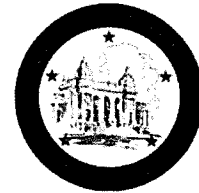


**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**



ITEM: 3.20
(ID # 11968)

MEETING DATE:

Tuesday, February 25, 2020

FROM: TRANSPORTATION AND LAND MANAGEMENT AGENCY (TLMA):

SUBJECT: TRANSPORTATION & LAND MANAGEMENT AGENCY: ADOPTION 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. [\$0 Total]

RECOMMENDED MOTION: That the Board of Supervisors:

1. **ADOPT 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; and
2. **DIRECT** the Planning Department to file a Notice of Exemption with the County Clerk of the County of Riverside.

ACTION:Policy

Juan C. Perez, Director of Transportation & Land Management 2/18/2020

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Spiegel, seconded by Supervisor Jeffries and duly carried by unanimous vote, IT WAS ORDERED that the above matter is approved as recommended and Ordinance No. 555.20 is adopted as recommended.

Ayes: Jeffries, Spiegel, Washington, Perez and Hewitt
Nays: None
Absent: None
Date: February 25, 2020
xc: TLMA, COB

Kecia R. Harper
Clerk of the Board

By:
Deputy

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

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost
COST	\$ 0	\$ 0	\$ 0	\$ 0
NET COUNTY COST	\$ 0	\$ 0	\$ 0	\$ 0
SOURCE OF FUNDS:			Budget Adjustment: No	
			For Fiscal Year: 19/20	

C.E.O. RECOMMENDATION: Approve

BACKGROUND:

Summary

On February 11, 2020 Item 3.27, the Board of Supervisors approved staff recommendations to introduce Ordinance No. 555.20; adopt Board Policy B-35 establishing Guidelines for Processing Surface Mining Permits For New and Significantly Expanded Surface Mining Operations; and found ordinance No. 555.20 not to be a project under the California Environmental Quality Act ("CEQA") and exempt from CEQA pursuant to State CEQA Guidelines sections 15061(b)(3) and 15273. Ordinance No. 555.20 provides a comprehensive update to the County's regulations related to surface mining and reclamation activities and makes it clearer, consistent with state law, and less dependent on the General Fund.

Impact on Residents and Businesses

This proposed Ordinance Amendment seeks to appropriately balance the continuing need for mining operations while implementing an enhanced approach to reduce impacts from new or expanded mines in our communities.

Additional Fiscal Information

The changes proposed in Ordinance No. 555.20, and the previously adopted Board Policy B-35, allow the County to fully recover costs for operation of our mining program. They also provide a mechanism for the County to collect a Road Impact Assessment, or enter into a Development Agreement, which is consistent with assessments charged by some other jurisdictions that have surface mining operations.

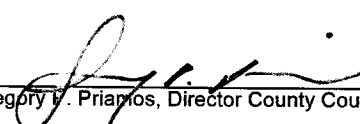
ATTACHMENTS:

Attachment A. Proposed Ordinance No. 555.20

Attachment B: Notice of Exemption


Jason Farin, Senior Management Analyst

2/20/2020


Gregory T. Priamos, Director County Counsel

2/20/2020

1 ORDINANCE NO. 555.20

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

6
7 The Board of Supervisors of the County of Riverside Ordains as Follows:

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

9 “ORDINANCE NO. 555

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

13
14 Section 1. FINDINGS. The Board of Supervisors hereby finds and declares that the
15 extraction of minerals is essential to the continued economic well-being of the County of Riverside.

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

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

1 the production and development of local mineral resources:

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

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

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

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

- 19 A. Assistant TLMA Director. The County Assistant TLMA Director – Community
20 Development, or his or her designee.
- 21 B. CEQA. The California Environmental Quality Act (Pub. Resources Code, § 21000
22 et seq.).
- 23 C. County. The County of Riverside, which acts the “lead agency” under SMARA for
24 all surface mining operations subject to this ordinance.
- 25 D. Director. The Director of the Department of Conservation.
- 26 E. Operator. The individual or entity that operates a surface mining operation, as
27 surface mining operations are defined in Public Resources Code section 2735.
- 28 F. Permit. Unless otherwise stated, the Surface Mining Permit.

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

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,
28 associated vested mining operation, mining operation on federal property, or County-

1 operated mining facility shall include a financial assurance cost estimate, an estimate
2 of reclamation costs, all information and data required by Section 2772 of the Public
3 Resources Code, all information required by the SMARA Regulations, all
4 information indicated in Sections 8 and 9 of this ordinance, and such additional
5 information as may be reasonably required by the Assistant TLMA Director.

6 C. An applicant for any new Permit or Revised Permit that qualifies as a Significantly
7 Expanded Surface Mining Operation under this ordinance shall select and fully
8 comply with one of the following:

9 1. Submit an application for a development agreement, which would then be
10 processed in accordance with all applicable ordinances, provisions,
11 procedures, and policies relating to development agreements, which shall be
12 approved before or concurrently with the new Permit or Revised Permit that
13 qualifies as a Significantly Expanded Surface Mining Operation.

14 2. Agree to a condition of approval requiring compliance with the Road Impact
15 Assessment program, further described in the Board of Supervisors Policy
16 establishing Guidelines for Processing Surface Mining Permits for New and
17 Significantly Expanded Surface Mining Operations, consistent with all
18 applicable ordinances, provisions, procedures, and policies.

19 D. Before approving or holding a public hearing concerning the Reclamation Plan,
20 amendment to a Reclamation Plan, or financial assurances for a new Reclamation
21 Plan or amendment to a Reclamation Plan, the County shall submit the financial
22 assurance cost estimate and the Reclamation Plan or amendment to the Director for
23 review pursuant to Public Resources Code sections 2772.1 and 2773.4(a). All
24 documentation for that submission shall be submitted to the Director at one time. In
25 making this submittal, the Assistant TLMA Director shall certify to the Director that
26 the Reclamation Plan or amendment to the Reclamation Plan is in compliance with
27 the applicable requirements of SMARA, the SMARA Regulations, and this
28 ordinance and that the financial assurance cost estimate is adequate, complete, and

1 consistent with SMARA, the SMARA Regulations, and this ordinance.

2 E. Following receipt of the Director's comments concerning the Reclamation Plan, plan
3 amendment, or financial assurance cost estimate in accordance with the applicable
4 schedule set forth in Public Resources Code sections 2772.1(b) or 2773.4(c), the
5 County shall, within a reasonable amount of time, prepare a written response
6 describing the disposition of the major issues raised by the Director's comments, and
7 shall submit the County's proposed response to the Director at least 30 days prior to
8 the public hearing concerning the Reclamation Plan or plan amendment, or 30 days
9 prior to the approval of financial assurance cost estimate. The County's response to
10 the Director's comments shall describe how the County proposes to adopt the
11 Director's comments to the Reclamation Plan, plan amendment, or financial
12 assurance cost estimate. If the County does not propose to adopt the Director's
13 comments, the County shall specify, in detail, why it proposes not to adopt the
14 comments.

15 1. If the Director submits a written request for consultation on the financial
16 assurance cost estimate in accordance with Public Resources Code section
17 2774.3(c), the County shall not approve the financial assurance cost estimate
18 until after consulting with the Director. Such consultation shall occur no later
19 than 30 days after the Director's request unless an alternate timeframe is
20 mutually agreed upon by the Director, the County, and the Operator.

21 2. The County shall give the Director at least 30 days' notice of the time, place,
22 and date of any hearing at which the financial assurance cost estimate is
23 scheduled to be approved by the County. If no hearing is required, then the
24 County shall provide 30 days' notice to the Director that it intends to approve
25 the financial assurance cost estimate. Within 30 days of approving a financial
26 assurance cost estimate, the County shall send to the Director its final
27 response to the Director's comments.

28 3. The Assistant TLMA Director shall forward to the Operator copies of any

1 written comments received and responses prepared by the County relating to
2 the financial assurance cost estimate.

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

7 G. Notwithstanding the above, or any other provision herein to the contrary, the Board
8 of Supervisors reserves exclusively to itself the duty to investigate, hear, approve,
9 conditionally approve or disapprove all Permits and Reclamation Plans including any
10 modifications to said Permits and Reclamation Plans included as part of a fast track
11 project as defined by Ordinance No. 348. A Permit or Reclamation Plan, including
12 any modifications to said Permits or Reclamation Plans, may only be awarded fast
13 track processing by a majority vote of the Board of Supervisors.

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

- 16 A. Indicate the progression of all operations of the facility indicating anticipated time
17 frames for each phase and the estimated life of the operation;
- 18 B. Show the location of equipment, offices, stockpiles, settling ponds, interim drainage,
19 machinery and wastedumps, parking, and areas to be mined;
- 20 C. Indicate the progression of stripping and excavating through the use of cross sections,
21 elevations and topographic maps and include a detailed description of how Topsoil
22 will be recovered and protected for use in mine reclamation;
- 23 D. Indicate the time lag between mining and reclamation and equipment siting and
24 removal and/or relocation;
- 25 E. Discuss the method of handling simultaneous excavation and reclamation if
26 applicable;
- 27 F. Show the location of all streams, roads, railroads, sewage disposal systems, water
28 wells, and utility facilities within 500 feet of the site and the location of all proposed

1 access roads to be constructed in conducting the surface mining operation;

2 G. Indicate the type of and amount of mineral commodities to be removed, the amount
3 of mining waste to be retained on the site and the amount of mining waste to be
4 disposed offsite including the method and location of disposal of said mining waste;
5 and

6 H. Indicate the location and associated details of the required revegetation test plot or
7 plots, specifying all revegetation success criteria, as appropriate.

8 Section 9. RECLAMATION PLAN. In addition to all other requirements, including
9 those set forth in Public Resources Code section 2772 and California Code of Regulations, title 14, section
10 3502, the Reclamation Plan, at a minimum, shall:

11 A. Indicate the methods to be used to reclaim the land.

12 B. If phasing is proposed, include a detailed schedule of the sequence and timing of all
13 stages of the reclamation.

14 C. Describe the physical condition of the mine site upon the completion of all
15 reclamation including the proposed uses or potential uses of the reclaimed site.

16 D. Contain a map that delineates through the use of cross sections and elevations the
17 physical characteristics of the land that will exist upon the conclusion of reclamation,
18 as well as a topographic map showing the location of the reclaimed land.

19 E. Describe the manner in which derelict machinery, mining waste and scraps will be
20 removed from the mine site and how contaminants will be controlled.

21 F. Describe the methods to be used to ensure that the mine site will contain stable waste
22 piles and slopes.

23 G. Describe how reclamation of the mine site may affect the future use of the site and
24 surrounding area for mining purposes.

25 H. Show that the proposed site in its final form will be, to the extent reasonable and
26 practicable, revegetated for soil stabilization, free of drainage and erosion problems,
27 coordinated with present and anticipated future land use, and compatible with the
28 topography and general environment of surrounding property.

1 I. Include all of the following, to the extent the required information or document is not
2 already included in the mining plan and incorporated by reference in the Reclamation
3 Plan:

- 4 1. The name and address of the Operator and the names and addresses of any
5 persons designated by the Operator as an agent for the service of process;
- 6 2. The anticipated quantity and type of materials for which the surface mining
7 operation is to be conducted;
- 8 3. The proposed dates for the initiation and termination of the surface mining
9 operation;
- 10 4. The maximum anticipated depth of the surface mining operation;
- 11 5. The size and legal description of the lands that will be affected by the surface
12 mining operation, a map that includes the boundaries and topographic details
13 of the lands, a description of the general geology of the area, a detailed
14 description of the geology of the area in which surface mining is to be
15 conducted, the location of all streams, roads, railroads, and utility facilities
16 within, or adjacent to, the lands, the location of all proposed access roads to
17 be constructed in conducting the surface mining operation, and the names and
18 addresses of the owners of all surface interests and mineral interests in the
19 lands;
- 20 6. A description of, and a plan for, the type of surface mining to be employed,
21 and a time schedule that will provide for the completion of surface mining on
22 each segment of the mined lands so that reclamation can be initiated at the
23 earliest possible time on those portions of the mined lands that will not be
24 subject to further disturbance by the surface mining operation;
- 25 7. A description of the proposed use or potential uses of the mined lands after
26 reclamation and evidence that all owners of a possessory interest in the land
27 have been notified of the proposed use or potential uses;
- 28 8. A description of the manner in which reclamation, adequate for the proposed

1 use or potential uses, will be accomplished, including both of the following:

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

4 b. A description of the manner in which affected streambed channels
5 and streambanks will be rehabilitated to a condition minimizing
6 erosion and sedimentation will occur;

7 9. An assessment of the effect of implementation of the Reclamation Plan on
8 future mining in the area;

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

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

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

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

26 Section 10. PUBLIC HEARINGS, NON-FAST TRACK PROJECTS. For projects other
27 than fast track projects, a public hearing before the Planning Commission shall be held in accordance with
28 the provisions set forth below to consider: the granting, suspension, or revocation of a Permit or Revised

1 Permit; the approval of a Reclamation Plan or Reclamation Plan amendment; an Operator's financial
2 capability of a performing reclamation; or abandonment of a surface mining operation without completing
3 reclamation:

4 A. Notice of the time, date and place of the public hearing, including a general
5 description of the area and mining operation being considered, shall be given at least
6 10 days prior to the hearing by all of the following procedures:

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

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

25 C. At the public hearing, the Planning Commission shall hear relevant testimony from
26 interested persons and, within a reasonable time after the close of the hearing, make
27 its decision, provided, however, that an application for a Permit shall not be granted
28 unless that it complies with Section 12 herein and it is expressly subject to such

1 conditions as are necessary to protect the health, safety or general welfare of the
2 community.

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

14 E. The decision of the Planning Commission is considered final and no action by the
15 Board of Supervisors is required unless: (1) the decision is regarding a Permit that
16 requires approval of a general plan amendment, a specific plan amendment, or a
17 change of zone, in which case it shall be heard in accordance with the provisions of
18 Ordinance No. 348 related to those legislative actions, and all of those procedural
19 requirements and rights of appeal as set forth therein shall govern; (2) a development
20 agreement is also being processed, in which case the proposed development
21 agreement shall be processed and heard concurrently with the Permit or Revised
22 Permit; (3) within 10 days after the notice of decision appears on the Board's agenda,
23 the applicant or an interested person files an appeal, accompanied by the appropriate
24 appeal filing fee in the amount set pursuant to Section 21 of this ordinance; or (4)
25 unless the Board assumes jurisdiction by ordering the matter set for public hearing.

26 F. If a timely appeal is filed or the Board assumes jurisdiction, the Clerk of the Board
27 shall set the matter for public hearing before the Board not less than 13 nor more than
28 60 days thereafter, and shall give notice of the time and place of the hearing in the

1 same manner as notice was given of the hearing before the Planning Commission.

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

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

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

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

- 22 1. The Permit substantially meets the applicable requirements of SMARA and
23 this ordinance.
- 24 2. The Permit is consistent with the General Plan and any applicable specific
25 plan.
- 26 3. The Permit will not be detrimental to the public health, safety or general
27 welfare.
28

1 4. The Permit complies with all requirements of law including all applicable
2 County ordinances, policies and standards.

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

7 B. Following the approval of a Reclamation Plan or an amendment to a Reclamation
8 Plan, the County shall cause a "Notice of Reclamation Plan Approval" to be recorded
9 with the County Recorder in accordance with Public Resources Code section 2772.7.
10 The notice shall include the language set forth in Public Resources Code section
11 2772.7 and state the name of the owner of record of the mining operation, identify
12 the County as lead agency under SMARA for the operation, contain the
13 acknowledged signature of the Assistant TLMA Director, and include any other
14 information required under Public Resources Code section 2772.7.

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

18 D. No later than 60 days after the approval of a Reclamation Plan or amendment to a
19 Reclamation Plan, the Assistant TLMA Director shall provide to the Director
20 certified copies of all maps, diagrams, or calculations, signed and sealed, and provide
21 an official copy of the approved Reclamation Plan or amendment to a Reclamation
22 Plan. The official copy shall incorporate all approved modifications to the
23 Reclamation Plan or amendment to a Reclamation Plan and shall include an index
24 showing any Permit conditions of approval or binding mitigation measures adopted
25 pursuant to CEQA as required under Public Resources Code section 2772.1. Those

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1 conditions of approval and mitigation measures shall be included in an appendix to
2 the Reclamation Plan or amendment to a Reclamation Plan and shall be considered
3 part of the reclamation compliance requirements and subject to the annual inspection
4 requirements.

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

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

24 1. Aspects of the surface mining operation, if any, that were found to be
25 inconsistent with SMARA but were corrected before the submission of the
26 inspection form to the Director;

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- 1 2. Aspects of the surface mining operation, if any, that were found to be
- 2 inconsistent with SMARA but were not corrected before the submission of
- 3 the inspection form to the Director;
- 4 3. A statement describing the County's intended response to any aspects of the
- 5 surface mining operation found to be inconsistent with SMARA but that were
- 6 not corrected before the submission of the inspection form to the Director;
- 7 and
- 8 4. If the surface mining operation has a review of its Reclamation Plan, financial
- 9 assurances, or interim management plan pending or an appeal pending before
- 10 the State Mining and Geology Board or the County.

11 B. Annually by July 1st, Operators shall submit to the Planning Department the

12 documentation requested by the Planning Department to support its conducting the

13 required annual mine inspection pursuant to Public Resources Code section 2774(b).

14 C. Annually by July 1st, Operators shall submit an Operator's report pursuant to Public

15 Resources Code section 2207(b). The Operator may request an inspection date on

16 its annual Operator's report. If the Operator does not, or if the County is unable to

17 cause the inspection of the surface mining operation on the date requested by the

18 Operator, the County shall provide the Operator with a minimum of five days'

19 written notice of a pending inspection, or within any lesser period agreed to by the

20 Operator. New surface mining operations shall submit an initial report prior to

21 commencement of operations.

22 D. Annually by July 1st, Operators shall pay to the Planning Department a mine

23 inspection fee in the amount set pursuant to Section 21 of this ordinance. In the case

24 of late payment of the mine inspection fee, a penalty of not less than one hundred

25 dollars (\$100) or 10 percent of the amount due, whichever is greater, plus interest at

26 a rate of 1½ percent per month, computed from the delinquent date of the assessment

27 until and including the date of payment, shall be assessed. Annual inspections shall

28 occur regardless of the receipt of a mine inspection fee or late payment penalty.

1 E. In addition to the Mine Inspection Fee, annually by July 1st, Operators shall also pay
2 to the Planning Department a mine administrative fee in the amount set pursuant to
3 Section 21 of this ordinance.

4 F. Annually by July 1st, the County shall submit to the Director for each active or idle
5 surface mining operation within the County's jurisdiction the following information:

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

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

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

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

27 B. The amount of the financial assurances shall be adequate to perform reclamation in
28 accordance with the surface mining operation's approved Reclamation Plan. The

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
22 of the actual inspection.

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

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

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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 not approve the annual financial assurance cost estimate until after consulting with the Director. Such consultation shall occur not later than 30 days after

1 the Director's request, unless an alternative timeframe is mutually agreed
2 upon by the Director, Assistant TLMA Director, and Operator.

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

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

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

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

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

21 1. Within 15 days of receiving a financial assurance mechanism, the Assistant
22 TLMA Director and the Director shall review the financial assurance
23 mechanism to determine if the type of mechanism, including the release
24 instructions, meets the requirements of SMARA and this ordinance.

25 2. The Assistant TLMA Director shall return to the Operator any financial
26 assurance mechanism determined to be noncompliant with SMARA or this
27 ordinance, with instructions on how to correct the type of financial assurance
28 mechanism or the financial assurance mechanism's release instructions.

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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.

H. Upon completion of reclamation in accordance with the approved Reclamation Plan, and with written concurrence of the County and the Director, the financial assurance shall be released. Such written concurrence shall be forwarded to the Operator and

1 the institutions providing or holding the financial assurance mechanism and shall
2 state that reclamation has been completed in accordance with the approved
3 Reclamation Plan.

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

6 Section 15. VIOLATIONS AND PENALTIES.

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

- 16 1. A notice of violation or a notice of permit violation shall include both of the
17 following:

- 18 a. A description of the violation; and
19 b. Actions the Operator must take to correct the violation.

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

27 b. If the surface mining operation fails to comply with the order affirmed
28 or modified by the Planning Commission, the Planning Commission

1 may revoke or suspend the Operator's Permit in accordance with the
2 procedures set forth in Section 10 of this ordinance, and all of the
3 procedural requirements and rights of appeal as set forth therein shall
4 govern the hearing.

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

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

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

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

25 1. A petition for review can only be accepted for filing if it is timely, utilizes a
26 County-approved form, and is accompanied by the required petition fee in
27 the amount set pursuant to Section 21 of this ordinance.
28

1 2. If the petition for review meets the standards set forth in this subsection, the
2 Clerk of the Board shall set the matter for a public hearing before the Board
3 of Supervisors to review the Assistant TLMA Director's order imposing an
4 administrative penalty. The Operator shall be notified by either personal
5 service or certified mail of the time, date, and place for the public hearing at
6 which the Board of Supervisors shall review the Assistant TLMA Director's
7 order imposing an administrative penalty. In reviewing said order, the record
8 shall consist of the record before the Assistant TLMA Director and any other
9 relevant evidence which, in the judgment of the Board of Supervisors, should
10 be considered to effectuate and implement the policies of SMARA and this
11 ordinance.

12 3. The Board of Supervisors may affirm, modify, or set aside, in whole or in
13 part, by its own order, any order of the Assistant TLMA Director imposing
14 an administrative penalty. Any order of the Board of Supervisors shall be
15 served by personal service or certified mail upon the Operator.

16 4. The Board of Supervisor's order shall become effective upon its issuance
17 unless the Operator files a timely petition for writ of mandate in the superior
18 court. Such petition shall be timely only if filed within 30 days of the Board's
19 issuance of the order. Payment of any administrative penalty that is specified
20 in the Board of Supervisor's order shall be made to the County within 30 days
21 of service of the order whether or not a petition has been filed; however, the
22 payment shall be held in an interest-bearing impound account pending
23 resolution of a petition for writ of mandate if one has been filed. If no timely
24 petition is filed, the Board of Supervisor's order shall not be subject to review
25 by any court or agency.

26 E. The procedures, remedies and additional penalties for violation of this ordinance and
27 for recovery of costs related to enforcement are also provided for in Ordinance No.
28 725, which is incorporated herein by this reference. Penalties collected pursuant to

1 this section shall not be used for purposes other than to cover the reasonable costs
2 incurred by the County in implementing this ordinance, SMARA, or the SMARA
3 Regulations.

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

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

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

18 Section 17. VESTED RIGHTS.

19 A. No person who has obtained a Vested Right to conduct surface mining operations
20 prior to January 1, 1976, shall be required to secure a Permit pursuant to the
21 provisions of this ordinance as long as such Vested Right continues and no
22 substantial change is made in that operation. A person shall be deemed to have such
23 Vested Rights if, prior to January 1, 1976, he has, in good faith and in reliance upon
24 a Permit or other authorization, if such Permit or other authorization was required,
25 diligently commenced surface mining operations and incurred substantial liabilities
26 for work and materials necessary therefor. Expenses incurred in obtaining the
27 enactment of an ordinance in relation to a particular operation or the issuance of a
28 Permit shall not be deemed liabilities for work or materials. Any substantial changes

1 made in a surface mining operation subsequent to January 1, 1976, except in
2 accordance with SMARA and California Code of Regulations, title 14, section 3951,
3 shall require an approved Permit pursuant to this ordinance.

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

6 1. The Operator shall submit a written request with the Assistant TLMA
7 Director for a Vested Rights determination. The request for determination
8 shall include information pertinent to establishing the existence and scope of
9 the Vested Right. Within 30 calendar days of deeming the request for
10 determination complete, the Assistant TLMA Director shall set a public
11 hearing before the Board of Supervisors and provide notice in accordance
12 with the procedures set forth in Section 10 of this ordinance.

13 2. A public hearing shall be held by the Board of Supervisors to consider the
14 request for determination of a Vested Right, and, utilizing a preponderance
15 of the evidence standard, the Board of Supervisors shall determine whether
16 the Operator has demonstrated its claim for a Vested Right. The record
17 before the Board of Supervisors shall consist of the written materials received
18 by the Assistant TLMA Director, as well as any relevant written comments
19 on the request for determination and any relevant testimony received at the
20 hearing. Written comments and oral testimony other than that related to
21 demonstrating or delimiting the existence, nature, and scope of the claimed
22 vested rights shall not be considered by the Board of Supervisors in making
23 the Vested Rights determination.

24 3. Within 60 calendar days following the public hearing, the Board of
25 Supervisors shall issue a written vested rights determination. The
26 determination shall identify upon which specific property the Vested Right is
27 established and the scope and nature of surface mining operations included
28 within the established Vested Right. Not more than 30 days after the issuance

1 of the determination, a copy of the Vested Rights determination shall be
2 mailed to the applicant and to any person who has made a written request for
3 a copy of the decision. The decision of the Board of Supervisors shall be
4 final.

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

27 Section 18. APPLICATIONS FOR AMENDMENTS. A request for approval of an
28 amendment to an approved Permit or Reclamation Plan shall be made in accordance with the provisions of

1 this section. Under no circumstances shall any deviation from the approved Permit or Reclamation Plan be
2 undertaken until the required amendment is approved by the County pursuant to all applicable sections of
3 this ordinance. An amendment under this section means a request for a Revised Permit, Revised
4 Reclamation Plan, or a determination of Substantial Conformance as further defined herein.

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

8 B. Substantial Conformance means an amendment to an approved Permit or
9 Reclamation Plan that:

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

22 C. Revised Permit means a request for a Substantial Deviation from an approved Permit
23 or Reclamation Plan which does not change the basic concept or use allowed by the
24 original approval. A Substantial Deviation includes, but is not limited to: any
25 expansion in the permitted mining area, in an area of an approved Reclamation Plan,
26 or in the maximum depth of mining or slope angle; changes to the original conditions
27 of approval, including extensions to the overall life of the permitted use as set out in
28 the approved Reclamation Plan; changes that would substantially affect the approved

1 end use of the site as established in the Reclamation Plan; changes to the operation
2 inconsistent with previously adopted environmental determinations; a significant
3 increase in plant capacity; changes to or expansion of a surface mining operation that
4 would result in significant adverse effects; and changes in the intensity of use as
5 determined by the Assistant TLMA Director.

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

8 1. Substantial Conformance. The Assistant TLMA Director shall approve,
9 conditionally approve or disapprove an application for Substantial
10 Conformance within 30 days after accepting a completed application and give
11 notice by mail of the decision, including any additional conditions of
12 approval, to the applicant and any other person who has filed a written request
13 for notice. The Assistant TLMA Director's determination shall be based upon
14 the standards of this section, the standards set forth in this ordinance
15 governing approval of the original Permit, and the conditions of approval
16 applicable to the approved Permit. An application for Substantial
17 Conformance shall not require a public hearing.

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

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

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

1 filing of the appeal, or any longer period mutually agreed upon by the Operator and
2 the Board of Supervisors. Review and approval of an interim management plan shall
3 not be considered a "project" pursuant to CEQA, nor shall it require a public hearing.

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

6 1. Renew approval of the interim management plan for another period not to
7 exceed 5 years, which may be renewed for one additional five-year renewal
8 period at the expiration of the first five-year renewal period, if the Assistant
9 TLMA Director finds that the Operator has fully complied with the
10 provisions of the interim management plan.

11 2. Require the Operator to commence reclamation in accordance with its
12 approved Reclamation Plan.

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

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

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

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

11 Section 21. FEES.

12 A. The application fee for a Permit, revised Permit, revised Reclamation Plan, or stand-
13 alone Reclamation Plan (including a Reclamation Plan for mining operations on
14 BLM land, for mining operations owned or operated by the County Transportation
15 Department, or for vested surface mining operations conducted after January 1,
16 1976) shall initially be in the amount of twenty-one thousand dollars (\$21,000). This
17 application fee is a deposit-based fee to be used to cover the actual costs for the
18 County to undertake the review of a proposed Permit, revised Permit, proposed
19 Reclamation Plan, or Revised Reclamation Plan. This application fee supersedes the
20 fees set forth in Ordinance No. 671 for a Surface Mining Permit fee, for a Revised
21 Permit fee, and for Reclamation Plans Submitted for Vested Operations Conducted
22 After January 1, 1976.

23 B. The application fee for a Substantial Conformance to a Permit or Reclamation Plan
24 shall initially be in the amount of five thousand dollars (\$5,000). This application
25 fee is a deposit-based fee to be used to cover the actual costs for the County to
26 undertake the review of the proposed Substantial Conformance. This application fee
27 hereby supersedes any fee for a Substantial Conformance set forth in Ordinance No.
28 671.

- 1 C. The application fee for review of an interim management plan shall be the same
2 amount as the application fee for a Substantial Conformance to a Permit or
3 Reclamation Plan, as set pursuant to this section.
- 4 D. The appeal filing fee required under Section 10 of this ordinance and petition fee
5 required under Section 15 of this ordinance shall each initially be in the amount of
6 one thousand dollars (\$1,000). This appeal filing fee hereby supersedes the Appeal
7 of Planning Commission Decision fee set forth in Ordinance No. 671.
- 8 E. The mine inspection fee required under Section 13 of this ordinance shall initially be
9 in the amount of three thousand five hundred dollars (\$3,500). The mine inspection
10 fee is a deposit-based fee to be used to cover the actual costs for the County to
11 undertake the annual inspection of a surface mining operation. This fee hereby
12 supersedes the Special Inspection Permit fee set forth in Ordinance No. 671.
- 13 F. The mine administrative fee required under Section 13 of this ordinance shall initially
14 be in the amount of two thousand dollars (\$2,000). The mine administrative fee shall
15 be used for the administration and implementation of SMARA and this ordinance,
16 including staff training, interaction with State agencies, updating applicable County
17 regulations, and general management of the SMARA program.
- 18 G. The Board of Supervisors may adjust the amount of any of the fees set forth in this
19 section by resolution. Any adjustment to such fees shall be considered at a regularly
20 scheduled Board of Supervisors meeting. Notice of the time, place, general
21 description of the fee adjustment, and where related information and data is available
22 for review shall be mailed at least fourteen (14) days prior to the meeting to any
23 interested party who files a written request with the County for mailed notice related
24 to fees. At least ten (10) days before the meeting, information related to the fee
25 adjustment shall be made available to the public for review. Any resolution adopted
26 by the Board of Supervisors making adjustments to any of the fees set forth in this
27 section shall be posted at the Planning Department.
28

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

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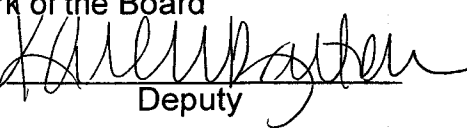
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STATE OF CALIFORNIA)
)
COUNTY OF RIVERSIDE) ss

I HEREBY CERTIFY that at a regular meeting of the Board of Supervisors of said county held on February 25, 2020, the foregoing ordinance consisting of 2 Sections was adopted by the following vote:

AYES: Jeffries, Spiegel, Washington, Perez and Hewitt
NAYS: None
ABSENT: None

DATE: February 25, 2020

KECIA R. HARPER
Clerk of the Board
BY: 
Deputy

SEAL



OFFICE OF THE
CLERK OF THE BOARD OF SUPERVISORS
1st FLOOR, COUNTY ADMINISTRATIVE CENTER
P.O. BOX 1147, 4080 LEMON STREET
RIVERSIDE, CA 92502-1147
PHONE: (951) 955-1060 FAX: (951) 955-1071

KECIA R. HARPER
Clerk of the Board of Supervisors

KIMBERLY A. RECTOR
Assistant Clerk of the Board

February 26, 2020

PRESS ENTERPRISE
ATTN: LEGALS
P.O. BOX 792
RIVERSIDE, CA 92501

E-MAIL: legals@pe.com
FAX: 951-368-9018

RE: ADOPTION OF SUMMARY OF ORD. 555.20

To Whom It May Concern:

Attached is a copy for publication in your newspaper for **ONE (1) TIME** on **Tuesday, March 3, 2020**.

We require your affidavit of publication immediately upon completion of the last publication.

Your invoice must be submitted to this office, **WITH TWO CLIPPINGS OF THE PUBLICATION**.

NOTE: PLEASE COMPOSE THIS PUBLICATION INTO A SINGLE COLUMN FORMAT.

Thank you in advance for your assistance and expertise.

Sincerely,

Karen Barton

Deputy Clerk of the Board to
KECIA R. HARPER, CLERK OF THE BOARD

RIVERSIDE COUNTY BOARD OF SUPERVISORS

SUMMARY OF ORDINANCE NO. 555.20
AN ORDINANCE OF THE COUNTY OF RIVERSIDE
AMENDING ORDINANCE NO. 555, THE ORDINANCE OF THE COUNTY OF RIVERSIDE
IMPLEMENTING THE SURFACE MINING AND RECLAMATION ACT OF 1975 ("SMARA")

This summary is presented pursuant to California Government Code Section 25124(b): a certified copy of the full text of Ordinance No. 555.20 may be examined at the Office of the Clerk of the Board of Supervisors of the County of Riverside, located at 4080 Lemon Street, 1st Floor, Riverside, California.

Ordinance No. 555.20 amends Ordinance No. 555 in its entirety and replaces it with new language that updates procedures for processing mining-related applications and related filings; establishes a new mining administrative fee; updates other fees, including setting forth new requirements for initial deposit amounts for deposit-based fees associated with mining applications and mining inspections; makes the mining-related fee amounts set forth in Ordinance No. 555 capable of being amended by resolution in the future; updates, streamlines, and clarifies the County's administrative processing procedures relating to mining applications and permits and carrying out SMARA requirements; and updates terminology and requirements to reflect current state law. Ordinance No. 555.20 would take effect 60 days after its adoption.

V. Manuel Perez, Chairman of the Board

I HEREBY CERTIFY that at a regular meeting of the Board of Supervisors of said County, held on **February 25, 2020**, the foregoing Ordinance consisting of two (2) sections was adopted by said Board by the following vote:

AYES: Jeffries, Spiegel, Washington, Perez and Hewitt
NAYS: None
ABSENT: None

Kecia R. Harper, Clerk of the Board
By: Karen Barton, Deputy Clerk of the Board



CALL (951) 368-9222
EMAIL: legals@pe.com

THE PRESS-ENTERPRISE

DATE	ORDER NUMBER	PO Number	PRODUCT	SIZE	Amount
3/3/20	0011368635		PE Riverside	4 x 56 Li	291.20

Invoice text: Adoption Ord. Summary 555.20

TLMA
2/25/2020 320

Placed by: Karen Lynn Barton

Legal Advertising Memo Invoice

BALANCE DUE

291.20

SALES/CONTACT INFORMATION		ADVERTISER INFORMATION			
Nick Eller 951-368-9229	BILLING DATE 03/03/2020	BILLED ACCOUNT NUMBER 5209148	ADVERTISER/CLIENT NUMBER 5209148	ADVERTISER/CLIENT NAME BOARD OF SUPERVISORS	



THE PRESS-ENTERPRISE

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BOARD OF SUPERVISORS		
BILLING DATE 03/03/2020	BILLED ACCOUNT NUMBER 5209148	ADVERTISER/CLIENT NUMBER 5209148
BALANCE DUE 291.20	ORDER NUMBER 0011368635	TERMS OF PAYMENT DUE UPON RECEIPT

BILLING ACCOUNT NAME AND ADDRESS

REMITTANCE ADDRESS

BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE
'PO BOX 1147'
RIVERSIDE, CA 92502

CALIFORNIA NEWSPAPER PARTNERSHIP
dba The Press-Enterprise
PO Box 65210
Colorado Springs, CO 80962-5210

THE PRESS-ENTERPRISE

1825 Chicago Ave, Suite 100
Riverside, CA 92507
951-684-1200
951-368-9018 FAX

PROOF OF PUBLICATION (2010, 2015.5 C.C.P)

Publication(s): The Press-Enterprise

PROOF OF PUBLICATION OF

Ad Desc.: Adoption Ord. Summary 555.20 /

I am a citizen of the United States. I am over the age of eighteen years and not a party to or interested in the above entitled matter. I am an authorized representative of THE PRESS-ENTERPRISE, a newspaper in general circulation, printed and published daily in the County of Riverside, and which newspaper has been adjudicated a newspaper of general circulation by the Superior Court of the County of Riverside, State of California, under date of April 25, 1952, Case Number 54446, under date of March 29, 1957, Case Number 65673, under date of August 25, 1995, Case Number 267864, and under date of September 16, 2013, Case Number RIC 1309013; that the notice, of which the annexed is a printed copy, has been published in said newspaper in accordance with the instructions of the person(s) requesting publication, and not in any supplement thereof on the following dates, to wit:

03/03/2020

I certify (or declare) under penalty of perjury that the foregoing is true and correct.

Date: March 03, 2020
At: Riverside, California



Legal Advertising Representative, The Press-Enterprise

BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE
PO BOX 1147
RIVERSIDE, CA 92502

Ad Number: 0011368635-01

P.O. Number:

Ad Copy:

RIVERSIDE COUNTY BOARD OF SUPERVISORS

SUMMARY OF ORDINANCE NO. 555.20 AN ORDINANCE OF THE COUNTY OF RIVERSIDE AMENDING ORDINANCE NO. 555, THE ORDINANCE OF THE COUNTY OF RIVERSIDE IMPLEMENTING THE SURFACE MINING AND RECLAMATION ACT OF 1975 ("SMARA")

This summary is presented pursuant to California Government Code Section 25124(b): a certified copy of the full text of Ordinance No. 555.20 may be examined at the Office of the Clerk of the Board of Supervisors of the County of Riverside, located at 4080 Lemon Street, 1st Floor, Riverside, California.

Ordinance No. 555.20 amends Ordinance No. 555 in its entirety and replaces it with new language that updates procedures for processing mining-related applications and related filings; establishes a new mining administrative fee; updates other fees, including setting forth new requirements for initial deposit amounts for deposit-based fees associated with mining applications and mining inspections; makes the mining-related fee amounts set forth in Ordinance No. 555 capable of being amended by resolution in the future; updates, streamlines, and clarifies the County's administrative processing procedures relating to mining applications and permits and carrying out SMARA requirements; and updates terminology and requirements to reflect current state law. Ordinance No. 555.20 would take effect 60 days after its adoption.

V. Manuel Perez, Chairman of the Board

I HEREBY CERTIFY that at a regular meeting of the Board of Supervisors of said County, held on **February 25, 2020**, the foregoing Ordinance consisting of two (2) sections was adopted by said Board by the following vote:

AYES: Jeffries, Spiegel, Washington, Perez and Hewitt
NAYS: None
ABSENT: None

Kecia R. Harper, Clerk of the Board
By: Karen Barton, Deputy Clerk of the Board

3/03

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



**ITEM: 3.27
(ID # 11663)**

MEETING DATE:
Tuesday, February 11, 2020

FROM: TRANSPORTATION AND LAND MANAGEMENT AGENCY (TLMA):

SUBJECT: TRANSPORTATION & LAND MANAGEMENT AGENCY: REINTRODUCTION 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. [\$0 Total]

RECOMMENDED MOTION: That the Board of Supervisors:

1. Receive the attached Mine Administrative Fee Nexus Study report and findings;
2. Find Ordinance No. 555.20 exempt from CEQA pursuant to CEQA Guidelines sections 15273 and 15061(b)(3);
3. Reintroduce, 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;
4. Adopt Board of Supervisors Policy No. B-35 establishing Guidelines For Processing Surface Mining Permits For New And Significantly Expanded Surface Mining Operations; and

ACTION:Policy

Juan G. Perez, Director of Transportation & Land Management 2/4/2020

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Jeffries, seconded by Supervisor Perez and duly carried by unanimous vote, IT WAS ORDERED that the above matter is approved as recommended and Ordinance No. 555.20 is approved as re-introduced with waiver of the reading.

Ayes: Jeffries, Spiegel, Washington, Perez and Hewitt
Nays: None
Absent: None
Date: February 11, 2020
xc: TLMA, CØB

Kecia R. Harper
Clerk of the Board
By:
Deputy

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

5. Set the effective date for Board of Supervisors Policy No. B-35 to the same effective date as Ordinance No. 555.20.

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost
COST	\$ 0	\$ 0	\$ 0	\$ 0
NET COUNTY COST	\$ 0	\$ 0	\$ 0	\$ 0
SOURCE OF FUNDS:			Budget Adjustment: No	
			For Fiscal Year: 19/20	

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. Accordingly, 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. Further changes have continued being made to SMARA since that time, including AB 1142 and SB 209, introduced in 2015, which sought to modernize the statute and address inconsistencies that had developed over the years. Those bills were adopted, and the changes effectuated by those bills went into effect on January 1, 2017. Ordinance No. 555.20 further implements those changes.

Riverside County is the local lead agency responsible for enforcement of SMARA for all mining operations located within the unincorporated area as well as mining operations located on public land managed by the Bureau of Land Management and material pits owned and operated by County Transportation. The County has oversight responsibility for 48 mines. Pursuant to SMARA regulations, the County is required to oversee and manage a variety of mining-related activities associated with the individual mining operations 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.).

Through 2017, TLMA worked with the mining industry to review and incorporate the changes in State Law into our master mining ordinance (Ordinance No. 555). A prior version of Ordinance No. 555.20 was presented to the Board on September 18, 2018 (item 3.19), which was reviewed and approved by the Auditor-Controller's Office. The mining industry expressed concerns with components of the ordinance change, and the item was continued off calendar to allow staff to make further revisions.

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

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. 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 supplementing its mining program administration through the General Fund.

The attached Fee Nexus Study analyzes fees currently collected by the County for its role as SMARA lead agency and identifies the need for a mining program administrative fee. 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. 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).

SMARA addresses the need for a continuing supply of mineral resources and the importance of promoting the development of such resources. At the same time, SMARA and Ordinance No. 555 also seek to minimize or prevent the negative impacts of surface mining and ensure mined lands are reclaimed to a usable condition. Operational impacts can include additional wear and tear on our County roads that serve mining operations. In recognition of this, TLMA staff is proposing that we include a Road Impact Assessment component to new or significantly expanded surface mining operations that includes a per tonnage fee assessment. There is also the option, at the surface mining operator's discretion, to instead enter into a negotiated Development Agreement to offset these impacts instead of paying the Road Impact Assessment. The proposed Policy B-35 sets forth further information regarding the Road Impact Assessment or Development Agreement approach.

In drafting the proposed changes, County staff sent a draft of Ordinance No. 555.20 to the California Construction and Industrial Materials Association ("CalCIMA") for review and comment. County staff had ongoing discussions with CalCIMA and incorporated several of their proposed changes into the processing aspects of the policy. CalCIMA does continue to oppose the provisions contained in Policy B-35 which would require payment of a Road Impact Assessment or entering into a Development Agreement. We do note that the Cities of Corona and Lake Elsinore have a similar equivalent per tonnage fee in place.

In accordance with Ordinance No. 555 Section 7, applicants for a new Permit, or a Revised Permit that qualifies as a Significantly Expanded Surface Mining Operation, shall select one of the following: (1) Submit an application for a development agreement, which would then be

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

processed in accordance with all applicable provisions, and laws relating to development agreements and must be approved concurrently with such new Permit or Revised Permit; or (2) Agree to a condition of approval requiring compliance with the Road Impact Assessment as set forth in Policy B-35 and Ordinance No. 555. The selection between these two options is at the discretion of the applicant.

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 or Board Policy 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.

Impact on Residents and Businesses

This proposed Ordinance Amendment and Policy seeks to appropriately balance the continuing need for mining operations while implementing an enhanced approach to reduce impacts from new or expanded mines in our communities.

Additional Fiscal Information

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

The changes proposed in Ordinance No. 555 and Board Policy B-35 allow the County to fully recover costs for operation of our mining program. They also provide a mechanism for the County to collect a Road Impact Assessment, or enter into a Development Agreement, which is consistent with assessments charged by some other jurisdictions that have surface mining operations.

ATTACHMENTS:

Attachment A. Proposed Ordinance No. 555.20, as revised and reintroduced

Attachment B: Redline showing changes from Ordinance No. 555.19

Attachment C: Fee Nexus Study

Attachment D: Board of Supervisors Policy B-35



Jason Farin, Senior Management Analyst

2/6/2020



Gregory V. Priamos, Director County Counsel

2/5/2020