

ARTICLE II. PLANS AND OPERATIONS

Sec. 29-20. Permit and reclamation plan requirement

(a) Any person, except as provided in section 29-12 of this Code and section 2776 of the California Surface Mining and Reclamation Act of 1975, who proposes to engage in surface mining operations, or to make any changes which are determined to be substantial by the zoning administrator in an existing operation in which such existing operation the person has a vested right shall, prior to the commencement of operations, obtain: (1) a use permit from the planning commission, pursuant to section 28-54 of this Code; and (2) approval by the planning commission of a reclamation plan, in accordance with the provisions set forth in this chapter and as further provided in article 5, California Surface Mining and Reclamation Act of 1975, commencing with section 2770 of the California Public Resources Code.

(b) Any person who obtained, prior to January 1, 1976, and continues to hold a vested right to conduct surface mining operations shall obtain the approval of the planning commission of a reclamation plan for operations conducted after January 1, 1976, but such person shall not be required to obtain a use permit for such operations except in accordance with the provisions of this chapter. The reclamation plan shall provide for the reclamation of portions of the site mined after January 1, 1976. A reclamation plan prepared pursuant to this chapter need not be prepared, filed or approved for reclamation of lands mined prior to, but not later than January 1, 1976.

(c) The commencement of any surface mining operation after a period of nonoperation shall not require the obtaining of a use permit if: (1) the operator has either [a] a vested right in said operation, or [b] a previously obtained use permit as required by this chapter when such use permit expressly prescribes periodic nonoperation; and (2) no substantial changes in the operation are made. Periodic nonoperation after January 1, 1976, of a surface mining operation in which the operator has a vested right shall not by itself cause the lapse of such vested right so long as the nonoperation: (1) is consistent with the historic periodicity of such operation; and (2) does not extend substantially longer than previous periods of nonoperation.

(Ord. No. 1036, §1; Ord. No. 1415, §1)

Sec. 29-21. Financial assurances

(a) Any person who is operating or intends to conduct a surface mining operation, whether that person has existing vested rights or not, shall submit for approval a financial assurances plan for review by the lead agency. This plan must be submitted and approved prior to any new operation being initiated. Any existing operation must submit a financial assurance plan pursuant to provisions of Public Resources Code ' 2773.1. The following is applicable to the financial assurances plan:

(1) Financial assurances may take the form of surety bonds, irrevocable letters of credit, trust funds, or other forms of financial assurances specified by the lead agency

which the lead agency reasonably determines are adequate to perform reclamation in accordance with the surface mining operator's approved reclamation plan.

(2) The financial assurances shall remain in effect for the duration of the surface mining operation and any additional period until reclamation is complete.

(3) The amount of financial assurances required of a surface mining operator for any one year shall be adjusted annually to account for new lands disturbed by surface mining operations, inflation, and reclamation of lands accomplished in accordance with the approved reclamation plan.

(4) The financial assurances shall be made payable to the lead agency and the State Geologist. However, if the operator has received approval of its financial assurances from a public agency other than the lead agency, the lead agency shall deem those financial assurances adequate for purposes of this requirement, or shall credit them toward fulfillment of the financial assurances required. If more than one public agency exercises control over the surface mining operation, the financial assurances required shall not exceed the amount reasonably necessary to perform reclamation of lands remaining disturbed.

(b) If the lead agency, following a public hearing, determines that the operator is financially incapable of performing reclamation in accordance with its approved reclamation plan, or has abandoned its operation without commencing reclamation, either the lead agency or the State Geologist shall do all of the following:

(1) Notify the operator by personal service or certified mail that the lead agency, or the state, intends to take appropriate action to forfeit the financial assurances and specify the reasons for so doing.

(2) Allow the operator 60 days to commence or cause the commencement of reclamation in accordance with its approved reclamation plan and require that reclamation be completed within the time limits specified in the approved reclamation plan or some other time period mutually agreed upon by the lead agency or the State Geologist and the operator.

(3) Proceed to take appropriate action to require forfeiture of the financial assurances if the operator does not substantially comply with paragraph (2), immediately above.

(4) Use the proceeds from the forfeited financial assurances to conduct and complete reclamation in accordance with the approved reclamation plan. In no event shall the financial assurances be used for any other purpose. The operator is responsible for the costs of conducting and completing reclamation in accordance with the approved reclamation plan which are in excess of the proceeds from the forfeited financial assurances.

(c) Financial assurances shall no longer be required of a surface mining operation, and shall be released, upon written notification by the lead agency, which shall be forwarded to the operator and the State Geologist, that reclamation has been completed in accordance with the approved reclamation plan.

(d) The lead agency shall have primary responsibility to seek forfeiture of financial assurances and to reclaim mine sites under subdivision (b), above. However, as specified in Public Resources Code ' 2773.1(d), the State Geologist may act to seek forfeiture of financial assurances if both of the following conditions exist:

(1) The financial incapability of the operator or the abandonment of the mining operation has come to the attention of the State Geologist.

(2) The lead agency has been notified in writing by the State Geologist of the financial incapability of the operator or the abandonment of the mining operation for at least 15 days, and has not taken appropriate measures to seek forfeiture of the financial assurances and reclaim the mine site; and one of the following occurred:

(A) The lead agency has been notified in writing by the State Geologist that failure to take appropriate measures to seek forfeiture of the financial assurances or to reclaim the mine site shall result in actions being taken against the lead agency under the Public Resources Code.

(B) The State Geologist determines that there is a violation which amounts to an imminent and substantial endangerment to the public health, safety, or to the environment.

(C) The lead agency notifies the State Geologist in writing that its good faith attempts to seek forfeiture of the financial assurances have not been successful.

(Ord. No. 1415, §1)

Sec. 29-22. Review procedure

(a) All applications for approval of either a reclamation plan or financial assurances for surface mining or land reclamation projects shall be made on forms provided by the office of the county environmental management department and as provided for by the California Surface Mining and Reclamation Act of 1975, and any amendment or state policy subsequently adopted. A filing fee of three hundred fifty dollars at the time of filing the reclamation plan, or five hundred dollars at the time of concurrent filing of the reclamation plan and required use permit application shall be paid to the county. Such fee may, from time to time, be modified or adjusted by resolution of the board of supervisors, as provided in section 1-18 of this code.

(b) Prior to approval by the planning commission of any application for a use permit and/or any reclamation plan, financial assurances or amendment thereto, at least one public hearing shall be held by the planning commission.

(c) Notice of such public hearing shall be given at least ten days prior to such hearing, pursuant to section 28-65(b) of this code. Any such public hearing may be held in conjunction and simultaneously with any other public hearing required by this chapter, the California Environmental Quality Act, or other applicable statute or ordinance.

(d) The State Geologist shall be provided with a copy of any filing of any application for a permit to conduct surface mining operations, or the filing of any reclamation plan or financial assurances, or amendments thereto, pursuant to section 2774 of the California Surface Mining and Reclamation Act of 1975 for review and approval. The lead agency shall certify to the State Geologist that the submitted documentation complies with applicable state law.

(Ord. No. 1036, §1; Ord. No. 1415, §1)

Sec. 29-23. Public records

(a) Reclamation plans, reports, applications and other documents submitted pursuant to this chapter are public records unless it can be demonstrated to the satisfaction of the County that the release of such information or part thereof, would reveal production, reserves, or rate of depletion entitled to protection as proprietary information. The County shall identify such proprietary information as a separate part of the application. Proprietary information shall be made available only to the State Geologist and to persons authorized, in writing, by the operator and by the owner.

(b) A copy of all reclamation plans, reports, applications, and other documents submitted pursuant to this chapter shall be furnished to the State Geologist on request.

(Ord. No. 1036, §1; Ord. No. 1415, §1)

Sec. 29-24. Periodic review

As a condition of approval for the permit of the reclamation plan, or both, a schedule for periodic inspections by the county of the site shall be established to evaluate continuing compliance with the permit and reclamation plan. A scheduled inspection shall occur within six months of the start of operations at a site, and at least annually thereafter. The operator shall be solely responsible for the reasonable cost of the inspection. An inspection fee shall be set and adjusted from time to time by resolution of the board of supervisors as provided by section 1-18 of the Solano County Code. The fee shall be payable by the operator. A report of the results of the inspection shall be completed on a form to be provided by the state, and a copy of the inspection report shall be provided to the State Geologist.

(Ord. No. 1036, §1; Ord. No. 1415, §1)

Sec. 29-25. Amendments

Amendments to an approved reclamation plan may be submitted detailing proposed changes from the original plan. Substantial deviations from the original plan shall not be undertaken until such amendment has been filed with and approved by the planning

commission. A proposed amendment to a reclamation plan shall be processed in the same manner, and the applicant shall have the same rights and pay the same fee as established herein for an original application.

(Ord. No. 1036, §1; Ord. No. 1415, §1)

Sec. 29-26. Idle operations

Within 90 days of a surface mining operation becoming idle, as defined herein above, the operator shall submit to the lead agency for review and approval, an interim management plan. The review and approval of an interim management plan shall not be considered a project within the meaning of the California Environmental Quality Act (CEQA) Public Resources Code §§ 21000 and following. The approved interim management plan shall be considered an amendment to the surface mining operators approved reclamation plan, for purposes of this ordinance. The interim management plan shall provide measures the operator will implement to maintain the site in compliance with this ordinance, including, but not limited to, all permit conditions.

The interim management plan may remain in effect for a period not to exceed five (5) years, at which time the lead agency shall do one of the following:

- (a) Renew the interim management plan for another period not to exceed five years, if the lead agency finds that the surface mining operator has complied fully with the interim management plan.
- (b) Require the surface mining operator to commence reclamation in accordance with its approved reclamation plan.

In any event, financial assurances required under §29-21, above, shall remain in effect during the period the surface mining operation is idle. If the surface mining operation is still idle after expiration of its interim management plan, the surface mining operator shall commence reclamation in accordance with its approved reclamation plan.

Within 60 days of the receipt of the interim management plan, or a longer period mutually agreed upon by the lead agency and the operator, the lead agency shall review and approve the plan in accordance with its ordinance adopted pursuant to §29-20, above, so long as the plan satisfies the requirements above in this paragraph, and so notify the operator in writing. Otherwise, the lead agency shall notify the operator in writing of any deficiencies in the plan. The operator shall have 30 days, or a longer period mutually agreed upon by the operator and the lead agency, to submit a revised plan.

The lead agency shall approve or deny approval of the revised interim management plan within 60 days of receipt. If the lead agency denies approval of the revised interim management plan, the operator may appeal that action to the board of supervisors, which shall schedule a public hearing within 45 days of the filing of the appeal, or any longer period mutually agreed upon by the operator and the board of supervisors.

Unless review of an interim management plan is pending before the lead agency, or an appeal is pending before the board of supervisors, a surface mining operation which remains idle for over one year after becoming idle as herein defined without obtaining approval of an interim management plan shall be considered abandoned and the operator shall commence and complete reclamation in accordance with the approved reclamation plan.

(Ord. No. 1415, §1)