restoration of aquatic or wildlife habitat, and any other applicable element of the approved Rehabilitation Plan shall be based upon cost estimates that include but may not be limited to labor, equipment, materials, mobilization of equipment, administration, and reasonable profit by a commercial operator other than the permittee. A contingency factor of ten percent (10%) shall be added to the cost of financial assurances.

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

(f) The financial assurances shall remain in effect for the duration of the surface mining operation and any additional period until reclamation is completed (including any maintenance required).

(g) The amount of financial assurances required of a surface mining operation for any one year shall be adjusted annually to account for new lands disturbed by surface

ORDINANCE 2000-18

(SURFACE MINING AND RECLAMATION)

mining operations, inflation, and reclamation of lands accomplished in accordance with the approved Reclamation Plan. The financial assurances shall include estimates to cover the reclamation for existing conditions and anticipated activities during the upcoming year, excepting that the permittee may not claim for reclamation scheduled for completion during the coming year.

(h) Revisions to financial assurances shall be submitted to the Director of Community Development each year prior to the anniversary date for approval of the financial assurances. The financial assurance shall cover the cost of existing disturbance and anticipated activities for the next calendar year, including any required interim reclamation. If revisions to the financial assurances are not required, the operator shall explain, in writing, why revisions are not required (Ords. 2000-18 § 9; 79-114; Pub. Res. C. § 2774).

SECTION X. Section 88-11.836 is amended to read:

88-11.836 Fees. The County may 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 County, at the time of filing of the Land Use Permit and/or Reclamation Plan application, and at such other times as are determined by the County to be appropriate in order to ensure that all reasonable costs of implementing this Chapter are borne by the mining operator (Ords. 2000-18 § 10; 79-114; Pub. Res. C. § 2774)..

SECTION XI. Section 88-11.840 is added to read:

88-11.840 Interim Management Plans (IMPs).

(a) Within 90 days of a surface mining operation becoming idle, the operator shall submit to the Community Development Department a proposed Interim Management Plan (IMP). The proposed IMP shall fully comply with the requirements of SMARA, including but not limited to, all Site Approval conditions, and shall provide measures the operator shall 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 Community Development Department, and shall be processed as an amendment to the Reclamation Plan. IMPs shall not be considered a project for the purposes of environmental review.

(b) Financial assurances for idle operations shall be maintained by the operator of the quarry as though the operation were active, or as otherwise approved through the idle mine's IMP.

(c) Upon receipt of a complete proposed IMP, the Community Development Department will forward the IMP to the State Department of Conservation for review. The

ORDINANCE 2000-18

(SURFACE MINING AND RECLAMATION)

IMP will be submitted to the State Department of Conservation at least 30 days prior to approval by the Zoning Administrator.

(d) Within 60 days of receipt of the proposed IMP, or a longer period mutually agreed upon by the Director of Community Development and the operator, the Zoning Administrator will 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 Director of Community Development, to submit a revised IMP. The Zoning Administrator will approve or deny the revised IMP within sixty (60) days of receipt. If the Zoning Administrator denies the revised IMP, the operator may appeal that action to the Planning Commission.

(e) The IMP may remain in effect for a period of not to exceed five years, at which time the Zoning Administrator may renew the IMP for another period not to exceed five years, or require the surface mining operator to commence reclamation in accordance with its approved Reclamation Plan (Ord. 2000-18; § 11).

SECTION XII. Article 88-11.10 is amended to read:

**Article 88-11.10
Other Requirements**

88-11.1001 Annual Report Requirements. Surface mining operators shall forward an annual surface mining report to the State Department of Conservation and to the County Community Development Department on a date established by the State Department of Conservation, upon 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 (Ord. 2000-18; § 12).

88-11.1002 Periodic inspection of operations.

(a) The Community Development Department will arrange for inspection of a surface mining operation within six months of receipt of the Annual Report required in Section 88-11.1001, to determine whether the surface mining operation is in compliance with the approved Land Use Permit and/or Reclamation Plan, 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 or state-registered civil engineer who is experienced in land reclamation and who has not been employed by the mining operation in any capacity during the previous 12 months, as

ORDINANCE 2000-18

(SURFACE MINING AND RECLAMATION)

selected by the Director of Community Development. All inspections shall be conducted using a form approved and provided by the State Mining and Geology Board.

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

(b) The Director of Community Development may require the operator and permittee to submit such information as may be necessary to determine compliance (Ords. 2000-18 § 12; 79-114; Pub. Res. C. § 2774).

88-11.1004 Revocation. Whenever the Director of Community Development determines that a surface mining operation is not in compliance with the terms of the approved land use permit or reclamation plan or the provisions of this chapter, or that the soil or other conditions are not as stated on the permit, the Director will notify the permittee of such fact in writing, requiring compliance within a stated reasonable time from the date of such notice. If the permittee has not, within the stated time, complied with the terms of the permit or the approved reclamation plan or the requirements of this chapter, or given reasonable assurances that such steps are being taken to comply, the Director of Community Development may schedule a public hearing to consider revoking the land use permit or the approval of the reclamation plan. The issue of revocation shall be considered and determined in the manner and for causes as provided by Article 26-2.20 of this code for conditional use permits (Ords. 2000-18 § 12; 79-114; Pub. Res. C. § 2774).

88-11.1006 Transfer of ownership. Operator responsibility. Whenever one applicant operator or permittee succeeds, by sale, assignment, transfer, conveyance, exchange, inheritance, or other means, to the interest of another in any incompleting surface mining operation or reclamation, the successor shall be bound by the provisions of the approved land use permit and reclamation plan and the provisions of this chapter. The new operator must notify the Community Development Department of such transfer within thirty days thereof (Ords. 2000-18 § 12; 79-114; Pub. Res. C. § 2779).

88-11.1008 Mineral Resource Protection. Mine development is encouraged in compatible areas before encroachment of conflicting uses. Mineral resources 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 possible for consistency with the County's General Plan.

ORDINANCE 2000-18

(SURFACE MINING AND RECLAMATION)

In accordance with Public Resources Code § 2762, the County's General Plan and resource maps will be updated to reflect mineral information (classification and/or designation reports) within 12 months of receipt from the State Mining and Geology Board of such information. Land use decisions within the County will be guided by information provided on the location of identified mineral resources of regional significance. Conservation and potential development of identified mineral resource areas will be considered and encouraged. Recordation on property titles of the presence of important mineral resources within the identified mineral resource areas may be encouraged as a condition of approval of any development project in the impacted area. Prior to approving a use that would otherwise be incompatible with mineral resource protection, conditions of approval may be applied to encroaching development projects to minimize potential conflicts (Ord. 2000-18; § 12).

88-11.1010 Natural disaster. In the event of a natural disaster, such as high water conditions and potential for flooding or levee failure, the Director of Community Development may authorize extended hours or weekend operations at a quarry that is a source of rock for emergency operations (Ord. 2000-18; § 12).

SECTION XIII. EFFECTIVE DATE. This ordinance becomes effective 30 days after passage, and within 15 days after passage shall be published once with the names of supervisors voting for and against it in the Contra Costa Times, a newspaper published in this County. [§§ 25123 & 25124]

PASSED on April 18, 2000, by the following vote:

AYES: Supervisors Gioia, Uilkema, DeSaulnier, Canciamilla and Gerber

NOES: None

ABSENT: None

ABSTAIN: None

ATTEST: PHIL BATCHELOR, Clerk of
the Board and County Administrator

By: M. Mann
Deputy

Donna J. ...
Board Chair