

ORDINANCE NO. 2117

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY
OF HUMBOLDT AMENDING SECTIONS 391 AND A316-36
COUNTY CODE RELATING TO SURFACE MINING AND RECLAMATION
ACTIVITIES IN THE INLAND AND COASTAL ZONES
OF HUMBOLDT COUNTY

The Board of Supervisors of the County of Humboldt ordains as follows:

SECTION 1.

Sections 391-1 through 391-12 are hereby amended as shown on the attached pages 313.6 through 313.24.

SECTION 2.

Section A316-36 is hereby amended as shown on the attached pages 200.196 through 200.215.

SECTION 3.

This ordinance shall take effect and be in force thirty (30) days from the date of its passage, except that the ordinances shall not take effect until the ordinances are approved and "certified" by the State Mining and Geology Board, and, with respect to the Coastal Zone ordinance referenced in section 2 above, approved and certified by the California Coastal Commission.

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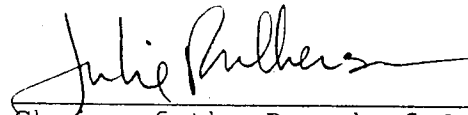
PASSED, APPROVED and ADOPTED by the Board of Supervisors of
the County of Humboldt, State of California, this 28th day of
May, 1996, by the following vote, to wit:

AYES: Supervisors Dixon, Heider, Fulkerson, Neely, and Kirk

NAYS: None

ABSTAIN: None

ABSENT: None



Chair of the Board of Supervisors
of the County of Humboldt, State of
California

(SEAL)

ATTEST:

LORA FREDIANI, Clerk of the Board
of Supervisors of the County of
Humboldt, State of California



May 28, 1996

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(FINAL DRAFT FOR REVIEW BY THE BOARD OF SUPERVISORS)

ORDINANCE OF THE COUNTY OF HUMBOLDT IMPLEMENTING THE STATE
SURFACE MINING AND RECLAMATION ACT AND REGULATIONS
IN THE COASTAL ZONE OF THE COUNTY

TABLE OF CONTENTS

A314-36	<u>SURFACE MINING AND RECLAMATION</u>	Page 200.198
I.	<u>Purpose, Intent and Findings</u>	Page 200.198
	A. <u>Purpose and Intent</u>	Page 200.199
	B. <u>Findings</u>	Page 200.199
II.	<u>INCORPORATION OF STATE LAW AND REGULATIONS BY REFERENCE.</u>	Page 200.200
	A. <u>Reason</u>	Page 200.200
	B. <u>Incorporation of State Law and Regulations by Reference</u>	Page 200.201
III.	<u>Limitations on Specified Activities</u>	Page 200.201
	A. <u>Reasons for limitations</u>	Page 200.201
	B. <u>Stream bed Skimming</u>	Page 200.201
	C. <u>Drainage, Erosion and Sediment Control</u>	Page 200.201
IV.	<u>Use Permit</u>	Page 200.202
	A. <u>Application</u>	Page 200.202
	1. <u>Filing procedure</u>	Page 200.202
	2. <u>Filing Fee</u>	Page 200.202
	3. <u>Acceptance</u>	Page 200.202
	4. <u>Preliminary Reviews</u>	Page 200.202
	B. <u>Procedure for Review and Action on Applications</u>	Page 200.203
	1. <u>Review</u>	Page 200.203
	2. <u>Public Hearing</u>	Page 200.203
	3. <u>Approval or Denial</u>	Page 200.203
	4. <u>Conditions of approval</u>	Page 200.204
	5. <u>Commencement of operations</u>	Page 200.204
	6. <u>Term</u>	Page 200.204
	7. <u>Rights of successors</u>	Page 200.205
	8. <u>Revocation</u>	Page 200.205
V.	<u>Reclamation Plan.</u>	Page 200.205
	A. <u>Submittal for Approval:</u>	Page 200.205
	1. <u>Filing procedure</u>	Page 200.205

	2.	<u>Filing fee</u>	Page 200.215
	3.	<u>Acceptance</u>	Page 200.215
B.		<u>Procedure</u>	Page 200.216
	1.	<u>Review</u>	Page 200.216
	2.	<u>Approval or Disapproval</u>	Page 200.216
	3.	<u>Conditions of approval</u>	Page 200.216
	4.	<u>Amendments</u>	Page 200.208
VI.		<u>Legal vested mining operations</u>	Page 200.208
	A.	<u>Continuance and modification</u>	Page 200.208
	B.	<u>Special Permit requirements</u>	Page 200.208
	C.	<u>All other requirements applicable</u>	Page 200.208
VII.		<u>Idle Mines.</u>	Page 200.209
	A.	<u>Interim management plan</u>	Page 200.209
	B.	<u>Term of plan</u>	Page 200.209
	C.	<u>Financial assurances</u>	Page 200.209
	D.	<u>Interim management plan approval</u>	Page 200.209
	E.	<u>Forfeiture of use permit</u>	Page 200.209
VIII.		<u>Intermittent operations</u>	Page 200.210
IX.		<u>Administration and Enforcement</u>	Page 200.210
	A.	<u>Time limitation:</u>	Page 200.210
		1. <u>Use permit and reclamation plan applications</u>	Page 200.210
		2. <u>Time for review</u>	Page 200.210
	B.	<u>Simultaneous processing</u>	Page 200.210
	C.	<u>Public record</u>	Page 200.211
	D.	<u>Inspection and review</u>	Page 200.211
		1. <u>Inspections</u>	Page 200.211
		2. <u>Costs of inspections</u>	Page 200.211
	E.	<u>Annual report</u>	Page 200.211
	F.	<u>Appeals</u>	Page 200.212
	G.	<u>Enforcement</u>	Page 200.212
		1. <u>Violation-Public Nuisance</u>	Page 200.212
		2. <u>Violation-Noncompliance</u>	Page 200.212
X.		<u>Mining Permit Standards.</u>	Page 200.213
	A.	<u>Access Roads:</u>	Page 200.214
	B.	<u>Dust Suppression</u>	Page 200.214
	C.	<u>Discharge Waters</u>	Page 200.214
	D.	<u>Erosion Control</u>	Page 200.214
	E.	<u>Maintenance of Existing Grades</u>	Page 200.214
	F.	<u>Surrounding Water Transmissivity</u>	Page 200.214

G. Compliance with Other Jurisdictions Page 200.214
XI. Permit Modifications Page 200.215
XII. Emergencies Page 200.215

A314-36 SURFACE MINING AND RECLAMATION.

I. Purpose, Intent and Findings:

This section explains why these rules are in the Humboldt County Code. If there is something in these sections that is not clear, and that needs to be interpreted, the "purposes and intent" of the Board, as explained in this section, should be used so that any interpretation follows these purposes and carries out these intentions.

A. Purpose and Intent: The purpose of this Chapter is to implement the provisions of the California Surface Mining and Reclamation Act of 1975, as most recently amended, and the California Coastal Act, as amended (see, Public Resources Code section 30000 and following). The State Surface Mining law is found in the Public Resources Code, at section 2207 and section 2710 and following. In this ordinance this State law will be referred to as the "Act", or as "SMARA." The State Surface Mining Regulations are found in Title 14 of California Code of Regulations, at sections 3500 and following, and in this ordinance are referred to as the "state regulations". As stated in the Act, and also hereby stated by this Board, it is the intent of the Board of Supervisors to:

- (1) protect the quality of the County's environment;
- (2) encourage the conservation and production of known or potential mineral deposits for the economic health and well-being of society;
- (3) regulate surface mining operations so as to prevent or minimize adverse environmental effects of surface mining;
- (4) provide for the reclamation of mined lands; and
- (5) reduce or eliminate hazards to public health and safety due to surface mining operations.

B. Findings:

The Board hereby finds and declares that:

- (1) the extraction of minerals is essential to the continued economic well-being of the County and the needs of society;

(2) the rehabilitation of mined lands is necessary to prevent or minimize adverse effects on the environment and to protect the public health and safety.

(3) the reclamation of mined lands as provided in this ordinance will allow the continued mining of minerals and will provide for the protection and subsequent beneficial use of the mined and reclaimed land.

(4) that surface mining takes place in diverse areas where the geologic, topographic, climatic, biological, and cultural requirements are significantly different and that reclamation operations and the specifications therefore may vary accordingly.

(5) that surface mining will take place in the coastal zone of the County, and this Board hereby incorporates by reference the findings and declarations of the State Legislature with respect to the policy considerations governing the coastal zone (see, current Public Resources Code, section 30001, or any successor provision thereto).

II. INCORPORATION OF STATE LAW AND REGULATIONS BY REFERENCE.

A. Reason: This Board has determined that one of the most efficient and easiest methods to ensure that this County's SMARA ordinance is written as required by State law is to "incorporate by reference" the provisions of State law. This avoids the possibility that any provision of State law will be overlooked or inadvertently misstated in this ordinance. It also avoids the need to amend this ordinance every time the State amends the State law, because those changes will, in most cases, automatically become a part of this section of the Code (however, see note below for exceptions).

NOTE: WHENEVER YOU MUST COMPLY WITH STATE OR LOCAL SMARA REGULATIONS, YOU WILL NEED TO GET A COPY OF THE STATE LAW AND REGULATIONS AND FOLLOW THOSE RULES. THIS ORDINANCE CONTAINS SOME SECTIONS IN ADDITION TO STATE LAW WHICH EXPLAIN HOW THE RULES WORK IN HUMBOLDT COUNTY. IF STATE LAW IS DIFFERENT THAN THESE LOCAL RULES, THE STATE LAW SHOULD BE FOLLOWED, UNLESS THE RULES IN THIS LOCAL ORDINANCE ARE MORE RESTRICTIVE ON MINING OPERATIONS, IN WHICH CASE THE STATE LAW SAYS THAT THE MORE RESTRICTIVE SECTIONS OF THIS ORDINANCE MUST APPLY.

B. Incorporation of State Law and Regulations by Reference:

The County of Humboldt hereby incorporates by reference, as if fully set forth herein, the State Surface Mining and Reclamation Act of 1975, and all amendments to that Act, which are currently set forth in Public Resources Code, section 2207 and section 2710 and following. Further incorporated herein by reference are the State Regulations adopted by the State to implement the Act, as amended from time to time by the State.

The regulations are currently set forth in Title 14 of the California Code of Regulations at sections 3500 and following, section 3700 and following ("reclamation standards"), and section 3800 and following ("financial assurances"), and are also referred to in this ordinance as the "state regulations".

Further, the California Coastal Act and implementing regulations are hereby incorporated by reference, as if fully set forth herein, including but not limited to Public Resources Code section 30000 and following.

Any reference in this ordinance to compliance with this "Chapter" also means compliance with all incorporated laws and regulations. Some provisions of state law are restated in this ordinance, and some are not. State law and regulations apply to mining operations, whether or not those laws and regulations are restated herein.

III. Limitations on Specified Activities.

A. Reasons for limitations:

The following activities are regulated by both State and local laws and regulations. The following limitations restate those environmental protections contained in the former County SMARA ordinance in order to ensure the continuation of the following protections.

B. "Stream bed Skimming":

State law contains an exception for non-commercial excavations or grading conducted for the purposes of farming, on-site construction, or restoring land following a flood or natural disaster at Section 2714(a) of the State Act. Consistent with the County's prior ordinance governing mining operations, such activities are excepted only to the extent that the mining operation does not exceed the one time, one acre, one thousand cubic yard exception contained in current section 2714(d) of the Act. This section shall not apply to timber operations which are governed by section 2714(j) of the Act.

C. Drainage, Erosion and Sediment Control:

In addition to the "performance standards" set forth in section 3706 of the Regulations, final grading and drainage shall be designed in a manner

to prevent discharge of sediment above natural levels existent prior to mining operations. Note that subsection (c) of section 3706 of the Regulations requires compliance with Regional Water Quality Control Board or the State Water Resources Board for water discharge standards.

IV. Use Permit.

A. Application.

1. Filing procedure: An application for a conditional use permit for a mining operation shall be submitted to the County Planning Department on forms furnished by that Department and shall be full and complete, containing all information required by the Act as well as any additional information requested by the Planning Department. As may be required, supplemental information shall be provided in Appendices to the application forms in the following format:

- a. Appendix A = Project Description, including the date of commencement of the project, the duration of the project, and the anticipated date of completion.
- b. Appendix B = Property Documentation
- c. Appendix C = Reclamation Plan
- d. Appendix D = Environmental Assessment
- e. Appendix E = Maps & Illustrations

2. Filing Fee: Each application shall be accompanied by a filing fee in an amount to be set from time to time by the Board of Supervisors.

3. Acceptance: An application will not be accepted by the Planning Department as complete until the applicant sets forth the required information in sufficient detail to the satisfaction of the Department. When the Department receives all of the information which it requires, the Department shall notify the applicant that the application is accepted as complete pursuant to this section. Acceptance of an application as complete does not constitute an indication of approval.

4. Preliminary Reviews:

In order to expedite processing, prior to submitting the completed application, Appendix C, the Reclamation Plan, and Appendix D, the Environmental Assessment may be submitted in draft form for preliminary review purposes. However there is a fee for preliminary reviews, and no final decisions will be made on the application until the project has been reviewed in its complete form.

B. Procedure for Review and Action on Applications.

1. Review: The Planning Department will review the use permit application for accuracy and completeness, and will coordinate the review with other County and public agencies. Unless for some reason it is not possible, the use permit required by this section, and the reclamation plan required by the next section shall be considered together as one application. Applicants should note that any documents required for environmental review pursuant to the California Environmental Quality Act must also be processed in a timely manner to avoid any delays in the application. Applicants should discuss with the Department any questions they may have about the required environmental reviews.

2. Public Hearing: Upon completion of the review process, a public hearing shall be held before the Planning Commission. Notice of the public hearing shall be given in accordance with Humboldt County Code. Notification shall also include, at a minimum, property owners within 300 feet from property lines of the parcels on which mining operations will occur, and 1500 feet from the location of any processing plant. Notification shall also be provided to property owners affected by the mining operation and affected haul routes as provided by Section 2530 of Chapter 3 of the Framework Plan of the County's General Plan. The notice shall specifically identify each issue to be considered at the hearing. The purpose of the hearing shall be to consider the applicant's request and to approve, conditionally approve, or deny the issuance of a use permit.

3. Approval or Denial: In addition to any findings required for a use permit by this County Code, the Planning Commission shall approve or approve with conditions the issuance of a use permit if the evidence presented supports the conclusions of sections "a" and "b" below:

a. That the application and supporting documents adequately describe the proposed surface mining operation, and adequate measures are incorporated to mitigate the probable or known significant environmental effects which have been or may be caused by the proposed operation. (This section is intended to remind applicants of the requirements for compliance with the California Environmental Quality Act (CEQA), which compliance is required before any permits may be issued); and,

b. That the proposed use and location of the surface mining operation is properly located in accordance with the General Plan and any relevant element thereof, to the community as a whole, and to other land uses in the vicinity.

c. If the Planning Commission determines that the above findings cannot be made, it shall so state and deny the application.

4. Conditions of approval: The Planning Commission shall, as is necessary to conform with the provisions of this ordinance, the Act and Regulations, and other applicable laws, provide that issuance of the use permit shall be contingent upon acceptance and observance of specified reasonable conditions related to surface mining operations, including the approval of a complete and final reclamation plan and financial assurances.

5. Commencement of operations: An operator shall commence a surface mining operation not later than one (1) year, or such longer period as may be agreed to between the County and the Applicant, from the effective date of a Conditional Use Permit and Coastal Development Permit, approval of the reclamation plan (see section A314-36 "V." below), and approval of financial assurances, whichever is later. Failure to commence diligent operations within the one (1) year period, or otherwise agreed to period, renders the use permit void. This section shall not apply to those surface mining operations which, after obtaining a use permit, comply with any relevant provisions of § A314-36 "VII" (below) relating to idle mines.

6. Term: Mining permits shall be granted for a period of not less than three (3) years and not more than fifteen (15) years. The term of the permit is a discretionary decision which should be governed by the life expectancy of the operation, and any special circumstances related to the operation which would make appropriate a more frequent or less frequent review of the operation. The basis for the determination of the term of the operation shall be stated in the grant of approval.

Upon written request to the Zoning Administrator, before expiration of the original permit, the permit may be reissued for a period equal to that grant of the original permit so long as the permit holder establishes to the satisfaction of the Zoning

Administrator, or on appeal to the Board of Supervisors, that the use had been conducted in compliance with permit conditions.

If the law or circumstances of the mining operation have changed from the time the permit was originally issued, any new conditions or requirements determined by the Zoning Administrator, or the Board of Supervisors on appeal, to be necessary for compliance with the laws, regulations or changed circumstances may be added to or modified in the reissued permit.

This section does not establish any right by an operator to continue operating in any particular manner, or at all, at the end of the initial term of the permit originally issued, or any extension thereof.

7. **Rights of successors:** Any use permit issued for a surface mining operation shall run with the land affected thereby and conditions shall be binding upon all successors, heirs, and assigns of the operator.

8. **Revocation:** Permits or any other grant of authority for activities undertaken pursuant to this Chapter may be revoked or suspended as any other permit, in accordance with current section A315 or any other applicable provision of the County Code.

V. **Reclamation Plan.**

A. **Submittal for Approval:**

1. **Filing procedure:** A reclamation plan required by this Chapter shall be submitted to the County Planning Department and shall be full and complete, containing all information required by the Act as well as any additional information requested by the Planning Department.
2. **Filing fee:**
 - a. For a reclamation plan filed as part of a use permit application, there shall be no filing fee. (The fee is already submitted as a part of a use permit application, which has its fees authorized under SA314-36 IV above.)
 - b. All other reclamation plans filed for review and approval shall be accompanied by a filing fee in an amount to be set from time to time by the Board of Supervisors.
3. **Acceptance:** A reclamation plan filed under the foregoing paragraphs of this section will not be accepted by the Planning Department as complete until it sets forth the required information

in sufficient detail to the satisfaction of the Department. The Department shall then notify the person submitting the plan that it is accepted as complete for review pursuant to section IX below. Acceptance of a reclamation plan does not constitute an indication of approval.

B. Procedure.

1. Review:

a. The Planning Department will review the reclamation plan for accuracy, adequacy, and completeness, and will coordinate the review with other County and public agencies. The Planning Department shall, in compliance with §2774 of the Public Resources Code, submit a copy of the proposed reclamation plan to the State Department of Conservation and any comments received from that Department shall be incorporated into the review.

b. In accordance with section 2774 of the Act, there shall be at least one public hearing on every reclamation plan, as well as for proposed substantial amendments to previously approved reclamation plans. The hearing on the reclamation plan may be combined with a public hearing on other aspects of the project, so long as all notices clearly specify that the reclamation plan will be one of the subjects of the hearing. Notice of the public hearing shall be given in accordance with section IV(B)(2), above. The purpose of the hearing shall be to receive comments from interested parties, and to assure compliance with §2774 (a) of the Public Resources Code.

2. Approval or Disapproval: The Planning Commission shall approve or approve with conditions the reclamation plan if the evidence presented establishes that the reclamation plan and supporting documents meet all of the conditions and requirements of SMARA, including but not limited to sections 2772 and 2773(a) of the Act and section 3502 and following of the State Regulations, and any additional County requirements for reclamation. Otherwise the Commission shall deny the application.

3. Conditions of approval: The Planning Commission shall, to the extent necessary to conform with the provisions of this ordinance and with §2773.1 of the Public Resources Code, apply conditions to the approval of the reclamation plan. Such conditions shall include, but not be limited to: