

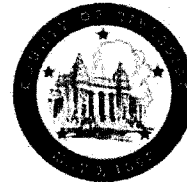
MINUTES OF THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA



3.30

The above referenced Item is deleted from the agenda for Tuesday, September 11, 2018.

SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA



ITEM
3.30
(ID # 7090)

MEETING DATE:

Tuesday, September 11, 2018

FROM : TLMA-PLANNING AND COUNTY COUNSEL :

SUBJECT: TRANSPORTATION & LAND MANAGEMENT AGENCY/PLANNING AND COUNTY COUNSEL: INTRODUCTION OF ORDINANCE NO. 555.20 amending Ordinance No. 555, the Ordinance of the County of Riverside Implementing the Surface Mining and Reclamation Act of 1975 ("SMARA"), in its entirety and replacing it with new language that updates procedures, establishes fee amounts, and ensures consistency with state law; CEQA Exempt – All Districts [\$59,200 Total Cost] 100% General Fund.

RECOMMENDED MOTION: That the Board of Supervisors:

1. **RECEIVE** the attached Mine Administrative Fee Nexus Study report and findings; and,
2. **FIND ORDINANCE NO. 555.20** exempt from CEQA pursuant to CEQA Guidelines sections 15273 and 15061(b)(3) because it establishes and modifies fees charged by the County for the purpose of meeting operating expenses and because it can be seen with certainty that there is no possibility these changes may have a significant effect on the environment; and
3. **INTRODUCE, READ TITLE, AND WAIVE FURTHER READING OF, AND ADOPT ON SUCCESSIVE WEEKS, ORDINANCE NO. 555.20**, an ordinance of the County of Riverside amending Ordinance No. 555 in its entirety and replacing it with language that updates procedures, establishes fee amounts, and ensures consistency with state law.

ACTION: Policy

A handwritten signature in black ink, appearing to read "Charissa Leach".

Charissa Leach, Assistant TLMA Director

6/4/2018

MINUTES OF THE BOARD OF SUPERVISORS

**SUBMITTAL TO THE BOARD OF SUPERVISORS COUNTY OF RIVERSIDE,
STATE OF CALIFORNIA**

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost
COST	\$ 5,000	\$ 0	\$ 59,200	\$ 0
NET COUNTY COST	\$ 5,000	\$ 0	\$ 59,200	\$ 0
SOURCE OF FUNDS: 100% General Fund			Budget Adjustment: No	
			For Fiscal Year: 18/19	

C.E.O. RECOMMENDATION: Approve

BACKGROUND:

Summary

The State of California enacted the Surface Mining and Reclamation Act ("SMARA") in 1975 to address the need for a continuing supply of mineral resources, to prevent or minimize the negative impacts of surface mining and to ensure mined lands are reclaimed to a usable condition. Over the years since its enactment, SMARA has been subject to piecemeal changes by the state. To modernize the statute and address inconsistencies that had developed over the years, AB 1142 and SB 209 were introduced in 2015 to update the statute. Those bills were adopted, and the changes effectuated by those bills went into effect on January 1, 2017.

Riverside County ("County") is the local lead agency responsible for enforcement of SMARA for all mining operations located within the unincorporated area of the County as well as mining operations located on public land managed by the Bureau of Land Management and mining operations owned and/or operated by the County. SMARA is implemented by the County through County Ordinance No. 555. Pursuant to SMARA regulations, the County is required to oversee and manage a variety of mining-related activities directly associated with the individual mining operations (i.e. mine inspections and reporting) as well as collectively through administration of the County's mining program (i.e. Ordinance revisions, General Plan Mineral Resource policies and amendments, staff training, etc.).

Ordinance No. 555 has not been substantially amended since 1995, and portions of it need to be updated to reflect SMARA's new and amended provisions, updated administrative processing procedures, as well as fees reflecting the County's actual costs in implementing SMARA and Ordinance No. 555 for Surface Mining Permit applications and existing mining projects. Regarding fees, SMARA provides for collection of mine inspection fees as well as fees for program administration. Public Resources Code section 2207(e) provides that the lead agency may impose a fee upon each mining operation to cover the reasonable costs incurred in implementing SMARA. However, Ordinance No. 555 currently provides for collection of inspection fees, but not administrative fees. Hence, although the County has been collecting mine inspection fees from its mine operators, it has not collected administrative fees and, thus, has been funding its mining program administration through the General Fund.

**SUBMITTAL TO THE BOARD OF SUPERVISORS COUNTY OF RIVERSIDE,
STATE OF CALIFORNIA**

The attached Fee Nexus Study analyzes fees currently collected by the County for its role as SMARA lead agency and identifies the need for the County to collect a mining program administrative fee, as well. Addition of the administrative fee to the County's fee structure will make its mining program whole without dependence on the General Fund and would bring the County's financial aspects of its mining program in line with SMARA regulations. The fee would be used for such things as staff training, future ordinance revisions, and policy development related to SMARA.

Based on the Fee Nexus Study, it is recommended that the initial annual mine administrative fee amount be \$2,000.00. The proposed mine administrative fee falls within Government Code section 66014 because it is an administrative fee authorized by SMARA in Public Resources Code section 2207.5(e). Additionally, the consideration of this administrative fee is in accordance with Government Code section 66016, which requires at least one public meeting on the proposed administrative fee. The amendment to Ordinance No. 555 does allow the Board of Supervisors to adjust this fee amount, and the other fee amounts set forth in the ordinance, from time to time through the adoption of a resolution. Any such future fee amount adjustments would be considered by the Board of Supervisors at a regularly scheduled meeting.

In light of the above, proposed Ordinance No. 555.20 would therefore amend Ordinance No. 555 in its entirety and replace it with language that effectuates the following changes:

- (1) It updates the formatting and the definitional and other prefatory portions of the ordinance for ease of use and for consistency with other recent County ordinances.
- (2) It moves fees related to Ordinance No. 555 to a single section of Ordinance No. 555, including superseding the fees set forth in Ordinance No. 671 that relate to mining and Ordinance No. 555. It amends fee amounts by specifying initial fees to be deposited with the County as a deposit-based fee covering processing of mining-related applications and performing mine inspections. It also sets forth an appeal fee and the new mine administrative fee discussed above. These fee amounts more accurately reflect the amounts generally needed to cover actual County costs in processing applications and appeals, performing inspections, and complying with SMARA.
- (3) It updates a number of substantive provisions of Ordinance No. 555 to accurately reflect current SMARA terminology and requirements. And,
- (4) It updates, streamlines, and clarifies the County's administrative processing procedures relating to mining permits and carrying out SMARA.

In drafting the proposed changes, County staff sent a draft of Ordinance No. 555.20 to certain industry members, including the California Construction and Industrial Materials Association ("CalCIMA") for review and comment. County staff had ongoing discussions with CalCIMA, addressed most of their concerns, and incorporated several of their proposed changes into the proposed ordinance.

**SUBMITTAL TO THE BOARD OF SUPERVISORS COUNTY OF RIVERSIDE,
STATE OF CALIFORNIA**

While a large number of changes are proposed to be made to Ordinance No. 555, the California Environmental Quality Act ("CEQA") does not apply to Ordinance No. 555.20 and/or Ordinance No. 555.20 is exempt from CEQA for multiple reasons. First, ordinances that merely incorporate existing law do not constitute a project under CEQA. (*Union of Medical Marijuana Patients, Inc. v. City of Upland* (2016) 245 Cal.App.4th 1265, 1273.) In addition, organizational and/or administrative activities of government entities, such as the reorganization, formatting, addition of introductory explanation to the ordinance, and changes to administrative processing and application requirements do not constitute a project under CEQA pursuant to State CEQA Guidelines section 15378. The establishment and/or modification of fees charged by public agencies is statutorily exempt from CEQA pursuant to State CEQA Guidelines section 15273. The establishment of the annual mine administrative fee and the changes to the amounts of the other fees meet the requirements of this exemption because they are being established and/or modified for the purpose of meeting actual County operating expenses in processing applications, carrying out mine inspections, reviewing appeals, and carrying out duties under SMARA. Finally, Ordinance No. 555.20 is exempt pursuant to State CEQA Guidelines section 15061(b)(3) because it can be seen with certainty that there is no possibility that the amendment to Ordinance No. 555 may have a significant effect on the environment. The proposed amendments are merely allowing the County to ensure the full costs of applications and mine inspections and other work relating to proposed and existing mines are being paid for by applicants and operators rather than from the County General Fund. The proposed amendments are also merely making administrative and organizational changes in the ordinance and its administration and processing requirements. Finally, the vast majority of the changes are merely incorporating existing state law pursuant to the various changes to SMARA that have been enacted since 1995. As a result, adoption of Ordinance No. 555.20 is exempt from CEQA and does not have the potential for causing a significant impact on the environment.

Pursuant to item 3-35 on November 4, 2014, the Board of Supervisors initiated an amendment to Ordinance No. 555 to update the County's regulations implementing SMARA. Ordinance No. 555.20 will effectuate such an update.

Impact on Residents and Businesses

Most of the changes to Ordinance No. 555 merely implement existing law, streamline or clarify processing procedures, or increase the initial amount required for deposit-based fees. One proposed change, the mining program administration fee, would represent a financial impact to the mining operators. However, the County's ability to collect a mining program administration fee would reduce the burden on the County's General Fund dollars and provide for improved program management and quality of service to the mining industry.

ATTACHMENTS:

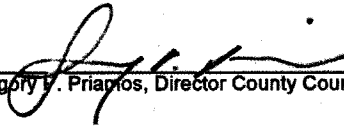
Attachment A. Proposed Ordinance No. 555.20

Attachment B: Redline showing changes from Ordinance No. 555.19.

Attachment C: Fee Nexus Study

SUBMITTAL TO THE BOARD OF SUPERVISORS COUNTY OF RIVERSIDE,
STATE OF CALIFORNIA


Sandy Armijo 6/11/2018


Gregory V. Priamos, Director County Counsel 6/4/2018

CALCIMA

California Construction and
Industrial Materials Association

August 21, 2018

Via E-Mail

Juan Perez
Director of Transportation & Land Management
County of Riverside – TLMA Planning
County Administrative Center, 12th Floor
4080 Lemon Street
Riverside, CA 92501

Re: Request to extend introduction of Revised Ordinance No. 555 to the Board of Supervisors

Dear Mr. Perez,

The California Construction & Industrial Materials Association (CalCIMA) kindly requests the County of Riverside's Transportation and Land Management Agency (TLMA) to postpone introduction of Ordinance No. 555.20 'An Ordinance of the County of Riverside Implementing the Surface Mining and Reclamation Act of 1975' from the August 28th County of Riverside Board of Supervisors meeting to the next regularly calendared meeting date of the Board in September 2018. CalCIMA appreciates working with TLMA staff over the past two years to revise this essential state mandated document that will govern all surface mining projects in the region for the foreseeable future. As the most recent version of Ordinance 555.20 has not been publicly available, our working group of regional operators – the entities most directly impacted by this Ordinance – have not yet even seen or had the opportunity to review this document. As such, we would greatly appreciate the extension as it would provide the necessary time to review the current version of Ordinance No. 555.20 and discuss it with our workgroup of regional operators prior to the Board hearing. Additionally, we are not able to discuss the Ordinance with David Jones, County of Riverside's County Geologist, prior to August 28th, as we are advised he is out until August 27th.

We greatly appreciate the County of Riverside's willingness to have open dialogue throughout this process. Please contact me with any questions or concerns at (951) 941-7981 or at sseivright@calcima.org.

Kindest regards,



Suzanne Seivright
CalCIMA Director of Local Governmental Affairs

CC: David Jones, County of Riverside
Shellie Clack, County of Riverside
Melissa Cushman, County of Riverside
Clerk of the Board, Board of Supervisors

CalCIMA
1029 J Street, Suite 420
Sacramento, CA 95814
Phone: 916 554-1000
Fax: 916 554-1042
www.calcima.org
www.distancematters.org

Regional Office:
3890 Orange Street, #167
Riverside, CA 92501-9998
Phone: 951 941-7981

7090

2018-8-140560

Maxwell, Sue

From: Suzanne Seivright <sseivright@calcima.org>
Sent: Tuesday, August 21, 2018 9:54 AM
To: Perez, Juan
Cc: Jones, David; Clack, Shellie; Cushman, Melissa; COB
Subject: CalCIMA request to extend introduction of Ordinance No. 555.20 to Board of Supervisors
Attachments: Letter - CalCIMA request to extend introduction of Ord No 555 to Board of Supervisors, 8-21-2018.pdf

Good morning Juan,

Attached please find a letter requesting TLMA to postpone the introduction of Ordinance No. 555.20 to the Board of Supervisors for your review and consideration. Please contact me with any questions or concerns.

Kindest regards,
Suzanne

Suzanne Seivright

Director of Local Governmental Affairs
California Construction and Industrial Materials Association (CalCIMA)
3890 Orange Street, #167
Riverside, CA 92501-9998
Phone: (951) 941-7981
www.calcima.org
www.distancematters.org
Follow CalCIMA on [Facebook](#)
Follow CalCIMA on [Twitter](#)

CalCIMA – The statewide voice for the aggregate, ready mixed concrete and industrial materials industries.

Maxwell, Sue

From: Maxwell, Sue
Sent: Tuesday, August 21, 2018 11:42 AM
To: COB-Agenda (COB-Agenda@rivco.org); George Johnson (GA.Johnson@RIVCO.ORG); Leach, Charissa (cleach@RIVCO.ORG); Perez, Juan (JCPEREZ@RIVCO.ORG); Young, Alisa; District 4 Supervisor V. Manuel Perez (District4@RIVCO.ORG); District2; District3; District5; Supervisor Jeffries - 1st District (district1@rivco.org)
Cc: Jones, David; Clack, Shellie; Cushman, Melissa
Subject: August 28, 2018 MT 7090 - Public Comment on Introduction of Ordinance No 555.20 (Surface Mining
Attachments: Letter - CalCIMA request to extend introduction of Ord No 555 to Board o.....pdf

Good morning,

Forwarding the email below and attached letter to Juan received via COB from CalCIMA (California Construction & Industrial Materials Association). This Public Comment is requesting postponement of the Introduction of revised Ordinance No 555.20 on Surface Mining and Reclamation Act of 1975 (SMARA) scheduled Before the Board on August 28,, 2018; MinuteTraq Item No 7090.

This correspondence will be filed as Back-up to the Agenda Item when assigned.

Thank you kindly,

Sue Maxwell

Board Assistant

Clerk of the Board of Supervisors

4080 Lemon Street, 1st Floor, Room 127

Riverside, CA 92501

(951) 955-1069 Fax (951) 955-1071

Mail Stop #1010

smaxwell@rivco.org

<http://rivcocob.org/>

<https://www.facebook.com/RivCoCOB/>



NOTICE: This communication is intended for the use of the individual or entity to which it is addressed and may contain **information that is privileged, confidential and exempt from disclosure** under applicable law. If the reader of this communication is not the intended recipient or the employee or agent responsible for delivering this communication to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by reply email or by telephone and immediately delete this communication and all its attachments.

From: Suzanne Seivright [mailto:sseivright@calcima.org]

Sent: Tuesday, August 21, 2018 9:54 AM

To: Perez, Juan <JCPEREZ@RIVCO.ORG>

Cc: Jones, David <DLJONES@RIVCO.ORG>; Clack, Shellie <MClack@RIVCO.ORG>; Cushman, Melissa <MCushman@RIVCO.ORG>; COB <COB@RIVCO.ORG>

Subject: CalCIMA request to extend introduction of Ordinance No. 555.20 to Board of Supervisors

Good morning Juan,

Attached please find a letter requesting TLMA to postpone the introduction of Ordinance No. 555.20 to the Board of Supervisors for your review and consideration. Please contact me with any questions or concerns.

Kindest regards,
Suzanne

Suzanne Seivright