

BOARD OF SUPERVISORS
Yolo County, California

Meeting Date: October 23, 2001

To: CAO
County Counsel ✓
Auditor
Plan & Pub Works ✓
Alcohol Drug/MH
Health Services
Human Resources

Agenda Item No. 26
Surface Mining and Reclamation

Minute Order No. 01-255: At the conclusion of a public hearing to consider amendment to the Yolo County Code to establish standards for surface mining and reclamation activities associated with agricultural operations, including drainage facility maintenance, field leveling, aquaculture ponds, and flood control repair, the Board took the following action:

- A. Certified that a Negative Declaration as the appropriate environmental document, having been prepared in accordance with the California Environmental Quality Act (CEQA) and CEQA Guidelines.
- B. Introduced the proposed ordinance amending Chapter 3 of Title 10 of the Yolo county Code to regulate the mining and reclamation of soil from agricultural properties, by title only and waived the first reading.
- C. Set November 6, 2001, for the second reading and adoption of the proposed ordinance.

MOTION: McGowan. SECOND: Pollock. AYES: Rosenberg, Pollock, McGowan, Wolk, Stallard.

NOV - 8 2001

ORDINANCE NO. ~~XXXX~~ 1276

PATRICIA CRITTENDEN, CLERK OF THE BOARD
BY Ana Morales DEPUTY

**AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY
OF YOLO ADDING CHAPTER 8 OF TITLE 10 OF THE
YOLO COUNTY CODE ENTITLED
THE "AGRICULTURAL SURFACE MINING AND RECLAMATION ORDINANCE"**

THE BOARD OF SUPERVISORS OF THE COUNTY OF YOLO, STATE OF CALIFORNIA ORDAINS AS FOLLOWS:

SECTION 1. PURPOSES

Currently, there is no existing ordinance regulating surface mining and reclamation within agriculturally zoned areas, as is required by the California Department of Conservation. The Board is concerned that the lack of such an ordinance could prevent agricultural operators within the County from improving soil consistency, developing aquacultural facilities, creating and/or enhancing wildlife habitat, or maintaining flood control and drainage structures.

To address the Board's concerns, the Planning Commission and Board of Supervisors sought input from County staff and affected local agencies and organizations and held four workshops and/or public hearings, after proper notice, for the purposes of accepting public testimony to achieve an appropriate regulatory mechanism.

It is the intent of the Board in adopting this ordinance to create a regulatory mechanism consistent with the General Plan that recognizes the need for agricultural surface mining, balanced by other societal values including soil conservation and wildlife habitat. This ordinance will limit agricultural mining and reclamation activities to those that are wholly integral and necessary to the conduct of farm activities, establish performance standards to ensure that the impacts created by agricultural mining and reclamation on surrounding properties are addressed and that productive farmland is safeguarded, and strengthen the County's enforcement abilities.

The Board has determined that this ordinance is consistent with the County General Plan and is in compliance with all applicable federal, State and County laws and regulations. In particular, based on information received from the Department of Conservation, the Board determines that this ordinance is consistent with the intent of the State Surface Mining and Reclamation Act.

SECTION 2. Title 10 of the Yolo County Code is hereby amended by the addition thereto of Chapter 8 to read as follows:

CHAPTER 8. AGRICULTURAL SURFACE MINING AND RECLAMATION ORDINANCE

ARTICLE 1. TITLE, AUTHORITY, AND PURPOSE

Sec. 10-8.101. Title.

This chapter shall be known as "The Agricultural Surface Mining and Reclamation Ordinance of Yolo County."

Sec. 10-8.102. Authority.

This chapter is enacted pursuant to the authority granted by the California Surface Mining and Reclamation Act of 1975, Chapter 9 of Division 2 of the Public Resources Code of the State, commencing with Section 2710; and pursuant to the powers of the County to protect the public health, safety, and welfare pursuant to Section 7 of Article XI of the Constitution of the State.

Sec. 10-7.103. Purposes.

The purposes of this chapter are as follows:

- (a) The preservation of agriculture is essential to the continued economic and social well-being of the County. In certain limited circumstances, however, it is necessary to mine soil from an agricultural property in order to protect, maintain, and/or enhance its existing productivity. Although the County recognizes the need for agricultural surface mining, consideration must also be balanced by other societal values, including but not limited to soil conservation, public health and safety, and wildlife habitat;
- (b) Due to concerns about the impacts of surface mining on crop and livestock productivity, mining will be minimized and will only be permitted where it is wholly integral and necessary to the conduct of agricultural activities, including but not limited to the following circumstances: to improve soil quality, as a by-product of land leveling, to develop aquaculture facilities, to create or enhance wildlife habitat, or to maintain or improve drainage and flood control facilities;
- (c) The potential environmental impacts, operational methods, and reclaimed end uses of surface mining necessary for agricultural operations are significantly different from those associated with commercial surface mining. Thus, it is appropriate to provide performance standards, procedures, and findings for agricultural surface mining and reclamation activities in addition to those already included within the County Code, the Act, and the Regulations. These additional measures will ensure that the impacts created by agricultural mining and reclamation activities are addressed and that the unique interests of the farm community are protected;
- (d) Agricultural surface mining and reclamation takes place in diverse areas, where the geologic, hydrologic, biological, and social conditions are significantly different. While agricultural mining permits and reclamation plans may vary to account for site-specific circumstances, they must also achieve the common goals of minimizing impacts on surrounding properties and providing for the long-term viability of on-site farming. Therefore, this chapter imposes general performance standards, by which agricultural surface mining and reclamation activities shall be regulated in order to limit their effects on surrounding properties and to safeguard productive farmland;
- (e) Agricultural surface mining and reclamation must be carefully monitored, in order to reduce hazards to the public health and safety, minimize adverse effects on the environment, and to ensure the continued strength of the County's farm economy;

ARTICLE 2. DEFINITIONS

Sec. 10-8.201. Scope.

Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

Sec. 10-8.202. Abandon: Abandonment.

"Abandon" or "abandonment" shall mean to cease surface mining or reclamation with the intention of not resuming or reclaiming. Unless an Interim Management Plan is currently pending before the County, any surface mining operation that is idle for twelve (12) consecutive months or longer shall be considered abandoned.

Sec. 10-8.203. Act.

"Act" shall mean the Surface Mining and Reclamation Act of 1975, specifically referring to Chapter 9 of Division 2 of the State Public Resources Code, Sections 2710 et seq.

Sec. 10-8.204. Agency.

"Agency" shall mean the Planning and Public Works Department of the County, or its successor in function.

Sec. 10-8.205. Backfill.

"Backfill" shall mean earth, overburden, mine waste, or imported material used to replace material removed during mining.

Sec. 10-8.206. Board.

"Board" shall mean the Board of Supervisors of the County.

Sec. 10-8.207. CEQA.

"CEQA" shall mean the California Environmental Quality Act set forth in Sections 21000 et seq. of Division 13 of the Public Resources Code of California.

Sec. 10-8.208. Commission.

"Commission" shall mean the Planning Commission of the County, or its successor in function.

Sec. 10-8.209. County.

"County" shall mean the County of Yolo.

Sec. 10-8.210. Department.

"Department" shall mean the State Department of Conservation, or its successor in function with regards to surface mining and reclamation regulation.

Sec. 10-8.211. Director.

"Director" shall mean the Director of the County Planning and Public Works Department, a designee chosen by the Director, or the Director's successor in function.

Sec. 10-8.212. Financial Assurances.

"Financial assurances" shall mean monetary funds, securities, or other instruments, approved by the State Mines and Geology Board in regulation, provided by the operator to ensure that surface mining operations are reclaimed according to the approved reclamation plan, should the operator abandon the mine site.

Sec. 10-8.213. Haul road.

"Haul road" shall mean a road along which material is transported from the area of excavation to the processing plant or stock pile area of the surface mining operation.

Sec. 10-8.214. Idle.

"Idle" shall mean those surface mining operations where production has been reduced by more than 90 percent of the operation's previous maximum annual mineral production, for a period of one year or more, with the intent to resume operations at a later date.

Sec. 10-8.215. Interim Management Plan.

Interim management plan" shall mean an amendment to the approved reclamation plan to provide measures for maintaining an idle mine site until operations are resumed.

Sec. 10-8.216. Lead Agency.

"Lead agency" shall mean the County, which has the principal responsibility for approving a surface mining operation or reclamation plan pursuant to this chapter.

Sec. 10-8.217. Mined lands.

"Mined lands" shall mean the surface, subsurface, and groundwater of an area in which surface mining operations will be, are being, or have been conducted, including private ways and roads appurtenant to any such area, land excavations, workings, mining waste, and areas in which structures, facilities, equipment, machines, tools, or other materials or property which result from, or are used in, surface mining operations are located.

Sec. 10-8.218. Minerals.

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

Sec. 10-8.219. Mining waste.

Mining waste" shall mean 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.

Sec. 10-8.220. Operator.

Operator" shall mean any person who is engaged in surface mining operations, or who contracts with others to conduct operations on their behalf, except a person who is engaged in surface mining operations as an employee with wages as their sole compensation.

Sec. 10-8.221. Overburden.

"Overburden" shall mean 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.

Sec. 10-8.222. Prime Agricultural Land.

Prime agricultural land" shall mean all land which meets the definition of prime agricultural land set forth in Section 51201 of the Government Code of the State as administered by the County in the administration of its agricultural preserve program.

Sec. 10-8.223. Reclamation.

Reclamation" shall mean the process of land treatment that minimizes water degradation, air pollution, damage to aquatic or wildlife habitat, flooding, erosion, threats to public health or safety, 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. The process may extend to affected lands surrounding mined lands, and may require backfilling, grading, resoiling, revegetation, soil compaction, stabilization, or other measures.

Sec. 10-8.224. Reclamation Plan.

"Reclamation plan" shall mean the operator's completed and approved plan for reclaiming lands affected by any surface mining operations conducted after January 1, 1976, as required by Section 2772 of the Public Resources Code of the State.

Sec. 10-8.225. Regulations.

"Regulations" shall mean the State Mining and Geology Board Reclamation Regulations, specifically referring to Subchapter 1 of Chapter 8 of Division 2 of Title 14 of the California Code of Regulations, Articles 1, 4, 5, 6, 7, 8, 9, and 12.

Sec. 10-8.226. Resoiling.

"Resoiling" shall mean the process of artificially building or reconstructing a soil profile.

Sec. 10-8.227. Slope.

"Slope" shall mean the angle of the ground surface, expressed as a ratio of the horizontal distance to the vertical distance.

Sec. 10-8.228. State CEQA Guidelines.

"State CEQA guidelines" shall mean those regulations set forth in Sections 15000 et. seq. of Chapter 3 of Title 14 of the California Code of Regulations.

Sec. 10-8.229. Surface mining operations.

"Surface mining operations" shall mean all, or any part of, the process involved in the mining of minerals on mined lands by removing overburden and mining directly from the mineral deposits, open-pit mining of minerals naturally exposed, mining by the auger method, dredging and quarrying, or surface work incidental to an underground mine. Surface mining operations shall include, but are not limited to: in-place distillation or retorting or leaching; the production and disposal of mining waste; and prospecting and exploratory activities.

Sec. 10-8.230. Topsoil.

"Topsoil" shall mean the upper part of the soil profile that is relatively rich in humus, which is technically known as the A-horizon of the soil profile.

ARTICLE 3. SCOPE AND EXEMPTIONS

Sec. 10-8.301. Incorporation by reference.

The provisions of the Act and the Regulations, as those provisions and regulations may be amended from time to time, are made a part of this chapter by reference with the same force and effect as if the provisions therein were specifically and fully set out herein, excepting that where the provisions of this chapter are more restrictive than corresponding state provisions, this chapter shall prevail.

Sec. 10-8.302. Scope of regulations.

Unless otherwise provided in this article, no person shall conduct surface mining operations within an agriculturally zoned property, unless a surface mining permit, reclamation plan, and financial assurances have been approved in accordance with this chapter, except where the subject property has an existing Sand and Gravel (SG) overlay zone and a mining permit, reclamation plan, and financial assurances approved pursuant to Chapter 4 of Title 10 of this Code. Nothing in this chapter shall be interpreted as requiring the filing of a surface mining permit and/or reclamation plan application for lands where surface mining operations were completed prior to January 1, 1976.

Sec. 10-8.303. Scope: Area defined.

This chapter shall apply only to those areas designated as agricultural lands within the Yolo County General Plan. Specifically, agricultural surface mining operations shall only be permitted within the Agricultural General (A-1), Agricultural Exclusive (A-E), Agricultural Preserve (A-P), and/or Agricultural Industrial (AGI) Zones, as defined in Articles 4, 5, 6, and 6.1 of Chapter 2 of Title 8 of this Code. The conduct of mining within the channel of Cache Creek is regulated by Chapter 3 of this title and shall not be subject to the provisions of this chapter. The conduct of commercial aggregate surface mining within the Cache Creek Area Plan, but outside the channel of Cache Creek, is regulated by Chapters 4 and 5 of this title and shall not be subject to the provisions of this chapter.

Sec. 10-8.304. Exemptions: Defined.

The provisions of this chapter shall not apply to any operation where mined materials do not leave the property being excavated. This chapter shall also not apply to any operation where mined materials are transferred between parcels, if the mined materials are used for agricultural purposes (e.g., land leveling, road building, levee repair, etc.) and there is no exchange of goods and/or services for the mined materials. In addition, the provisions of this chapter shall not apply to those activities and operations that are exempted by Sections 2714 of the Act and/or Section 3505.a of the Regulations.

Specifically, this chapter shall not apply to those operations conducted within the Cache Creek Settling Basin, Fremont Weir, and/or the Sacramento Weir for the purpose of cleaning out sediment materials to restore those flood control facilities to their engineered design capacity, as provided for under Section 3505.(a).(2) of the Regulations. In order to qualify for this exemption, operations may only occur where the final grade of the excavated area does not exceed the as-built approved design specifications contained in the approved documents for the Cache Creek Settling Basin, Fremont Weir, and/or Sacramento Weir.

Any exemption granted from the provisions of this chapter shall not, in and of itself, exempt a project or activity from the application of other applicable regulations and requirements.

Sec. 10-8.305. Exemptions: Applications.

Applications for exemptions shall be submitted to the Director for review and determination as to completeness. If the application is determined incomplete, the Director shall notify the operator in writing within thirty (30) days, specifically describing the information necessary to complete the application. Upon receipt of a completed application, the Director shall determine whether the operation is exempt or is subject to the provisions of this chapter and shall submit the decision in writing to the applicant. Any person with standing may appeal the Director's decision to the Commission, pursuant to the provisions of Article 10 of Chapter 4 of Title 10.

If the County determines that a proposed operation is subject to the provisions of this chapter, an exemption may only be granted by the State Mines and Geology Board under Section 2714 of the Act.

ARTICLE 4. AGRICULTURAL MINING AND RECLAMATION STANDARDS

Sec. 10-8.401. Scope.

The general standard for the operation of agricultural surface mines is to ensure the protection of the public health and safety, of the natural environment, and of the productivity of surrounding farm operations. The general standard for agricultural reclamation is to ensure that the agricultural productivity of reclaimed lands either meets or exceeds farm production levels established prior to mining. This article sets forth minimum acceptable mining and reclamation standards to implement these general standards. These minimum acceptable standards shall be considered and discussed in every surface mining permit and reclamation plan approved pursuant

to this chapter. In addition, the minimum practices and standards set forth in the Act shall also be considered and discussed in every surface mining permit and reclamation plan approved pursuant to this chapter. These standards shall be followed in addition to any other conditions of approval or regulations imposed on the agricultural surface mining permit or reclamation plan.

Sec. 10-8.402. Access roads.

Where an access road is used by trucks to haul mined material away from the permitted mine site, the first one-hundred (100) feet intersecting a County-maintained road shall be surfaced in a manner approved by the Public Works Department, with an approach constructed to County standards. Traffic control and warning signs shall be installed as required by the Public Works Department.

Sec. 10-8.403. Accident reporting.

The operator shall immediately notify the Director of any events such as fires, explosions, spills, land or slope failures, or other conditions at the site that could pose a hazard to life or property. Action shall be immediately undertaken to alleviate the hazard. Upon request by any County agency, the operator shall provide a written report of any such event, within thirty (30) days, which shall include, but not be limited to, a description of the facts of the event, the corrective measures used, and the steps taken to prevent a recurrence of the incident. This condition does not supersede nor replace any requirement of any other governmental entity for reporting incidents.

If required, a copy of the operators' approved Business Emergency Response Plans and the approved Spill Prevention Control and Countermeasure Plans shall be submitted to the Yolo County Health Department, prior to the commencement of mining.

Sec. 10-8.404. Annual production limits.

Each surface mine shall operate within the limits of the annual production level established in the mining permit and reclamation plan. Annual production may not exceed the established annual level.

Sec. 10-8.405. County road improvements.

Each operator shall pay its fair share toward improvements required to maintain Level of Service (LOS) "C" operations on County roads designated as part of the haul route for the mine site. Fair share costs shall also be required to improve existing operational deficiencies of the transportation system. Where necessary, each operator shall participate in a funding program operated by the County designed to ensure that all improvements are made in a timely manner and that a reimbursement mechanism is in place to ensure repayment of any costs contributed in excess of fair share amounts.

Sec. 10-8.406. Cultural resources.

Damaging effects on cultural resources shall be avoided whenever possible. If avoidance is not feasible, the importance of the site shall be evaluated by a qualified professional prior to the commencement of mining operations. If a cultural resource is determined not to be important, both the resource and the effect on it shall be reported to the Agency, and the resource need not be considered further. If avoidance of an important cultural resource is not feasible, a mitigation plan shall be prepared and implemented. The mitigation plan shall explain the importance of the resource, describe the proposed approach to mitigate destruction or damage to the site, and demonstrate how the proposed mitigation would serve the public interest.

If human skeletal remains are encountered during mining, all work within seventy-five (75) feet shall immediately stop, and the County Coroner shall be notified within twenty-four (24) hours. If the remains are of Native American origin, the appropriate Native American community identified by the Native American Heritage Commission shall be contacted, and an agreement for treating or

disposing of, with appropriate dignity, the remains and associated grave goods shall be developed. If any cultural resources, such as chipped or ground stone, historic debris, building foundations, or paleontological materials are encountered during mining, then all work within seventy-five (75) feet shall immediately stop and the Director shall be notified at once. Any cultural resources found on the site shall be recorded by a qualified archaeologist and the information shall be submitted to the Agency.

Sec. 10-8.407. Drainage.

During mining and reclamation operations, grading and revegetation shall minimize erosion and convey storm water runoff from reclaimed mining areas to natural outlets or interior basins. The condition of the land shall allow sufficient drainage to prevent water pockets or undue erosion. Natural and stormwater drainage shall be designed so as to prevent flooding on surrounding properties and County rights-of-way. Appropriate erosion control measures shall be incorporated into all surface water drainage systems. Grading plans shall be reviewed by the County to evaluate compliance with drainage plan objectives prior to project approval.

Sec. 10-8.408. Dust control.

The following measures shall be implemented in order to control fugitive dust:

- (a) All stockpiled soils shall be enclosed, covered, or adequately watered to keep soil moist at all times. Inactive soil stockpiles should be vegetated or adequately watered to create an erosion-resistant outer crust.
- (b) During operating hours, all disturbed soil and unpaved roads shall be adequately watered to keep soil moist.
- (c) All disturbed but inactive portions of the site shall either be seeded or watered until vegetation is grown or shall be stabilized using methods such as chemical soil binders, jute netting, or other Yolo-Solano Air Quality Management District approved methods.

Sec. 10-8.409. Equipment maintenance.

All internal combustion engine driven equipment and vehicles shall be kept tuned according to the manufacturer's specifications and properly maintained to minimize the leakage of oils and fuel. No vehicles or equipment shall be left idling for a period of longer than ten (10) minutes. Fueling and maintenance activities of heavy equipment are prohibited within one-hundred (100) feet of open bodies of water during mining and reclamation.

Sec. 10-8.410. Erosion control.

The grading of final slopes, the replacement of soil, and associated erosion control measures shall take place prior to November 1 in areas where mining has been completed. To minimize erosion, the finish grading of disturbed slopes shall be performed as soon as practical after mining has been completed. A drought-tolerant, weed-free mix of native and non-native grass species shall be established on slopes prior to November 1 or alternate erosion control (mulch or netting) shall be placed on exposed soil on the slopes prior to this date. Phasing of mining to minimize the length of exposed mining slopes during the rainy season is encouraged. An extension to the November 1 deadline may be granted in writing at the discretion of the Director, weather conditions permitting.

Sec. 10-8.411. Fence row habitat.

Where fence row or field margin habitat previously existed, similar habitat shall be reestablished as part of reclamation to replace and improve the wildlife habitat value of agricultural lands. Reestablished fence row habitat shall include, but not be limited to scattered native trees, shrubs, and ground covers along the margins of reclaimed fields. Reestablished habitat can be

located in areas other than where it occurred originally. Restoration plans shall specify ultimate fence row or field margin locations, identify planting densities for trees and shrubs, and include provisions for monitoring and maintenance to ensure establishment.

Sec. 10-8.412. Field drainage.

Reclaimed agricultural surfaces shall be graded to provide adequate field gradients to allow surface/furrow irrigation of crops and allow for adequate storm water drainage.

Sec. 10-8.413. Field releveling.

The operator shall retain a Licensed Land Surveyor or Registered Civil Engineer to survey any areas reclaimed to agricultural usage after the first two (2) crop seasons have been completed. Any areas where settling has occurred shall be relevelled to the field grade specified in the approved reclamation plan.

Sec. 10-8.414. Lighting.

All lighting shall be arranged and controlled so as not to illuminate public rights-of-way or adjacent properties.

Sec. 10-8.415. Mining in reclaimed lands.

Once the reclamation plan or any portion thereof has been completed, no further surface mining operations shall be allowed within reclaimed lands, without approval of an amendment to the surface mining permit and reclamation plan.

Sec. 10-8.416. Noise: General standard.

From 6:00 a.m. to 6:00 p.m., noise levels shall not exceed an average noise level equivalent (Leq) of eighty (80) decibels (dBA) measured at the property boundaries of the site. Noise levels shall not exceed an average noise level equivalent (Leq) of sixty (60) decibels (dbA) for any nearby off-site residences or other noise-sensitive land uses.

From 6:00 p.m. to 6:00 a.m., noise levels shall not exceed an average noise level equivalent (Leq) of sixty-five (65) decibels (dBA) measured at the property boundaries of the site.

At no time shall noise levels exceed a community noise equivalent (CNEL) of sixty (60) decibels (dBA) for any existing residence or other noise-sensitive land use. An existing residence shall be considered the property line of any residentially zoned area or, in the case of agricultural land, any occupied off-site residential structures. Achieving the noise standards may involve setbacks, the use of quieter equipment adjacent to residences, the construction of landscaped berms between mining activities and residences, or other appropriate measures.

Sec. 10-8.417. Noise: Sonic safety devices.

If mining occurs within fifteen-hundred (1500) feet of residences, equipment used during nighttime activities shall be equipped with non-sonic warning devices consistent with the California Office of Safety Hazard Administration (Cal OSHA) regulations, which may include fencing of the area to avoid pedestrian traffic, adequate lighting of the area, and placing an observer in clear view of the equipment operator to direct backing operations. Prior to commencement of operations without sonic warning devices, operators shall file a variance request with the California OSHA Standards Board showing that the proposed operation would provide equivalent safety to adopted safety procedures, including sonic devices.

Sec. 10-8.418. Operational areas.

Operational areas and haul roads that are not required for future use of the site shall be ripped, resoiled, and prepared accordingly, to allow for future agricultural usage.

Sec. 10-8.419. Other agency approvals.

Operators shall obtain any and all permits and approvals required by other agencies having jurisdiction over the agricultural mining and reclamation operations and shall provide copies to the County prior to commencement of operations.

Sec. 10-8.420. Parking.

All operations shall provide sufficient off-street parking to accommodate customers, employees, and all mining equipment.

Sec. 10-8.421. Permanent stockpiles.

There shall be no permanent piles of mine waste, soil stockpiles, and/or overburden once reclamation has been completed.

Sec. 10-8.422. Phasing plans.

All proposed mining and reclamation plans shall present a phasing plan for mining and reclamation activities. The phasing plan shall be structured to minimize the area of disturbed agricultural lands during each mining phase, and encourage the early completion of the reclamation of agricultural land.

Sec. 10-8.423. Planting plans.

Site-specific planting plans shall be developed by a qualified biologist where habitat reclamation is proposed. Restoration components of reclamation plans shall include provisions to enhance habitat for special-status species, where feasible.

Sec. 10-8.424. Repair of damage due to natural disaster.

The cost of implementing recommendations for repair of land damaged during earthquakes or other natural events while in the process of reclamation shall be met through application of contingency costs provided for by the project's financial assurances as required by the Act.

Sec. 10-8.425. Sanitary facilities.

At least one toilet shall be provided for each off-channel mining operation. Chemical toilets shall be properly maintained and serviced regularly. Permanent toilets shall be properly engineered and the design approved by the Yolo County Building Official and the Environmental Health Department prior to installation. All on-site water storage facilities shall be labeled "potable" or "non-potable."

Sec. 10-8.426. Setbacks.

All agricultural surface mining operations shall comply with the following setbacks:

- (a) Soil and/or material stockpiles shall be located a minimum of five-hundred (500) feet from public rights-of-way, public recreation areas, and off-site residences, unless alternate measures to reduce potential noise, dust and aesthetic impacts are developed and implemented;
- (b) If appropriate, mining located within one-thousand (1,000) feet of either public rights-of-way or off-site residences shall be effectively screened from public view by a fence row buffer or constructed berm. Fence row landscaping plans shall identify planting densities for trees and shrubs, and include provisions for monitoring and maintenance to ensure establishment; and
- (c) All agricultural mines shall be set back a minimum of twenty-five (25) feet from riparian vegetation.

Sec. 10-8.427. Site maintenance.

During operations, the site shall be kept free of debris and maintained in a neat and orderly manner so as not to create any hazardous or unsightly conditions. All overburden shall be stockpiled and all stumps, brush, or other debris resulting from mining and/or processing shall be properly disposed.

Sec. 10-8.428. Slopes.

All banks shall be sloped no steeper than 2:1 (horizontal:vertical). Proposed steeper slopes shall be evaluated by a slope stability study, prepared by a Registered Civil Engineer, registered in the State of California.

Sec. 10-8.429. Soil removal.

Soil shall be cut in maximum depths in order to minimize traffic and limit compaction. The handling and transportation of soil shall be minimized. All handling of topsoil shall be accomplished when the soil is dry in order to avoid undue compaction.

Sec. 10-8.430. Soil ripping.

Areas reclaimed to agricultural usage shall have all A and B horizon soil ripped to a depth of three (3) feet after every two (2) foot layer of soil is laid down, in order to minimize compaction.

Sec. 10-8.431. Soil stockpiles.

Topsoil, subsoil, and subgrade materials in stockpiles shall not exceed forty (40) feet in height, with slopes no steeper than 2:1 (horizontal:vertical). Soil stockpiles shall be seeded with a vegetative cover to prevent erosion and leaching. The use of topsoil for purposes other than reclamation shall not be allowed.

Sec. 10-8.432. Soil use.

Topsoils classified as prime agricultural land shall be reserved for on-site crop reclamation. If mined areas are not proposed to be reclaimed to crop uses, then such topsoils shall be used to supplement and/or enhance the productivity of other agriculture lands. Topsoils removed from prime agricultural land shall not be used for backfill or other non-agricultural uses.

Sec. 10-8.433. Vegetation protection.

Existing vegetation and habitat to be retained shall be enclosed by temporary fencing to restrict access, protect against damage and/or provide buffers to reduce the impact of dust. Temporary fencing shall be a minimum of four (4) feet high. Replacement habitat and plantings shall be established where complete avoidance is not possible, according to a habitat restoration plan prepared by a qualified biologist, consistent with the goals of this plan.

Sec. 10-8.434. Wetlands.

Existing jurisdictional wetlands shall be retained to the extent possible. Replacement wetlands shall be provided where complete avoidance is not possible according to a habitat restoration plan prepared by a qualified wetland specialist and approved by jurisdictional agencies, ensuring no net loss of wetland acreage or habitat value.

Sec. 10-8.435. Wildlife habitat.

Disturbance to important wildlife habitat features such as nest trees and essential cover associated with riparian and/or hedgerow areas shall be avoided. This shall include the sensitive siting of activities associated with the mining and reclamation operations away from important wildlife habitat. Such activities may include but shall not be limited to haul roads, soil stockpiles, and equipment storage/operational areas. Essential habitat for special-status species shall be

protected and enhanced, or replaced in accordance with a habitat restoration plan prepared by a qualified biologist.

Sec. 10-8.436 Exceptions.

Where an operator demonstrates to the lead agency that an exception to the standards specified in this Article is necessary, the Commission may approve an alternative standard for inclusion in the approved surface mining permit. Exceptions shall only be approved where the strict application of the agricultural mining and reclamation standards would deprive the operator of privileges enjoyed by other agricultural mining operators in the vicinity, due to special circumstances associated with the subject site, including size, shape, topography, location, or surroundings. Although the Commission may set alternative standards, in no case may the Commission set any standard that does not meet or exceed the policy objectives set forth in this chapter and the standards contained in the Act.

ARTICLE 5. SURFACE MINING PERMIT AND RECLAMATION PLAN APPROVAL PROCESS

Sec. 10-8.501. Scope.

The procedures set forth in Article 5 of Chapter 4 and Article 6 of Chapter 5 of Title 10 shall apply throughout this chapter, unless specified otherwise herein.

Sec. 10-8.502. Applications: Contents.

Except as provided for in Section 10-4.503 of the County Code, all documentation for the surface mining permit shall be submitted to the Director at one time. One (1) complete copy of the application shall be provided to the County. Applications for proposed surface mining permits and reclamation plans shall include, but shall not be limited to, the following:

- (a) A description of the proposed agricultural surface mining and reclamation operations, including the following information:
 - (1) A signed statement that the person submitting the application accepts responsibility for implementing the approved reclamation plan;
 - (2) The name and address of the proposed surface mine operator and the names and addresses of any persons designated by the operator to act as an agent for the applicant through the permit process;
 - (3) The names and addresses of the owners of all surface interests and mineral interest in the lands to be mined;
 - (4) Evidence that all owners of a possessory interest in the lands included in the application have given authority to the applicant to conduct surface mining as proposed and to implement the reclamation plan as proposed;
 - (5) The anticipated quantity and type of minerals for which the proposed surface mining operation will be conducted, including the estimated maximum annual production;
 - (6) The length of time for mining and reclamation. If phasing is proposed, beginning and completion dates shall be provided for each phase. Total acreage proposed for mining and for reclaimed agricultural uses shall also be provided.
 - (7) The maximum anticipated depth of the proposed surface mining operation;
 - (8) An assessment of the effect of implementation of the reclamation plan on future mining in the area;
 - (9) A description of the general geology of the region, including a detailed description of the geology of the area in which surface mining is to be conducted;

- (10) The manner in which waste generated by the surface mining operation will be disposed and the methods by which contamination will be controlled during surface mining;
 - (11) A description of the manner in which affected streambed channels and streambanks will be rehabilitated to a condition minimizing erosion and sedimentation;
 - (12) A description of any lands within the project site that are currently under a Land Conservation (Williamson) Act Contract and/or in an Agricultural Preserve, including any lands for which a Notice of Nonrenewal has been filed and the date of expiration. Proposed mined lands that meet the definition of "prime agricultural land" shall also be identified;
 - (13) A description of how the proposed project complies with the compatibility findings provided in Section 51238 et seq. of the California Government Code (the Williamson Act), if applicable.
 - (14) The methods to be used for on-site and off-site surface water drainage and erosion control during surface mining and reclamation operations;
 - (15) The proposed hours of operation, including the estimated number of nights when surface mining operations may be necessary;
 - (16) The projected number of average truck trips per year, average truck trips per day, estimated maximum truck trips on peak days, estimated number of peak days per year, and estimated months in which peak days will occur. The information shall also specify a designated truck route;
 - (17) A soil analysis to evaluate the methods and feasibility of restoring those portions of the mined site to agricultural productivity, including discussions of current and reclaimed soil conditions and classifications, the types of crops grown on the lands proposed for reclamation and their historic yields for a minimum of five (5) years, and projected production of reclaimed agricultural lands. The analysis shall also include detailed plans for the removal and replacement of topsoil and overburden, including cross-sections of the areas to be reclaimed to agriculture, the depth of soils replaced, field irrigation slope grades, detention basins, and the relationship between finished field elevations and the groundwater level for the site;
 - (18) If the proposed reclaimed agricultural use is for aquaculture, livestock, dairy, or other alternative non-crop production, the applicant shall provide information regarding projected yields and sales for a three-year period after mining has been completed, as well as comparisons between the estimated price of the alternative agricultural production and historic on-site price and yield data; and
 - (19) A description of all lands within the subject site under conservation easement and a copy of the easement agreement.
- (b) A site plan submitted in the form prescribed by the Planning Director, including all property proposed to be included in the mined area, drawn to a scale of one inch equals one-hundred feet (1" = 100'), or other scale acceptable to the Director for larger holdings. Small-scale, reproducible copies shall be provided along with all site plans submitted. Site plans shall show the following information:
- (1) All property lines, including the boundaries of all parcels proposed for mining and reclamation; the boundaries of any ownerships, leases, and/or other entitlements vested in the surface mining operator which allow surface mining and reclamation to be conducted on-site; and all Assessor parcel numbers for properties included in the application;

- (2) The location of all streams, residences, roads, railroads, and utility facilities within, or adjacent to, the lands to be mined;
- (3) The location and condition of any previously mined areas within the site, specifically designating those portions of the site, if any, where mining was completed prior to January 1, 1976, and which is claimed to be exempt from the requirements of the Act;
- (4) The existing and proposed topography of all mined and reclaimed lands;
- (5) The location of all development proposed as a part of the surface mining operations, including settling basins, drainage conveyances, equipment, fences, and other man-made structures;
- (6) The locations for the storage of overburden and topsoil material in any proposed stockpiles;
- (7) The proposed access roads, driveways, haul roads, and parking areas proposed as a part of the surface mining operation; and
- (8) The location of existing vegetation, including areas where vegetation is proposed to be removed and/or avoided;
- (c) A legal description for all parcels included in the application with a basis of bearing in the California Coordinate System (NAD 27 or NAD 83);
- (d) An estimate of the financial assurances necessary to implement the proposed reclamation plan, or phases thereof, prepared in accordance with Article 12 of this chapter.
- (e) A set of completed application forms provided by the Agency, and all pertinent information required therein.
- (f) In addition to the foregoing, the Director may require such other and further information relevant to the project as needed to determine whether the proposal may affect the public health and safety.

Sec. 10-8.503. Public hearing: Findings for approval.

The Commission or, on appeal, the Board may approve an agricultural surface mining permit and/or reclamation plan at a public hearing pursuant to this chapter only if all of the following findings are made:

- (a) That the proposed agricultural surface mining permit, reclamation plan, and financial assurances comply with the Act and this chapter;
- (b) That the proposed agricultural mining and reclamation shall be conducted pursuant to a surface mining permit and reclamation plan granted in accordance with this chapter, or that the operator has vested rights to conduct surface mining pursuant to the Act;
- (c) That the site, during agricultural surface mining and after reclamation, will not be detrimental to the public health and safety, giving consideration to the degree and type of present and probable future exposure of the public to the site;
- (d) That the agricultural surface mining permit and reclamation plan are consistent with the General Plan, any applicable specific plans, and the zoning of the site;
- (e) That agricultural surface mining and reclamation are compatible with the existing and probable future uses of surrounding lands, as designated in the General Plan;
- (f) That the site is physically suitable for agricultural surface mining and reclamation, giving consideration, but not limited to such factors as on-site soil conditions, local groundwater conditions, flood protection, drainage, wildlife habitat, public access, and aesthetics;
- (g) That the environmental document for the proposed surface mining permit was prepared, in accordance with the provisions of CEQA and the State CEQA Guidelines;

- (h) That a written response to the State Department of Conservation has been prepared and considered, describing the disposition of major issues raised by the Department.
- (i) That the estimated financial assurances reasonably approximate the probable costs of carrying out the agricultural reclamation plan; and
- (j) That the proposed mine is consistent with all of the applicable findings included within Section 51238 et seq. of the California Government Code (the Williamson Act), for any lands located within a Land Conservation (Williamson) Act Contract.

ARTICLE 6. AMENDMENTS AND MODIFICATIONS TO APPROVED SURFACE MINING PERMITS AND RECLAMATION PLANS

Sec. 10-8.601. Scope.

The procedures set forth in Article 6 of Chapter 4 and Article 8 of Chapter 5 of Title 10 shall apply throughout this chapter.

ARTICLE 7. ANNUAL REPORTS

Sec. 10-8.701. Scope.

The procedures set forth in Article 7 of Chapter 4 of Title 10 shall apply throughout this chapter, unless specified otherwise herein.

Sec. 10-8.702. Annual Reports: Contents.

In addition to the annual mine report required by Public Resources Code Section 2207, every surface mining operator shall submit to the County an annual report of surface mining and reclamation operations no later than November 1 of each year, describing the activities of the previous twelve (12) months. Annual reports shall no longer be required, once final reclamation has been completed and financial assurances have been released. Such reports shall include, but may not be limited to, the following information:

- (a) A site plan submitted in the form prescribed by the Planning Director, including all property approved under the reclamation plan, drawn to a scale of one inch equals one-hundred feet (1" = 100'), or other scale acceptable to the Director for larger holdings, and showing the following information:
 - (1) Property boundaries and the boundaries of permitted mining areas, including the depiction of separate mining phases;
 - (2) Existing contours, including the areas and depth of mining which have occurred since the previous annual report;
 - (3) Identification of soil stockpiles, haul roads, settling ponds, habitat avoidance areas, and processing facilities; and
 - (4) The extent of areas reclaimed since the previous annual report;
- (b) A statement of the total amount of minerals produced since the date of the initial permit approval and since the date of the preceding annual report. Such information shall be consistent with the data submitted to the Department, as required in the Act. Production information shall be considered confidential under Article 9 of this chapter. Such reports shall be submitted as a declaration under penalty of perjury;
- (c) A statement describing the extent of mining carried out over the previous year and the conformance of the operation with the approved reclamation timetable and/or phasing plan. Said statement shall also describe the proposed extent of operations to be carried out during the following year;

- (d) A report describing the previous year's crop yields on any land in the process of being reclaimed to agriculture in accordance with the approved reclamation plan. The report shall include appropriate remedial measures prepared by a qualified agronomist if crop and/or livestock yields do not meet the production standards set forth in the approved reclamation plan;
- (e) A statement describing the compliance of the agricultural surface mining and reclamation operation with the approved conditions of approval;
- (f) A statement describing the status of any permits or approval issued by other agencies of jurisdiction;
- (g) A report describing any slope failures or other erosion-related problems located within the permitted mine area, occurring during the prior twelve months, and the measures proposed to remediate erosion problems;
- (h) A report describing the density, coverage, and survival of landscaping or habitat for any on-site areas that are being revegetated with plants other than agricultural crops in accordance with the approved reclamation plan. The report shall compare the observed data with the performance standards set forth in the approved reclamation plan and shall describe the remedial measures proposed if the previous year's revegetation efforts were not successful.

ARTICLE 8. FEES

Sec. 10-8.801. Fees: Applications.

Each application for an agricultural surface mining permit, reclamation plan, financial assurances, and/or any amendments and modifications thereto shall be accompanied by the appropriate fee as determined by the Master Fee Resolution adopted by the Board.

Sec. 10-8.802. Annual reviews and inspections.

The operator shall be responsible for the payment of fees to cover the costs incurred by the County in annually inspecting each mine site, as required under the Act. Inspection fees shall be as determined by the Master Fee Resolution adopted by the Board. This fee shall also cover the costs of the annual review required under Article 7 of this chapter. Said fee shall be due within thirty (30) days of written notification by the Director. Failure to pay the above fees in a timely manner shall be considered a violation and may be enforced under the provisions of Article 11 of this chapter.

ARTICLE 9. CONFIDENTIALITY OF RECORDS

Sec. 10-8.901. Scope.

The procedures set forth in Article 9 of Chapter 4 of Title 10 shall apply throughout this chapter.

ARTICLE 10. APPEALS

Sec. 10-8.1001. Scope.

The procedures set forth in Article 10 of Chapter 4 and Article 11 of Chapter 5 of Title 10 shall apply throughout this chapter.

ARTICLE 11. INSPECTIONS: NOTICES OF VIOLATIONS

Sec. 10-8.1101. Scope.

The procedures set forth in Article 11 of Chapter 4 and Article 12 of Chapter 5 of Title 10 shall apply throughout this chapter.

ARTICLE 12. FINANCIAL ASSURANCES

Sec. 10-8.1201. Scope.

The procedures set forth in Article 7 of Chapter 5 of Title 10 shall apply throughout this chapter.

ARTICLE 13. ABANDONMENT

Sec. 10-8.1301. Scope.

The procedures set forth in Article 9 of Chapter 5 of Title 10 shall apply throughout this chapter.

SECTION 3. SEVERABILITY

If any section, subsection, sentence, clause or phrase of this ordinance is held by court of competent jurisdiction to be invalid, such decision shall not affect the remaining portions of this ordinance. The Board of Supervisors hereby declares that it would have adopted this ordinance and each section, sentence, clause or phrase thereof irrespective of the fact that one or more sections, subsections, sentences, clauses or phrases be declared invalid.

SECTION 4. PUBLICATION/EFFECTIVE DATE.

This ordinance shall take effect and be in force thirty (30) days following its adoption and, prior to the expiration of fifteen (15) days after its adoption, it shall be published once in the Daily Democrat, a newspaper of general circulation, printed and published in the County of Yolo, with the names of the Board members voting for and against the ordinance.

PASSED AND ADOPTED at the regular meeting of the Board of Supervisors on this 6th day of November, 2001 by the following vote:

AYES: Rosenberg, McGowan, Wolk, Stallard.

NOES: None.

ABSENT: Pollock.

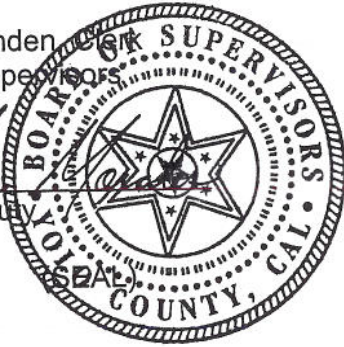
ABSTAIN: None.

By 
TOM STALLARD, CHAIR
YOLO COUNTY BOARD OF SUPERVISORS


ATTEST:

Patty Crittenden,
Board of Supervisors

By 
Deputy



APPROVED TO FORM:
Steven M. Basha, County Counsel

By 
Jennifer Henning, Deputy