MARIPOSA COUNTY ORDINANCE 499

AN ORDINANCE AMENDING THE MARIPOSA COUNTY CODE
BY ADDING TITLE 18 THERETO ENTITLED
"MISCELLANEOUS LAND USE REGULATIONS" AND
TO CONTAIN CHAPTER I THEREOF RELATING TO SURFACE MINING

The Board of Supervisors of the County of Mariposa,
State of California, does hereby ordain as follows:

SECTION I: The Mariposa County Code is hereby amended
by adding Title 18 thereto to be entitled "Miscellaneous Land Use
Regulations" and to contain the following chapter and sections to
be numbered, entitled, and read as follows:

TITLE 18
MISCELLANEOUS LAND USE REGULATIONS

CHAPTER I: SURFACE MINING AND RECLAMATION

SECTION 18.02.010: AUTHORITY AND PURPOSE
SECTION 18.02.020: DEFINITIONS
SECTION 18.02.030: LEAD AGENCY
SECTION 18.02.040: PERMIT REQUIRED
SECTION 18.02.050: EXCEPTIONS
SECTION 18.02.060: NOTIFICATION OF EXISTING OPERATION
SECTION 18.02.070: DESIGNATED AREA AND STATE POLICY
SECTION 18.02.080: OTHER PROVISIONS OF LAW
SECTION 18.02.090: APPLICATION REQUIRED
SECTION 18.02.100: CONTENT OF APPLICATION
SECTION 18.02.110: PUBLIC RECORDS
SECTION 18.02.120: FILING APPLICATION
SECTION 18.02.130: PUBLIC HEARING
SECTION 18.02.140: COMMISSION ACTION
SECTION 18.02.150: PERIODIC REVIEW

///
SECTION 18.02.010: AUTHORITY AND PURPOSE

A. The Surface Mining and Reclamation Act of 1975 authorizes and directs local agencies to adopt ordinances establishing procedures for the review and approval of reclamation plans and the issuance of permits to conduct surface mining operations. The findings and intent of the State Legislature are included in the Act to set forth its purposes. This ordinance is adopted to comply with the directive and fulfill various purposes of the Act and to preserve and protect the mining industry of Mariposa County.

SECTION 18.02.020: DEFINITIONS

The following terms, when used in this chapter, shall have the meaning ascribed to them in this section as follows:

Act means the Surface Mining and Reclamation Act of 1975.

Board means the State Mining and Geology Board as created by the Act.

TAC means Surface Mining Technical Advisory Committee consisting of two members of the Planning Commission, three local
miners with three or more years mining experience, and one member
of the general public; a representative of the County Engineer
Department shall serve as a non-voting advisory member of the
TAC.

Mined lands includes the surface, subsurface, and
ground water of an area in which surface mining operations will
be, are being, or have been conducted, including private ways and
roads appurtenant to any such area, land excavations, workings,
mining waste, and area in which structures, facilities, equip-
ment, machines, tools, or other materials or property which result
from or are used in surface mining operations are located.

Mining waste includes the residual of soil, rock,
mineral, liquid, vegetation, equipment, machines, tools, or other
materials or property directly resulting from or displaced by sur-
face mining operations.

Overburden means soil, rock, or other materials that lie
above a natural mineral deposit or in between mineral deposits be-
fore or after their removal by surface mining operations.

Reclamation means the combined process of land treatment
that minimizes water degradation, air pollution, damage to aquatic
life or wildlife habitat, flooding, erosion, and other adverse
effects from surface mining operations, including adverse surface
effects incidental to underground mines, so that mined lands are
reclaimed to a usable condition which is readily adaptable for
alternate land uses and which create no danger to public health
or safety. The process may extend to affected lands surrounding

///

///

-3-
the mined lands and may require backfilling, grading, sloping, re-soiling, re-vegetation, soil compaction, stabilization, or other measures.

**Surface mining operations** means all or any part of the process in the mining of minerals on mined lands by removing overburden and mining directly from the mineral deposits, open-pit mining of minerals naturally exposed, mining by the auger method, dredging and quarrying, or surface work incident to an underground mine. Surface mining operations shall include but are not limited to:

(a) In-place distillation or retorting or leaching.

(b) The production and disposal of mining waste.

(c) Prospecting and exploratory activities.

SECTION 18.02.030: LEAD AGENCY

Lead agency is the County of Mariposa. The County Planning Commission, herein called "Commission", is the agency designated to administer this ordinance, and the Technical Advisory Committee (TAC) is the processing and advisory agency.

SECTION 18.02.040: PERMIT REQUIRED

From and after the effective date of this ordinance, no person, unless that person shall have a vested interest as defined by §2776 of the Act, shall conduct a surface mining operation unless a permit is first obtained from and a reclamation plan is submitted to and approved by Commission for such operation or change except as set out in §18.02.050 of this Code.

SECTION 18.02.050: EXCEPTIONS

The provisions of this chapter shall not apply to any of the following activities:
(a) Excavation or grading conducted for farming or on-site construction or for the purpose of restoring land following a flood or natural disaster.

(b) Prospecting for or extraction of minerals for commercial purposes and the removal of overburden in total amounts of less than one thousand yards in any one location of one acre or less, or in any case where either (1) a grading permit is required by the County Building Code or (2) TAC determines that the operation will be minor and the permit controls will not be necessary.

(c) Surface mining operations that are required by federal law in order to protect a mining claim if such operations are conducted solely for that purpose.

(d) Surface mining operations which were conducted prior to January 1, 1976, except as otherwise provided in §2776 of the Act.

SECTION 18.02.060: NOTIFICATION OF EXISTING OPERATION

All persons presently conducting or having obtained vested rights to conduct surface mining operations shall submit a notification that shall be presented to the Planning Office by July 1, 1979, and will include the following information:

(a) Names and addresses of the operator and any persons designated as the operator's agents for the service of process.

(b) The size and legal description of the lands that are affected by such operation and a map that includes the boundaries and topographic details of such lands.

SECTION 18.02.070: DESIGNATED AREA AND STATE POLICY

"Areas of regional significance" and "areas of state-wide significance", as may be designated by the Board, and "state policy" and related regulations, as may be adopted by the Board, shall be recognized in the administration of this chapter per provisions of the Act.

SECTION 18.02.080: OTHER PROVISIONS OF LAW

Surface mining and related operations regulated by this ordinance shall be subject to zoning or development standards,
the California Environmental Quality Act (CEQA), and other applicable provisions of law.

SECTION 18.02.090: APPLICATION REQUIRED

An application for a Surface Mining Permit together with a Reclamation Plan shall be submitted to the Planning Office on forms provided by that office by or with the written consent of the landowner or claim holder, whichever is applicable. The Reclamation Plan shall constitute a part of the Permit application and shall include both operations and reclamation proposals.

SECTION 18.02.100: CONTENT OF APPLICATION

The application shall include the following information and documents, except as otherwise determined by TAC:

(a) The names and addresses of the operator and any persons designated as the operator's agents for the service of process.

(b) The anticipated quantity and type of minerals for which the surface mining operation is to be conducted.

(c) The proposed dates for the initiation and termination of such operation.

(d) The maximum anticipated depth of the operation.

(e) The size and legal description of the lands that will be affected by such operation, a map that includes the boundaries and topographic details of such lands, a description of the general geology of the area, a detailed description of the geology of the area in which surface mining is to be conducted, the location of all streams, roads, railroads, and utility facilities within or adjacent to such lands, the location of all proposed access roads to be constructed in conducting such operation, and the names and addresses of the owners of all surface and mineral interest of such lands.

(f) A description of and plan for the type of surface mining to be employed and a time schedule that will provide for the completion of mining on each segment of the mined lands so that reclamation may be initiated at the earliest possible time on those portions of the mined lands that will not be subject to further disturbance by the surface mining operation.
(g) A description of the proposed use or potential uses of the land after reclamation and evidence that all owners of a possessory interest in the land have been notified of the proposed use or potential uses.

(h) A description of the manner in which reclamation, adequate for the proposed use or potential uses, will be accomplished, including:

(1) A description of the manner in which contaminants will be controlled and mining waste will be disposed.

(2) A description of the manner in which rehabilitation of affected streambed channels, stream banks, and drainage ways to a condition minimizing erosion and sedimentation will occur.

(3) A description of proposed backfilling, grading, bank sloping, re-soiling, re-vegetation, soil compaction and stabilization, and other such reclamation measures.

(i) An assessment of the effect of implementation of the reclamation plan on future mining in the area.

(j) A statement that the reclamation plan is applicable to a specific piece of property or properties and is based upon the character of the surrounding area and such characteristics of the property as type of overburden, soil stability, topography, geology, climate, stream characteristics, and principal mineral commodities.

(k) A statement that the person submitting the plan accepts responsibility for conducting the operation and reclaiming the mined lands in accordance with the reclamation plan as approved.

SECTION 18.02.110: PUBLIC RECORDS

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 Board of Supervisors 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 each application. A copy of all permits, reclamation plans,
reports, applications, and other documents submitted pursuant to
this chapter shall be furnished to the District Geologist of the
State Division of Mines and Geology by the County Board of
Supervisors. Proprietary information shall be furnished to the
State Geologist upon his request. Proprietary information shall
not be made available to persons other than the State Geologist
except when authorized by the mine operator and by the mine owner
in accordance with §2778, California Surface Mining and
Reclamation Act of 1975.

SECTION 18.02.120: FILING APPLICATION

When all required information related to the applica-
tion has been submitted to TAC together with applicable filings
fees, checked, and found acceptable, the Commission shall accept
the application as being properly filed. The Commission shall
then notify the State Geologist of the filing and, if so re-
quested, shall furnish him with copies of the application, plan,
and other related documents; and the Commission may request that
the State Geologist furnish technical assistance in its review of
the reclamation plan.

No fee is required for a determination of exceptions per
§18.02.050 of this chapter.

SECTION 18.02.130: PUBLIC HEARING

The Commission shall hold a public hearing on the applica-
tion, notice of which shall be given by one publication in a
newspaper of general circulation in the County at least ten days
prior to the hearing date and by mail notice to owners of property
adjacent the proposed operation site. The hearing may be con-
tinued at the discretion of the Commission.
SECTION 18.02.140: COMMISSION ACTION

Within forty-five days after conclusion of the public hearing, the Commission shall act to approve, conditionally approve, or disapprove the application. Any application approval and permit issuance may be subject to a specified term of permitted operation and timing of reclamation, reasonable conditions and requirements for proper operation and reclamation, guarantees to ensure compliance with terms and conditions, and periodic inspections by the County to ensure such compliance. Members of the TAC may accompany the County employee on such inspections.

SECTION 18.02.150: PERIODIC REVIEW

As a condition of approval for the permit or the reclamation plan or both, a schedule for periodic inspections of the site shall be established to evaluate continuing compliance with the permit and the reclamation plan.

SECTION 18.02.160: AMENDMENTS

Amendments to an approved reclamation plan may be submitted to the County at any time 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 County.

Amendments to an approved reclamation plan shall be approved by the same procedure as is prescribed for approval of a reclamation plan. In emergency situations where irreversible physical damage to the environment may occur, an operator may take such immediate action as is necessary to prevent such damage and

///

///
shall report such actions to the Planning Office; the Planning Office will forward said report to the TAC for comment and recommendation.

SECTION 18.02.170: VARIANCES

Variance (modifications) from an approved reclamation plan may be allowed upon request of the operator and applicant, if they are not one and the same, and upon a finding by the Commission that each requested variance is necessary to achieve the prescribed or higher post-mining use of the reclaimed land.

SECTION 18.02.180: APPEAL; COMMISSION ACTION

Within fifteen days of any such action taken by the Commission, an aggrieved person may file a written appeal with the Board of Supervisors requesting that the Board of Supervisors act to confirm, modify, or reject the Commission action. The Board may refer the matter to the Commission with specific directions.

SECTION 18.02.190: APPEAL; BOARD OF SUPERVISORS ACTION

Within fifteen days of the Board of Supervisors action on an appeal related to a site in an area of statewide or regional significance, an aggrieved person may file a written appeal with the State Mining and Geology Board as provided in the Act.

SECTION 18.02.200: VIOLATIONS

Revocation of permit. Following a public hearing held pursuant to §18.02.130 hereof, the Commission may revoke an approved permit on a finding of non-compliance with the terms and conditions thereof.

Violation. Violation of any provision hereof, including operation without a required permit or following permit

///
revocation, shall constitute a misdemeanor; and such operation shall constitute a public nuisance.

SECTION 18.02.210: ENFORCEMENT

The provisions of this chapter shall be enforced by the County planning official and other duly authorized officers and by use of any legal or equitable remedies of the County.

SECTION 18.02.220: SEPARABILITY

If any section, subsection, sentence, clause, or phrase of this chapter is for any reason held to be invalid or unconstitutional by the decision of a court of competent jurisdiction, it shall not affect the remaining portions of the ordinance.

SECTION 18.02.230: FEES

Such applicable fees for processing of applications, revisions, variances, and reclamation plans shall be set by resolution of the Board of Supervisors.

PASSED AND ADOPTED by the Board of Supervisors of the County of Mariposa this 27th day of February, 1979, by the following vote:

AYES: Dalton, Clark, Weber, Owings, Erickson
NOES: None
NOT VOTING: None
ABSENT: None

EUGENE P. DALTON, JR., Chairman
Board of Supervisors

APPROVED AS TO FORM:

NEIL B. VAN WINKLE
County Counsel/Administrative Assistant to the Board
DATE: February 21, 1979

ATTEST:

JOAN J. LYNK
Clerk of the Board