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BEFORE
THE BOARD OF SUPERVISORS
OF THE COUNTY OF MADERA
STATE OF CALIFORNIA
ORDINANCE NO. 525G

AN ORDINANCE AMENDING CHAPTER 18.85 OF TITLE
18 OF THE MADERA COUNTY CODE RELATING TO
SURFACE MINING AND RECLAMATION

The Board of Supervisors of the County of Madera, State of California Ordains
as follows:

Section 1:

Chapter 18.85 of Title 18 is amended to read in its entirety as follows:

CHAPTER 18.85

Surface Mining and Reclamation of Minded Lands

- 18.85.01 Purpose and Intent
- 18.85.02 Definitions
- 18.85.03 Incorporation by Reference
- 18.85.04 Scope
- 18.85.05 Vested Rights
- 18.85.06 Process
- 18.85.07 Standards for Reclamation
- 18.85.08 Statement of Responsibility
- 18.85.09 Findings for Approval
- 18.85.010 Financial Assurances
- 18.85.011 Interim Management Plans
- 18.85.012 Annual Report Requirements
- 18.85.013 Inspections
- 18.85.014 Violations and Penalties
- 18.85.015 Appeals
- 18.85.016 Fees

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Department of Conservation

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STATE MINING and GEOLOGY BOARD

- 1 18.85.017 Mineral Resource protection
- 2 18.85.018 Severability
- 3 18.85.019 Effective Date

4 Section 2:

5 Section 18.85.01 **Purpose and Intent**

6 The County of Madera recognizes that the extraction of minerals is essential to
7 the continued economic well-being of the County and to the needs of society and that
8 the reclamation of mined lands is necessary to prevent or minimize adverse effects on
9 the environment and to protect the public health and safety. The County also
10 recognizes that surface mining takes place in diverse areas where the geologic,
11 topographic, climatic, biological, and social conditions are significantly different and
12 that reclamation operations and the specifications therefore may vary accordingly.

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

- 22 (a) Adverse environmental effects are prevented or minimized and that
23 mined lands are reclaimed to a usable condition which is readily
24 adaptable for alternative land uses.
- 25 (b) The production and conservation of minerals are encouraged, while
26 giving consideration to values relating to recreation, watershed, wildlife,
27 range and forage, and aesthetic enjoyment.

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

2 Section 18.85.02 **Definitions**

3 The definitions set forth in this section shall govern the construction of this
4 chapter.

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

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

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

18 Compatible Land Uses. Land uses inherently compatible with mining and/or that
19 require a minimum public or private investment in structures, land improvements, and
20 which may allow mining because of the relative economic value of the land and its
21 improvements. Examples of such uses may include, but shall not be limited to, very
22 low density residential, geographically extensive but low impact industrial, recreational,
23 agricultural, silvicultural, grazing, and open space.

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

26 Idle. Surface mining operations curtailed for a period of one year or more, by
27 more than 90 percent of the operation's previous maximum annual mineral production,
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1 with the intent to resume those surface mining operations at a future date.

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

8 Mined Lands. The surface, subsurface, and ground water of an area in which
9 surface mining operations will be, are being, or have been conducted, including private
10 ways and roads appurtenant to any such area, land excavations, workings, mining
11 waste, and areas in which structures, facilities, equipment, machines, tools, or other
12 materials or property which result from, or are used in, surface mining operations.

13 Minerals. Any naturally occurring chemical element or compound, or groups of
14 elements and compounds, formed from inorganic processes and organic substances,
15 including, but not limited to, coal, peat, and bituminous rock, but excluding geothermal
16 resources, natural gas, and petroleum.

17 Operator. Any person who is engaged in surface mining operations, or who
18 contracts with others to conduct operations on his/her behalf, except a person who is
19 engaged in surface mining operations as an employee with wages as his/her sole
20 compensation.

21 Reclamation. The combined process of land treatment that minimizes water
22 degradation, air pollution, damage to aquatic or wildlife habitat, flooding, erosion, and
23 other adverse effects from surface mining operations, including adverse surface effects
24 incidental to underground mines, so that mined lands are reclaimed to a usable
25 condition which is readily adaptable for alternate land uses and create no danger to
26 public health or safety. The process may extend to affected lands surrounding mined
27 lands, and may require backfilling, grading, resoiling, revegetation, soil compaction,

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1 stabilization, or other measures.

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

4 Surface Mining Operations. All, or any part of, the process involved in the
5 mining of minerals on mined lands by removing overburden and mining directly from
6 the mineral deposits, open-pit mining of minerals naturally exposed, mining by the
7 auger method, dredging and quarrying, or surface work incidental to an underground
8 mine. Surface mining operations include, but are not limited to, inplace distillation or
9 retorting or leaching, the production and disposal of mining waste, prospecting and
10 exploratory activities, borrow pitting, streambed skimming, and segregation and
11 stockpiling of mined materials (and recovery of same).

12 Section 18.85.03 **Incorporation by Reference**

13 The provisions of SMARA (PRC §2710 et seq.), PRC Section 2207, and State
14 regulations CCR §3500 et seq., as those provisions and regulations may be amended
15 from time to time, are made a part of this Chapter by reference with the same force
16 and effect as if the provisions therein were specifically and fully set out herein,
17 excepting that when the provisions of this Chapter are more restrictive than correlative
18 State provisions, this Chapter shall prevail.

19 Section 18.85.40 **Scope**

20 Except as provided in this Chapter, no person shall conduct surface mining
21 operations unless a permit, Reclamation Plan, and financial assurances for reclamation
22 have first been approved by the County. Any applicable exemption from this
23 requirement does not automatically exempt a project or activity from the application of
24 other regulations, ordinances or policies of the County, including but not limited to, the
25 application of CEQA, the requirement of Site Approvals or other permits, the payment
26 of development impact fees, or the imposition of other dedications and exactions as
27 may be permitted under the law. The provisions of this Chapter shall apply to all lands

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1 within the County, public and private.

2 This Chapter shall not apply to the following activities, subject to the above-
3 referenced exceptions:

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

6 (b) Onsite excavation and onsite earthmoving activities which are an integral
7 and necessary part of a construction project that are undertaken to
8 prepare a site for construction of structures, landscaping, or other land
9 improvements, including the related excavation, grading, compaction, or
10 the creation of fills, road cuts, and embankments, whether or not surplus
11 materials are exported from the site, subject to all of the following
12 conditions:

13 (1) All required permits for the construction, landscaping, or related
14 land improvements have been approved by a public agency in
15 accordance with applicable provisions of state law and locally
16 adopted plans and ordinances, including, but not limited to, the
17 California Environmental Quality Act ("CEQA", Public Resources
18 Code, Division 13, §21000 et seq.).

19 (2) The County's approval of the construction project included
20 consideration of the onsite excavation and onsite earthmoving
21 activities pursuant to CEQA.

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

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

- (c) Operation of a plant site used for mineral processing, including associated onsite structures, equipment, machines, tools, or other materials, including the onsite stockpiling and onsite recovery of mined materials, subject to all of the following conditions:
 - (1) The plant site is located on lands designated for industrial or commercial uses in the County's general plan.
 - (2) The plant site is located on lands zoned industrial or commercial, or are contained within a zoning category intended exclusively for industrial activities by the County.
 - (3) None of the minerals being processed are being extracted onsite.
 - (4) All reclamation work has been completed pursuant to the approved Reclamation Plan for any mineral extraction activities that occurred onsite after January 1, 1976.
- (d) Prospecting for, or the extraction of, minerals for commercial purposes and the removal of overburden in total amounts of less than 1,000 cubic yards in any one location of one acre or less.
- (e) Surface mining operations that are required by federal law in order to protect a mining claim, if those operations are conducted solely for that purpose.
- (f) Any other surface mining operations that the State Mining and Geology Board determines to be of an infrequent nature and which involve only minor surface disturbances.
- (g) The solar evaporation of sea water or bay water for the production of salt and related minerals.
- (h) Emergency excavations or grading conducted by the Department of Water Resources or the Reclamation Board for the purpose of averting,

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alleviating, repairing, or restoring damage to property due to imminent or recent floods, disasters, or other emergencies.

- (i) 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 available 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 post closure 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 or 75 feet of a Class Two watercourse, or to excavations for materials that are, or have been, sold for commercial purposes.

Section 18.85.05 Vested Rights

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

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

1 Section 18.85.06 **Process**

2 (a) Applications for a Site Approval or Reclamation Plan for surface mining
3 or land reclamation projects shall be made on forms provided by the
4 Planning Department. Said application shall be filed in accord with this
5 Chapter and procedures to be established by the Planning Director. The
6 forms for Reclamation Plan applications shall require, at a minimum,
7 each of the elements required by SMARA (§2772-2773) and State
8 regulations, and any other requirements deemed necessary to facilitate
9 an expeditious and fair evaluation of the proposed Reclamation Plan, to
10 be established at the discretion of the Planning Director. As many copies
11 of the Site Approval application as may be required by the Planning
12 Director shall be submitted to the Planning Department.

13 (b) As many copies of a Reclamation Plan application as may be required
14 shall be submitted in conjunction with all applications for Site Approvals
15 for surface mining operations. For surface mining operations that are
16 exempt from a Site Approval pursuant to this Chapter, the Reclamation
17 Plan application shall include information concerning the mining
18 operation that is required for processing the Reclamation Plan. All
19 documentation for the Reclamation Plan shall be submitted to the County
20 at one time.

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

23 (d) Upon completion of the environmental review procedure and filing of all
24 documents required by the Planning Director, consideration of the Site
25 Approval or Reclamation Plan for the proposed or existing surface mine
26 shall be completed pursuant to Section Chapter 18.92 of the Zoning
27 Ordinance at a public hearing before the Planning Commission, and
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pursuant to Section 2774 of the Public Resources Code.

- (e) Within thirty (30) days of acceptance of an application for a Site Approval 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 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 applications(s) through environmental review pursuant to the California Environmental Quality Act (Public Resources Code Sections 21000 et seq.) and the County's environmental review guidelines.
- (g) Subsequent to the appropriate environmental review, the Planning Department shall prepare a staff report with recommendations for consideration by the Planning Commission.
- (h) The Planning Commission shall hold at least one noticed public hearing on the Site Approval and/or Reclamation Plan.
- (i) Prior to final approval of a Reclamation Plan, 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 financial assurance complies with the applicable requirements of State law, and submit the plan, assurance, or amendments to the State Department of Conservation for review. The Planning Commission may

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conceptually approve the Reclamation Plan and financial assurance before submittal to the State Department of Conservation. If a Site Approval is being processed concurrently with the Reclamation Plan, the Planning Commission may simultaneously also conceptually approve the Site Approval. However, the Planning Commission may defer action on the Site Approval until taking final action on the Reclamation Plan and financial assurances. If necessary to comply with permit processing deadlines, the Planning Commission may conditionally approve the Site Approval with the condition that the Planning Department shall not issue the Site Approval for the mining operations until cost estimates for financial assurances have been reviewed by the State Department of Conservation and final action has been taken on the Reclamation Plan and financial assurances.

Pursuant to PRC §2774(d), the State Department of Conservation shall be given 30 days to review and comment on the Reclamation Plan and 45 days to review and comment on the financial assurance. The Planning Commission shall evaluate written comments received, if any, from the State Department of Conservation during the comment periods. Staff shall prepare a written response describing the disposition of the major issues raised by the State for the Planning Commission's approval. In particular, when the Planning Commission's position is at variance with the recommendations and objections raised in the State's comments, the written response shall address, in detail, why specific comments and suggestions were not accepted. Copies of any written comments received and responses prepared by the Planning Commission shall be promptly forwarded to the operator/applicant.

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(j) The Planning Commission shall then take action to approve, conditionally approve, or deny the Site Approval and/or Reclamation Plan, and to approve the financial assurances pursuant to PRC §2770(d).

(k) The Planning Department shall forward a copy of each approved Site Approval for 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 Site Approval or Reclamation Plan amendments, as applicable, or a statement that there have been no changes during the previous year.

Section 18.85.07 Standards for Reclamation

(a) All Reclamation Plans shall comply with the provisions of SMARA (§2772 and §2773) and State regulations (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 the requirements for reclamation performance standards (CCR §3700-3713).

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

(c) Reclamation activities shall be initiated at the earliest possible time on those portions of the mined lands that will not be subject to further disturbance. Interim reclamation may also be required for mined lands that have been disturbed and that may be disturbed again in future operations. Reclamation may be done on an annual basis, in stages compatible with continuing operations, or on completion of all excavation,

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

Section 18.85.08 Statement of Responsibility

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

Section 18.85.09 Findings for Approval

- (a) Site Approvals. In addition to any findings required by the County Code, Site Approvals for surface mining operations shall include a finding that the project complies with the provisions of SMARA and State regulations.
- (b) Reclamation Plans. For Reclamation Plans, the following findings shall be required:
 - (1) That the Reclamation Plan complies with SMARA Sections 2772 and 2773, and any other applicable provisions;
 - (2) That the Reclamation Plan complies with applicable requirements of State regulations (CCR §3500-3505, and §3700-3713).
 - (3) That the Reclamation Plan and potential use of reclaimed land pursuant to the plan are consistent with this Chapter and the County's General Plan and any applicable resource plan or element.

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- (4) That the Reclamation Plan has been reviewed pursuant to CEQA and the County's environmental review guidelines, and all significant adverse impacts from reclamation of the surface mining operations are mitigated to the maximum extent feasible.
- (5) That the land and/or resources such as water bodies to be reclaimed will be restored to a conditions that is compatible with, and blends in with, the surrounding natural environment, topography, and other resources, or that suitable off-site development will compensate for related disturbance to resource values.
- (6) That the Reclamation Plan will restore the mined lands to a usable condition which is readily adaptable for alternative land uses consistent with the General Plan and applicable resource plan.
- (7) That a written response to the State Department of Conservation has been prepared, describing the disposition of major issues raised by that Department. Where the County's position is at variance with the recommendations and objections raised by the State Department of Conservation, said response shall address, in detail, why specific comments and suggestions were not accepted.

Section 18.85.010 **Financial Assurances**

- (a) To ensure that reclamation will proceed in accordance with the approved Reclamation Plan, the County shall 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

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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 Madera and the State Department of Conservation.

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

1 areas as may be required, subject to adjustment for the actual amount
2 required to reclaim lands disturbed by surface mining activities since
3 January 1, 1976, and new lands to be disturbed by surface mining
4 activities in the upcoming year. Cost estimates should be prepared by
5 a California registered professional Engineer and/or other similarly
6 licensed and qualified professionals retained by the operator and
7 approved by the Planning Director. The estimated amount of the
8 financial assurance shall be based on an analysis of physical activities,
9 the number of units of each of these activities, and the actual
10 administrative costs. Financial assurances to ensure compliance with
11 revegetation, restoration of water bodies, restoration of aquatic or wildlife
12 habitat, and any other applicable element of the approved Reclamation
13 Plan shall be based upon cost estimates that include, but may not be
14 limited to, labor, equipment, materials, mobilization of equipment,
15 administration, and reasonable profit by a commercial operator other
16 than the permittee. A contingency factor of ten percent (10%) shall be
17 added to the cost of financial assurances.

- 18 (e) In projecting the costs of financial assurances, it shall be assumed
19 without prejudice or insinuation that the surface mining operation could
20 be abandoned by the operator and, consequently, the County or State
21 Department of Conservation may need to contract with a third party
22 commercial company for reclamation of the site.
- 23 (f) The financial assurances shall remain in effect for the duration of the
24 surface mining operation and any additional period until reclamation is
25 completed (including any maintenance required).
- 26 (g) The amount of financial assurances required of a surface mining
27 operation for any one year shall be reviewed annually after their initial
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approval and acceptance, and adjusted as necessary to account for new lands disturbed by surface mining operations, inflation, and reclamation of lands accomplished in accordance with the approved Reclamation Plan. The financial assurances shall include estimates to cover reclamation for existing conditions and anticipated activities during the upcoming year, excepting that the permittee may not claim credit for reclamation scheduled for completion during the coming year.

- (h) Revisions to financial assurances shall be submitted to the Planning Department within 30 days of notification by the Planning Director that an adjustment is required. The financial assurance shall cover the cost of existing disturbance and anticipated activities for the next calendar year, including any required interim reclamation. If revisions to the financial assurances are not required, the operator shall explain, in writing, why revisions are not required.

Section 18.85.011 **Interim Management Plans**

- (a) Within 90 days of a surface mining operation becoming idle, the operator shall submit to the Planning Department a proposed Interim Management Plan (IMP). The proposed IMP shall fully comply with the requirements of SMARA, including but not limited to all Site Approval conditions, and shall provide measures the operator will implement to maintain the site in a stable condition, taking into consideration public health and safety. The proposed IMP shall be submitted on forms provided by the Planning Department, and shall be processed as an amendment to the Reclamation Plan. IMP's shall not be considered a project for the purposes of environmental review.
- (b) Financial assurances for idle operations shall be maintained as though the operation were active, or as otherwise approved through the idle

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mine's IMP.

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

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

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

Section 18.85.012 Annual Report Requirements

Surface mining operators shall forward an annual surface mining report to the State Department of Conservation and to the County Planning 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

1 is sooner. Any applicable fees, together with a copy of the annual inspection report,
2 shall be forwarded to the State Department of Conservation at the time of filing the
3 annual surface mining report.

4 **Section 18.85.013 Inspections**

5 The Planning Department shall arrange for inspection of a surface mining
6 operation within six months of receipt of the Annual Report required in Section 12, to
7 determine whether the surface mining operation is in compliance with the approved
8 Site Approval and/or Reclamation Plan, approved financial assurances, and State
9 regulations. In no event shall less than one inspection be conducted in any calendar
10 year. Said inspections may be made by a state-registered geologist, state-registered
11 civil engineer, state-licensed landscape architect, or state-registered forester, who is
12 experienced in land reclamation and who has not been employed by the mining
13 operation in any capacity during the previous 12 months, or other qualified specialists,
14 as selected by the Planning Director. All inspections shall be conducted using a form
15 approved and provided by the State Mining and Geology Board.

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

21 **Section 18.85.014 Violations and Penalties**

22 If the Planning Director, based upon an annual inspection or otherwise
23 confirmed by an inspection of the mining operation, determines that a surface mining
24 operation is not in compliance with this Chapter, the applicable Site Approval, any
25 required permit and/or the Reclamation Plan, the County shall follow the procedures
26 set forth in Public Resources Code, Section 2774.1 and 2774.2 concerning violations
27 and penalties, as well as those provisions of the County Development Code for
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1 revocation and/or abandonment of a Site Approval which are not preempted by
2 SMARA.

3 Section 18.85.015 **Appeals**

4 Any person aggrieved by an act or determination of the Planning Department
5 in the exercise of the authority granted herein, shall have the right to appeal to the
6 Planning Commission or the Board of Supervisors, whichever is the next higher
7 authority. The appeal shall be filed within fifteen days after the date of the act or
8 determination in question, in accordance with the Rules on Appeal, Sections
9 18.108.110 through 18.108.180. An appeal shall be filed by submitting a letter stating
10 the items being appealed, the reasons for the appeal, and through the payment of an
11 appeal fee established in the fee schedule adopted by the Board of Supervisors and
12 amended from time to time.

13 Section 18.85.016 **Fees**

14 The County shall establish such fees as it deems necessary to cover the
15 reasonable costs incurred in implementing this Chapter and the State regulations,
16 including but not limited to, processing of applications, annual reports, inspections,
17 monitoring, enforcement and compliance. Such fees shall be paid by the operator, as
18 required by the County, at the time of filing of the Site Approval application,
19 Reclamation Plan application, and at such other times as are determined by the
20 County to be appropriate in order to ensure that all reasonable costs of implementing
21 this Chapter are borne by the mining operator.

22 Section 18.85.017 **Mineral Resource Protection**

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

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

15 Section 18.85.018 **Severability**

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

19 Section 18.85.019 **Effective Date**

20 This Chapter shall take effect thirty (30) days following its adoption.

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The foregoing Ordinance was adopted this 12th day of January, 1999, by the following vote:

Supervisor Bigelow voted:

Supervisor Moss voted:

Supervisor Hanhart McIntyre voted:

Supervisor Silva voted:

Supervisor Gilbert voted:

YB
YB
YB
YB
YB

Gail Hanhart McIntyre
Chairperson, Board of Supervisors

ATTEST:

Nanda Davello
Clerk, Board of Supervisors

Approved as to Legal Form:
COUNTY COUNSEL

By [Signature]

