

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



**3.19**  
(MT 7090)

On motion of Supervisor Ashley, seconded by Supervisor Jeffries and duly carried, IT WAS ORDERED that the recommendation from Transportation & Land Management Agency/Planning And County Counsel regarding 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 is continued off calendar.

Roll Call:

Ayes: Jeffries, Washington, Perez and Ashley  
Nays: None  
Absent: Tavaglione

I hereby certify that the foregoing is a full true, and correct copy of an order made and entered on September 18, 2018 of Supervisors Minutes.

WITNESS my hand and the seal of the Board of Supervisors  
Dated: September 18, 2018  
Kecia Harper-Ihem, Clerk of the Board of Supervisors, in  
and for the County of Riverside, State of California.

(seal)

By: \_\_\_\_\_

Deputy

AGENDA NO.  
3.19

xc: Planning, Co.Co., COB

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



ITEM  
3.19  
(ID # 7090)

MEETING DATE:

Tuesday, September 18, 2018

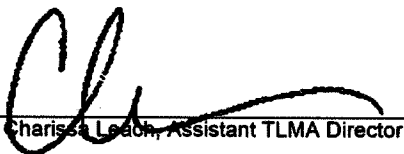
FROM : TLMA-PLANNING AND COUNTY COUNSEL :

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



Charissa Leach, Assistant TLMA Director

6/4/2018

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MINUTES OF THE BOARD OF SUPERVISORS

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

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

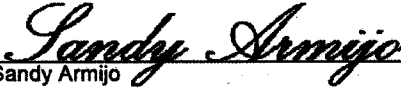
**Attachment B:** Redline showing changes from Ordinance No. 555.19.

**Attachment C:** Fee Nexus Study

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

  
Melissa Cushman

9/11/2018

  
Sandy Armijo

6/11/2018

  
Gregory V. Priapros, Director County Counsel

6/4/2018



# MEMORANDUM

RIVERSIDE COUNTY COUNSEL

CONFIDENTIAL  
ATTORNEY-CLIENT PRIVILEGE

DATE: September 4, 2018

TO: Kecia Harper-Ihem, Clerk of the Board

FROM: Melissa Cushman, Deputy County Counsel

RE: Ordinance No. 555.20, an Ordinance of the County of Riverside Amending Ordinance No. 555 Implementing the Surface Mining and Reclamation Act of 1975

MT ITEMS: 7090

BOS AGENDA: September 18 ~~11~~ 2018

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Enclosed please find the following document (s) for an item to be set on the September 11, 2018 Board Agenda for the Planning Dept.:

MinuteTraq Item # 7090

Approval of Ordinance No. 555.20, an Ordinance of the County of Riverside Amending Ordinance No. 555 Implementing the Surface Mining and Reclamation Act of 1975.

If you have any questions, please contact my assistant Stacey Kelley at micro#50211

MRC:sk  
Attachment

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1 ORDINANCE NO. 555.20

2  
3 AN ORDINANCE OF THE COUNTY OF RIVERSIDE  
4 AMENDING ORDINANCE NO. 555 IMPLEMENTING  
5 THE SURFACE MINING AND RECLAMATION ACT OF  
6 1975

7  
8 The Board of Supervisors of the County of Riverside Ordains as Follows:

9 Section 1. Ordinance No. 555 is amended in its entirety to read as follows:

10 “ORDINANCE NO. 555

11  
12 AN ORDINANCE OF THE COUNTY OF RIVERSIDE  
13 IMPLEMENTING THE SURFACE MINING AND RECLAMATION  
14 ACT OF 1975

15  
16 Section 1. FINDINGS. The Board of Supervisors hereby finds and declares that the  
17 extraction of minerals is essential to the continued economic well-being of the County of Riverside.

18 Section 2. PURPOSE. The purpose of this ordinance is to regulate all surface mining  
19 operations in the unincorporated area of the County as authorized by The Surface Mining and Reclamation  
20 Act of 1975, to ensure that:

- 21 A. The reclamation of mined lands will be carried out in such a way that the continued  
22 mining of minerals will be permitted;
- 23 B. The adverse effects of surface mining operations will be prevented or minimized and  
24 that mined lands will be reclaimed to a useable condition which is readily adaptable  
25 for alternative land use;
- 26 C. The production and conservation of minerals will be encouraged while giving  
27 consideration to values relating to recreation, watershed, wildlife, range and forage,  
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1 and aesthetic enjoyment, and the residual hazards to the public health and safety will  
2 be eliminated;

3 D. There is sufficient production and development of local mineral resources because  
4 the production and development of local mineral resources:

- 5 1. Help maintain a strong economy;
- 6 2. Are necessary to build infrastructure; and
- 7 3. Are vital to reducing transportation emissions in the County, including those  
8 that result from the distribution of hundreds of millions of tons of  
9 construction aggregates that are used annually in building and maintaining  
10 the state; and

11 E. The development of the County's finite, important mineral resources, which the  
12 Legislature has determined is vital to a sustainable California, is promoted.

13 Section 3. AUTHORITY. This ordinance is adopted pursuant to Public Resources Code  
14 section 2774, which requires the County to adopt an ordinance in accordance with state policy that  
15 establishes the procedures for the review and approval of Reclamation Plans and financial assurances and  
16 for the issuances of Permits to conduct surface mining operations.

17 Section 4. DEFINITIONS. As used in this ordinance, all references and citations to  
18 statutes, regulations, ordinances, and other bodies of law shall include those statutes, regulations,  
19 ordinances, and other bodies of law as they may be amended from time to time. In addition, unless  
20 otherwise specified, all references in this ordinance to a number of days shall refer to calendar days. The  
21 following terms in this ordinance shall have the following meanings:

- 22 A. Assistant TLMA Director. The County Assistant TLMA Director – Community  
23 Development, or his or her designee.
- 24 B. CEQA. The California Environmental Quality Act (Pub. Resources Code, § 21000  
25 et seq.).
- 26 C. County. The County of Riverside, which acts the “lead agency” under SMARA for  
27 all surface mining operations subject to this ordinance.

- 1 D. Director. The Director of the Department of Conservation.
- 2 E. Operator. The individual or entity that operates a surface mining operation, as
- 3 surface mining operations are defined in Public Resources Code section 2735.
- 4 F. Permit. Unless otherwise stated, the Surface Mining Permit.
- 5 G. Reclamation Plan. An Operator's plan for reclaiming the lands affected by his or her
- 6 surface mining operations, as the term is defined in SMARA and the SMARA
- 7 Regulations.
- 8 H. Revised Permit. A request for a Substantial Deviation from an approved Permit or
- 9 Reclamation Plan which does not change the basic concept or use allowed by the
- 10 original approval and that meets the additional requirements set forth in Section 18
- 11 of this ordinance.
- 12 I. SMARA. The California Surface Mining and Reclamation Act of 1975 (Pub.
- 13 Resources Code, § 2710 et seq.).
- 14 J. SMARA Regulations. The state regulations adopted in accordance with SMARA
- 15 (Cal. Code Regs., tit. 14, § 3500 et seq.).
- 16 K. Substantial Conformance. A proposed amendment to an approved Permit or
- 17 Reclamation Plan that meets the additional requirements set forth in Section 18 of
- 18 this ordinance.
- 19 L. Substantial Deviation. A change or expansion to a surface mining operation as
- 20 defined in Public Resources Code section 2735 that substantially affects the
- 21 completion of the previously approved Reclamation Plan, or that changes the end use
- 22 of the approved Reclamation Plan to the extent that the scope of the reclamation
- 23 required for the surface mining operation is substantially changed.
- 24 M. Topsoil. The upper part of the soil profile that is relatively rich in humus, which is
- 25 technically known as the A-horizon of the soil profile.
- 26 N. TLMA. The County Transportation and Land Management Agency.
- 27 O. Vested Right. A right to conduct surface mining operations that existed lawfully
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1 before an intervening change in the law that would otherwise preclude those  
2 operations, or require a permit to conduct those operations, and that meets the  
3 requirements for vested rights set forth in Section 2776 of the Public Resources Code.

4 Section 5. EXEMPTIONS AND EXCEPTIONS. The provisions of this ordinance do not  
5 apply to the exceptions and exemptions set forth in Public Resources Code section 2714.

6 Section 6. PERMIT REQUIRED. Unless exempted by the provisions of Section 5 or  
7 Section 17, no person, firm, corporation or private association shall conduct surface mining operations in  
8 the unincorporated area of the County of Riverside without an approved Permit.

9 Section 7. APPLICATION PROCESS.

10 A. Prior to submitting an application for a Permit, the person, firm, corporation or  
11 private association seeking to obtain such Permit may comply with the pre-  
12 application review procedure described in Ordinance No. 752 to the extent that such  
13 procedure is applicable.

14 B. All applications for a Permit, revised Permit, Substantial Conformance to a Permit,  
15 Interim Management Plan, Reclamation Plan, Revised Reclamation Plan, or  
16 Reclamation Plan Substantial Conformance shall be made in writing to the Assistant  
17 TLMA Director on the forms provided by the Planning Department with the  
18 appropriate filing fees and include a Project Description, a mining plan, and a  
19 Reclamation Plan. The application shall provide all information and data required  
20 by Section 2772 of the Public Resources Code, all information required by the  
21 SMARA Regulations, all information indicated in Sections 8 and 9 of this ordinance,  
22 all information indicated in the Planning Department's Application for Surface  
23 Mining Permit/Reclamation Plan, and such additional information as may be  
24 reasonably required by the Assistant TLMA Director. The time limitations for  
25 approving or denying a Permit, Interim Management Plan, Reclamation Plan, or  
26 Revised Reclamation Plan shall not begin to run until all procedures under CEQA  
27 have been completed. All applications for a stand-alone Reclamation Plan,  
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1 associated vested mining operation, mining operation on federal property, or County-  
2 operated mining facility shall include a financial assurance cost estimate, an estimate  
3 of reclamation costs, all information and data required by Section 2772 of the Public  
4 Resources Code, all information required by the SMARA Regulations, all  
5 information indicated in Sections 8 and 9 of this ordinance, and such additional  
6 information as may be reasonably required by the Assistant TLMA Director.

7 C. Before approving or holding a public hearing concerning the Reclamation Plan,  
8 amendment to a Reclamation Plan, or financial assurances for a new Reclamation  
9 Plan or amendment to a Reclamation Plan, the County shall submit the financial  
10 assurance cost estimate and the Reclamation Plan or amendment to the Director for  
11 review pursuant to Public Resources Code sections 2772.1 and 2773.4(a). All  
12 documentation for that submission shall be submitted to the Director at one time. In  
13 making this submittal, the Assistant TLMA Director shall certify to the Director that  
14 the Reclamation Plan or amendment to the Reclamation Plan is in compliance with  
15 the applicable requirements of SMARA, the SMARA Regulations, and this  
16 ordinance and that the financial assurance cost estimate is adequate, complete, and  
17 consistent with SMARA, the SMARA Regulations, and this ordinance.

18 D. Following receipt of the Director's comments concerning the Reclamation Plan, plan  
19 amendment, or financial assurance cost estimate in accordance with the applicable  
20 schedule set forth in Public Resources Code sections 2772.1(b) or 2773.4(c), the  
21 County shall, within a reasonable amount of time, prepare a written response  
22 describing the disposition of the major issues raised by the Director's comments, and  
23 shall submit the County's proposed response to the Director at least 30 days prior to  
24 the public hearing concerning the Reclamation Plan or plan amendment, or 30 days  
25 prior to the approval of financial assurance cost estimate. The County's response to  
26 the Director's comments shall describe how the County proposes to adopt the  
27 Director's comments to the Reclamation Plan, plan amendment, or financial  
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1 assurance cost estimate. If the County does not propose to adopt the Director's  
2 comments, the County shall specify, in detail, why it proposes not to adopt the  
3 comments.

4 1. If the Director submits a written request for consultation on the financial  
5 assurance cost estimate in accordance with Public Resources Code section  
6 2774.3(c), the County shall not approve the financial assurance cost estimate  
7 until after consulting with the Director. Such consultation shall occur no later  
8 than 30 days after the Director's request unless an alternate timeframe is  
9 mutually agreed upon by the Director, the County, and the Operator.

10 2. The County shall give the Director at least 30 days' notice of the time, place,  
11 and date of any hearing at which the financial assurance cost estimate is  
12 scheduled to be approved by the County. If no hearing is required, then the  
13 County shall provide 30 days' notice to the Director that it intends to approve  
14 the financial assurance cost estimate. Within 30 days of approving a financial  
15 assurance cost estimate, the County shall send to the Director its final  
16 response to the Director's comments.

17 3. The Assistant TLMA Director shall forward to the Operator copies of any  
18 written comments received and responses prepared by the County relating to  
19 the financial assurance cost estimate.

20 E. Upon completion of all procedures for review of an application, including but not  
21 limited to notification to the Director and response to the comments of the Director  
22 as provided in Sections 7.C. and 7.D., above, a public hearing will be held before the  
23 Planning Commission or Board of Supervisors, as hereinafter provided.

24 F. Notwithstanding the above, or any other provision herein to the contrary, the Board  
25 of Supervisors reserves exclusively to itself the duty to investigate, hear, approve,  
26 conditionally approve or disapprove all Permits and Reclamation Plans including any  
27 modifications to said Permits and Reclamation Plans included as part of a fast track  
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1 project as defined by Ordinance No. 348.

2 Section 8. MINING PLAN. In addition to the requirements set forth in the County's  
3 Application for Surface Mining Permit, the mining plan shall, at a minimum:

- 4 A. Indicate the progression of all operations of the facility indicating anticipated time  
5 frames for each phase and the estimated life of the operation;
- 6 B. Show the location of equipment, offices, stockpiles, settling ponds, interim drainage,  
7 machinery and wastedumps, parking, and areas to be mined;
- 8 C. Indicate the progression of stripping and excavating through the use of cross sections,  
9 elevations and topographic maps and include a detailed description of how Topsoil  
10 will be recovered and protected for use in mine reclamation;
- 11 D. Indicate the time lag between mining and reclamation and equipment siting and  
12 removal and/or relocation;
- 13 E. Discuss the method of handling simultaneous excavation and reclamation if  
14 applicable;
- 15 F. Show the location of all streams, roads, railroads, sewage disposal systems, water  
16 wells, and utility facilities within 500 feet of the site and the location of all proposed  
17 access roads to be constructed in conducting the surface mining operation;
- 18 G. Indicate the type of and amount of mineral commodities to be removed, the amount  
19 of mining waste to be retained on the site and the amount of mining waste to be  
20 disposed offsite including the method and location of disposal of said mining waste;  
21 and
- 22 H. Indicate the location and associated details of the required revegetation test plot or  
23 plots, specifying all revegetation success criteria, as appropriate.

24 Section 9. RECLAMATION PLAN. In addition to all other requirements, including  
25 those set forth in Public Resources Code section 2772 and California Code of Regulations, title 14, section  
26 3502, the Reclamation Plan, at a minimum, shall:

- 27 A. Indicate the methods to be used to reclaim the land.

- 1 B. If phasing is proposed, include a detailed schedule of the sequence and timing of all  
2 stages of the reclamation.
- 3 C. Describe the physical condition of the mine site upon the completion of all  
4 reclamation including the proposed uses or potential uses of the reclaimed site.
- 5 D. Contain a map that delineates through the use of cross sections and elevations the  
6 physical characteristics of the land that will exist upon the conclusion of reclamation,  
7 as well as a topographic map showing the location of the reclaimed land.
- 8 E. Describe the manner in which derelict machinery, mining waste and scraps will be  
9 removed from the mine site and how contaminants will be controlled.
- 10 F. Describe the methods to be used to ensure that the mine site will contain stable waste  
11 piles and slopes.
- 12 G. Describe how reclamation of the mine site may affect the future use of the site and  
13 surrounding area for mining purposes.
- 14 H. Show that the proposed site in its final form will be, to the extent reasonable and  
15 practicable, revegetated for soil stabilization, free of drainage and erosion problems,  
16 coordinated with present and anticipated future land use, and compatible with the  
17 topography and general environment of surrounding property.
- 18 I. Include all of the following, to the extent the required information or document is not  
19 already included in the mining plan and incorporated by reference in the Reclamation  
20 Plan:
- 21 1. The name and address of the Operator and the names and addresses of any  
22 persons designated by the Operator as an agent for the service of process;
  - 23 2. The anticipated quantity and type of materials for which the surface mining  
24 operation is to be conducted;
  - 25 3. The proposed dates for the initiation and termination of the surface mining  
26 operation;
  - 27 4. The maximum anticipated depth of the surface mining operation;
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5. The size and legal description of the lands that will be affected by the surface mining operation, a map that includes the boundaries and topographic details of the lands, a description of the general geology of the area, a detailed description of the geology of the area in which surface mining is to be conducted, the location of all streams, roads, railroads, and utility facilities within, or adjacent to, the lands, the location of all proposed access roads to be constructed in conducting the surface mining operation, and the names and addresses of the owners of all surface interests and mineral interests in the lands;
6. A description of, and a plan for, the type of surface mining to be employed, and a time schedule that will provide for the completion of surface mining on each segment of the mined lands so that reclamation can 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;
7. A description of the proposed use or potential uses of the mined lands after reclamation and evidence that all owners of a possessory interest in the land have been notified of the proposed use or potential uses;
8. A description of the manner in which reclamation, adequate for the proposed use or potential uses, will be accomplished, including both of the following:
  - a. A description of the manner in which contaminants will be controlled, and mining waste will be disposed; and
  - b. A description of the manner in which affected streambed channels and streambanks will be rehabilitated to a condition minimizing erosion and sedimentation will occur;
9. An assessment of the effect of implementation of the Reclamation Plan on future mining in the area;



1                   10.    A statement that the person submitting the Reclamation Plan accepts  
2                                    responsibility for reclaiming the mined lands in accordance with the  
3                                    Reclamation Plan; and

4                   11.    Any other information required in the County's Application for Surface  
5                                    Mining Permit or by SMARA or the SMARA Regulations.

6           J.    Indicate, pursuant to California Code of Regulations, Title 14, section 3705(b), the  
7                                    location and associated details of the required revegetation test plot or plots,  
8                                    specifying revegetation success criteria, as appropriate.

9           K.    For gold, silver, copper or other metallic mineral operations that are located on or  
10                                   within one mile of any Native American sacred site and that are located in an area of  
11                                   special concern, as those terms are defined in Public Resources Code section 2773.3,  
12                                   the Reclamation Plan must contain commitments to backfill and grade all  
13                                   excavations to achieve the approximate original contours of the mined lands prior to  
14                                   mining and to grade all mined materials that are in excess of the materials that can  
15                                   be placed back into the excavated area, including, but not limited to, all overburden,  
16                                   spoil piles, and heap leach piles, over the project site to achieve the approximate  
17                                   original contours of the mined lands prior to mining.

18                   Section 10.    PUBLIC HEARINGS, NON-FAST TRACK PROJECTS. For projects other  
19                   than fast track projects, a public hearing before the Planning Commission shall be held in accordance with  
20                   the provisions set forth below to consider: the granting, suspension, or revocation of a Permit or Revised  
21                   Permit; the approval of a Reclamation Plan or Reclamation Plan amendment; an Operator's financial  
22                   capability of a performing reclamation; or abandonment of a surface mining operation without completing  
23                   reclamation:

24                   A.    Notice of the time, date and place of the public hearing, including a general  
25                                    description of the area and mining operation being considered, shall be given at least  
26                                    10 days prior to the hearing by all of the following procedures:  
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1. Mailing to all owners of real property which is located within 600 feet of the exterior boundaries of the proposed project, as such owners are shown on the last equalized assessment roll.
2. Mailing or delivering to the Operator and the owner of the subject real property or the owner's duly authorized agent.
3. Publication once in a newspaper of general circulation in the County.
4. The Assistant TLMA Director may require additional notice be given by posting in conspicuous places close to the property affected and may require notification to property owners along proposed local transportation routes.

B. In addition to the notice required by the preceding paragraph, when the hearing concerns the approval of a Reclamation Plan or Reclamation Plan amendment, an Operator's financial capability of performing reclamation, or the abandonment of a surface mining operation without completing reclamation, the County shall give the Director at least 30 days' written notice of the time, place, and date of the public hearing. When the hearing concerns an Operator's financial capability of performing reclamation or the abandonment of a surface mining operation without completing reclamation, the County shall also give the Operator at least 30 days' written notice of the time, place, and date of the hearing.

C. At the public hearing, the Planning Commission shall hear relevant testimony from interested persons and, within a reasonable time after the close of the hearing, make its decision, provided, however, that an application for a Permit shall not be granted unless that it complies with Section 12 herein and it is expressly subject to such conditions as are necessary to protect the health, safety or general welfare of the community.

D. The decision of the Planning Commission and the reasons for the decision shall be reduced to writing and shall be filed by the Assistant TLMA Director with the Clerk of the Board of Supervisors, together with a report of the proceedings, not more than

1 30 days after the decision. A copy of the notice of the decision shall be mailed to the  
2 applicant and to any person who has made a written request for a copy of the decision.  
3 If the Planning Commission is unable to make a decision, that fact shall be filed with  
4 the Clerk of the Board in the same manner for reporting decisions and shall be  
5 considered as notice of denial of the application. The Clerk of the Board shall place  
6 the notice of the decision on the next agenda of the Board of Supervisors held 5 or  
7 more days after the Clerk receives the notice of the decision from the Assistant  
8 TLMA Director.

9 E. The decision of the Planning Commission is considered final and no action by the  
10 Board of Supervisors is required unless: (1) the decision is regarding a Permit that  
11 requires approval of a general plan amendment, a specific plan amendment, or a  
12 change of zone, in which case it shall be heard in accordance with the provisions of  
13 Ordinance No. 348 related to those legislative actions, and all of those procedural  
14 requirements and rights of appeal as set forth therein shall govern; (2) within 10 days  
15 after the notice of decision appears on the Board's agenda, the applicant or an  
16 interested person files an appeal, accompanied by the appropriate appeal filing fee in  
17 the amount set pursuant to Section 21 of this ordinance; or (3) unless the Board  
18 assumes jurisdiction by ordering the matter set for public hearing.

19 F. If a timely appeal is filed or the Board assumes jurisdiction, the Clerk of the Board  
20 shall set the matter for public hearing before the Board not less than 13 nor more than  
21 60 days thereafter, and shall give notice of the time and place of the hearing in the  
22 same manner as notice was given of the hearing before the Planning Commission.

23 G. At the appeal hearing before the Board of Supervisors, the Board shall hear the matter  
24 de novo; however, the documents and the minutes of the hearing before the Planning  
25 Commission shall be a part of the Board's record at its hearing on the matter. The  
26 Board shall hear relevant testimony from interested persons and, within a reasonable  
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1 time after the close of the hearing, make its decision sustaining, reversing or  
2 modifying the decision of the Planning Commission.

3 Section 11. PUBLIC HEARINGS, FAST TRACK PROJECTS. For Permits and  
4 Reclamation Plans that qualify as a fast track project as defined by Ordinance No. 348, a public hearing  
5 shall be held in accordance with the provisions of Ordinance No. 348 related to fast track projects. At the  
6 public hearing, the Board of Supervisors shall hear relevant testimony from interested persons and, within  
7 a reasonable time after the close of the hearing, make its decision, provided, however, that an application  
8 for a Permit shall not be granted unless that Permit is expressly subject to such conditions as are necessary  
9 to protect the health, safety or general welfare of the community. The decision of the Board of Supervisors  
10 and the reasons for the decision shall be reduced to writing and a copy of the notice of the decision shall be  
11 mailed to the applicant and to any person who has made a written request for a copy of the decision. The  
12 decision of the Board of Supervisors shall be final.

13 Section 12. APPROVAL REQUIREMENTS. All decisions on Permits and Reclamation  
14 Plans shall be supported by findings. No Reclamation Plan shall be approved unless the finding is made  
15 that it substantially meets the applicable requirements of SMARA and this ordinance.

16 A. No Permit shall be approved unless the following findings are made:

- 17 1. The Permit substantially meets the applicable requirements of SMARA and  
18 this ordinance.
- 19 2. The Permit is consistent with the General Plan and any applicable specific  
20 plan.
- 21 3. The Permit will not be detrimental to the public health, safety or general  
22 welfare.
- 23 4. The Permit complies with all requirements of law including all applicable  
24 County ordinances, policies and standards.

25 B. In addition to the conditions set forth in Sections 13 and 14 of this ordinance, a Permit  
26 shall be subject to all conditions necessary or convenient to assure that the use will  
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1 satisfy the foregoing findings. As a condition of each Permit, an expiration date of  
2 the Permit may also be specified.

3 C. Following the approval of a Reclamation Plan or an amendment to a Reclamation  
4 Plan, the County shall cause a "Notice of Reclamation Plan Approval" to be recorded  
5 with the County Recorder in accordance with Public Resources Code section 2772.7.  
6 The notice shall include the language set forth in Public Resources Code section  
7 2772.7 and state the name of the owner of record of the mining operation, identify  
8 the County as lead agency under SMARA for the operation, contain the  
9 acknowledged signature of the Assistant TLMA Director, and include any other  
10 information required under Public Resources Code section 2772.7.

11 D. Within 30 days following the approval of a Reclamation Plan or amendment to a  
12 Reclamation Plan, the Assistant TLMA Director shall provide the Director notice of  
13 the approval.

14 E. No later than 60 days after the approval of a Reclamation Plan or amendment to a  
15 Reclamation Plan, the Assistant TLMA Director shall provide to the Director  
16 certified copies of all maps, diagrams, or calculations, signed and sealed, and provide  
17 an official copy of the approved Reclamation Plan or amendment to a Reclamation  
18 Plan. The official copy shall incorporate all approved modifications to the  
19 Reclamation Plan or amendment to a Reclamation Plan and shall include an index  
20 showing any Permit conditions of approval or binding mitigation measures adopted  
21 pursuant to CEQA as required under Public Resources Code section 2772.1. Those  
22 conditions of approval and mitigation measures shall be included in an appendix to  
23 the Reclamation Plan or amendment to a Reclamation Plan and shall be considered  
24 part of the reclamation compliance requirements and subject to the annual inspection  
25 requirements.

26 Section 13. INSPECTIONS. As a condition of each Permit, annual inspections and  
27 reports of mining and reclamation activities shall be required of the Operator. Such inspections and reports  
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1 shall comply with the following provisions:

2           A.     The Assistant TLMA Director shall cause an inspection to be conducted in intervals  
3 of no more than 12 months to determine whether the surface mining operation is in  
4 compliance with SMARA and the surface mining operation's approved Permit; its  
5 approved Reclamation Plan; or, in the case of an idle mine, with its approved interim  
6 management plan; and to determine whether the approved financial assurances are  
7 adequate to achieve reclamation in accordance with the approved Reclamation Plan.  
8 Said inspection shall be conducted under the supervision of a qualified individual  
9 with experience in land reclamation who meets the qualifications of Section 2774 of  
10 the Public Resources Code and California Code of Regulations, title 14, section  
11 3504.5. The Operator shall be solely responsible for the reasonable cost of the  
12 inspection. All inspections shall be conducted using a form approved by the State  
13 Mining and Geology Board. The Assistant TLMA Director shall provide a notice of  
14 completion of inspection to the Director within 90 days of conducting the inspection.  
15 The notice shall contain a statement regarding the surface mining operation's  
16 compliance with SMARA and a copy of the completed inspection form, and shall  
17 specify, as applicable, all of the following:

- 18           1.     Aspects of the surface mining operation, if any, that were found to be  
19                 inconsistent with SMARA but were corrected before the submission of the  
20                 inspection form to the Director;
- 21           2.     Aspects of the surface mining operation, if any, that were found to be  
22                 inconsistent with SMARA but were not corrected before the submission of  
23                 the inspection form to the Director;
- 24           3.     A statement describing the County's intended response to any aspects of the  
25                 surface mining operation found to be inconsistent with SMARA but that were  
26                 not corrected before the submission of the inspection form to the Director;  
27                 and

1                   4.     If the surface mining operation has a review of its Reclamation Plan, financial  
2                   assurances, or interim management plan pending or an appeal pending before  
3                   the State Mining and Geology Board or the County.

4                   B.     Annually by July 1<sup>st</sup>, Operators shall submit to the Planning Department the  
5                   documentation requested by the Planning Department to support its conducting the  
6                   required annual mine inspection pursuant to Public Resources Code section 2774(b).

7                   C.     Annually by July 1<sup>st</sup>, Operators shall submit an Operator's report pursuant to Public  
8                   Resources Code section 2207(b). The Operator may request an inspection date on  
9                   its annual Operator's report. If the Operator does not, or if the County is unable to  
10                  cause the inspection of the surface mining operation on the date requested by the  
11                  Operator, the County shall provide the Operator with a minimum of five days'  
12                  written notice of a pending inspection, or within any lesser period agreed to by the  
13                  Operator. New surface mining operations shall submit an initial report prior to  
14                  commencement of operations.

15                 D.     Annually by July 1<sup>st</sup>, Operators shall pay to the Planning Department a mine  
16                 inspection fee in the amount set pursuant to Section 21 of this ordinance. In the case  
17                 of late payment of the mine inspection fee, a penalty of not less than one hundred  
18                 dollars (\$100) or 10 percent of the amount due, whichever is greater, plus interest at  
19                 a rate of 1½ percent per month, computed from the delinquent date of the assessment  
20                 until and including the date of payment, shall be assessed. Annual inspections shall  
21                 occur regardless of the receipt of a mine inspection fee or late payment penalty.

22                 E.     In addition to the Mine Inspection Fee, annually by July 1<sup>st</sup>, Operators shall also pay  
23                 to the Planning Department a mine administrative fee in the amount set pursuant to  
24                 Section 21 of this ordinance.

25                 F.     Annually by July 1<sup>st</sup>, the County shall submit to the Director for each active or idle  
26                 surface mining operation within the County's jurisdiction the following information:  
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- 1 1. A copy of any Permit or Reclamation Plan amendment, as applicable;
- 2 2. A statement that there have been no changes made during the previous year,
- 3 as applicable;
- 4 3. The date of each surface mining operation's last inspection; and
- 5 4. The date of each surface mining operation's last financial assurance review.

6 Section 14. FINANCIAL ASSURANCES. As a condition of each Permit, financial  
7 assurances to ensure reclamation is performed in accordance with the approved Reclamation Plan shall be  
8 required of the Operator as follows:

9 A. Prior to the commencement of the surface mining operation, the Operator shall post  
10 with the Assistant TLMA Director a financial assurance. The financial assurance  
11 shall be one of the following:

- 12 1. A bond or bonds executed by an admitted surety insurer as defined in Code  
13 of Civil Procedure section 995.120(a);
- 14 2. An irrevocable letter of credit from one or more financial institutions subject  
15 to regulation by the state or federal government and pledging that the funds  
16 necessary to carry out the approved Reclamation Plan are on deposit and  
17 guaranteed for payment;
- 18 3. A cash deposit to be deposited into a trust fund; or
- 19 4. Any other financial assurance specified by the State Mining and Geology  
20 Board pursuant to Section 2773.1(e) or Section 2773.1.5 of the Public  
21 Resources Code.

22 B. The amount of the financial assurances shall be adequate to perform reclamation in  
23 accordance with the surface mining operation's approved Reclamation Plan. The  
24 amount of financial assurances required for any one year shall be reviewed and, if  
25 necessary, adjusted once each calendar year to account for new lands disturbed by  
26 surface mining operations, inflation, and reclamation of lands accomplished in  
27 accordance with the approved Reclamation Plan. Said adjustment shall be based  
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1 upon an independent estimate prepared by a person experienced in estimating  
2 financial assurances or other qualified professional and shall be paid for by the  
3 Operator. An Operator shall be required to replace an approved financial assurance  
4 mechanism to bond for the reclamation of the surface mining operation only if the  
5 financial assurance cost estimate identifies a need to increase the amount of the  
6 financial assurance mechanism.

7 C. Each financial assurance mechanism shall be made payable to the County and the  
8 Department of Conservation and shall remain in effect for the duration of the surface  
9 mining operation and any additional period until reclamation is completed.

10 D. Within 30 days of completion of an annual inspection under Section 13 herein, the  
11 Operator shall provide an annual financial assurance cost estimate to the Assistant  
12 TLMA Director. If the annual inspection does not take place on the date requested  
13 by the Operator or on the date set by the County, the Operator shall provide the  
14 annual financial assurance cost estimate to the Assistant TLMA Director for review  
15 within 30 days of the applicable inspection date, unless the inspection occurs within  
16 that 30-day period, in which case the Operator shall provide the annual financial  
17 assurance cost estimate to the Assistant TLMA Director within 30 days of the date  
18 of the actual inspection.

19 E. Within 60 days of receiving an annual financial assurance cost estimate, the Assistant  
20 TLMA Director shall deny the financial assurance cost estimate or shall submit the  
21 financial assurance cost estimate to the Director for review.

22 1. The Assistant TLMA Director may deny the financial assurance cost estimate  
23 on the basis that the financial assurance cost estimate is inadequate. The  
24 Assistant TLMA Director must specify the reasons for that determination.

25 2. An Operator whose financial assurance cost estimate is denied shall have 30  
26 days to appeal that denial to the State Mining and Geology Board pursuant to  
27 Public Resources Code section 2770(e) or to provide the Assistant TLMA  
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1 Director with a revised financial assurance cost estimate incorporating the  
2 suggested changes for approval by the Assistant TLMA Director.

3 3. When the financial assurance cost estimate is submitted to the Director for  
4 review, the Assistant TLMA Director shall also provide the Director with a  
5 determination that the annual financial assurance cost estimate submitted is  
6 adequate, complete, and consistent with SMARA and the SMARA  
7 Regulations. The Assistant TLMA Director shall submit all required  
8 documentation to the Director at one time. Within 30 days of receiving any  
9 written comments on the annual financial assurance cost estimate from the  
10 Director, the Assistant TLMA Director shall evaluate those comments and  
11 provide the Director and the Operator with a proposed response. This  
12 proposed response must be submitted to the Director at least 30 days prior to  
13 the County's approval of the annual financial cost estimate and shall include  
14 either of the following:

- 15 a. A description of how the County proposes to adopt the Director's  
16 comments on the annual financial assurance cost estimate, or
- 17 b. A detailed description of the reasons why the County proposes not to  
18 adopt the Director's comments.

19 4. If the County proposes not to adopt the Director's comments concerning the  
20 financial assurance cost estimate, within 15 days of receipt of the County's  
21 written response, the Director may request in writing consultation with the  
22 County. If the Director timely requests such consultation, the County shall  
23 not approve the annual financial assurance cost estimate until after consulting  
24 with the Director. Such consultation shall occur not later than 30 days after  
25 the Director's request, unless an alternative timeframe is mutually agreed  
26 upon by the Director, Assistant TLMA Director, and Operator.

- 1                   5.     Within 60 days of receiving the Director's written comments, or of  
2                   consultation pursuant to the preceding subsection, whichever is later, or the  
3                   due date of the Director's written comments if none are received, the County  
4                   shall approve or deny the Operator's financial assurance cost estimate.
- 5                   6.     The County shall give the Director at least 30 days' notice of the time, place,  
6                   and date of the hearing at which the annual financial assurance cost estimate  
7                   is scheduled to be approved by the County. If no hearing is required, the  
8                   County shall provide 30 days' notice to the Director that it intends to approve  
9                   the annual financial assurance cost estimate.
- 10                  7.     Within 30 days of the County's approval of the annual financial assurance  
11                  cost estimate, the County shall send to the Director the County's final  
12                  response to the Director's comments.
- 13                  8.     The Assistant TLMA Director shall send to the Operator copies of any written  
14                  comments received and all responses prepared by the County relating to the  
15                  annual financial assurance cost estimate.

16                  F.     Within 30 days of the County's approval of the financial assurance cost estimate, the  
17                  Operator shall provide the Planning Department and the Director an appropriate  
18                  financial assurance mechanism.

- 19                  1.     Within 15 days of receiving a financial assurance mechanism, the Assistant  
20                  TLMA Director and the Director shall review the financial assurance  
21                  mechanism to determine if the type of mechanism, including the release  
22                  instructions, meets the requirements of SMARA and this ordinance.
- 23                  2.     The Assistant TLMA Director shall return to the Operator any financial  
24                  assurance mechanism determined to be noncompliant with SMARA or this  
25                  ordinance, with instructions on how to correct the type of financial assurance  
26                  mechanism or the financial assurance mechanism's release instructions.

1 G. If the Planning Commission, following a public hearing in accordance with the  
2 procedures set forth in Section 10 of this ordinance, determines that the Operator is  
3 financially incapable of completing reclamation in accordance with its approved  
4 Reclamation Plan or has abandoned its surface mining operation without completing  
5 reclamation, the Assistant TLMA Director shall:

- 6 1. Notify the Operator by personal service or certified mail that the County  
7 intends to take appropriate action to forfeit the financial assurance and  
8 specify the reasons for so doing.
- 9 2. Proceed to take appropriate action to require forfeiture of the financial  
10 assurance.
- 11 3. Use the proceeds from the forfeited financial assurance to conduct and  
12 complete reclamation in accordance with the approved Reclamation Plan. If  
13 the surface mining operation cannot be reclaimed in accordance with its  
14 approved Reclamation Plan, or the financial assurances are inadequate to  
15 reclaim it in accordance with its approved Reclamation Plan, the County may  
16 use forfeited financial assurances to reclaim or remediate mining  
17 disturbances as appropriate for the site conditions as determined by the  
18 County and the Director. The Operator shall be responsible for the costs of  
19 conducting and completing reclamation in accordance with the approved  
20 Reclamation Plan, or an approved remediation plan developed pursuant to  
21 this subsection, that are in excess of the proceeds from the forfeited financial  
22 assurance.

23 H. Upon completion of reclamation in accordance with the approved Reclamation Plan,  
24 and with written concurrence of the County and the Director, the financial assurance  
25 shall be released. Such written concurrence shall be forwarded to the Operator and  
26 the institutions providing or holding the financial assurance mechanism and shall  
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1 state that reclamation has been completed in accordance with the approved  
2 Reclamation Plan.

- 3 I. If a surface mining operation is sold or ownership is transferred to another person,  
4 the Operator shall comply with the requirements of Section 20 of this ordinance.

5 Section 15. VIOLATIONS AND PENALTIES.

6 A. If, after conducting the annual inspection required by Section 13 or otherwise  
7 confirmed by an inspection of the mining operation, the Assistant TLMA Director  
8 finds that the surface mining operation is not in compliance with the approved mining  
9 plan, the approved Reclamation Plan, any Permit conditions imposed by the County,  
10 the provisions of this ordinance, or SMARA, the Assistant TLMA Director may issue  
11 to the Operator a notice of violation, for a SMARA violation; a notice of permit  
12 violation, for a violation of permit conditions; or both. Any such notice shall be sent  
13 to the Operator by personal service or certified mail. A copy of such notice shall also  
14 be sent to the Director.

- 15 1. A notice of violation or a notice of permit violation shall include both of the  
16 following:
- 17 a. A description of the violation; and
  - 18 b. Actions the Operator must take to correct the violation.
- 19 2. If the Assistant TLMA Director or the Director determines that the time to  
20 correct the noticed violation will exceed 30 days, the County and the Operator  
21 may enter into a stipulated order to comply, which the Assistant TLMA  
22 Director is authorized to sign on behalf of the County, with a notice sent to  
23 the Director. Such stipulated order shall include a schedule and time for  
24 compliance that the Assistant TLMA Director has determined is reasonable  
25 after taking into account the actions and legal processes required to correct  
26 the violation.

1 B. If, within 30 days of being served with a notice of violation or notice of permit  
2 violation, the Operator does not comply with it or commit to enter into a stipulated  
3 order, the Assistant TLMA Director may issue an order to comply. Any such order  
4 shall be sent by personal service or certified mail.

5 1. The order to comply shall specify all of the following:

6 a. Which aspects of the surface mine's activities or operations are  
7 inconsistent with the Permit, approved Reclamation Plan, Permit  
8 conditions, the provisions of this ordinance, or SMARA;

9 b. The actions and legal processes required to correct the alleged  
10 violation; and

11 c. A time for compliance that the Assistant TLMA Director determines  
12 is reasonable, given the seriousness of the alleged violation and any  
13 good faith efforts to comply with applicable requirements. If the  
14 Operator does not have an approved Reclamation Plan, the order to  
15 comply may order the Operator to immediately cease all further  
16 mining activities.

17 2. An order to comply shall take effect 30 days following the service of the order  
18 to comply unless within those 30 days the Operator appeals the order to  
19 comply and requests a hearing before the Planning Commission.

20 a. Such appeal shall be noticed and heard at a public hearing within 45  
21 days of the filing of the appeal or a longer period as may be mutually  
22 agreed upon by the Operator and the Assistant TLMA Director. At  
23 such hearing, the Planning Commission shall hear all relevant  
24 testimony from interested persons and, after closing the public  
25 hearing, shall affirm, modify or set aside the order to comply issued  
26 by the Assistant TLMA Director.

1                   b.     If the surface mining operation fails to comply with the order affirmed  
2                             or modified by the Planning Commission, the Planning Commission  
3                             may revoke or suspend the Operator's Permit in accordance with the  
4                             procedures set forth in Section 10 of this ordinance, and all of the  
5                             procedural requirements and rights of appeal as set forth therein shall  
6                             govern the hearing.

7                   C.     For an Operator who violates or fails to comply with the order to comply, who fails  
8                             to submit an annual report, or who fails to pay annual fees, the Assistant TLMA  
9                             Director shall impose an administrative penalty of not more than five thousand  
10                            dollars (\$5,000) per day, assessed from the original date of noncompliance or from  
11                            the date of the inspection when the violation was identified, at the discretion of the  
12                            Assistant TLMA Director.

13                   1.     In determining the amount of the administrative penalty, the Assistant TLMA  
14                             Director shall take into consideration the nature, circumstances, extent, and  
15                             gravity of the violation or violations, any prior history of violations, the  
16                             degree of culpability, economic savings, if any, resulting from the violation,  
17                             and any other matters justice may require.

18                   2.     The Assistant TLMA Director's order setting administrative penalties shall  
19                             become effective upon issuance of the order, and payment shall be made to  
20                             the County within 30 days, unless the Operator petitions the Board of  
21                             Supervisors as provided in paragraph 15.D. below. An order shall be served  
22                             by personal service or by certified mail upon the Operator.

23                   D.     An Operator may file a petition with the Board of Supervisors for review of the  
24                             Assistant TLMA Director's order imposing an administrative penalty. If no such  
25                             petition is filed within 30 days of the order, the order is final and is not subject to  
26                             review by any court or agency.

1. A petition for review can only be accepted for filing if it is timely, utilizes a County-approved form, and is accompanied by the required petition fee in the amount set pursuant to Section 21 of this ordinance.
2. If the petition for review meets the standards set forth in this subsection, the Clerk of the Board shall set the matter for a public hearing before the Board of Supervisors to review the Assistant TLMA Director's order imposing an administrative penalty. The Operator shall be notified by either personal service or certified mail of the time, date, and place for the public hearing at which the Board of Supervisors shall review the Assistant TLMA Director's order imposing an administrative penalty. In reviewing said order, the record shall consist of the record before the Assistant TLMA Director and any other relevant evidence which, in the judgment of the Board of Supervisors, should be considered to effectuate and implement the policies of SMARA and this ordinance.
3. The Board of Supervisors may affirm, modify, or set aside, in whole or in part, by its own order, any order of the Assistant TLMA Director imposing an administrative penalty. Any order of the Board of Supervisors shall be served by personal service or certified mail upon the Operator.
4. The Board of Supervisor's order shall become effective upon its issuance unless the Operator files a timely petition for writ of mandate in the superior court. Such petition shall be timely only if filed within 30 days of the Board's issuance of the order. Payment of any administrative penalty that is specified in the Board of Supervisor's order shall be made to the County within 30 days of service of the order whether or not a petition has been filed; however, the payment shall be held in an interest-bearing impound account pending resolution of a petition for writ of mandate if one has been filed. If no timely



1 petition is filed, the Board of Supervisor's order shall not be subject to review  
2 by any court or agency.

3 E. The procedures, remedies and additional penalties for violation of this ordinance and  
4 for recovery of costs related to enforcement are also provided for in Ordinance No.  
5 725, which is incorporated herein by this reference. Penalties collected pursuant to  
6 this section shall not be used for purposes other than to cover the reasonable costs  
7 incurred by the County in implementing this ordinance, SMARA, or the SMARA  
8 Regulations.

9 F. Whether or not administrative penalties have been imposed, the Planning  
10 Commission may revoke or suspend the Operator's Permit in accordance with the  
11 procedures set forth in Section 10 of this ordinance, and all of the procedural  
12 requirements and rights of appeal as set forth therein shall govern the hearing.

13 G. If the Assistant TLMA Director determines that a surface mining operation is not in  
14 compliance with SMARA such that the surface mining operation presents an  
15 imminent and substantial endangerment to the public health or the environment, the  
16 Assistant TLMA Director may seek an order from the Superior Court of the County  
17 of Riverside or other court of competent jurisdiction enjoining that operation.

18 Section 16. USE. Any Permit that is granted shall be used within eight (8) years from the  
19 effective date thereof, or within the time limit set forth in the conditions of approval, and pursued diligently  
20 to completion; otherwise, such Permit shall be null and void. The term "used" shall mean the beginning of  
21 site disturbance and development as part of a surface mining operation that is authorized under this  
22 ordinance and applicable provisions of SMARA.

23 Section 17. VESTED RIGHTS.

24 A. No person who has obtained a Vested Right to conduct surface mining operations  
25 prior to January 1, 1976, shall be required to secure a Permit pursuant to the  
26 provisions of this ordinance as long as such Vested Right continues and no  
27 substantial change is made in that operation. A person shall be deemed to have such  
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1 Vested Rights if, prior to January 1, 1976, he has, in good faith and in reliance upon  
2 a Permit or other authorization, if such Permit or other authorization was required,  
3 diligently commenced surface mining operations and incurred substantial liabilities  
4 for work and materials necessary therefor. Expenses incurred in obtaining the  
5 enactment of an ordinance in relation to a particular operation or the issuance of a  
6 Permit shall not be deemed liabilities for work or materials. Any substantial changes  
7 made in a surface mining operation subsequent to January 1, 1976, except in  
8 accordance with SMARA and California Code of Regulations, title 14, section 3951,  
9 shall require an approved Permit pursuant to this ordinance.

10 B. If requested, a Vested Rights determination shall be made in accordance with the  
11 following:

- 12 1. The Operator shall submit a written request with the Assistant TLMA  
13 Director for a Vested Rights determination. The request for determination  
14 shall include information pertinent to establishing the existence and scope of  
15 the Vested Right. Within 30 calendar days of deeming the request for  
16 determination complete, the Assistant TLMA Director shall set a public  
17 hearing and provide notice in accordance with the procedures set forth in  
18 Section 10 of this ordinance.
- 19 2. A public hearing shall be held by the Planning Commission to consider the  
20 request for determination of a Vested Right. The record before the Planning  
21 Commission shall consist of the written materials received by the Assistant  
22 TLMA Director, as well as any relevant written comments on the request for  
23 determination and any relevant testimony received at the hearing. Written  
24 comments and oral testimony other than that related to demonstrating or  
25 delimiting the existence, nature, and scope of the claimed vested rights shall  
26 not be considered by the Planning Commission in making the Vested Rights  
27 determination.  
28

1                   3.     Within 60 calendar days following the public hearing, the Planning  
2                   Commission shall issue a written vested rights determination. The  
3                   determination shall identify upon which specific property the Vested Right is  
4                   established and the scope and nature of surface mining operations included  
5                   within the established Vested Right. The Vested Rights determination shall  
6                   be filed by the Assistant TLMA Director with the Clerk of the Board of  
7                   Supervisors, together with a report of the proceedings, not more than 30 days  
8                   after the determination. A copy of a notice of the Vested Rights  
9                   determination shall be mailed to the applicant and to any person who has  
10                  made a written request for a copy of the decision. The Clerk of the Board  
11                  shall place the notice of the Vested Rights determination on the next agenda  
12                  of the Board of Supervisors held 5 or more days after the Clerk of the Board  
13                  has received the notice of Vested Rights determination from the Assistant  
14                  TLMA Director.

15                 4.     The determination of the Planning Commission is considered final and no  
16                 action by the Board of Supervisors is required unless: (1) within 10 days after  
17                 the notice of Vested Rights determination appears on the Board's agenda, the  
18                 applicant or an interested person files a notice of appeal, accompanied by the  
19                 appropriate appeal filing fee in the amount set pursuant to Section 21 of this  
20                 ordinance or (2) unless the Board assumes jurisdiction by ordering the matter  
21                 set for public hearing.

22                 5.     If a timely appeal is filed or the Board assumes jurisdiction, the Clerk of the  
23                 Board shall set the matter for public hearing, and the appeal shall be heard by  
24                 the Board, in accordance with the appeal provisions set forth in Section 10 of  
25                 this ordinance.

26                 C.     A person who has obtained a Vested Right to conduct surface mining operations prior  
27                 to January 1, 1976, shall submit to the Planning Department for approval by the  
28

1 Planning Commission, a Reclamation Plan for all areas to which that Vested Right  
2 applies and all areas in which active mining operations have occurred after January  
3 1, 1976. That person shall also submit the required documentation for a mine  
4 inspection to the Planning Department in the same manner and with the same  
5 frequency as those Operators required to obtain a Permit pursuant to this ordinance  
6 before commencing or expanding their operation. If a Reclamation Plan application  
7 is not on file and approved by the County, the continuation of the surface mining  
8 operation shall be prohibited until a Reclamation Plan is submitted and approved.  
9 Nothing in this ordinance shall be construed as requiring the filing of a Reclamation  
10 Plan for, or the reclamation of, mined lands on which surface mining operations were  
11 conducted prior to, but not after, January 1, 1976. All Reclamation Plans submitted  
12 to the Planning Department for operations pursuant to a Vested Right that are  
13 conducted after January 1, 1976, shall be accompanied by the fee set pursuant to  
14 Section 21 of this ordinance for a Reclamation Plan for a vested surface mining  
15 operation conducted after January 1, 1976.

16 Section 18. APPLICATIONS FOR AMENDMENTS. A request for approval of an  
17 amendment to an approved Permit or Reclamation Plan shall be made in accordance with the provisions of  
18 this section. Under no circumstances shall any deviation from the approved Permit or Reclamation Plan be  
19 undertaken until the required amendment is approved by the County pursuant to all applicable sections of  
20 this ordinance. An amendment under this section means a request for a Revised Permit, Revised  
21 Reclamation Plan, or a determination of Substantial Conformance as further defined herein.

22 A. Applications for a determination of Substantial Conformance, Revised Permit, or  
23 Revised Reclamation Plan shall be made in writing to the Assistant TLMA Director  
24 on forms provided by the Planning Department.

25 B. Substantial Conformance means an amendment to an approved Permit or  
26 Reclamation Plan that:

27 1. Is not a Substantial Deviation from the original approval;  
28

- 1 2. Does not change the effects on surrounding property; and
- 2 3. Does not substantially impact the ability to perform the reclamation activities
- 3 contemplated in the approved Reclamation Plan.
- 4 4. A Substantial Conformance may include, but is not limited to, amendments
- 5 related to upgrading existing facilities, amendments relating to compliance
- 6 with the requirements of other public agencies, amendments necessary to
- 7 comply with final conditions of approval, or amendments to lighting, parking,
- 8 fencing or landscaping requirements, provided said amendments as
- 9 determined by the Assistant TLMA Director will have no adverse effect upon
- 10 public health, safety or welfare and will not have a significant effect on the
- 11 environment.

12 C. Revised Permit means a request for a Substantial Deviation from an approved Permit  
13 or Reclamation Plan which does not change the basic concept or use allowed by the  
14 original approval. A Substantial Deviation includes, but is not limited to: any  
15 expansion in the permitted mining area, in an area of an approved Reclamation Plan,  
16 or in the maximum depth of mining or slope angle; changes to the original conditions  
17 of approval, including extensions to the overall life of the permitted use as set out in  
18 the approved Reclamation Plan; changes that would substantially affect the approved  
19 end use of the site as established in the Reclamation Plan; changes to the operation  
20 inconsistent with previously adopted environmental determinations; a significant  
21 increase in plant capacity; changes to or expansion of a surface mining operation that  
22 would result in significant adverse effects; and changes in the intensity of use as  
23 determined by the Assistant TLMA Director.

24 D. Actions on applications for Substantial Conformance or Revised Permits shall be in  
25 accordance with the following procedures:

- 26 1. Substantial Conformance. The Assistant TLMA Director shall approve,  
27 conditionally approve or disapprove an application for Substantial  
28

1 Conformance within 30 days after accepting a completed application and give  
2 notice by mail of the decision, including any additional conditions of  
3 approval, to the applicant and any other person who has filed a written request  
4 for notice. The Assistant TLMA Director's determination shall be based upon  
5 the standards of this section, the standards set forth in this ordinance  
6 governing approval of the original Permit, and the conditions of approval  
7 applicable to the approved Permit. An application for Substantial  
8 Conformance shall not require a public hearing.

9 2. Revised Permit. An application for a Revised Permit shall be approved,  
10 conditionally approved or disapproved in accordance with all the procedures,  
11 requirements, and development standards applicable to an original Permit,  
12 including any requirements for public hearing, notice of hearing, and all  
13 rights of appeal.

14 E. The approval of an application for Substantial Conformance or Revised Permit shall  
15 be valid until the expiration of the original Permit, unless an extension of time has  
16 been granted by an approved Revised Permit.

17 F. Notwithstanding any provision herein to the contrary, an application for Substantial  
18 Conformance may be approved only if the proposed modification is exempt from the  
19 provisions of CEQA.

20 Section 19. IDLE MINES.

21 A. Within 90 days of a surface mining operation becoming idle, as defined in Section  
22 2727.1 of the Public Resources Code, the Operator shall file with the Assistant  
23 TLMA Director the following:

24 1. All information required under this ordinance for the filing of a new  
25 application for a Permit, unless this requirement is waived by the Assistant  
26 TLMA Director.

2. A statement explaining that the surface mining operation is idle as defined in Section 2727.1 of the Public Resources Code.
3. An interim management plan that includes the measures the Operator will implement to maintain the site in accordance with the approved Permit and the approved Reclamation Plan.
4. A filing fee for review of the interim management plan as set pursuant to Section 21 of this ordinance.
5. Such additional information as shall be required by the Assistant TLMA Director.

B. Within 60 days of the receipt of the information required in Subsection A., above, the Assistant TLMA Director shall review and approve the interim management plan, provided the interim management plan complies with the requirements specified in Subsection A, above, and SMARA, and shall give notice by mail of the approval to the Operator and any other person who has filed a written request for notice. Otherwise, the Assistant TLMA Director shall notify the Operator in writing of any deficiencies in the plan. The Operator shall have 30 days, or a longer period mutually agreed upon by the Operator and the Assistant TLMA Director, to submit a revised plan. The Assistant TLMA Director shall approve or deny the revised interim management plan within 60 days of receipt. If the Assistant TLMA Director denies the revised interim management plan, the Operator may appeal that action to the Board of Supervisors, which shall schedule a public hearing within 45 days of the filing of the appeal, or any longer period mutually agreed upon by the Operator and the Board of Supervisors. Review and approval of an interim management plan shall not be considered a "project" pursuant to CEQA, nor shall it require a public hearing.

C. The interim management plan may remain in effect for a period not to exceed 5 years, at which time the Assistant TLMA Director shall do one of the following:

- 1                    1.     Renew approval of the interim management plan for another period not to  
2                    exceed 5 years, which may be renewed for one additional five-year renewal  
3                    period at the expiration of the first five-year renewal period, if the Assistant  
4                    TLMA Director finds that the Operator has fully complied with the  
5                    provisions of the interim management plan.
- 6                    2.     Require the Operator to commence reclamation in accordance with its  
7                    approved Reclamation Plan.

8                    The determination by the Assistant TLMA Director to extend the term of the interim  
9                    management plan or to require reclamation shall not require a public hearing. If the  
10                   surface mining operation is still idle after expiration of its interim management plan  
11                   and the interim management plan has not been renewed, the surface mining operation  
12                   shall immediately commence reclamation in accordance with its approved  
13                   Reclamation Plan.

14                   D.     Any financial assurances required in conjunction with approval of the Permit shall  
15                   remain in effect during the period the surface mining operation is idle and until such  
16                   time as reclamation is completed.

17                   E.     Unless review of an interim management plan is pending before the Assistant TLMA  
18                   Director or the Board of Supervisors, or an appeal is pending before the Board of  
19                   Supervisors, a surface mining operation which remains idle for over 1 year after  
20                   becoming idle as defined in Section 2727.1 of the Public Resources Code, without  
21                   obtaining approval of an interim management plan, shall be considered abandoned  
22                   and the Operator shall commence and complete reclamation in accordance with the  
23                   approved Reclamation Plan.

24                   Section 20.    TRANSFERS OF OWNERSHIP. Whenever any surface mining operation  
25                   or portion of a surface mining operation subject to this ordinance is sold, assigned, conveyed, exchanged,  
26                   or otherwise transferred, the successor in interest shall be bound by the provisions of this ordinance and  
27                   shall notify the Assistant TLMA Director in writing of such transfer of ownership within 30 days of the  
28



1 transfer. Within 90 days of the sale or transfer of a surface mining operation, the new Operator shall submit,  
2 in accordance with Section 14 of this ordinance and SMARA, an appropriate financial assurance  
3 mechanism, which may be the existing mechanism if the existing mechanism is payable in the event of the  
4 new Operator's financial incapability or abandonment of the surface mining operation. Within 15 days of  
5 the sale or transfer of a surface mining operation, the new Operator shall sign a new statement of reclamation  
6 responsibility in accordance with Section 9 of this ordinance.

7 Section 21. FEES.

- 8 A. The application fee for a Permit, revised Permit, revised Reclamation Plan, or stand-  
9 alone Reclamation Plan (including a Reclamation Plan for mining operations on  
10 BLM land, for mining operations owned or operated by the County Transportation  
11 Department, or for vested surface mining operations conducted after January 1,  
12 1976) shall initially be in the amount of twenty-one thousand dollars (\$21,000). This  
13 application fee is a deposit-based fee to be used to cover the actual costs for the  
14 County to undertake the review of a proposed Permit, revised Permit, proposed  
15 Reclamation Plan, or Revised Reclamation Plan. This application fee supersedes the  
16 fees set forth in Ordinance No. 671 for a Surface Mining Permit fee, for a Revised  
17 Permit fee, and for Reclamation Plans Submitted for Vested Operations Conducted  
18 After January 1, 1976.
- 19 B. The application fee for a Substantial Conformance to a Permit or Reclamation Plan  
20 shall initially be in the amount of five thousand dollars (\$5,000). This application  
21 fee is a deposit-based fee to be used to cover the actual costs for the County to  
22 undertake the review of the proposed Substantial Conformance. This application fee  
23 hereby supersedes any fee for a Substantial Conformance set forth in Ordinance No.  
24 671.
- 25 C. The application fee for review of an interim management plan shall be the same  
26 amount as the application fee for a Substantial Conformance to a Permit or  
27 Reclamation Plan, as set pursuant to this section.
- 28

1 D. The appeal filing fee required under Section 10 of this ordinance and petition fee  
2 required under Section 15 of this ordinance shall each initially be in the amount of  
3 one thousand dollars (\$1,000). This appeal filing fee hereby supersedes the Appeal  
4 of Planning Commission Decision fee set forth in Ordinance No. 671.

5 E. The mine inspection fee required under Section 13 of this ordinance shall initially be  
6 in the amount of three thousand five hundred dollars (\$3,500). The mine inspection  
7 fee is a deposit-based fee to be used to cover the actual costs for the County to  
8 undertake the annual inspection of a surface mining operation. This fee hereby  
9 supersedes the Special Inspection Permit fee set forth in Ordinance No. 671.

10 F. The mine administrative fee required under Section 13 of this ordinance shall initially  
11 be in the amount of two thousand dollars (\$2,000). The mine administrative fee shall  
12 be used for the administration and implementation of SMARA and this ordinance,  
13 including staff training, interaction with State agencies, updating applicable County  
14 regulations, and general management of the SMARA program.

15 G. The Board of Supervisors may adjust the amount of any of the fees set forth in this  
16 section by resolution. Any adjustment to such fees shall be considered at a regularly  
17 scheduled Board of Supervisors meeting. Notice of the time, place, general  
18 description of the fee adjustment, and where related information and data is available  
19 for review shall be mailed at least fourteen (14) days prior to the meeting to any  
20 interested party who files a written request with the County for mailed notice related  
21 to fees. At least ten (10) days before the meeting, information related to the fee  
22 adjustment shall be made available to the public for review. Any resolution adopted  
23 by the Board of Supervisors making adjustments to any of the fees set forth in this  
24 section shall be posted at the Planning Department.

25 Section 22. SEVERABILITY. If any section, subsection, paragraph, sentence, clause or  
26 phrase of this ordinance is for any reason held to be invalid or unconstitutional, such invalidity or  
27 unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this  
28

1 ordinance, it being expressly declared that this ordinance and each section, subsection, paragraph, sentence,  
2 clause and phrase thereof would have been adopted, irrespective of the fact that one or more other section,  
3 subsection, paragraph, sentence, clause or phrase be declared invalid or unconstitutional.”

4 Section 2. This ordinance shall take effect sixty (60) days after its adoption.

6 BOARD OF SUPERVISORS OF THE COUNTY  
7 OF RIVERSIDE, STATE OF CALIFORNIA


8  
9 By: \_\_\_\_\_  
Chairman, Board of Supervisors

10 ATTEST:  
11 CLERK OF THE BOARD:

12  
13 By: \_\_\_\_\_  
14 Deputy

15  
16 (SEAL)

17  
18 APPROVED AS TO FORM  
19 August 30, 2018

20  
21 By:   
22 MELISSA R. CUSHMAN  
Deputy County Counsel

- 23  
24  
25 ADOPTED: 8-9-77 (Eff.: 09/08/1977)  
AMENDED: 555.1 (Eff.: 05/31/1978)  
26 555.2 (Eff.: 08/03/1978)  
27 555.3 (Eff.: 09/24/1980)  
555.4 (Eff.: 01/14/1980)  
555.5 (Eff.: 01/21/1980)  
28 555.6 (Eff.: 07/01/1981)  
555.7 (Eff.: 07/21/1982)

1	555.8	(Eff.: 06/29/1983)
	555.9	(Eff.: 09/21/1983)
2	555.10	(Eff.: 07/04/1985)
	555.11	(Eff.: 06/01/1986)
3	555.12	(Eff.: 03/12/1987)
	555.13	(Eff.: 07/04/1987)
4	555.14	(Eff.: 07/30/1987)
	555.15	(Eff.: 07/01/1988)
5	555.16	(Eff.: 04/27/1989)
	555.17	(Eff.: 07/29/1993)
6	555.18	(Eff.: 08/12/1995)
	555.19	(Eff.: 11/01/2012)

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**BOYDD, April**

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**From:** COB-Agenda  
**To:** Maxwell, Sue  
**Subject:** RE: September 18, 2018 , Item No 3.19 - Public Comment and Recommended Revision to Ordinance 555.20 (CalCIMA x2)

---

**From:** Maxwell, Sue  
**Sent:** Monday, September 17, 2018 4:45 PM  
**To:** COB-Agenda <COB-Agenda@RIVCO.ORG>; Johnson, George <GAJohnson@RIVCO.ORG>; Leach, Charissa <cleach@rivco.org>; Perez, Juan <JCPEREZ@RIVCO.ORG>; Young, Alisa <AYoung@RIVCO.ORG>; District 4 Supervisor V. Manuel Perez <District4@RIVCO.ORG>; District2 <District2@Rivco.org>; District3 <District3@Rivco.org>; District5 <District5@Rivco.org>; Supervisor Jeffries - 1st District <district1@RIVCO.ORG>  
**Cc:** Jones, David <DLJONES@RIVCO.ORG>  
**Subject:** September 18, 2018 , Item No 3.19 - Public Comment and Recommended Revision to Ordinance 555.20 (CalCIMA x2)

Good afternoon,

The email below and 2<sup>nd</sup> attachment is for review before tomorrow's September 18, 2018 Item 3.19 Ordinance 555.20 update. (Pages 27-29 are red-lined by Ms. Seivright.

Attachment #1 is a duplicate letter sent to you at 4:26pm today.

Thank you kindly,

*Sue Maxwell*  
Board Assistant  
Clerk of the Board of Supervisors  
4080 Lemon Street, 1<sup>st</sup> Floor, Room 127  
Riverside, CA 92501  
(951) 955-1069 Fax (951) 955-1071  
Mail Stop #1010  
[smaxwell@rivco.org](mailto:smaxwell@rivco.org)  
<http://rivcocob.org/>  
<https://www.facebook.com/RivCoCOB/>



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**From:** Suzanne Seivright [mailto:sseivright@calcima.org]  
**Sent:** Monday, September 17, 2018 11:48 AM  
**To:** COB <COB@RIVCO.ORG>

9/18/18 3:19  
2018-9-14096

**Subject:** RE: CalCIMA comments - BOS meeting, Item No 19 - County of Riverside Ordinance  
**Importance:** High

Good morning Ms. Harper-Ihem,

Hope this mail finds you and colleagues well.

Pursuant to the comment letter CalCIMA provided last week in relation to item no. 19 for the Board of Supervisor's meeting scheduled tomorrow, attached please find a redline of CalCIMA's proposed further revision of Ordinance 555.20 for the Board's review and consideration.

Thank you for providing support. And, please let me know if I can provide additional information.

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](http://www.calcima.org)

[www.distancematters.org](http://www.distancematters.org)

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

# CALCIMA

California Construction and  
Industrial Materials Association

September 14, 2018

Via E-Mail

Kecia Harper-Ihem  
Clerk of the Board – Board of Supervisors  
County of Riverside  
County Administrative Center, 12<sup>th</sup> Floor  
4080 Lemon Street  
Riverside, CA 92501

**Re: CalcIMA Comments on Revised Ordinance No. 555.20**

Dear Ms. Harper-Ihem:

The California Construction & Industrial Materials Association (CalcIMA) greatly appreciates the County of Riverside Transportation and Land Management Agency's (TLMA) willingness to dialogue through the process of amending Ordinance No. 555.20, 'An Ordinance of the County of Riverside Implementing the Surface Mining and Reclamation Act of 1975.' TLMA staff and their Counsel have been extremely proactive to respond to our issues and address them as they felt appropriate. Through this thorough process, there is one remaining issue we are concerned about which we would appreciate the Board of Supervisors' consideration. Our working group of regional operators continues to be concerned with the proposed vested rights hearing process before the Planning Commission with an appeal to the Board of Supervisors as discussed in Section 17.B.2. We believe the process would be better handled as a hearing of the Board of Supervisors for the following reasons.

The costs of developing the data, and preparing for and participating in a vested right hearing can be enormous. Doing it twice should there be an appeal of a decision only increases cost, time, and resources of both operators and the County of Riverside. Such costs in terms of both time and money should not be borne absent of clear advantage to a Planning Commission hearing in a vested rights process which we do not believe exists. A single hearing is more efficient in terms of time and cost.

A hearing to confirm a vested right is fundamentally different than traditional land use public hearings that consider applications for development entitlements such as land use permits. During more traditional hearings, bodies such as planning commissions are provided the opportunity to apply their expertise to issues such as project design, compatibility with zoning regulations, neighborhood character, etc. On the other hand, vested rights hearings involve a determination of the existence of a constitutionally protected right, based on an examination of historical facts more or less objectively applied to a legal standard. Thus, the unique nature of a vested right hearing is such that the traditional expertise of a planning commission adds little value relative to a legislative body such as a Board of Supervisors. Accordingly, there is little if any benefit to requiring an initial vested rights hearing before the Planning Commission subject to the right of appeal to the Board of Supervisors.

CalCIMA  
1029 J Street, Suite 420  
Sacramento, CA 95814  
Phone: 916 554-1000  
Fax: 916 554-1042  
[www.calcima.org](http://www.calcima.org)  
[www.distancematters.org](http://www.distancematters.org)

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

9/18/18 3.19  
2018-9-140961

# CALCIMA

California Construction and  
Industrial Materials Association

The recommendation to implement a single hearing process is based on the collective thoughts and considerations of our working group of regional operators who will be affected by the Ordinance, along with our institutional experience with vested rights hearings across the state. Accordingly, we urge the Board of Supervisors to consider our recommendation, which intends to streamline the vested rights determination process to a single hearing before the Board of Supervisors.

Again, we thank the Board of Supervisors and staff for their consideration. Please contact me with any questions or concerns at (951) 941-7981 or at [sseivright@calcima.org](mailto:sseivright@calcima.org).

Kindest regards,



Suzanne Seivright  
CalCIMA Director of Local Governmental Affairs

CalCIMA  
1029 J Street, Suite 420  
Sacramento, CA 95814  
Phone: 916 554-1000  
Fax: 916 554-1042  
[www.calcima.org](http://www.calcima.org)  
[www.distancematters.org](http://www.distancematters.org)

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





1 and aesthetic enjoyment, and the residual hazards to the public health and safety will  
2 be eliminated;

3 D. There is sufficient production and development of local mineral resources because  
4 the production and development of local mineral resources:

- 5 1. Help maintain a strong economy;
- 6 2. Are necessary to build infrastructure; and
- 7 3. Are vital to reducing transportation emissions in the County, including those  
8 that result from the distribution of hundreds of millions of tons of  
9 construction aggregates that are used annually in building and maintaining  
10 the state; and

11 E. The development of the County's finite, important mineral resources, which the  
12 Legislature has determined is vital to a sustainable California, is promoted.

13 Section 3. AUTHORITY. This ordinance is adopted pursuant to Public Resources  
14 Code section 2774, which requires the County to adopt an ordinance in accordance with state policy that  
15 establishes the procedures for the review and approval of Reclamation Plans and financial assurances and  
16 for the issuances of Permits to conduct surface mining operations.

17 Section 4. DEFINITIONS. As used in this ordinance, all references and citations to  
18 statutes, regulations, ordinances, and other bodies of law shall include those statutes, regulations,  
19 ordinances, and other bodies of law as they may be amended from time to time. In addition, unless  
20 otherwise specified, all references in this ordinance to a number of days shall refer to calendar days. The  
21 following terms in this ordinance shall have the following meanings:

- 22 A. Assistant TLMA Director. The County Assistant TLMA Director – Community  
23 Development, or his or her designee.
- 24 B. CEQA. The California Environmental Quality Act (Pub. Resources Code, § 21000  
25 et seq.).
- 26 C. County. The County of Riverside, which acts the “lead agency” under SMARA for  
27 all surface mining operations subject to this ordinance.  
28

- 1 D. Director. The Director of the Department of Conservation.
- 2 E. Operator. The individual or entity that operates a surface mining operation, as
- 3 surface mining operations are defined in Public Resources Code section 2735.
- 4 F. Permit. Unless otherwise stated, the Surface Mining Permit.
- 5 G. Reclamation Plan. An Operator's plan for reclaiming the lands affected by his or her
- 6 surface mining operations, as the term is defined in SMARA and the SMARA
- 7 Regulations.
- 8 H. Revised Permit. A request for a Substantial Deviation from an approved Permit or
- 9 Reclamation Plan which does not change the basic concept or use allowed by the
- 10 original approval and that meets the additional requirements set forth in Section 18 of
- 11 this ordinance.
- 12 I. SMARA. The California Surface Mining and Reclamation Act of 1975 (Pub.
- 13 Resources Code, § 2710 et seq.).
- 14 J. SMARA Regulations. The state regulations adopted in accordance with SMARA
- 15 (Cal. Code Regs., tit. 14, § 3500 et seq.).
- 16 K. Substantial Conformance. A proposed amendment to an approved Permit or
- 17 Reclamation Plan that meets the additional requirements set forth in Section 18 of
- 18 this ordinance.
- 19 L. Substantial Deviation. A change or expansion to a surface mining operation as
- 20 defined in Public Resources Code section 2735 that substantially affects the
- 21 completion of the previously approved Reclamation Plan, or that changes the end use
- 22 of the approved Reclamation Plan to the extent that the scope of the reclamation
- 23 required for the surface mining operation is substantially changed.
- 24 M. Topsoil. The upper part of the soil profile that is relatively rich in humus, which is
- 25 technically known as the A-horizon of the soil profile.
- 26 N. TLMA. The County Transportation and Land Management Agency.
- 27 O. Vested Right. A right to conduct surface mining operations that existed lawfully
- 28

1 before an intervening change in the law that would otherwise preclude those  
2 operations, or require a permit to conduct those operations, and that meets the  
3 requirements for vested rights set forth in Section 2776 of the Public Resources  
4 Code.

5 Section 5. EXEMPTIONS AND EXCEPTIONS. The provisions of this ordinance do not  
6 apply to the exceptions and exemptions set forth in Public Resources Code section 2714.

7 Section 6. PERMIT REQUIRED. Unless exempted by the provisions of Section 5 or  
8 Section 17, no person, firm, corporation or private association shall conduct surface mining operations in  
9 the unincorporated area of the County of Riverside without an approved Permit.

10 Section 7. APPLICATION PROCESS.

- 11 A. Prior to submitting an application for a Permit, the person, firm, corporation or  
12 private association seeking to obtain such Permit may comply with the  
13 pre-application review procedure described in Ordinance No. 752 to the extent that  
14 such procedure is applicable.
- 15 B. All applications for a Permit, revised Permit, Substantial Conformance to a Permit,  
16 Interim Management Plan, Reclamation Plan, Revised Reclamation Plan, or  
17 Reclamation Plan Substantial Conformance shall be made in writing to the Assistant  
18 TLMA Director on the forms provided by the Planning Department with the  
19 appropriate filing fees and include a Project Description, a mining plan, and a  
20 Reclamation Plan. The application shall provide all information and data required by  
21 Section 2772 of the Public Resources Code, all information required by the SMARA  
22 Regulations, all information indicated in Sections 8 and 9 of this ordinance, all  
23 information indicated in the Planning Department's Application for Surface Mining  
24 Permit/Reclamation Plan, and such additional information as may be reasonably  
25 required by the Assistant TLMA Director. The time limitations for approving or  
26 denying a Permit, Interim Management Plan, Reclamation Plan, or Revised  
27 Reclamation Plan shall not begin to run until all procedures under CEQA have been  
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1 completed. All applications for a stand-alone Reclamation Plan, associated vested  
2 mining operation, mining operation on federal property, or County-operated mining  
3 facility shall include a financial assurance cost estimate, an estimate of reclamation  
4 costs, all information and data required by Section 2772 of the Public Resources  
5 Code, all information required by the SMARA Regulations, all information  
6 indicated in Sections 8 and 9 of this ordinance, and such additional information as  
7 may be reasonably required by the Assistant TLMA Director.

8 C. Before approving or holding a public hearing concerning the Reclamation Plan,  
9 amendment to a Reclamation Plan, or financial assurances for a new Reclamation  
10 Plan or amendment to a Reclamation Plan, the County shall submit the financial  
11 assurance cost estimate and the Reclamation Plan or amendment to the Director for  
12 review pursuant to Public Resources Code sections 2772.1 and 2773.4(a). All  
13 documentation for that submission shall be submitted to the Director at one time. In  
14 making this submittal, the Assistant TLMA Director shall certify to the Director that  
15 the Reclamation Plan or amendment to the Reclamation Plan is in compliance with  
16 the applicable requirements of SMARA, the SMARA Regulations, and this  
17 ordinance and that the financial assurance cost estimate is adequate, complete, and  
18 consistent with SMARA, the SMARA Regulations, and this ordinance.

19 D. Following receipt of the Director's comments concerning the Reclamation Plan, plan  
20 amendment, or financial assurance cost estimate in accordance with the applicable  
21 schedule set forth in Public Resources Code sections 2772.1(b) or 2773.4(c), the  
22 County shall, within a reasonable amount of time, prepare a written response  
23 describing the disposition of the major issues raised by the Director's comments, and  
24 shall submit the County's proposed response to the Director at least 30 days prior to  
25 the public hearing concerning the Reclamation Plan or plan amendment, or 30 days  
26 prior to the approval of financial assurance cost estimate. The County's response to  
27 the Director's comments shall describe how the County proposes to adopt the  
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1 Director's comments to the Reclamation Plan, plan amendment, or financial  
2 assurance cost estimate. If the County does not propose to adopt the Director's  
3 comments, the County shall specify, in detail, why it proposes not to adopt the  
4 comments.

5 1. If the Director submits a written request for consultation on the financial  
6 assurance cost estimate in accordance with Public Resources Code section  
7 2774.3(c), the County shall not approve the financial assurance cost estimate  
8 until after consulting with the Director. Such consultation shall occur no later  
9 than 30 days after the Director's request unless an alternate timeframe is  
10 mutually agreed upon by the Director, the County, and the Operator.

11 2. The County shall give the Director at least 30 days' notice of the time, place,  
12 and date of any hearing at which the financial assurance cost estimate is  
13 scheduled to be approved by the County. If no hearing is required, then the  
14 County shall provide 30 days' notice to the Director that it intends to approve  
15 the financial assurance cost estimate. Within 30 days of approving a  
16 financial assurance cost estimate, the County shall send to the Director its  
17 final response to the Director's comments.

18 3. The Assistant TLMA Director shall forward to the Operator copies of any  
19 written comments received and responses prepared by the County relating to  
20 the financial assurance cost estimate.

21 E. Upon completion of all procedures for review of an application, including but not  
22 limited to notification to the Director and response to the comments of the Director  
23 as provided in Sections 7.C. and 7.D., above, a public hearing will be held before the  
24 Planning Commission or Board of Supervisors, as hereinafter provided.

25 F. Notwithstanding the above, or any other provision herein to the contrary, the Board  
26 of Supervisors reserves exclusively to itself the duty to investigate, hear, approve,  
27 conditionally approve or disapprove all Permits and Reclamation Plans including  
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any  
modifications to said Permits and Reclamation Plans included as part of a fast track  
project as defined by Ordinance No. 348.

Section 8. MINING PLAN. In addition to the requirements set forth in the County's  
Application for Surface Mining Permit, the mining plan shall, at a minimum:

- A. Indicate the progression of all operations of the facility indicating anticipated time frames for each phase and the estimated life of the operation;
- B. Show the location of equipment, offices, stockpiles, settling ponds, interim drainage, machinery and wastedumps, parking, and areas to be mined;
- C. Indicate the progression of stripping and excavating through the use of cross sections, elevations and topographic maps and include a detailed description of how Topsoil will be recovered and protected for use in mine reclamation;
- D. Indicate the time lag between mining and reclamation and equipment siting and removal and/or relocation;
- E. Discuss the method of handling simultaneous excavation and reclamation if applicable;
- F. Show the location of all streams, roads, railroads, sewage disposal systems, water wells, and utility facilities within 500 feet of the site and the location of all proposed access roads to be constructed in conducting the surface mining operation;
- G. Indicate the type of and amount of mineral commodities to be removed, the amount of mining waste to be retained on the site and the amount of mining waste to be disposed offsite including the method and location of disposal of said mining waste;  
and
- H. Indicate the location and associated details of the required revegetation test plot or plots, specifying all revegetation success criteria, as appropriate.

Section 9. RECLAMATION PLAN. In addition to all other requirements, including those set forth in Public Resources Code section 2772 and California Code of Regulations, title 14, section

1 3502, the Reclamation Plan, at a minimum, shall:

- 2 A. Indicate the methods to be used to reclaim the land.
- 3 B. If phasing is proposed, include a detailed schedule of the sequence and timing of all  
4 stages of the reclamation.
- 5 C. Describe the physical condition of the mine site upon the completion of all  
6 reclamation including the proposed uses or potential uses of the reclaimed site.
- 7 D. Contain a map that delineates through the use of cross sections and elevations the  
8 physical characteristics of the land that will exist upon the conclusion of reclamation,  
9 as well as a topographic map showing the location of the reclaimed land.
- 10 E. Describe the manner in which derelict machinery, mining waste and scraps will be  
11 removed from the mine site and how contaminants will be controlled.
- 12 F. Describe the methods to be used to ensure that the mine site will contain stable waste  
13 piles and slopes.
- 14 G. Describe how reclamation of the mine site may affect the future use of the site and  
15 surrounding area for mining purposes.
- 16 H. Show that the proposed site in its final form will be, to the extent reasonable and  
17 practicable, revegetated for soil stabilization, free of drainage and erosion problems,  
18 coordinated with present and anticipated future land use, and compatible with the  
19 topography and general environment of surrounding property.
- 20 I. Include all of the following, to the extent the required information or document is not  
21 already included in the mining plan and incorporated by reference in the  
22 Reclamation Plan:
  - 23 1. The name and address of the Operator and the names and addresses of any  
24 persons designated by the Operator as an agent for the service of process;
  - 25 2. The anticipated quantity and type of materials for which the surface mining  
26 operation is to be conducted;
  - 27 3. The proposed dates for the initiation and termination of the surface mining  
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operation;

4. The maximum anticipated depth of the surface mining operation;
5. The size and legal description of the lands that will be affected by the surface mining operation, a map that includes the boundaries and topographic details of the lands, a description of the general geology of the area, a detailed description of the geology of the area in which surface mining is to be conducted, the location of all streams, roads, railroads, and utility facilities within, or adjacent to, the lands, the location of all proposed access roads to be constructed in conducting the surface mining operation, and the names and addresses of the owners of all surface interests and mineral interests in the lands;
6. A description of, and a plan for, the type of surface mining to be employed, and a time schedule that will provide for the completion of surface mining on each segment of the mined lands so that reclamation can 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;
7. A description of the proposed use or potential uses of the mined lands after reclamation and evidence that all owners of a possessory interest in the land have been notified of the proposed use or potential uses;
8. A description of the manner in which reclamation, adequate for the proposed use or potential uses, will be accomplished, including both of the following:
  - a. A description of the manner in which contaminants will be controlled, and mining waste will be disposed; and
  - b. A description of the manner in which affected streambed channels and streambanks will be rehabilitated to a condition minimizing erosion and sedimentation will occur;
9. An assessment of the effect of implementation of the Reclamation Plan on

1 future mining in the area;

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3 10. A statement that the person submitting the Reclamation Plan accepts  
4 responsibility for reclaiming the mined lands in accordance with the  
5 Reclamation Plan; and

6 11. Any other information required in the County's Application for Surface  
7 Mining Permit or by SMARA or the SMARA Regulations.

8 J. Indicate, pursuant to California Code of Regulations, Title 14, section 3705(b), the  
9 location and associated details of the required revegetation test plot or plots,  
10 specifying revegetation success criteria, as appropriate.

11 K. For gold, silver, copper or other metallic mineral operations that are located on or  
12 within one mile of any Native American sacred site and that are located in an area of  
13 special concern, as those terms are defined in Public Resources Code section 2773.3,  
14 the Reclamation Plan must contain commitments to backfill and grade all  
15 excavations to achieve the approximate original contours of the mined lands prior to  
16 mining and to grade all mined materials that are in excess of the materials that can be  
17 placed back into the excavated area, including, but not limited to, all overburden,  
18 spoil piles, and heap leach piles, over the project site to achieve the approximate  
19 original contours of the mined lands prior to mining.

20 Section 10. PUBLIC HEARINGS, NON-FAST TRACK PROJECTS. For projects other  
21 than fast track projects, a public hearing before the Planning Commission shall be held in accordance with  
22 the provisions set forth below to consider: the granting, suspension, or revocation of a Permit or Revised  
23 Permit; the approval of a Reclamation Plan or Reclamation Plan amendment; an Operator's financial  
24 capability of a performing reclamation; or abandonment of a surface mining operation without completing  
25 reclamation:

26 A. Notice of the time, date and place of the public hearing, including a general  
27 description of the area and mining operation being considered, shall be given at least  
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1 10 days prior to the hearing by all of the following procedures:

- 2
- 3 1. Mailing to all owners of real property which is located within 600 feet of the
- 4 exterior boundaries of the proposed project, as such owners are shown on the
- 5 last equalized assessment roll.
- 6 2. Mailing or delivering to the Operator and the owner of the subject real
- 7 property or the owner's duly authorized agent.
- 8 3. Publication once in a newspaper of general circulation in the County.
- 9 4. The Assistant TLMA Director may require additional notice be given by
- 10 posting in conspicuous places close to the property affected and may require
- 11 notification to property owners along proposed local transportation routes.

12 B. In addition to the notice required by the preceding paragraph, when the hearing

13 concerns the approval of a Reclamation Plan or Reclamation Plan amendment, an

14 Operator's financial capability of performing reclamation, or the abandonment of a

15 surface mining operation without completing reclamation, the County shall give the

16 Director at least 30 days' written notice of the time, place, and date of the public

17 hearing. When the hearing concerns an Operator's financial capability of

18 performing reclamation or the abandonment of a surface mining operation without

19 completing reclamation, the County shall also give the Operator at least 30 days'

20 written notice of the time, place, and date of the hearing.

21 C. At the public hearing, the Planning Commission shall hear relevant testimony from

22 interested persons and, within a reasonable time after the close of the hearing, make

23 its decision, provided, however, that an application for a Permit shall not be granted

24 unless that it complies with Section 12 herein and it is expressly subject to such

25 conditions as are necessary to protect the health, safety or general welfare of the

26 community.

27 D. The decision of the Planning Commission and the reasons for the decision shall be

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1 reduced to writing and shall be filed by the Assistant TLMA Director with the Clerk  
2 of the Board of Supervisors, together with a report of the proceedings, not more than  
3 30 days after the decision. A copy of the notice of the decision shall be mailed to the  
4 applicant and to any person who has made a written request for a copy of the  
5 decision. If the Planning Commission is unable to make a decision, that fact shall be  
6 filed with the Clerk of the Board in the same manner for reporting decisions and shall  
7 be considered as notice of denial of the application. The Clerk of the Board shall  
8 place the notice of the decision on the next agenda of the Board of Supervisors held 5  
9 or more days after the Clerk receives the notice of the decision from the Assistant  
10 TLMA Director.

11 E. The decision of the Planning Commission is considered final and no action by the  
12 Board of Supervisors is required unless: (1) the decision is regarding a Permit that  
13 requires approval of a general plan amendment, a specific plan amendment, or a  
14 change of zone, in which case it shall be heard in accordance with the provisions of  
15 Ordinance No. 348 related to those legislative actions, and all of those procedural  
16 requirements and rights of appeal as set forth therein shall govern; (2) within 10 days  
17 after the notice of decision appears on the Board's agenda, the applicant or an  
18 interested person files an appeal, accompanied by the appropriate appeal filing fee in  
19 the amount set pursuant to Section 21 of this ordinance; or (3) unless the Board  
20 assumes jurisdiction by ordering the matter set for public hearing.

21 F. If a timely appeal is filed or the Board assumes jurisdiction, the Clerk of the Board  
22 shall set the matter for public hearing before the Board not less than 13 nor more than  
23 60 days thereafter, and shall give notice of the time and place of the hearing in the  
24 same manner as notice was given of the hearing before the Planning Commission.

25 G. At the appeal hearing before the Board of Supervisors, the Board shall hear the  
26 matter de novo; however, the documents and the minutes of the hearing before the  
27 Planning Commission shall be a part of the Board's record at its hearing on the  
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1 matter. The Board shall hear relevant testimony from interested persons and, within  
2 a reasonable

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4 time after the close of the hearing, make its decision sustaining, reversing or  
5 modifying the decision of the Planning Commission.

6 Section 11. PUBLIC HEARINGS, FAST TRACK PROJECTS. For Permits and  
7 Reclamation Plans that qualify as a fast track project as defined by Ordinance No. 348, a public hearing  
8 shall be held in accordance with the provisions of Ordinance No. 348 related to fast track projects. At the  
9 public hearing, the Board of Supervisors shall hear relevant testimony from interested persons and, within a  
10 reasonable time after the close of the hearing, make its decision, provided, however, that an application for  
11 a Permit shall not be granted unless that Permit is expressly subject to such conditions as are necessary to  
12 protect the health, safety or general welfare of the community. The decision of the Board of Supervisors  
13 and the reasons for the decision shall be reduced to writing and a copy of the notice of the decision shall be  
14 mailed to the applicant and to any person who has made a written request for a copy of the decision. The  
15 decision of the Board of Supervisors shall be final.

16 Section 12. APPROVAL REQUIREMENTS. All decisions on Permits and Reclamation  
17 Plans shall be supported by findings. No Reclamation Plan shall be approved unless the finding is made  
18 that it substantially meets the applicable requirements of SMARA and this ordinance.

19 A. No Permit shall be approved unless the following findings are made:

- 20 1. The Permit substantially meets the applicable requirements of SMARA and  
21 this ordinance.
- 22 2. The Permit is consistent with the General Plan and any applicable specific  
23 plan.
- 24 3. The Permit will not be detrimental to the public health, safety or general  
25 welfare.
- 26 4. The Permit complies with all requirements of law including all applicable  
27 County ordinances, policies and standards.

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B. In addition to the conditions set forth in Sections 13 and 14 of this ordinance, a Permit shall be subject to all conditions necessary or convenient to assure that the use will

satisfy the foregoing findings. As a condition of each Permit, an expiration date of the Permit may also be specified.

C. Following the approval of a Reclamation Plan or an amendment to a Reclamation Plan, the County shall cause a "Notice of Reclamation Plan Approval" to be recorded with the County Recorder in accordance with Public Resources Code section 2772.7. The notice shall include the language set forth in Public Resources Code section 2772.7 and state the name of the owner of record of the mining operation, identify the County as lead agency under SMARA for the operation, contain the acknowledged signature of the Assistant TLMA Director, and include any other information required under Public Resources Code section 2772.7.

D. Within 30 days following the approval of a Reclamation Plan or amendment to a Reclamation Plan, the Assistant TLMA Director shall provide the Director notice of the approval.

E. No later than 60 days after the approval of a Reclamation Plan or amendment to a Reclamation Plan, the Assistant TLMA Director shall provide to the Director certified copies of all maps, diagrams, or calculations, signed and sealed, and provide an official copy of the approved Reclamation Plan or amendment to a Reclamation Plan. The official copy shall incorporate all approved modifications to the Reclamation Plan or amendment to a Reclamation Plan and shall include an index showing any Permit conditions of approval or binding mitigation measures adopted pursuant to CEQA as required under Public Resources Code section 2772.1. Those conditions of approval and mitigation measures shall be included in an appendix to the Reclamation Plan or amendment to a Reclamation Plan and shall be considered

1 part of the reclamation compliance requirements and subject to the annual inspection  
2 requirements.

3 Section 13. INSPECTIONS. As a condition of each Permit, annual inspections and  
4 reports of mining and reclamation activities shall be required of the Operator. Such inspections and reports  
5 shall comply with the following provisions:

6 A. The Assistant TLMA Director shall cause an inspection to be conducted in intervals  
7 of no more than 12 months to determine whether the surface mining operation is in  
8 compliance with SMARA and the surface mining operation's approved Permit; its  
9 approved Reclamation Plan; or, in the case of an idle mine, with its approved interim  
10 management plan; and to determine whether the approved financial assurances are  
11 adequate to achieve reclamation in accordance with the approved Reclamation Plan.  
12 Said inspection shall be conducted under the supervision of a qualified individual  
13 with experience in land reclamation who meets the qualifications of Section 2774 of  
14 the Public Resources Code and California Code of Regulations, title 14, section  
15 3504.5. The Operator shall be solely responsible for the reasonable cost of the  
16 inspection. All inspections shall be conducted using a form approved by the State  
17 Mining and Geology Board. The Assistant TLMA Director shall provide a notice of  
18 completion of inspection to the Director within 90 days of conducting the inspection.  
19 The notice shall contain a statement regarding the surface mining operation's  
20 compliance with SMARA and a copy of the completed inspection form, and shall  
21 specify, as applicable, all of the following:

- 22 1. Aspects of the surface mining operation, if any, that were found to be  
23 inconsistent with SMARA but were corrected before the submission of the  
24 inspection form to the Director;
- 25 2. Aspects of the surface mining operation, if any, that were found to be  
26 inconsistent with SMARA but were not corrected before the submission of  
27 the inspection form to the Director;

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- 3. A statement describing the County's intended response to any aspects of the surface mining operation found to be inconsistent with SMARA but that were not corrected before the submission of the inspection form to the Director; and
  - 4. If the surface mining operation has a review of its Reclamation Plan, financial assurances, or interim management plan pending or an appeal pending before the State Mining and Geology Board or the County.
- B. Annually by July 1<sup>st</sup>, Operators shall submit to the Planning Department the documentation requested by the Planning Department to support its conducting the required annual mine inspection pursuant to Public Resources Code section 2774(b).
  - C. Annually by July 1<sup>st</sup>, Operators shall submit an Operator's report pursuant to Public Resources Code section 2207(b). The Operator may request an inspection date on its annual Operator's report. If the Operator does not, or if the County is unable to cause the inspection of the surface mining operation on the date requested by the Operator, the County shall provide the Operator with a minimum of five days' written notice of a pending inspection, or within any lesser period agreed to by the Operator. New surface mining operations shall submit an initial report prior to commencement of operations.
  - D. Annually by July 1<sup>st</sup>, Operators shall pay to the Planning Department a mine inspection fee in the amount set pursuant to Section 21 of this ordinance. In the case of late payment of the mine inspection fee, a penalty of not less than one hundred dollars (\$100) or 10 percent of the amount due, whichever is greater, plus interest at a rate of 1½ percent per month, computed from the delinquent date of the assessment until and including the date of payment, shall be assessed. Annual inspections shall occur regardless of the receipt of a mine inspection fee or late payment penalty.
  - E. In addition to the Mine Inspection Fee, annually by July 1<sup>st</sup>, Operators shall also pay to the Planning Department a mine administrative fee in the amount set pursuant to



1 Section 21 of this ordinance.

2 F. Annually by July 1<sup>st</sup>, the County shall submit to the Director for each active or idle  
3 surface mining operation within the County's jurisdiction the following information:

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- 5 1. A copy of any Permit or Reclamation Plan amendment, as applicable;
  - 6 2. A statement that there have been no changes made during the previous year,  
7 as applicable;
  - 8 3. The date of each surface mining operation's last inspection; and
  - 9 4. The date of each surface mining operation's last financial assurance review.

10 Section 14. FINANCIAL ASSURANCES. As a condition of each Permit, financial  
11 assurances to ensure reclamation is performed in accordance with the approved Reclamation Plan shall be  
12 required of the Operator as follows:

13 A. Prior to the commencement of the surface mining operation, the Operator shall post  
14 with the Assistant TLMA Director a financial assurance. The financial assurance  
15 shall be one of the following:

- 16 1. A bond or bonds executed by an admitted surety insurer as defined in Code of  
17 Civil Procedure section 995.120(a);
- 18 2. An irrevocable letter of credit from one or more financial institutions subject  
19 to regulation by the state or federal government and pledging that the funds  
20 necessary to carry out the approved Reclamation Plan are on deposit and  
21 guaranteed for payment;
- 22 3. A cash deposit to be deposited into a trust fund; or
- 23 4. Any other financial assurance specified by the State Mining and Geology  
24 Board pursuant to Section 2773.1(e) or Section 2773.1.5 of the Public  
25 Resources Code.

26 B. The amount of the financial assurances shall be adequate to perform reclamation in  
27 accordance with the surface mining operation's approved Reclamation Plan. The  
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1 amount of financial assurances required for any one year shall be reviewed and, if  
2 necessary, adjusted once each calendar year to account for new lands disturbed by  
3 surface mining operations, inflation, and reclamation of lands accomplished in  
4 accordance with the approved Reclamation Plan. Said adjustment shall be based  
5 upon an independent estimate prepared by a person experienced in estimating  
6 financial assurances or other qualified professional and shall be paid for by the  
7 Operator. An Operator shall be required to replace an approved financial assurance  
8 mechanism to bond for the reclamation of the surface mining operation only if the  
9 financial assurance cost estimate identifies a need to increase the amount of the  
10 financial assurance mechanism.

11 C. Each financial assurance mechanism shall be made payable to the County and the  
12 Department of Conservation and shall remain in effect for the duration of the surface  
13 mining operation and any additional period until reclamation is completed.

14 D. Within 30 days of completion of an annual inspection under Section 13 herein, the  
15 Operator shall provide an annual financial assurance cost estimate to the Assistant  
16 TLMA Director. If the annual inspection does not take place on the date requested  
17 by the Operator or on the date set by the County, the Operator shall provide the  
18 annual financial assurance cost estimate to the Assistant TLMA Director for review  
19 within 30 days of the applicable inspection date, unless the inspection occurs within  
20 that 30-day period, in which case the Operator shall provide the annual financial  
21 assurance cost estimate to the Assistant TLMA Director within 30 days of the date of  
22 the actual inspection.

23 E. Within 60 days of receiving an annual financial assurance cost estimate, the  
24 Assistant TLMA Director shall deny the financial assurance cost estimate or shall  
25 submit the financial assurance cost estimate to the Director for review.

26 1. The Assistant TLMA Director may deny the financial assurance cost  
27 estimate on the basis that the financial assurance cost estimate is inadequate.  
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The Assistant TLMA Director must specify the reasons for that determination.

2. An Operator whose financial assurance cost estimate is denied shall have 30 days to appeal that denial to the State Mining and Geology Board pursuant to Public Resources Code section 2770(e) or to provide the Assistant TLMA Director with a revised financial assurance cost estimate incorporating the suggested changes for approval by the Assistant TLMA Director.

3. When the financial assurance cost estimate is submitted to the Director for review, the Assistant TLMA Director shall also provide the Director with a determination that the annual financial assurance cost estimate submitted is adequate, complete, and consistent with SMARA and the SMARA Regulations. The Assistant TLMA Director shall submit all required documentation to the Director at one time. Within 30 days of receiving any written comments on the annual financial assurance cost estimate from the Director, the Assistant TLMA Director shall evaluate those comments and provide the Director and the Operator with a proposed response. This proposed response must be submitted to the Director at least 30 days prior to the County's approval of the annual financial cost estimate and shall include either of the following:

- a. A description of how the County proposes to adopt the Director's comments on the annual financial assurance cost estimate, or
- b. A detailed description of the reasons why the County proposes not to adopt the Director's comments.

4. If the County proposes not to adopt the Director's comments concerning the financial assurance cost estimate, within 15 days of receipt of the County's written response, the Director may request in writing consultation with the County. If the Director timely requests such consultation, the County shall

1 not approve the annual financial assurance cost estimate until after consulting  
2 with the Director. Such consultation shall occur not later than 30 days after  
3 the Director's request, unless an alternative timeframe is mutually agreed  
4 upon by the Director, Assistant TLMA Director, and Operator.

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6 5. Within 60 days of receiving the Director's written comments, or of  
7 consultation pursuant to the preceding subsection, whichever is later, or the  
8 due date of the Director's written comments if none are received, the County  
9 shall approve or deny the Operator's financial assurance cost estimate.

10 6. The County shall give the Director at least 30 days' notice of the time, place,  
11 and date of the hearing at which the annual financial assurance cost estimate  
12 is scheduled to be approved by the County. If no hearing is required, the  
13 County shall provide 30 days' notice to the Director that it intends to approve  
14 the annual financial assurance cost estimate.

15 7. Within 30 days of the County's approval of the annual financial assurance  
16 cost estimate, the County shall send to the Director the County's final  
17 response to the Director's comments.

18 8. The Assistant TLMA Director shall send to the Operator copies of any  
19 written comments received and all responses prepared by the County relating  
20 to the annual financial assurance cost estimate.

21 F. Within 30 days of the County's approval of the financial assurance cost estimate, the  
22 Operator shall provide the Planning Department and the Director an appropriate  
23 financial assurance mechanism.

24 1. Within 15 days of receiving a financial assurance mechanism, the Assistant  
25 TLMA Director and the Director shall review the financial assurance  
26 mechanism to determine if the type of mechanism, including the release  
27 instructions, meets the requirements of SMARA and this ordinance.  
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2. The Assistant TLMA Director shall return to the Operator any financial assurance mechanism determined to be noncompliant with SMARA or this ordinance, with instructions on how to correct the type of financial assurance mechanism or the financial assurance mechanism's release instructions.

G. If the Planning Commission, following a public hearing in accordance with the procedures set forth in Section 10 of this ordinance, determines that the Operator is financially incapable of completing reclamation in accordance with its approved Reclamation Plan or has abandoned its surface mining operation without completing reclamation, the Assistant TLMA Director shall:

1. Notify the Operator by personal service or certified mail that the County intends to take appropriate action to forfeit the financial assurance and specify the reasons for so doing.
2. Proceed to take appropriate action to require forfeiture of the financial assurance.
3. Use the proceeds from the forfeited financial assurance to conduct and complete reclamation in accordance with the approved Reclamation Plan. If the surface mining operation cannot be reclaimed in accordance with its approved Reclamation Plan, or the financial assurances are inadequate to reclaim it in accordance with its approved Reclamation Plan, the County may use forfeited financial assurances to reclaim or remediate mining disturbances as appropriate for the site conditions as determined by the County and the Director. The Operator shall be responsible for the costs of conducting and completing reclamation in accordance with the approved Reclamation Plan, or an approved remediation plan developed pursuant to this subsection, that are in excess of the proceeds from the forfeited financial assurance.

1 H. Upon completion of reclamation in accordance with the approved Reclamation Plan,  
2 and with written concurrence of the County and the Director, the financial assurance  
3 shall be released. Such written concurrence shall be forwarded to the Operator and  
4 the institutions providing or holding the financial assurance mechanism and shall  
5  
6 state that reclamation has been completed in accordance with the approved  
7 Reclamation Plan.

8 I. If a surface mining operation is sold or ownership is transferred to another person,  
9 the Operator shall comply with the requirements of Section 20 of this ordinance.

10 Section 15. VIOLATIONS AND PENALTIES.

11 A. If, after conducting the annual inspection required by Section 13 or otherwise  
12 confirmed by an inspection of the mining operation, the Assistant TLMA Director  
13 finds that the surface mining operation is not in compliance with the approved  
14 mining plan, the approved Reclamation Plan, any Permit conditions imposed by the  
15 County, the provisions of this ordinance, or SMARA, the Assistant TLMA Director  
16 may issue to the Operator a notice of violation, for a SMARA violation; a notice of  
17 permit violation, for a violation of permit conditions; or both. Any such notice shall  
18 be sent to the Operator by personal service or certified mail. A copy of such notice  
19 shall also be sent to the Director.

20 1. A notice of violation or a notice of permit violation shall include both of the  
21 following:

22 a. A description of the violation; and

23 b. Actions the Operator must take to correct the violation.

24 2. If the Assistant TLMA Director or the Director determines that the time to  
25 correct the noticed violation will exceed 30 days, the County and the  
26 Operator may enter into a stipulated order to comply, which the Assistant  
27 TLMA Director is authorized to sign on behalf of the County, with a notice  
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1 sent to the Director. Such stipulated order shall include a schedule and time  
2 for compliance that the Assistant TLMA Director has determined is  
3 reasonable after taking into account the actions and legal processes required  
4 to correct the violation.

5  
6 B. If, within 30 days of being served with a notice of violation or notice of permit  
7 violation, the Operator does not comply with it or commit to enter into a stipulated  
8 order, the Assistant TLMA Director may issue an order to comply. Any such order  
9 shall be sent by personal service or certified mail.

10 1. The order to comply shall specify all of the following:

11 a. Which aspects of the surface mine's activities or operations are  
12 inconsistent with the Permit, approved Reclamation Plan, Permit  
13 conditions, the provisions of this ordinance, or SMARA;

14 b. The actions and legal processes required to correct the alleged  
15 violation; and

16 c. A time for compliance that the Assistant TLMA Director determines  
17 is reasonable, given the seriousness of the alleged violation and any  
18 good faith efforts to comply with applicable requirements. If the  
19 Operator does not have an approved Reclamation Plan, the order to  
20 comply may order the Operator to immediately cease all further  
21 mining activities.

22 2. An order to comply shall take effect 30 days following the service of the  
23 order to comply unless within those 30 days the Operator appeals the order to  
24 comply and requests a hearing before the Planning Commission.

25 a. Such appeal shall be noticed and heard at a public hearing within 45  
26 days of the filing of the appeal or a longer period as may be mutually  
27 agreed upon by the Operator and the Assistant TLMA Director. At  
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1 such hearing, the Planning Commission shall hear all relevant  
2 testimony from interested persons and, after closing the public  
3 hearing, shall affirm, modify or set aside the order to comply issued  
4 by the Assistant TLMA Director.

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6 b. If the surface mining operation fails to comply with the order  
7 affirmed or modified by the Planning Commission, the Planning  
8 Commission may revoke or suspend the Operator's Permit in  
9 accordance with the procedures set forth in Section 10 of this  
10 ordinance, and all of the procedural requirements and rights of appeal  
11 as set forth therein shall govern the hearing.

12 C. For an Operator who violates or fails to comply with the order to comply, who fails  
13 to submit an annual report, or who fails to pay annual fees, the Assistant TLMA  
14 Director shall impose an administrative penalty of not more than five thousand  
15 dollars (\$5,000) per day, assessed from the original date of noncompliance or from  
16 the date of the inspection when the violation was identified, at the discretion of the  
17 Assistant TLMA Director.

18 1. In determining the amount of the administrative penalty, the Assistant TLMA  
19 Director shall take into consideration the nature, circumstances, extent, and  
20 gravity of the violation or violations, any prior history of violations, the  
21 degree of culpability, economic savings, if any, resulting from the violation,  
22 and any other matters justice may require.

23 2. The Assistant TLMA Director's order setting administrative penalties shall  
24 become effective upon issuance of the order, and payment shall be made to  
25 the County within 30 days, unless the Operator petitions the Board of  
26 Supervisors as provided in paragraph 15.D. below. An order shall be served  
27 by personal service or by certified mail upon the Operator.  
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D. An Operator may file a petition with the Board of Supervisors for review of the Assistant TLMA Director's order imposing an administrative penalty. If no such petition is filed within 30 days of the order, the order is final and is not subject to review by any court or agency.

1. A petition for review can only be accepted for filing if it is timely, utilizes a County-approved form, and is accompanied by the required petition fee in the amount set pursuant to Section 21 of this ordinance.
2. If the petition for review meets the standards set forth in this subsection, the Clerk of the Board shall set the matter for a public hearing before the Board of Supervisors to review the Assistant TLMA Director's order imposing an administrative penalty. The Operator shall be notified by either personal service or certified mail of the time, date, and place for the public hearing at which the Board of Supervisors shall review the Assistant TLMA Director's order imposing an administrative penalty. In reviewing said order, the record shall consist of the record before the Assistant TLMA Director and any other relevant evidence which, in the judgment of the Board of Supervisors, should be considered to effectuate and implement the policies of SMARA and this ordinance.
3. The Board of Supervisors may affirm, modify, or set aside, in whole or in part, by its own order, any order of the Assistant TLMA Director imposing an administrative penalty. Any order of the Board of Supervisors shall be served by personal service or certified mail upon the Operator.
4. The Board of Supervisor's order shall become effective upon its issuance unless the Operator files a timely petition for writ of mandate in the superior court. Such petition shall be timely only if filed within 30 days of the Board's issuance of the order. Payment of any administrative penalty that is specified

1 in the Board of Supervisor's order shall be made to the County within 30 days  
2 of service of the order whether or not a petition has been filed; however, the  
3 payment shall be held in an interest-bearing impound account pending  
4 resolution of a petition for writ of mandate if one has been filed. If no timely

5  
6 petition is filed, the Board of Supervisor's order shall not be subject to review  
7 by any court or agency.

8 E. The procedures, remedies and additional penalties for violation of this ordinance and  
9 for recovery of costs related to enforcement are also provided for in Ordinance No.  
10 725, which is incorporated herein by this reference. Penalties collected pursuant to  
11 this section shall not be used for purposes other than to cover the reasonable costs  
12 incurred by the County in implementing this ordinance, SMARA, or the SMARA  
13 Regulations.

14 F. Whether or not administrative penalties have been imposed, the Planning  
15 Commission may revoke or suspend the Operator's Permit in accordance with the  
16 procedures set forth in Section 10 of this ordinance, and all of the procedural  
17 requirements and rights of appeal as set forth therein shall govern the hearing.

18 G. If the Assistant TLMA Director determines that a surface mining operation is not in  
19 compliance with SMARA such that the surface mining operation presents an  
20 imminent and substantial endangerment to the public health or the environment, the  
21 Assistant TLMA Director may seek an order from the Superior Court of the County  
22 of Riverside or other court of competent jurisdiction enjoining that operation.

23 Section 16. USE. Any Permit that is granted shall be used within eight (8) years from the  
24 effective date thereof, or within the time limit set forth in the conditions of approval, and pursued diligently  
25 to completion; otherwise, such Permit shall be null and void. The term "used" shall mean the beginning of  
26 site disturbance and development as part of a surface mining operation that is authorized under this  
27 ordinance and applicable provisions of SMARA.

1            Section 17.    VESTED RIGHTS.

2            A.    No person who has obtained a Vested Right to conduct surface mining operations  
3                    prior to January 1, 1976, shall be required to secure a Permit pursuant to the  
4                    provisions of this ordinance as long as such Vested Right continues and no  
5                    substantial change is made in that operation. A person shall be deemed to have such  
6                    Vested Rights if, prior to January 1, 1976, he has, in good faith and in reliance upon  
7                    a Permit or other authorization, if such Permit or other authorization was required,  
8                    diligently commenced surface mining operations and incurred substantial liabilities  
9                    for work and materials necessary therefor. Expenses incurred in obtaining the  
10                   enactment of an ordinance in relation to a particular operation or the issuance of a  
11                   Permit shall not be deemed liabilities for work or materials. Any substantial changes  
12                   made in a surface mining operation subsequent to January 1, 1976, except in  
13                   accordance with SMARA and California Code of Regulations, title 14, section 3951,  
14                   shall require an approved Permit pursuant to this ordinance.

15            B.    If requested, a Vested Rights determination shall be made in accordance with the  
16                   following:

17                    1.    The Operator shall submit a written request with the Assistant TLMA  
18                    Director for a Vested Rights determination. The request for determination  
19                    shall include information pertinent to establishing the existence and scope of  
20                    the Vested Right. Within 30 calendar days of deeming the request for  
21                    determination complete, the Assistant TLMA Director shall set a public  
22                    hearing and ~~provide notice~~ before the Board of Supervisors and provide  
23                    Notice of the time, date and place of the public hearing, including a general  
24                    description of the area and mining operation being considered, in accordance  
25                    with the ~~procedures set forth in provisions of Section 10 of this ordinance.~~  
26                    10.A.1-4, above.

27                    2.    ~~A~~ The public hearing shall be held by the Planning Commission ~~Board of~~  
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1 Supervisors to consider the request for determination of a Vested Right, and,  
2 utilizing a preponderance of the evidence standard, the ~~Planning~~  
3 ~~Commission~~Board of Supervisors shall determine whether the Operator has  
4 demonstrated its claim for a Vested Right. The record before the ~~Planning~~  
5 ~~Commission~~Board of Supervisors shall consist of the written materials  
6 received by the Assistant TLMA Director, as well as any relevant written  
7 comments on the request for determination and any relevant testimony  
8 received at the hearing. Written comments and oral testimony other than that  
9 related to demonstrating or delimiting the existence, nature, and scope of the  
10 claimed vested rights shall not be considered by the ~~Planning Commission~~  
11 Board of Supervisors in making the Vested Rights determination.

12 3. Within 60 calendar days following the public hearing, the ~~Planning~~  
13 ~~Commission~~Board of Supervisors shall issue a written vested rights  
14 determination. The determination shall identify upon which specific  
15 property the Vested Right is established and the scope and nature of surface  
16 mining operations included within the established Vested Right. The Vested  
17 Rights determination shall be filed by the Assistant TLMA Director with the  
18 Clerk of the Board of Supervisors, together with a report of the proceedings,  
19 not more than 30 days after the determination. A copy of a notice of the  
20 Vested Rights determination shall be mailed to the applicant and to any  
21 person who has made a written request for a copy of the decision. The Clerk  
22 of the Board shall place the notice of the Vested Rights determination on the  
23 next agenda of the Board of Supervisors held 5 or more days after the Clerk  
24 of the Board has received the notice of Vested Rights determination from the  
25 Assistant TLMA Director.

26 4. The determination of the ~~Planning Commission~~Board of Supervisors is  
27 considered final and no further action by either the Board of Supervisors, or  
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1 ~~the County, is required unless: (1) within 10 days after the notice of Vested~~  
2 ~~Rights determination appears on the Board's agenda, the applicant or an~~  
3 ~~interested person files a notice of appeal, accompanied by the appropriate~~  
4 ~~appeal filing fee in the amount set pursuant to Section 21 of this ordinance or~~  
5 ~~(2) unless the Board assumes jurisdiction by ordering the matter set for public~~  
6 ~~hearing.~~

7 5. ~~If a timely appeal is filed or the Board assumes jurisdiction, the Clerk of the~~  
8 ~~Board shall set the matter for public hearing, and the appeal shall be heard by~~  
9 ~~the Board, in accordance with the appeal provisions set forth in Section 10 of~~  
10 ~~this ordinance. The Board shall hear the matter de novo, applying a~~  
11 ~~preponderance of the evidence standard. However, the documents and the~~  
12 ~~minutes of the hearing before the Planning Commission shall be a part of the~~  
13 ~~Board's record at its hearing on the matter.~~

14 C. A person who has obtained a Vested Right to conduct surface mining operations  
15 prior to January 1, 1976, shall submit to the Planning Department for approval by the  
16 Planning Commission a Reclamation Plan. This Reclamation Plan may cover some  
17 or all areas to which that Vested Right applies, but, at a minimum, it must cover: all  
18 of the areas to which a Vested Right has been found to apply on which active mining  
19 operations have been conducted after January 1, 1976, as well as the entirety of any  
20 area to which a Vested Right has been found to apply that is planned or reasonably  
21 anticipated to contain surface mining operations in the near future. A person who  
22 has obtained a Vested Right shall also submit the required documentation for a mine  
23 inspection to the Planning Department in the same manner and with the same  
24 frequency as those Operators required to obtain a Permit pursuant to this ordinance  
25 before commencing or expanding their operation. Absent an approved Reclamation  
26 Plan for any area to which a Vested Right applies that has been mined since January  
27 1, 1976, including any area that is currently being mined, the continuation of the  
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1 surface mining operation shall be prohibited until a Reclamation Plan is submitted  
2 and approved. Nothing in this ordinance shall be construed as requiring the filing of  
3 a Reclamation Plan for, or the reclamation of, mined lands on which surface mining  
4 operations were conducted prior to, but not after, January 1, 1976. All Reclamation  
5 Plans submitted to the Planning Department for operations pursuant to a Vested  
6 Right that are conducted after January 1, 1976, shall be accompanied by the fee set  
7 pursuant to Section 21 of this ordinance for a Reclamation Plan for a vested surface  
8 mining operation conducted after January 1, 1976.

9 Section 18. APPLICATIONS FOR AMENDMENTS. A request for approval of an  
10 amendment to an approved Permit or Reclamation Plan shall be made in accordance with the provisions of  
11 this section. Under no circumstances shall any deviation from the approved Permit or Reclamation Plan be  
12 undertaken until the required amendment is approved by the County pursuant to all applicable sections of  
13 this ordinance. An amendment under this section means a request for a Revised Permit, Revised  
14 Reclamation Plan, or a determination of Substantial Conformance as further defined herein.

15 A. Applications for a determination of Substantial Conformance, Revised Permit, or  
16 Revised Reclamation Plan shall be made in writing to the Assistant TLMA Director  
17 on forms provided by the Planning Department.

18 B. Substantial Conformance means an amendment to an approved Permit or  
19 Reclamation Plan that:

- 20 1. Is not a Substantial Deviation from the original approval;
- 21 2. Does not change the effects on surrounding property; and
- 22 3. Does not substantially impact the ability to perform the reclamation activities  
23 contemplated in the approved Reclamation Plan.
- 24 4. A Substantial Conformance may include, but is not limited to, amendments  
25 related to upgrading existing facilities, amendments relating to compliance  
26 with the requirements of other public agencies, amendments necessary to  
27 comply with final conditions of approval, or amendments to lighting,  
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1 parking, fencing or landscaping requirements, provided said amendments as  
2 determined by the Assistant TLMA Director will have no adverse effect upon  
3 public health, safety or welfare and will not have a significant effect on the  
4 environment.

5 C. Revised Permit means a request for a Substantial Deviation from an approved Permit  
6 or Reclamation Plan which does not change the basic concept or use allowed by the  
7 original approval. A Substantial Deviation includes, but is not limited to: any  
8 expansion in the permitted mining area, in an area of an approved Reclamation Plan,  
9 or in the maximum depth of mining or slope angle; changes to the original conditions  
10 of approval, including extensions to the overall life of the permitted use as set out in  
11 the approved Reclamation Plan; changes that would substantially affect the approved  
12 end use of the site as established in the Reclamation Plan; changes to the operation  
13 inconsistent with previously adopted environmental determinations; a significant  
14 increase in plant capacity; changes to or expansion of a surface mining operation that  
15 would result in significant adverse effects; and changes in the intensity of use as  
16 determined by the Assistant TLMA Director.

17 D. Actions on applications for Substantial Conformance or Revised Permits shall be in  
18 accordance with the following procedures:

19 1. Substantial Conformance. The Assistant TLMA Director shall approve,  
20 conditionally approve or disapprove an application for Substantial  
21 Conformance within 30 days after accepting a completed application and  
22 give notice by mail of the decision, including any additional conditions of  
23 approval, to the applicant and any other person who has filed a written  
24 request for notice. The Assistant TLMA Director's determination shall be  
25 based upon the standards of this section, the standards set forth in this  
26 ordinance governing approval of the original Permit, and the conditions of  
27 approval applicable to the approved Permit. An application for Substantial  
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Conformance shall not require a public hearing.

2. Revised Permit. An application for a Revised Permit shall be approved, conditionally approved or disapproved in accordance with all the procedures, requirements, and development standards applicable to an original Permit, including any requirements for public hearing, notice of hearing, and all rights of appeal.

E. The approval of an application for Substantial Conformance or Revised Permit shall be valid until the expiration of the original Permit, unless an extension of time has been granted by an approved Revised Permit.

F. Notwithstanding any provision herein to the contrary, an application for Substantial Conformance may be approved only if the proposed modification is exempt from the provisions of CEQA.

Section 19. IDLE MINES.

A. Within 90 days of a surface mining operation becoming idle, as defined in Section 2727.1 of the Public Resources Code, the Operator shall file with the Assistant TLMA Director the following:

1. All information required under this ordinance for the filing of a new application for a Permit, unless this requirement is waived by the Assistant TLMA Director.
2. A statement explaining that the surface mining operation is idle as defined in Section 2727.1 of the Public Resources Code.
3. An interim management plan that includes the measures the Operator will implement to maintain the site in accordance with the approved Permit and the approved Reclamation Plan.
4. A filing fee for review of the interim management plan as set pursuant to Section 21 of this ordinance.



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5. Such additional information as shall be required by the Assistant TLMA Director.

- B. Within 60 days of the receipt of the information required in Subsection A., above, the Assistant TLMA Director shall review and approve the interim management plan, provided the interim management plan complies with the requirements specified in Subsection A, above, and SMARA, and shall give notice by mail of the approval to the Operator and any other person who has filed a written request for notice. Otherwise, the Assistant TLMA Director shall notify the Operator in writing of any deficiencies in the plan. The Operator shall have 30 days, or a longer period mutually agreed upon by the Operator and the Assistant TLMA Director, to submit a revised plan. The Assistant TLMA Director shall approve or deny the revised interim management plan within 60 days of receipt. If the Assistant TLMA Director denies the revised interim management plan, the Operator may appeal that action to the Board of Supervisors, which shall schedule a public hearing within 45 days of the filing of the appeal, or any longer period mutually agreed upon by the Operator and the Board of Supervisors. Review and approval of an interim management plan shall not be considered a "project" pursuant to CEQA, nor shall it require a public hearing.
- C. The interim management plan may remain in effect for a period not to exceed 5 years, at which time the Assistant TLMA Director shall do one of the following:

1. Renew approval of the interim management plan for another period not to exceed 5 years, which may be renewed for one additional five-year renewal period at the expiration of the first five-year renewal period, if the Assistant TLMA Director finds that the Operator has fully complied with the provisions of the interim management plan.
2. Require the Operator to commence reclamation in accordance with its approved Reclamation Plan.

1                   The determination by the Assistant TLMA Director to extend the term of the interim  
2                   management plan or to require reclamation shall not require a public hearing. If the  
3                   surface mining operation is still idle after expiration of its interim management plan  
4                   and the interim management plan has not been renewed, the surface mining  
5                   operation shall immediately commence reclamation in accordance with its approved  
6                   Reclamation Plan.

7                   D.    Any financial assurances required in conjunction with approval of the Permit shall  
8                   remain in effect during the period the surface mining operation is idle and until such  
9                   time as reclamation is completed.

10                  E.    Unless review of an interim management plan is pending before the Assistant TLMA  
11                  Director or the Board of Supervisors, or an appeal is pending before the Board of  
12                  Supervisors, a surface mining operation which remains idle for over 1 year after  
13                  becoming idle as defined in Section 2727.1 of the Public Resources Code, without  
14                  obtaining approval of an interim management plan, shall be considered abandoned  
15                  and the Operator shall commence and complete reclamation in accordance with the  
16                  approved Reclamation Plan.

17                  Section 20.    TRANSFERS OF OWNERSHIP. Whenever any surface mining operation  
18                  or portion of a surface mining operation subject to this ordinance is sold, assigned, conveyed, exchanged, or  
19                  otherwise transferred, the successor in interest shall be bound by the provisions of this ordinance and shall  
20                  notify the Assistant TLMA Director in writing of such transfer of ownership within 30 days of the transfer.  
21                  Within 90 days of the sale or transfer of a surface mining operation, the new Operator shall submit, in  
22                  accordance with Section 14 of this ordinance and SMARA, an appropriate financial assurance mechanism,  
23                  which may be the existing mechanism if the existing mechanism is payable in the event of the new  
24                  Operator's financial incapability or abandonment of the surface mining operation. Within 15 days of the  
25                  sale or transfer of a surface mining operation, the new Operator shall sign a new statement of reclamation  
26                  responsibility in accordance with Section 9 of this ordinance.

27                  Section 21.    FEES.  
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- 1           A.    The application fee for a Permit, revised Permit, revised Reclamation Plan, or  
2                   stand-alone Reclamation Plan (including a Reclamation Plan for mining operations  
3                   on BLM land, for mining operations owned or operated by the County  
4                   Transportation Department, or for vested surface mining operations conducted after  
5                   January 1, 1976) shall initially be in the amount of twenty-one thousand dollars  
6                   (\$21,000). This application fee is a deposit-based fee to be used to cover the actual  
7                   costs for the County to undertake the review of a proposed Permit, revised Permit,  
8                   proposed Reclamation Plan, or Revised Reclamation Plan. This application fee  
9                   supersedes the fees set forth in Ordinance No. 671 for a Surface Mining Permit fee,  
10                  for a Revised Permit fee, and for Reclamation Plans Submitted for Vested  
11                  Operations Conducted After January 1, 1976.
- 12           B.    The application fee for a Substantial Conformance to a Permit or Reclamation Plan  
13                   shall initially be in the amount of five thousand dollars (\$5,000). This application fee  
14                   is a deposit-based fee to be used to cover the actual costs for the County to undertake  
15                   the review of the proposed Substantial Conformance. This application fee hereby  
16                   supersedes any fee for a Substantial Conformance set forth in Ordinance No. 671.
- 17           C.    The application fee for review of an interim management plan shall be the same  
18                   amount as the application fee for a Substantial Conformance to a Permit or  
19                   Reclamation Plan, as set pursuant to this section.
- 20           D.    The appeal filing fee required under Section 10 of this ordinance and petition fee  
21                   required under Section 15 of this ordinance shall each initially be in the amount of  
22                   one thousand dollars (\$1,000). This appeal filing fee hereby supersedes the Appeal  
23                   of Planning Commission Decision fee set forth in Ordinance No. 671.
- 24           E.    The mine inspection fee required under Section 13 of this ordinance shall initially be  
25                   in the amount of three thousand five hundred dollars (\$3,500). The mine inspection  
26                   fee is a deposit-based fee to be used to cover the actual costs for the County to  
27                   undertake the annual inspection of a surface mining operation. This fee hereby  
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supersedes the Special Inspection Permit fee set forth in Ordinance No. 671.

F. The mine administrative fee required under Section 13 of this ordinance shall initially be in the amount of two thousand dollars (\$2,000). The mine administrative fee shall be used for the administration and implementation of SMARA and this ordinance, including staff training, interaction with State agencies, updating applicable County regulations, and general management of the SMARA program.

G. The Board of Supervisors may adjust the amount of any of the fees set forth in this section by resolution. Any adjustment to such fees shall be considered at a regularly scheduled Board of Supervisors meeting. Notice of the time, place, general description of the fee adjustment, and where related information and data is available for review shall be mailed at least fourteen (14) days prior to the meeting to any interested party who files a written request with the County for mailed notice related to fees. At least ten (10) days before the meeting, information related to the fee adjustment shall be made available to the public for review. Any resolution adopted by the Board of Supervisors making adjustments to any of the fees set forth in this section shall be posted at the Planning Department.

Section 22. SEVERABILITY. If any section, subsection, paragraph, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this ordinance, it being expressly declared that this ordinance and each section, subsection, paragraph, sentence, clause and phrase thereof would have been adopted, irrespective of the fact that one or more other section, subsection, paragraph, sentence, clause or phrase be declared invalid or unconstitutional.”

Section 2. This ordinance shall take effect sixty (60) days after its adoption.

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

By:

Chairman, Board of Supervisors

1 ATTEST:  
2 CLERK OF THE BOARD:

3  
4 By:

5 Deputy

6  
7 (SEAL)  
8  
9

10 APPROVED AS TO FORM  
11 \_\_\_\_\_, 2018

12 By:

13 \_\_\_\_\_  
14 MELISSA R. CUSHMAN  
15 Deputy County Counsel ,

16 ADOPTED: 8-9-77 (Eff.: 09/08/1977)  
17 AMENDED: 555.1 (Eff.: 05/31/1978)  
18 555.2 (Eff.: 08/03/1978)  
19 555.3 (Eff.: 09/24/1980)  
20 555.4 (Eff.: 01/14/1980)  
21 555.5 (Eff.: 01/21/1980)  
22 555.6 (Eff.: 07/01/1981)  
23 555.7 (Eff.: 07/21/1982)  
24 555.8 (Eff.: 06/29/1983)  
25 555.9 (Eff.: 09/21/1983)  
26 555.10 (Eff.: 07/04/1985)  
27 555.11 (Eff.: 06/01/1986)  
28 555.12 (Eff.: 03/12/1987)  
555.13 (Eff.: 07/04/1987)  
555.14 (Eff.: 07/30/1987)  
555.15 (Eff.: 07/01/1988)  
555.16 (Eff.: 04/27/1989)  
555.17 (Eff.: 07/29/1993)  
555.18 (Eff.: 08/12/1995)  
555.19 (Eff.: 11/01/2012)