

Chapter 18.02

SURFACE MINING AND RECLAMATION

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18.02.010 Authority and purpose.

A. The Surface Mining and Reclamation Act (SMARA) of 1975 as amended, authorizes and directs local agencies to adopt ordinances establishing procedures for the review and approval of reclamation plans and the issuance of permits to conduct surface mining operations (Section 2774, SMARA). The findings and intent of the State Legislature are included in the Surface Mining and Reclamation Act. This chapter is adopted to comply with the directive and fulfill all of the mandatory requirements of the Surface Mining and Reclamation Act and its amendments. This section serves to preserve and protect the mining industry in Mariposa county, while insuring responsible reclamation of involved sites.

18.02.020 Definitions.

The following terms, when used in this chapter, shall have the meaning ascribed to them in this section as follows:

A. "Act" means the Surface Mining and Reclamation Act of 1975.

B. "Area of regional significance" means an area designated by the State Mining and Geology Board pursuant to Section 2790 of the Surface Mining and Reclamation Act 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 permanent loss of minerals that are of more than local significance.

C. "Area of statewide significance" means an area designated by the State Mining and Geology Board pursuant to Section 2790 of the Surface Mining and Reclamation Act 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.

D. "Board" means the Mariposa County Board of Supervisors.

E. "CEQA" means the California Environmental Quality Act and the statutes and guidelines contained therein (California Public Resources Code, Section 21000 et seq).

F. "EIR or Environmental Impact Report" means a detailed statement prepared under CEQA which describes and analyzes the significant environmental effects of a project and discusses ways to mitigate or avoid those impacts.

G. "Idle" means to curtail for a period of one (1) year or more, surface mining operations 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.

H. "Initial Study" means a preliminary environmental analysis completed by the lead agency to determine and identify possible significant environmental effects and to determine

whether an EIR or Negative Declaration shall be prepared for the project, pursuant to CEQA.

I. "Interim management plan" means a substantial amendment to an approved reclamation plan for a mining operation which provides measures to maintain an idle operation in compliance with the provisions of the approved reclamation plan, and all other conditions or standards in any other permits.

J. "Lead Agency" means the Mariposa County Planning and Building Department under the direction of the Mariposa County Planning Director, Mariposa County Planning Commission, or the Mariposa County Board of Supervisors whichever has the principal responsibility for approving surface mining permits, a reclamation plan pursuant to this chapter and SMARA, or financial assurances pursuant to this chapter and SMARA.

K. "Mined lands" includes the surface, subsurface and ground waters 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 area in which structures, facilities, equipment, machines, tools or other materials or property which result from or are used in surface mining operations are located.

L. "Mining Permit" an application requesting approval of a surface exploration activity, a surface mining operation, a subsurface mining operation, or a sand and gravel (Aggregate) mining operation which exceeds the surface disturbance thresholds of 1,000 cubic yards or surface area exceeding one (1) acre as specified in SMARA and this chapter. The absence of an approved Surface Mining Permit and Reclamation Plan Application precludes surface mining operations.

M. "Mining waste" includes the residual of soil, rock, mineral, liquid, vegetation, equipment, machines, tools or other materials or property directly resulting from or displaced by surface mining operations.

N. "Minor amendment to reclamation plan" means a minor modification, change, or substitution of an existing standard or condition in an approved reclamation plan which can reasonably be presumed not to make a significant change to the approved reclamation plan, the conduct of the surface mining operation, or the environmental review document adopted for the reclamation plan.

O. "Negative Declaration" means a written statement by the lead agency briefly describing the reasons that a proposed project will not have a significant effect on the environment and therefore does not require the preparation of an EIR pursuant to CEQA.

P. "Operator" means any person, persons, or corporation who is engaged in surface mining operations, for himself, the corporation, or who contracts with others to conduct operations on his behalf, except a person who is engaged in surface mining operations as an employee with wages as his sole compensation.

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

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

S. "Recreational Mining" means the extraction of minerals primarily for recreation on a seasonal basis and using such devices as pans, rockers, sluices, and suction dredges with an intake nozzle less than or equal to eight (8") inches in diameter, or as specified by the California Department of Fish and Game for specified waters in the state. Recreational mining which disturbs more than 1,000 cubic yards of material or one acre of land at any one site, and where material is sold commercially is subject to the Mining Permit and SMARA requirements.

T. "Sand and Gravel (Aggregate) Operation" means the extraction of sand, gravel, and cobbles from a stream bed, gravel bar, or stream terrace or the crushing of rock ripped or blasted from the walls of a quarry for use as construction material, road base, or decorative purposes.

U. "SMARA" means the Surface Mining and Reclamation Act of 1975 as amended.

V. "Substantial amendment to reclamation plan" means a substantial deviation from the approved reclamation plan or major change in the conduct of the surface mining operation. A substantial amendment includes an interim management plan, or any change in the operation that results in a change to the approved end use; results in a substantial impact to the environment; results in a potentially significant environmental impact not considered by the environmental review document adopted for the approved reclamation plan; increases the area subject to surface disturbance; increases the operations mineral production by more than 10%; or increases the maximum depth of the operation.

W. "Surface Access to Sub-surface Mines" means the surface facilities serving an underground mine which may include headframes, hoists, service plants, support buildings, storage buildings, concentration and processing areas, waste disposal and tailings disposal areas, and on-site and off-site haul or access roads.

X. "Sub-surface Mining Operation" means the extraction of minerals and ore by underground means, including shafts, tunnels, drifts, stopes, adits, winzes, cross-cuts, and raises.

Y. "Surface Mineral Exploration activity" means the surface search for economically significant minerals or ore deposits by: (1) geological surveys, (2) geophysical or geochemical prospecting methods, (3) bore holes and trial pits, (4) existing surface or underground headings, drifts or tunnels. Surface exploration activities are for the purpose of locating the

presence of economic deposits and establishing their nature, shape, and grade, and such activities normally do not exceed the surface disturbance threshold specified in the Surface Mining and Reclamation Act.

Z. "Surface mining operations" means all or any part of the process 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 shall include but are not limited to:

1. In-place distillation or retorting or leaching;
2. The production and disposal of mining waste;
3. Prospecting and exploratory activities.

AA. "Tailings" means the surface materials and waste, or refuse rock material resulting from the washing or concentration of ground ore.

AB. "Vested rights" A person, or operator is deemed to have vested rights, if prior to January 1, 1976, he or she, in good faith and in reliance upon a permit or other authorization, has diligently commenced and carried on surface mining operations since that time, and has incurred substantial financial liabilities for work and materials for the surface mining operation and has not ceased operation for a period of three (3) or more years since January 1, 1976 and applied for and received vested rights in accordance with Section 18.02.060.

18.02.025 Designation of Areas of Regional / Statewide
Significance and state policy.

A. In accordance with a specified time schedule, and based upon guidelines adopted and priorities established by the State Mining and Geology Board, the State Geologist may classify areas within the County, on the basis of geologic factors, as one of the following:

- (1) Area containing little or no mineral deposits.
- (2) Area containing significant mineral deposits.
- (3) Area containing mineral deposits, the significance of which requires additional evaluation.
- (4) Area of regional significance.
- (5) Area of statewide significance.

An individual may petition the State Geologist to classify a specific area on the basis of the area containing significant mineral deposits. The State Geologist will require the petitioner to pay reasonable costs to classify the area.

B. Within twelve (12) months of receiving classification of mineral lands as described above, and also within twelve (12) months of an area being designated as an "area of regional significance" or "area of statewide significance", or after completion of an inventory and classification of mineral lands within Mariposa County based upon the presence of significant mineral deposits, Mariposa County shall in accordance with state policies, establish mineral resource management policies which

shall be incorporated into the Mariposa County General Plan and which shall:

(1) Recognize the mineral classification completed by the State Geologist and transmitted by the State Mining and Geology Board, and/or recognize the inventory and classification of mineral lands completed by the County, or other entity;

(2) Promote and encourage the mining of lands containing economically valuable or significant minerals deposits;

(3) Provide specific land use and mineral management policies for those areas classified as having significant mineral deposits as identified in an inventory or classification;

(4) Identify land use classifications and zoning districts and specify land uses that are incompatible and compatible with surface, sub-surface, and exploratory mining activities; and,

(5) Require the reclamation of mined lands in the County in order to limit environmental impacts, protect public health and safety, and enable the use of the land for other beneficial uses.

C. The lead agency shall submit in accordance with the requirements of the Surface Mining and Reclamation Act, any evaluation of a mineral deposit, or area that has been designated as having significant mineral resources to the State Geologist for review. Lead agency land use decisions involving areas designated as having regional or statewide significance shall be in compliance with the provisions contained in the Act (Section 2762, et seq). Lead agency land use decisions involving areas designated or classified as having significant mineral deposits in the County General Plan shall be in accordance with applicable provisions in this chapter, and any future mineral management policies adopted by the County.

18.02.030 Lead agency.

The Mariposa County Planning and Building Department under the direction of the Planning Director, the Mariposa County Planning Commission or the Mariposa County Board of Supervisors shall be the lead agency for the processing of mining permits, reclamation plans, and financial assurances in Mariposa County, as further described in this chapter. The Mariposa County Board of Supervisors (Board) is the lead agency if a mining permit and/or reclamation plan requires an EIR, or in a case where the mining permit and/or reclamation plan application is associated with an application requiring approval by the Board of Supervisors. The Mariposa County Planning Commission is the lead agency designated to administer and approve mining permits and reclamation plans in all other cases pursuant to this chapter, and the provisions of the Surface Mining and Reclamation Act. All financial assurances shall be approved or disapproved at the time the governing body acts upon the associated mining permit and/or reclamation plan.

The Mariposa County Planning Director is the lead agency for approving and administering an Interim Management Plan of an approved reclamation plan.

18.02.035 Application fees.

A. Such application fees as required for the processing of mining permits and reclamation plan applications; interim management plans, annual inspections, and amendments or revisions to mining permits or reclamation plans shall be set by resolution of the Board of Supervisors.

B. No fee is required for a determination of exceptions per.

18.02.040 Mining Permit / Reclamation Plan required.

A. No person, unless the person has a vested interest as defined by Section 2776 of the Act, shall conduct a surface mining operation unless a Mining Permit is submitted to and approved by the Mariposa County lead agency as required herein, for such operation, or change to the operation, excluding those exceptions as set forth in Section 18.02.050. No person shall conduct a surface mining operation unless a reclamation plan and financial assurances is submitted to and approved by the Mariposa County lead agency as required herein, for such operation or change to the operation.

B. A mining permit and reclamation plan shall be required for any surface mineral exploration activity, surface mining operation, sub-surface mining operation, or sand and gravel (aggregate) extraction operation where one of the following occurs:

(1) The mining operation will result in the movement or disturbance of earth materials of a volume greater than 1,000 cubic yards, or

(2) The mining operation will result in the movement or disturbance of earth materials exceeding a surface area of one (1) acre.

C. The requirement for a reclamation plan shall apply to any new, existing, or vested surface mineral exploration activity, surface mining operation, sub-surface mining operation, or sand and gravel (aggregate) extraction operation which has since January 1, 1976, over the lifetime of the operation, reached or exceeded the thresholds specified in this section.

D. The requirement for a mining permit shall apply to any new, or existing surface mineral exploration activity, surface mining operation, sub-surface mining operation, or sand and gravel (aggregate) extraction operation which has, over the lifetime of the operation, reached or exceeded the thresholds specified in this section. Mining operators which have obtained a vested right to conduct a mining operation prior to January 1, 1976, are exempted from the requirement to obtain a mining permit but are required to submit a reclamation plan and financial assurances for approval.

E. In calculating the area disturbed for any operation, the following activities shall be included in addition to the actual mining operation:

- (1) stockpiles,
- (2) wastepiles,
- (3) on and off-site access and haul roads,
- (4) plant sites, offices, trailers, etc
- (5) areas utilized for equipment storage, and/or
- (6) any other disturbance or graded surface areas associated with the mining or exploration activities.

F. The thresholds specified in this section are lifetime thresholds. These thresholds apply to any mining operation, which has, over the lifetime of the operation exceeded any of the thresholds specified in this section and include some or all activities specified in this section and Section 2735 and Section 2729 of SMARA.

18.02.045 Interim Management Plan Required.

A. Within ninety (90) days of a surface mining operation becoming idle, as defined in Section 2727.1 of the Act, and in this chapter, the operator shall submit to the Mariposa County Planning and Building Department an Interim Management Plan for review and approval by the Mariposa County Planning Director. The approved interim management plan shall be considered an amendment to the mining operation's approved reclamation plan for the purposes of this chapter. The interim management plan shall contain measures which the operator shall implement to maintain the site in compliance with the approved reclamation plan and all other permits. The interim management plan shall remain in effect for a period not to exceed five (5) years from the date of the plan's approval. At the end of the five (5) years time, the Mariposa County Planning Director shall do one of the following:

(1) Renew the interim management plan for another period of time not to exceed five (5) years. Approval shall be based upon the operator's compliance with the measures contained in the interim management plan.

(2) Require the operator to commence reclamation in accordance with the approved reclamation plan for the operation based upon findings of non-compliance with the interim management plan.

B. Upon acceptance of an interim management plan, the Mariposa County Planning and Building Department shall review the plan and shall verify that the interim management plan provides adequate measures to maintain the site in compliance with the approved reclamation plan and any other required standards, conditions, or permits. Within thirty (30) days of the acceptance of the interim management plan, the Mariposa County Planning and Building Department shall determine in writing whether the interim management plan is complete or incomplete, and shall forward the determination in writing to the applicant specifying those parts which are incomplete or missing information.

C. The interim management plan shall be approved, conditionally approved, or denied by the Mariposa County Planning Director within sixty (60) days of receipt of the complete plan. The Mariposa County Planning and Building Department shall complete a report detailing how the interim management plan proposes to manage the site while the operation is idle, and provide information on how the plan complies with the approved reclamation plan, standards, conditions, and other permits relating to the operation.

D. Any action by the Mariposa County Planning Director on the interim management plan, may be appealed as outlined in the County Appeals procedures which are available at the Mariposa County Planning and Building Department office and at the Board of Supervisors office.

18.02.050 Exceptions.

The provisions of this chapter shall not apply to any of the following activities:

A. Excavation or grading conducted for farming or on-site construction or for the purpose of restoring land following a flood or natural disaster;

B. Prospecting for or the extraction of minerals for commercial purposes and the removal of overburden in total amounts of less than one thousand (1,000) cubic yards in any one location of one acre or less.

C. Surface mining operations that are required by federal law in order to protect a mining claim if such operations are conducted solely for that purpose;

D. Any other surface mining operations that the State Mining and Geology Board has determined to be of an infrequent nature and which involve only minor surface disturbances;

E. The solar evaporation of sea water, or other waters for the production of salt and other related minerals;

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

G. In any case where:

1. a project is determined to be on-site construction not associated with a mining project where a grading permit is required by County code and where the project meets the criteria stated in Public Resources Code Section 2714(b); or

2. Where the Mariposa County Planning and Building Department has determined that the operation will be of an infrequent nature and will involve only minor surface disturbances and is categorically identified as such by the State Mining and Geology Board pursuant to Sections 2714 (f) and 2758(c) of the California Surface Mining and Reclamation Act of 1975; or

3. Recreational mining activities as defined in Section 18.02.020 of this chapter and which do not exceed the threshold specified in Section 18.02.040 of this chapter;

4. Surface exploration activities as defined in Section 18.02.020 of this chapter and which do not exceed the threshold specified in Section 18.02.040 of this chapter.

H. No fee is required for a determination of exceptions.

18.02.060 Recognition of vested rights in existing operation.

The procedures for obtaining recognition of vested rights to conduct surface mining operations shall be as follows:

A. All persons presently conducting or claiming to have vested rights to conduct surface mining operations shall have submitted a notification to the Planning Department by September 1, 1979, and shall have included the following information:

1. Names and addresses of the operator and any persons designated as the operator's agents for the service of process;

2. The size and legal description of the lands that are affected by such operation and a map that includes the boundaries and topographical details of such lands.

3. The quantity and type of minerals being extracted.

4. The maximum anticipated depth, or maximum area of surface disturbance associated with the operation.

5. Submittal of a reclamation plan which has been approved, or proof that a reclamation plan has been filed with the lead agency for approval. The reclamation plan shall specify site specific reclamation standards for the operation as specified in this chapter and SMARA.

6. Submittal of proof that financial assurances have been approved, or have been filed with the lead agency for approval in an amount sufficient to ensure that reclamation of the mining operation will be completed in accordance with the approved reclamation plan for the operation (Section 2773.1 (a), SMARA).

7. Submittal of verification that the mine or mining operation has been in continuous operation prior to, and since January 1, 1976.

18.02.080 Other provisions of law.

Surface mining and related operations regulated by this chapter shall be consistent with the policies pertaining to mining contained in the Mariposa County General Plan, and shall also be subject to County zoning or development standards, all other County ordinances, resolutions, and policies, the California Environmental Quality Act (CEQA) and any other applicable provisions of law.

18.02.100 Content Surface Mining Permit and Reclamation Plan application.

A. The Surface Mining Permit portion of the application shall include the following information and documentation, and such additional information determined necessary by the Mariposa County Planning and Building Department.

1. The name of the mine or mining operation.

2. The names and addresses of the property owner, and all interest holders.

3. The names and addresses of the operator and the names and addresses of any persons designated as the operator's agents for the service of process;

4. The total area to be affected by the operation in acres, the total surface area to be disturbed, and the total area to be reclaimed.

5. Description of the access route (driving directions) to the mining operation.

6. Type of mining operation proposed.

7. The anticipated quantity of the mineral commodity to be mined, total quantity of overburden or waste rock to be removed in cubic yards, tons per day, week, or month, and the overall quantity of all earth materials to be moved.

8. Operation times (i.e. days per week), and the daily hours of operation.

9. Starting dates of the operation, proposed termination date, type of operation (continuous, intermittent, seasonal, etc), and the months of operation.

10. Information on the anticipated depth of the mining operation below existing surface, highest elevation, maximum length, maximum width, and maximum slope angle.

11. Legal description of the property to be affected by the mining operation.

12. The number and types of vehicles associated with the project and the number of vehicle trips per day for each vehicle.

13. What materials will be carried or delivered to the site, and specify the type of vehicle.

14. Information on the source of water on the site, number of gallons of water to be used per day in the operation, specify if the water used will be recycled as part of the operation, and the method of water disposal.

15. Information on the use of any chemicals, solvents, acids, toxic materials, and hazardous substances associated with the operation, and how these materials will be handled and disposed of.

16. The type of waste water disposal system proposed for the operation.

17. Information on solid waste disposal for the operation.

18. Description of the topography of the site in general terms.

19. The type and purpose of any existing or proposed improvements on site associated with the mining operation.

20. Brief written description of the geology of the area and site of the mining operation.

21. The type of vegetation and the percentage of the site it covers, type of animals seen and known to occur on the site.

22. Written description of the mineral commodity and composition of mineral ore to be mined, type of country or host rock in the area.

23. Written description of the mining process to be used.

24. Written description of any proposed/existing on-site processing, milling, beneficiation, and smelting activities, including a description of the composition and disposal of any wastes or tailings resulting from such activities.

25. Written description of and plan for the type of surface mining to be employed and a time schedule that will provide for the completion of mining on each segment of the mined lands so that reclamation may be initiated at the earliest possible time on those portions of the mined lands that will not be subject to further disturbance by the surface mining operation;

B. The Reclamation Plan portion of the application shall include the following information and documents, in addition to the mining permit information, except as otherwise determined by the lead agency.

1. The proposed use or potential uses of the land after reclamation.

2. General Plan land use designation, zoning district(s) designation, and assessor parcel number.

3. Description of pre-mining use(s) of the land, description of present surrounding land uses.

4. Written description of the visibility of the operation from surrounding areas, roads, streets, highways, residences, commercial developments and recreational areas.

5. Description of the specific reclamation steps to be used in sequence to prepare the land for post reclamation uses, include the anticipated completion dates for completion of each reclamation activity. Reclamation activities shall include and not be limited to the following.

a. A description of the manner in which contaminants will be controlled and mining waste will be disposed,

b. A description of the manner in which rehabilitation of affected streambed channels, stream banks and drainage ways to a condition minimizing erosion and sedimentation will occur,

c. A description of proposed backfilling, grading, bank sloping, resoiling, revegetation, soil compaction and stabilization and other such reclamation measures;

d. A description of how equipment will be removed, or utilized, removal of any structures, refuse, and other miscellaneous materials associated with the operation.

e. Information on any proposed protective measures to secure and minimize precipitous slopes, pits, shafts, or other hazardous conditions on the operation site.

f. Information on any proposed measures to limit or protect against contamination of surface and groundwater sources.

g. Provide an estimated reclamation start and completion dates.

6. A description or assessment of how reclamation of the site will impact future mining on the site, or in the area.

7. A statement that the reclamation plan is applicable to a specific piece of property or properties and is based upon the character of the surrounding area and such characteristics of the property as type of overburden, soil stability, topography, geology, climate, stream characteristics and principal mineral commodities;

8. An estimate of reclamation costs prepared for the mining operation by a Professional Engineer or Geologist registered in the State of California, or other qualified individual which itemizes the costs for specific reclamation tasks, labor, materials, and wages. This estimate shall also provide a contingency amount not to exceed 10% of the direct costs for completing reclamation. The contingency amount shall allow for project uncertainties and unforeseen expenses. The estimate of reclamation costs shall be used to provide the required financial assurance to guarantee that the mining operation will be reclaimed in accordance with the lead agency approved reclamation plan;

9. Information on the type of financial assurance which will be deposited with Mariposa County. The required financial assurance may take the following forms:

- a. Surety Bonds;
- b. Trust funds;
- c. Irrevocable letters of credit; or
- d. Other forms of financial assurances as

approved by the State Mining and Geology Board through the regulatory process.

10. All portions of the Reclamation Plan and Financial Assurances section must comply with the State Mining and Geology Board adopted minimum verifiable reclamation standards and the Surface Mining and Reclamation Act Financial Assurances Guidelines as amended from time to time.

11. A statement of responsibility which states that the individual signing accepts responsibility for conducting the operation and reclaiming the mined lands in accordance with the reclamation plan as approved.

C. Mining Permit and Reclamation Plan Site Plan requirements. These map and diagram requirements apply for both a mining permit and/or a reclamation plan. The following information must be included on the site plan:

1. Name of Mine or Project.
2. Mineral commodity to be mined.
3. Name, address, and telephone number of the following persons.
 - a. Mine operator.
 - b. Land owner.
 - c. Applicant.
 - d. Agent or representative.
 - e. Owners of mineral rights.
 - f. Map preparer.
4. Source of Map.
5. Date of Map preparation.
6. Assessor's Parcel Numbers and legal description.

7. Acreage of area disturbed.
8. Scale and North Arrow.
9. Property or claim boundary lines;
10. Show original (pre-mining) ground contours for the proposed mining area;
11. location of all improvements and structures on the site (label what structures are used for and label structures as existing or proposed, indicate the height, building footprint dimensions, and distance of structures in relation to other structures and property lines);
12. Show names, widths, improvements, and gradients of all proposed and existing access roads;
13. Show location, width, and direction of flow of all drainage courses, streams, and rivers on the site;
14. Show location and details of facilities to control on-site storm runoff, erosion and sedimentation, such as watercourses, culverts, drainpipes, settling ponds, retarding basins, ditches and dikes, including gradients;
15. Cross-section showing contours of the mined area prior to mining;
16. Show the mine design by using cross-sectional diagrams;
17. Show maximum and minimum elevations of the mining operation;
18. Show location of processing and storage areas;
19. Show location of operating equipment, and any permanent structures;
20. Show boundaries of area to be mined, waste dumps, stockpiles, tailing ponds, retarding basins, and settling ponds;
21. Show boundaries of all disturbed areas to be reclaimed and include acreage;
22. Provide a cross-sectional diagram showing proposed reclaimed ground surface contours;
23. Show post reclamation drainages;
24. Show erosion and sediment control structures such as water bars, berms, siltation ponds, diversion ditches, etc.
25. Show revegetation test plot areas including names of plant species, size and spacing of plants, and method of planting, fertilization, and irrigation;
26. Illustrate the sequence and timing for reclamation (time-line showing time to complete various reclamation activities);
27. Show post-mining safety measures such as fences, gates, signs, etc.

18.02.115 Environmental Review.

A. Upon receipt of an application for a surface mineral exploration operation, surface mining operation, sub-surface mining operation, or sand and gravel (aggregate) extraction operation, the Mariposa County Planning and Building Department shall determine whether the project is subject to environmental review as mandated by the California Environmental Quality Act (CEQA) and as established within the Mariposa County Environmental Review Policies and Procedures document.

18.02.120 Processing of a Surface Mining Permit and Reclamation Plan application.

A. When all required information related to the application has been submitted to the Mariposa County Planning and Building Department together with applicable filing fees the Planning Department shall accept the application as being properly filed. The Planning Department shall then notify the Director of the Department of Conservation of the filing and shall furnish copies of the application, plan and other related documents for their comment and review; and the Planning Department may request that the Director of the Department of Conservation furnish technical assistance in its review of the reclamation plan. The Planning and Building Department shall send out copies of the proposed reclamation plan, permit, and other related documents to various other affected state, federal, and county agencies for review and comment.

B. Within thirty (30) days of the acceptance of the application(s), the Planning and Building Department shall determine in writing whether the application(s) are complete or incomplete, and shall forward the determination in writing to the applicant specifying those parts of the application which are incomplete or missing information. Upon receipt of any resubmittal of the application, a new thirty (30) day period shall begin, during which the Planning Department shall again determine the completeness of the application(s).

C. The Planning and Building Department shall complete the required environmental review and prepare a staff report with a recommendation for approval, conditional approval, or denial. If the project is exempt from environmental review or if a Negative Declaration is recommended for the project and all mitigation measures (if applicable) have been agreed to by the applicant, the Planning and Building Department shall formulate the final recommendation to the lead agency relating to the Initial Study and the approval, conditional approval, or denial of the mining operation permit and/or reclamation plan. A public hearing will then be scheduled for the mining permit application and/or reclamation plan application, and the hearing will be noticed pursuant to County noticing policy and CEQA noticing requirements.

18.02.130 Public hearing--Planning Commission action.

If the project is exempt from environmental review or if a Negative Declaration is recommended for the proposed mining permit and/or reclamation plan application, the application will be scheduled for action at the first available Planning Commission meeting. Notice of the Planning Commission public hearing shall be given in accordance with Section 17.132 of County Code.

At the conclusion of the deliberation by the commission, the commission shall act to approve, conditionally approve or disapprove the application, including any related financial assurances and associate CEQA document. The Planning Commission action must

be finalized with a resolution within fifteen (15) days of the conclusion of the public hearing.

Any application approval and permit issuance may be subject to a specified term of permitted operation and timing of reclamation, reasonable conditions and requirements for proper operation and reclamation, guarantees to ensure compliance with terms and conditions and annual inspections by the county to ensure such compliance.

18.02.140 Public Hearing--Board of Supervisors action.

A. If based upon the Mandatory Findings of Significance in the Initial Study, an Environmental Impact Report (EIR) is required for the mining operation is required, or if the Board of Supervisors is otherwise deemed to be the lead agency whether an EIR is required or not, the Board of Supervisors shall become the lead agency for approval of the mining permit and reclamation plan application.

B. If an EIR is required, the Mariposa County Planning and Building Department shall follow the procedures specified within the Mariposa County Environmental Review Policies and Procedures and the California Environmental Quality Act for project processing.

C. Processing of Surface Mining Permit/Reclamation Plan in conjunction with an EIR -- When the Draft EIR has been accepted by the Planning Department for public review, public hearings in front of both the Planning Commission and the Board of Supervisors shall be set. The Public review period shall be opened for comments on the Draft and all required notices shall be filed, published or mailed in accordance with adopted County policy and State Law. The public hearings shall be conducted on the Draft EIR in accordance with adopted County policy. The Planning Commission shall consider the Draft EIR and all comments received up to the end of the public portion of their public hearing and shall formulate a recommendation to the Board of Supervisors for action. The Board of Supervisors shall consider the Draft EIR, all comments received up to the end of the public portion of their public hearing and the Planning Commission's recommendation. When the Board directs the preparation of the Final EIR, the Final EIR shall include all comments and input received on the draft, the lead agency's response to those comments, and other information required by State Law or County Policy. Public hearings on the Final EIR may be conducted by the Planning Commission and/or the Board in accordance with adopted County policy and State Law. The Planning Commission shall act in an advisory capacity to the Board of Supervisors, who shall take final action on the Final EIR.

D. The public hearings for the EIR may be conducted simultaneously with the required hearings to consider the surface mining permit and reclamation plan application, providing that action by the lead agency to certify the Final EIR occurs prior to any action to approve, conditionally approve or deny the surface mining permit and reclamation plan application, including any related financial assurances.

E. If the Board is the lead agency approving the mining permit and/or reclamation plan in which an EIR is not required, the planning department will process the application in accordance with the standards as set forth in Section 18.02.130 (Public Hearing--Planning Commission action) and this section, with the Board having final approval authority.

18.02.150 Annual Inspection.

As a condition of approval for the mining permit or the reclamation plan, a schedule for annual inspections of the site shall be established to evaluate continuing compliance of the project with the mining permit and/or the reclamation plan. Additional inspections may be required by the Planning and Building Department if necessary to insure compliance with the mining permit or reclamation. (Ord. 499 Sec.1(part), 1979).

18.02.160 Amendments to Reclamation Plan.

A. Minor amendments to an approved reclamation plan may be submitted to the county at any time detailing proposed changes from the original plan. A minor amendment to the reclamation plan means a minor modification, change, or substitution of an existing standard or condition in an approved reclamation plan which can reasonably be presumed not to make a significant change to the approved reclamation plan or the conduct of the surface mining operation. A minor amendment requires submittal of a written request by the mine operator to the Mariposa County Planning and Building Department specifying the proposed amendment. A minor amendment shall be acted upon by the Mariposa County Planning and Building Department within thirty (30) days of acceptance of the proposed amendment upon a determination that the minor amendment does not constitute a substantial deviation from the approved reclamation plan. A minor amendment does not require a public hearing.

B. A substantial amendments to an approved reclamation plan means a substantial deviation from the approved reclamation plan or major change in the conduct of the surface mining operation. A substantial amendment includes an interim management plan, or any deviation to the approved mining permit or reclamation plan that:

1. Changes the operation so that a change to the approved end use results;
2. Results in a substantial impact to the environment that is not addressed in the approved environmental review document for the current reclamation plan;
3. Increases the area subject to surface disturbance;
4. Increases the operations mineral production by more than 10%; or
5. Increases the maximum depth of the operation.

A substantial amendment to an approved mining permit and reclamation plan shall be approved by the same procedure as is prescribed for approval of a mining permit and reclamation plan application as specified in this chapter and SMARA Sections 2772 and 2773. A substantial amendment requires review and comment by

the Director of the Department of Conservation prior to the public hearing.

C. Emergency Amendment -- In emergency situations where irreversible physical damage to the environment may occur, an operator may take such immediate action as is necessary to prevent such damage and shall report such actions to the Mariposa County Planning and Building Department .

18.02.180 Appeal- Planning Commission action.

Findings or decisions of any County official, commission, hearing officer, etc., may be appealed to the Planning Commission or Board of Supervisors as specified within the Mariposa County Appeals Procedures. The Notice of Appeal must be filed within the timeframe specified within the Mariposa County Appeals Procedures.

18.02.190 Appeal- State Mining and Geology Board.

Within fifteen (15) days of any action on a mining permit and/or reclamation plan application related to a site in a designated area of statewide or regional significance, and after exhausting all County appeals, an aggrieved person may file a written appeal with the State Mining and Geology Board as provided in the Section 2775 of the Surface Mining and Reclamation Act (SMARA). (Ord. 499 Sec.1(part), 1979).

18.02.200 Violations.

A. Upon receipt of a written complaint stating that a potential violation exists, or upon their own initiative, the Mariposa County Planning and Building Department will complete a site inspection to determine if the mining operation is in compliance with the provisions of a mining permit and approved reclamation plan. The Planning and Building Department will make a determination and will inform the property owner in writing of the nature of the violation and the actions required to remedy the violation.

Such violations may include, but not be limited to the following:

1. Failure of a mining operation to conform to the provisions of the approved mining permit and/or reclamation plan.
2. Operation of a mine or surface mining operation without an approved reclamation plan or mining permit as required by this chapter and Section 2770 of SMARA.
3. Failure of a mining operator to complete concurrent, or final reclamation of a mining operation as specified in the approved reclamation plan.
4. Failure to provide adequate financial assurances to ensure reclamation of the site in conformance with the approved reclamation plan.
5. Continued operation of a mine which has been determined to be a public or private nuisance, or where the operation has been determined to be detrimental to the health and safety of persons residing in the area.

B. Following notification by the Mariposa Planning and Building Department and failure to abate the violation within the specified time, a public hearing shall be held pursuant to County Code. The public hearing shall be in front of the lead agency which originally approved the mining permit/reclamation plan as required herein and shall consider the alleged violation of the approved mining permit and reclamation plan based upon findings of noncompliance with the terms and conditions thereof. At the public hearing, the Lead Agency may take action by resolution to revoke the mining permit and require the reclamation of the site as specified in the approved reclamation plan.

C. Violation of any provisions of this chapter, including operation without a required mining permit or reclamation plan, or continued operation following revocation of a mining permit and reclamation plan, shall constitute a misdemeanor; and such operation shall constitute a public nuisance.

D. In addition, all state and county agencies are prohibited from utilizing or purchasing mineral resource materials from an operation that is not in compliance with SMARA. (AB 3098)

18.02.210 Enforcement.

The provisions of this chapter shall be enforced by the Mariposa County Planning and Building Department and other duly authorized County officers and by use of any legal or equitable remedies specified in County Code (including but not limited to Chapter 17.144).

18.02.215 Public Records.

Reclamation plans, reports, applications and other documents submitted pursuant to this chapter are public records, unless it can be demonstrated to the satisfaction of the Mariposa County Board of Supervisors that the release of such information, or part thereof, would reveal production, reserves or rate of depletion entitled to protection as proprietary information. The County shall identify such proprietary information as a separate part of each application. A copy of all permits, reclamation plans, reports, applications and other documents submitted pursuant to this chapter shall be furnished to the Director of the Department of Conservation by the County Board of Supervisors.

Proprietary information shall be furnished to the Director of the Department of Conservation upon request. Proprietary information shall not be made available to persons other than the Director of the Department of Conservation except in accordance with Section 2778, California Surface Mining and Reclamation Act of 1975.

18.02.220 Severability.

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