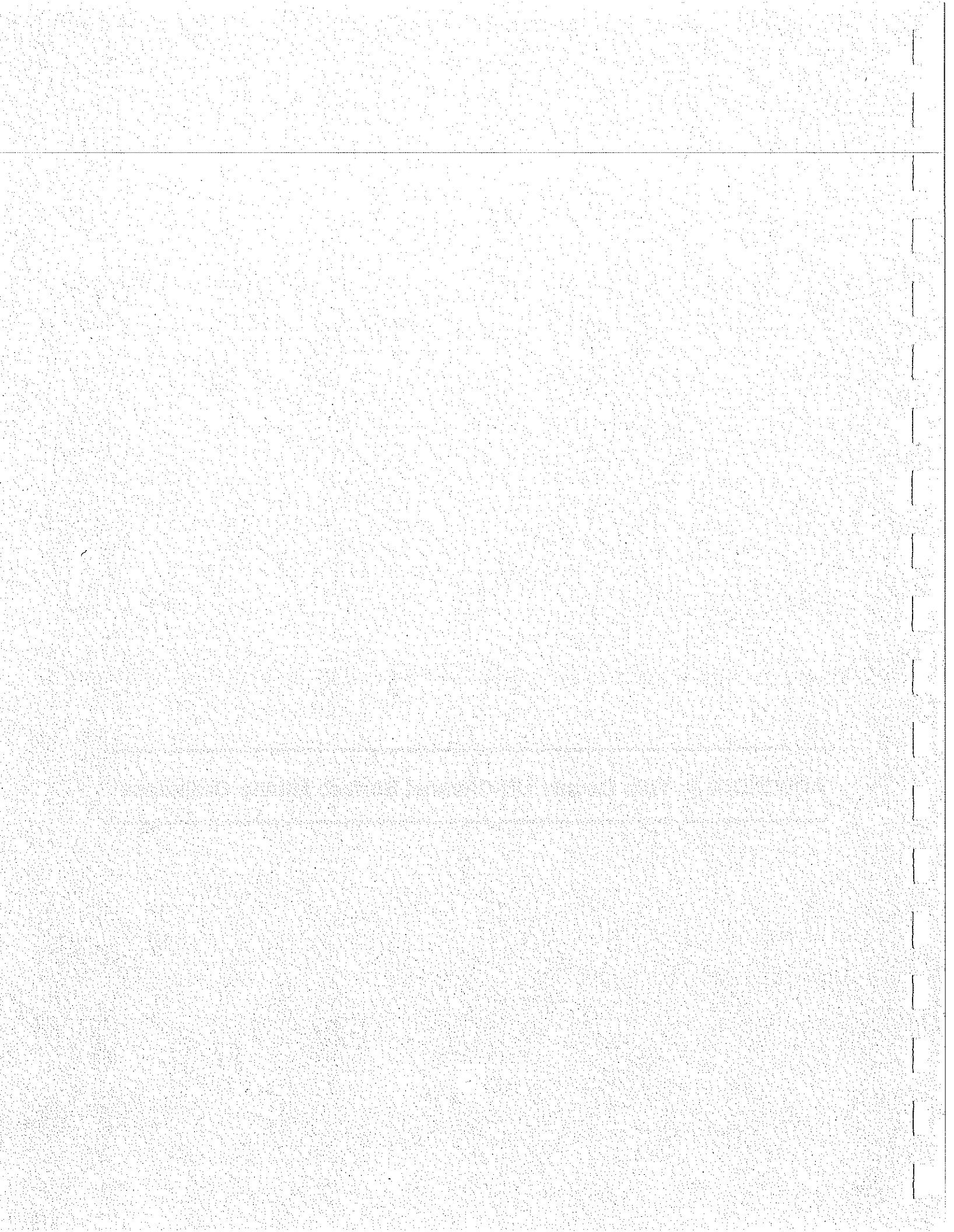

APPENDIX A: Yolo County Off-Channel Surface Mining Ordinance



ORDINANCE 1190

**AN ORDINANCE OF THE BOARD OF SUPERVISORS
OF THE COUNTY OF YOLO
AMENDING THE YOLO COUNTY CODE
TO ADD CHAPTER 4, TO TITLE 10,
ENTITLED OFF-CHANNEL SURFACE MINING ORDINANCE**

WHEREAS, the Board of Supervisors of the County of Yolo is desirous of adopting an amendment to the Yolo County Code to add Chapter 4 to Title 10 entitled Off-Channel Surface Mining Ordinance, in order to implement the Off-Channel Mining Plan; and

WHEREAS, an environmental impact report (SCH# 95113034) prepared by the County of Yolo analyzing the Off-Channel Mining Plan and its implementing ordinances, including the addition of the Off-Channel Surface Mining Ordinance, has been certified by the Board of Supervisors; and

WHEREAS, the Planning Commission and Board of Supervisors held seven workshops and/or hearings, after proper notice, for the purposes of hearing public testimony and comment regarding the Off-Channel Mining Plan and its implementing ordinances, including the proposed Off-Channel Surface Mining Ordinance; and

WHEREAS, the Board of Supervisors has determined that the proposed action is in the best interests of the residents of the County of Yolo;

WHEREAS, subject to other actions required of the Board of Supervisors, the proposed addition of the Off-Channel Surface Mining Ordinance is consistent with the General Plan, and in compliance with all other applicable plans and codes of the County of Yolo;

NOW, THEREFORE, BE IT ORDAINED by the Board of Supervisors of the County of Yolo that:

1. Adopt the Off-Channel Surface Mining Ordinance (attached), in order to provide a regulatory framework for surface mining permits in accordance with the Off-Channel Mining Plan, the Surface Mining and Reclamation Act, and the State Mining and Geology Board Reclamation Regulations.
2. This Ordinance shall take effect thirty (30) days after its adoption and within 15 days after its passage, shall be published at least once in a paper of general circulation published and circulated within the County of Yolo.

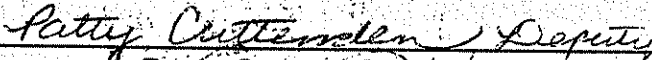
PASSED AND ADOPTED BY TITLE at the regular meeting of the Board of Supervisors on August 6, 1996 by the following vote:

AYES: Marchand, McGowan, Thomson, Stallard, Siefertman.
NOES: None.
ABSENT: None.
ABSTAIN: None



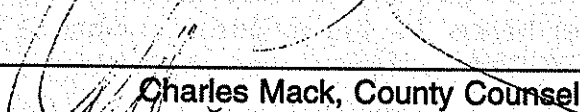
Tom Stallard, Chairman

Attest:



Paula Cooper, Clerk of the Board

Approved as to Form:



Charles Mack, County Counsel

CHAPTER 4. OFF-CHANNEL SURFACE MINING ORDINANCE

Article 1. Title, Authority, and Purpose

Sec. 10-4.101. Title.

This chapter shall be known as "The Off-Channel Surface Mining Ordinance of Yolo County."

Sec. 10-4.102. Authority.

This chapter is enacted pursuant to the authority granted by the California Surface Mining and Reclamation Act of 1975, Chapter 9 of Division 2 of the Public Resources Code of the State, commencing with Section 2710; and pursuant to the powers of the County to protect the public health, safety, and welfare pursuant to Section 7 of Article XI of the Constitution of the State.

Sec. 10-4.103. Purposes.

The purposes of this chapter are as follows:

(a) The extraction of sand and gravel is essential to the continued economic well-being of the state and to the needs of society. Although the County encourages the production of sand and gravel, consideration must also be balanced by other societal values, including but not limited to recreation, water resources, wildlife, agriculture, and aesthetics;

(b) The potential environmental impacts, operational methods, and reclaimed end uses of in-channel surface excavation are significantly different from those associated with off-channel surface mining. Thus, it is appropriate to provide separate performance standards and findings for both in-channel and off-channel activities, so that regulations contained within this title are sensitive to the specific issues involved in each of the two types of operations;

(c) Due to concerns about the impacts of excavation within the channel to structures, property, and riparian habitat, in-stream surface excavation will be minimized and will only be permitted as part of erosion control, flood control, and similar channel maintenance activities. Therefore, in order to provide the aggregate necessary for the County's needs, off-channel mining will be encouraged;

(d) Off-channel surface mining must be carefully monitored, in order to eliminate residual hazards to the public health and safety, and to maximize the benefits to the County from surface mining operations; and

(e) Off-channel surface mining takes place in diverse areas, where the geologic, climatic, biological, and social conditions are significantly different. Surface mining permits must be specifically adapted to the requirements of the particular land being mined. Therefore, this chapter imposes general performance standards, by which off-channel surface mining operations shall be measured in order to ensure that resources and infrastructure are managed in a consistent manner to maximize their overall benefit.

Article 2. Definitions

Sec. 10-4.201. Scope.

The definitions set forth in Article 2 of Chapter 5 of this title shall apply throughout this chapter.

Sec. 10-4.202. Abandon: Abandonment.

"Abandon" or "abandonment" shall mean to cease surface mining or reclamation with the intention of not resuming or reclamation. Operations that have an approved interim management plan shall not be considered abandoned, unless the operator is financially incapable of performing reclamation or has failed to observe an order to comply. However, any surface mining operation that is idle for twelve (12) consecutive months or longer shall be considered abandoned.

Sec. 10-4.203. Act.

"Act" shall mean the Surface Mining and Reclamation Act of 1975, specifically referring to Chapter 9 of Division 2 of the State Public Resources Code, Sections 2710 et seq.

Sec. 10-4.204. Agency.

"Agency" shall mean the Community Development Agency of the County.

Sec. 10-4.205. Board.

"Board" shall mean the Board of Supervisors of the County.

Sec. 10-4.206. CEQA.

"CEQA" shall mean the California Environmental Quality Act set forth in Sections 21000 et seq. of Division 13 of the Public Resources Code of California.

Sec. 10-4.207. Commission.

"Commission" shall mean the Planning Commission of the County, or its successor in function.

Sec. 10-4.208. County.

"County" shall mean the County of Yolo.

Sec. 10-4.209. Department.

"Department" shall mean the State Department of Conservation, or its successor in function with regards to surface mining and reclamation regulation.

Sec. 10-4.210. Director.

"Director" shall mean the Director of the County Community Development Agency, a designee chosen by the Director, or the Director's successor in function.

Sec. 10-4.211. Financial assurances.

"Financial assurances" shall mean monetary funds, securities, or other instruments provided by the operator to ensure that surface mining operations are reclaimed according to the approved reclamation plan, should the operator abandon the mine site.

Sec. 10-4.212. Haul road.

"Haul road" shall mean a road along which material is transported from the area of excavation to the processing plant or stock pile area of the surface mining operation.

Sec. 10-4.213. Idle

"Idle" shall mean those surface mining operations where production has been reduced by more than 90 percent of the operation's previous maximum annual mineral production, for a period of one year or more, with the intent to resume operations at a later date.

Sec. 10-4.214. Interim management plan.

"Interim management plan" shall mean an amendment to the approved reclamation plan to provide measures for maintaining an idle mine site until operations are resumed.

Sec. 10-4.215. Mined lands.

"Mined lands" shall mean the surface, subsurface, and groundwater 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 areas in which structures, facilities, equipment, machines, tools, or other materials or property which result from, or are used in, surface mining operations are located.

Sec. 10-4.216. Mining waste.

"Mining waste" shall mean the residual of soil, rock, mineral, liquid, vegetation, equipment, machines, tools, or other materials or property directly resulting from, or displaced by, surface mining operations.

Sec. 10-4.217. Minor modification.

"Minor modification" shall mean a change in the approved reclamation plan that does not substantially alter the intent or the conditions of the reclamation plan.

Sec. 10-4.218. Operator.

"Operator" shall mean any person who is engaged in surface mining operations, or who contracts with others to conduct operations on their behalf, except a person who is engaged in surface mining operations as an employee with wages as their sole compensation.

Sec. 10-4.219. Overburden.

"Overburden" shall mean soil, rock, or other materials that lie above a natural mineral deposit or in between mineral deposits, before or after their removal by surface mining operations.

Sec. 10-4.220. Prime Agricultural Land.

"Prime agricultural land" shall mean all land zoned Agricultural Preserve (A-P) and all land which meets the definition of prime agricultural land set forth in Section 51201 of the Government Code of the State as administered by the County in the administration of its agricultural preserve program.

Sec. 10-4.221. Reclamation.

"Reclamation" shall mean the process of land treatment that minimizes water degradation, air pollution, damage to aquatic or wildlife habitat, flooding, erosion, threats to public health or safety, 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. The process may extend to affected lands surrounding mined lands, and may require backfilling, grading, resoiling, revegetation, soil compaction, stabilization, or other measures.

Sec. 10-4.222. Reclamation plan.

"Reclamation plan" shall mean the operator's completed and approved plan for reclaiming lands affected by any surface mining operations conducted after January 1, 1976, as required by Section 2772 of the Public Resources Code of the State.

Sec. 10-4.223. Regulations.

"Regulations" shall mean the State Mining and Geology Board Reclamation Regulations, specifically referring to Subchapter 1 of Chapter 8 of Division 2 of Title 14 of the California Code of Regulations.

Sec. 10-4.224. Responsible agency.

"Responsible agency" shall mean all public agencies other than the County which have discretionary approval power over the project.

Sec. 10-4.225. Slope.

"Slope" shall mean the angle of the groundsurface, expressed as a ratio of the horizontal distance to the vertical distance.

Sec. 10-4.226. State CEQA guidelines.

"State CEQA guidelines" shall mean those regulations set forth in Sections 15000 et. seq. of Chapter 3 of Title 14 of the California Code of Regulations.

Sec. 10-4.227. Surface mining operations.

"Surface mining operations" shall mean all, or any part of, the process involved 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 incidental to an underground mine. Surface mining operations shall include, but are not limited to: in-place distillation or retorting or leaching; the production and disposal of mining waste; and prospecting and exploratory activities.

Sec. 10-4.228. Trustee agency.

"Trustee agency" shall mean a state agency having jurisdiction by law over natural resources affected by a project which are held in trust for the people of the State of California.

Article 3. Scope and Exemptions

Sec. 10-4.301. Incorporation by reference.

The provisions of the Act and the Regulations, as those provisions and regulations may be amended from time to time, are made a part of this chapter by reference with the same force and effect as if the provisions therein were specifically and fully set out herein, excepting that when the provisions of this chapter are more restrictive than corresponding state provisions, this chapter shall prevail.

Sec. 10-4.302. Scope of regulations.

Unless otherwise provided in this article, no person shall conduct off-channel surface mining operations unless a surface mining permit has been approved in accordance with this chapter. Nothing in this chapter shall be interpreted as requiring the filing of a surface mining permit application for lands where surface mining operations were completed prior to January 1, 1976.

Sec. 10-4.303. Scope: Area defined.

This chapter shall apply only to the area located within the boundary of the Off-Channel Mining Plan of the Yolo County General Plan. The conduct of excavation within the channel of Cache Creek is regulated by Chapter 3 of this title and shall not be subject to the provisions of this chapter.

Sec. 10-4.304. Exemptions: Defined.

The provisions of this chapter shall not apply to those activities and operations which are exempted by Sections 2714 and 2776 of the Act. Any exemption granted from the provisions of this chapter shall not, in and of itself, exempt a project or activity from the application of other applicable regulations and requirements.

Sec. 10-4.305. Exemptions: Applications.

Applications for exemptions shall be submitted to the Director for review and determination as to completeness. If the application is determined incomplete, the Director shall notify the operator in writing within thirty (30) days, specifically describing the information necessary to complete the application. Upon receipt of a completed application, the Director shall determine whether the operation is exempt or is subject to the provisions of this chapter. Any person with standing may appeal the Director's decision to the Commission, pursuant to Article 11 of this chapter.

Sec. 10-4.306. Severability.

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 this chapter.

Sec. 10-4.307. Effective date.

This chapter shall take effect thirty (30) days following its adoption.

Article 4. Off-Channel Mining Standards

Sec. 10-4.401. Scope.

The general standard for the operation of surface mines is to ensure that the public health and safety and environment are protected. This article sets forth minimum acceptable off-channel mining standards to implement this general standard. These minimum acceptable standards shall be considered and discussed in every surface mining permit approved pursuant to this chapter. In addition, the minimum practices and standards set forth in the Act shall also be considered and discussed in every surface mining permit approved pursuant to this chapter. These standards shall be followed in addition to any other conditions of approval or regulations imposed on the surface mining permit.

Sec. 10-4.402. Access roads.

The first one-hundred (100) feet of access road intersecting a County-maintained road shall be surfaced in a manner approved by the Public Works Department, with an approach constructed to County standards. Traffic control and warning signs shall be installed as required by the Public Works Department.

Sec. 10-4.403. Accident reporting.

The operator shall immediately notify the Director of any events such as fires, explosions, spills, land or slope failures, or other conditions at the site which could pose a hazard to life or property. Action shall be immediately undertaken to alleviate the hazard. Upon request by any County agency, the operator shall provide a written report of any such event, within thirty (30) days, which shall include, but not be limited to, a description of the facts of the event, the corrective measures used, and the steps taken to prevent a recurrence of the incident. This condition does not supersede nor replace any requirement of any other governmental entity for reporting incidents.

A copy of the operators' approved Business Emergency Response Plans and the approved Spill Prevention Control and Countermeasure Plans shall be submitted to the Yolo County Health Department, prior to the commencement of mining.

Sec. 10-4.404. Aesthetics.

The visibility of mining operations, facilities, and landform alterations from public and viewpoints and nearby residences shall be minimized, based on an assessment of site-specific visual characteristics and viewing conditions. The use of berms, vegetative

screens, seeding, special plant materials and contouring the sides and top surfaces of modified landforms, or other measures, shall be incorporated into the individual mine and reclamation plans as appropriate.

Sec. 10-4.405. Annual production limits.

Each surface mine shall operate within the limits of the annual production level established in the use permit. Annual aggregate production may not exceed the established annual level, except to meet temporary market demand. Individual producers may exceed their maximum annual allocation by up to 20 percent in any one calendar year, so long as their running ten year average does not exceed the maximum level. Aggregate sold in excess of the established annual level shall be subject to a \$0.10/ton surcharge. Monies generated by the surcharge shall be divided evenly between the CCIP fund and the Maintenance and Remediation Fund. The maximum cumulative amount of aggregate sold annually shall not exceed 5.97 million tons, plus the 20 percent market demand exception allowed for permits issued under the OCMP. Waste concrete and asphalt that is processed as recycled materials for use in construction shall not be counted as part of an operation's maximum annual production.

Sec. 10-4.406. Benches.

During mining operations, a series of benches may be excavated in a slope provided that the excavations are made in compliance with the requirements of the state Mine Safety Orders (California Code of Regulations, Title 8, Subchapter 17). The vertical height and slope of the benches constructed for permanent reclaimed slopes shall not exceed maximum standards for the specific soil types presented in the California Code of Regulations, Title 8, Article 6. In general, vertical cutslopes between benches shall not exceed four (4) feet in height in topsoil and overburden sediments. Benching shall be allowed in cohesive soil (clay, sandy or silty clay, clayey silt) only. Slopes above the elevation of groundwater (determined at the time of the excavation by the level of exposed water in the excavation) that exceed the maximum vertical height shall be excavated and maintained at slopes not greater than 2:1 (horizontal:vertical). Slopes located five (5) feet or less below the average summer low groundwater level shall not be steeper than 2:1 (horizontal:vertical). Slopes located more than five (5) feet below the average summer low groundwater level shall not be steeper than 1:1 (horizontal to vertical).

Vertical cutslopes in excess of four (4) feet in height may be approved for the development of special habitat (e.g., bank swallows) if a site-specific slope stability analysis, performed by a licensed engineer, indicates that the slope does not exceed critical height for the on-site soil conditions. Projects proposing such slopes shall submit a long-term maintenance plan to ensure that the function of the slopes as habitat is met.

Sec. 10-4.407. Conveyor systems.

Wherever practical and economically feasible, portable or movable conveyor systems shall be used to transport raw materials and overburden.

Sec. 10-4.407.8 County road improvements.

Each operator shall pay its fair share toward improvements required to maintain Level of Service (LOS) "C" operations on County roads of LOS "D" operations on State Highways within the OCMP planning area. Fair share contribution shall also be required to improve existing operational deficiencies of the transportation system. Specific locations shall be identified through the project-specific environmental review process for each operator's long-term mining permit application. Each operator shall participate in a funding program operated by the County which is designed to ensure that all improvements are made in a timely manner and that a reimbursement mechanism is in place to ensure repayment of any costs contributed in excess of fair share amounts. The program shall be initiated upon the approval of the long-term mining permits and shall be updated biennially by the County to ensure any new or modified impacts or funding sources are being addressed.

Each operator shall have the option to complete the work at their expense without triggering the competitive bid process, as long as they comply with the applicable legal requirements of the County. If the operator declines the option, the County shall utilize the competitive bid process.

Sec. 10-4.409. County road maintenance.

The operator shall agree to assume joint pavement maintenance responsibility with the County (or shared with another producer using the same roadway) for all County roads along a designated haul route from the access point of the surface mining operation to an appropriate State Highway. The operator shall agree to submit an evaluation of the structural integrity of the identified roadways on or before December 1 of each year in which mining operations are permitted. The report shall be prepared by a Registered Civil Engineer and/or County staff with expertise in the area of roadway pavement and shall be subject to the approval of the Public Works Department. Based on the results of this annual evaluation, the Public Works Department shall identify the improvements required to maintain safe and efficient traffic operations on the road for the upcoming year. The County agrees to implement maintenance improvements similar to other County roads (i.e. fill cracks and chip seal). The operator agrees to implement the improvements beyond the typical County improvements in a timeframe set forth by the Public Works Department. The operator does not assume the liability for the roadway, except for cases where the operator has not fulfilled its maintenance obligations.

If a subsequent mining operation utilizes a road previously required to be improved pursuant to this subsection, then the subsequent operator shall be responsible for compliance with the agreements and requirements of the previous operator.

Sec. 10-4.410. Cultural resources.

(a) All resource records shall be checked for the presence of and the potential for prehistoric and historic sites. Damaging effects on cultural resources shall be avoided whenever possible. If avoidance is not feasible, the importance of the site shall be evaluated by a qualified professional prior to the commencement of mining operations. If a cultural resource is determined not to be important, both the resource and the effect on it shall be reported to the Agency, and the resource need not be considered further. If avoidance of an important cultural resource is not feasible, a mitigation plan shall be

prepared and implemented. The mitigation plan shall explain the importance of the resource, describe the proposed approach to mitigate destruction or damage to the site, and demonstrate how the proposed mitigation would serve the public interest.

(b) If human skeletal remains are encountered during excavation, all work within seventy-five (75) feet shall immediately stop, and the County Coroner shall be notified within twenty-four (24) hours. If the remains are of Native American origin, the appropriate Native American community identified by the Native American Heritage Commission shall be contacted, and an agreement for treating or disposing of, with appropriate dignity, the remains and associated grave goods shall be developed. If any cultural resources, such as chipped or ground stone, historic debris, building foundations, or paleontological materials are encountered during excavation, then all work within seventy-five (75) feet shall immediately stop and the Director shall be notified at once. Any cultural resources found on the site shall be recorded by a qualified archaeologist and the information shall be submitted to the Agency.

Sec. 10-4.411. Dam requirements.

An application for construction shall be filed with the California Division of Safety for Dams and approved prior to the start of construction for any new dam that falls under the State jurisdiction for safety.

Sec. 10-4.412. Dewatering prohibition.

Under no circumstances, shall any off-channel excavation use dewatering as a part of their surface mining operations.

Sec. 10-4.413. Drainage.

Surface water shall be prevented from entering mined areas, through either perimeter berms or ditches and grading. Appropriate erosion control measures shall be incorporated into all surface water drainage systems. Natural and stormwater drainage systems shall be designed so as to prevent flooding on surrounding properties and County rights-of-way. Storm water runoff from mining areas shall be conveyed to lowered areas (detention basins) to provide detention of runoff generated during a 20-year, one-hour storm event. All drainage conveyance channels or pipes (including spillways for detention areas) shall be designed to ensure positive drainage and minimize erosion. The drainage conveyance system and storm water detention areas shall be designed and maintained in accordance with Best Management Practices for the reduction of pollutants associated with runoff from mined areas. The design and maintenance procedures shall be documented in the Storm Water Pollution Prevention Plan required for mining operations. The drainage system shall be inspected annually by a Registered Civil Engineer, Registered Geologist, or Certified Erosion and Sediment Control Specialist to ensure that the drainage system is functioning effectively and that adverse erosion and sedimentation are not occurring. The annual inspection shall be documented in the Annual Mining and Reclamation Report.

Sec. 10-4.414. Dust control.

The following measures shall be implemented in order to control fugitive dust:

(a) All stockpiled soils shall be enclosed, covered, or adequately watered to keep soil moist at all times. Inactive soil stockpiles should be vegetated or adequately watered to create an erosion-resistant outer crust.

(b) During operating hours, all disturbed soil and unpaved roads shall be adequately watered to keep soil moist.

(c) All disturbed but inactive portions of the site shall either be seeded or watered until vegetation is grown or shall be stabilized using methods such as chemical soil binders, jute netting, or other Yolo-Solano Air Quality Management District approved methods.

Sec. 10-4.415. Equipment maintenance.

All internal combustion engine driven equipment and vehicles shall be kept tuned according to the manufacturer's specifications and properly maintained to minimize the leakage of oils and fuel. No vehicles or equipment shall be left idling for a period of longer than ten (10) minutes.

Fueling and maintenance activities of heavy equipment (except draglines and floating suction dredges) are prohibited within one-hundred (100) feet of open bodies of water during mining and reclamation. All Storm Water Pollution Prevention Plans shall include provisions for releases of fuels during fueling activities for draglines and floating suction dredges.

Sec. 10-4.416. Flood protection.

All off-channel surface mining operations shall be provided with a minimum one-hundred (100) year flood protection. Off-channel excavations shall be designed to minimize the possibility of levee breaching and/or pit capture. Flood protection shall be provided from flooding associated with overtopping of the alluvial separators or levees along Cache Creek and all tributaries and drainage channels (including, but not limited to, Willow Slough and Lamb Valley Slough).

The flood protection upgrades shall be designed and constructed to provide the necessary 100-year protection without creating a net increase of downstream flooding elevations. Downstream flooding could be increased if floodplain storage areas were removed from the drainage system by constructing levees in areas where they did not exist before (or raising levees that are overtopped in floods up to the 100-year event). Alternative flood management design systems (potentially using detention basins, infiltration galleries, and/or floodplain storage in noncritical areas) shall be required as a condition of project approval. New development (such as buildings, levees, or dikes) located within the floodplain shall conform to all applicable requirements of the Yolo County Flood Ordinance, the Federal Emergency Management Agency (FEMA), and the State Reclamation Board.

Sec. 10-4.417. Groundwater monitoring programs.

All surface mining operations that propose off-channel excavations extending below the groundwater level shall develop and maintain a groundwater monitoring program consisting of two components: water level measurements and water quality testing. A

groundwater level monitoring program shall be initiated at least six months prior to the removal of overburden. At a minimum, the groundwater level monitoring program shall consist of three monitoring wells, with at least one well upgradient of the wet pit and one well downgradient of the wet pit. Monitoring programs for proposed mining areas exceeding one-hundred (100) acres (total proposed mining area over the life of the project) shall include one additional well for each one-hundred (100) acres of wet pit mining. Therefore, wet pit mining areas of 1 to 99 acres would require 3 wells, 100 to 199 acres would require 4 wells, 200 to 299 acres would require 5 wells, and so on. These wells shall be distributed through the vicinity of the wet pit mining area and used for groundwater level measurements. Groundwater levels shall be collected from the monitoring wells on a quarterly basis for six (6) months prior to mining and for the duration of the mining period. All wellheads shall be surveyed with horizontal and vertical control to allow calculation of groundwater elevations and development of groundwater contour maps. Groundwater levels shall be measured with an accuracy of plus or minus 0.01 foot, at minimum.

Water quality in the vicinity of each active wet pit mining location shall be evaluated by analyzing samples from selected monitoring wells (one upgradient and one downgradient) and wet pit surface water sampling locations. Since mining may be conducted in phases over a relatively long period of time, pit boundaries may change with time. Selection, and installation if necessary, of downgradient monitoring wells, which would be critical to adequately characterize the groundwater quality in the vicinity of the wet pits, shall be submitted by the operator for review and approval by the County. The selected monitoring wells shall be installed and sampled at least six (6) months prior to the removal of overburden. The downgradient wells shall be located as near to the active wet pit mining areas as is practical. The upgradient wells shall be located an adequate distance from the proposed mining area to ensure that the effect of the wet pit on water quality in the well would be negligible. The water samples from the wet pit shall be collected in a manner so as to ensure that they are representative of water quality within the wet pit. The minimum sampling schedule and required analyses are described below.

(a) Groundwater level and pit water surface level measurements shall be performed quarterly in all wells for the duration of mining and reclamation.

(b) For monitoring the groundwater quality of proposed wet pit mining, sample collection and analysis of physical, chemical, and biological constituents shall be conducted according to the following specifications:

(1) Prior to the removal of overburden - One upgradient and one downgradient well shall be sampled at least six (6) months prior to the removal of overburden and again at the start of excavation. The samples shall, at minimum, be analyzed for general minerals; inorganics; nitrates; total petroleum hydrocarbons (TPH) as diesel and motor oil, benzene, toluene, ethylbenzene, and xylenes (BTEX); pesticides (EPA 8140 and 8150); and coliform (with *E. coli* confirmation).

(2) During wet pit mining and active reclamation - The wet pit shall be sampled semi-annually for the duration of mining and active reclamation. The samples shall, at minimum, be analyzed for general minerals; inorganics; nitrates; TPH as diesel and motor oil, BTEX; pesticides (EPA 8140 and 8150); and coliform (with *E. coli* confirmation).

One upgradient and one downgradient well shall be analyzed, at minimum, for general minerals; inorganics; nitrates; TPH as diesel and motor oil, BTEX; pesticides (EPA 8140 and 8150); and coliform (with E. coli confirmation). The wells shall be sampled according to the following schedule: semi-annually for the first two years, and annually every year thereafter.

(3) After active reclamation - One year after all heavy equipment work has been completed in the vicinity of the pit, the TPH and BTEX analyses may be discontinued. The wet pit and one upgradient and one downgradient well shall be sampled and analyzed for pH; temperature; nutrients (phosphorous and nitrogen); total dissolved solids; total coliform (with E. coli confirmation); and biological oxygen demand. This monitoring shall be conducted every two (2) years for a ten (10) year period after completion of reclamation.

A report to the Agency and Department of Environmental Health shall be submitted within thirty (30) days of the required groundwater testing.

Additional tests and analysis shall be required only if a new condition is recognized that may threaten water quality or if the results of previous tests fall outside allowable ranges. If at any time during the monitoring period, testing results indicate that sampling parameters exceed Maximum Contaminant Levels (MCLs), as reported in the California Code of Regulations, or established background levels, a qualified professional shall evaluate potential sources of the contaminants. The evaluation shall determine the source and process of migration (surface or subsurface) of the contaminants. A report shall be submitted to the regulatory agencies (the Agency, Yolo County Department of Environmental Health, the Central Valley Regional Water Quality Control Board, and the U.S. Environmental Protection Agency) which identified the source of the detected contaminants and specifies remedial actions to be implemented by the operator for corrective action. If it is determined that the source of water quality degradation is off-site, and the County and the RWQCB are in agreement with this conclusion, the operator shall not be responsible for corrective action.

If corrective action is ineffective or infeasible, the responsible party must provide reparation to affected well owners, either by treatment of water at the wellhead or by procurement of an alternate water supply.

If, at the completion of the mining and reclamation period, water quality has not been impacted, all monitoring wells shall be destroyed in accordance with the California Department of Water Resources Well Standards. If the County or other agency wishes to maintain the wells for future water resources evaluation, selected wells may be preserved for this use.

The County may retain appropriate staff or a contract consultant to provide third party critical review of all hydrologic reports related to monitoring.

Sec. 10-4.418. Habitat management plan compliance.

All surface mining operations shall complement the preservation and enhancement measures in the Yolo County Habitat Conservation Plan (HCP). Mining operators with lands designated as having a moderate to high potential for use as mitigation areas in the HCP shall be encouraged to participate in the Developer HCP Participation Options, including use of lands as mitigation sites.

Sec. 10-4.419. Haul roads.

Those portions of designated truck haul routes that include County-maintained roads shall be posted as such, in accordance with the Public Works Department, to facilitate law enforcement and public safety. Private truck haul routes or conveyors shall be used to transport material within the mining site, in order to reduce impacts to public roads.

Sec. 10-4.420. Lighting.

All lighting shall be arranged and controlled so as not to illuminate public rights-of-way or adjacent properties.

Sec. 10-4.421. Noise: General standard.

From 6:00 a.m. to 6:00 p.m., noise levels shall not exceed an average noise level equivalent (Leq) of eighty (80) decibels (dBA) measured at the property boundaries of the site. However, noise levels shall not exceed an average noise level equivalent (Leq) of sixty (60) decibels (dBA) for any nearby off-site residences or other noise-sensitive land uses.

From 6:00 p.m. to 6:00 a.m., noise levels shall not exceed an average noise level equivalent (Leq) of sixty-five (65) decibels (dBA) measured at the property boundaries of the site.

At no time shall noise levels exceed a community noise equivalent (CNEL) of sixty (60) decibels (dBA) for any existing residence or other noise-sensitive land use. An existing residence shall be considered the property line of any residentially zoned area or, in the case of agricultural land, any occupied off-site residential structures. Achieving the noise standards may involve setbacks, the use of quieter equipment adjacent to residences, the construction of landscaped berms between mining activities and residences, or other appropriate measures.

Sec. 10-4.422. Noise: Sonic safety devices.

If mining occurs within fifteen-hundred (1500) feet of residences, equipment used during nighttime activities shall be equipped with non-sonic warning devices consistent with the California Office of Safety Hazard Administration (Cal OSHA) regulations, which may include fencing of the area to avoid pedestrian traffic, adequate lighting of the area, and placing an observer in clear view of the equipment operator to direct backing operations. Prior to commencement of operations without sonic warning devices, operators shall file a variance request with the California OSHA Standards Board showing that the proposed operation would provide equivalent safety to adopted safety procedures, including sonic devices.

Sec. 10-4.423. Noise: Traffic.

Operators shall provide acoustical analysis for future truck and traffic noise associated with the individual operations along County roadways identified as experiencing significant impacts due to increased traffic noise. The study shall identify noise levels at adjacent noise-sensitive receptors and ways to control the noise to the "normally acceptable" goal of a CNEL of sixty (60) dB and reduce the increase over existing conditions to five (5) dB or less. Typical measures that can be employed include

the construction of noise barriers (wood or masonry), earthen berms, or re-routing of truck traffic.

Sec. 10-4.424. Other agency approvals.

Operators shall obtain any and all permits and approvals required by other agencies having jurisdiction over the proposed mining operations and shall provide copies to the County.

Sec. 10-4.425. Parking.

All operations shall provide sufficient off-street parking to accommodate customers, employees, and all mining equipment.

Sec. 10-4.426. Permit life.

Surface mining permits and permits for aggregate processing facilities shall be approved for a maximum of thirty (30) years. Extensions of the permits, for up to twenty years, may be granted, subject to further environmental review and discretionary approval by the County. All surface mining permits shall be subject to annual reporting requirements, as well as review by the County every ten (10) years, to account for changing regulatory requirements.

Sec. 10-4.427. Protection of nearby drinking water wells.

If any off-channel excavation proposes to extend below the level of seasonal high groundwater, then six months prior to the commencement of excavation below the average high groundwater level, the operator shall identify and locate all off-site municipal wells within one-thousand (1,000) feet and all domestic wells within five hundred (500) feet of the proposed wet pit mining boundary. If active wells are identified, well characteristics (pumping rate, depth, and locations of screens) shall be determined. If wells are not located within one-thousand (1,000) feet, the pre-mining impact evaluation shall be considered complete.

If wet pit mining is proposed within one-thousand (1,000) feet of a municipal water supply or within five-hundred (500) feet of a domestic water supply well, a capture zone analysis shall be conducted using the U.S. Environmental Protection Agency model WHPA (or a similar model of equal capability and proven reliability, as approved by the Director). The simulation shall assume thirty (30) days of continuous pumping of the water supply well (at its maximum probable yield) under analysis. A mining setback shall be established so that the capture zone and the pit do not coincide. Alternatively, the operator shall submit a written agreement that the well owner has agreed to relocate or redesign the well, or accept the potential impact (at no expense to the County). The analysis shall be prepared and signed by a Registered Civil Engineer or Certified Hydrogeologist and submitted to the County for review and approved at least six months prior to the commencement of excavation below the seasonal high groundwater level.

Any new drinking water wells proposed for installation within one-thousand (1,000) feet of an approved wet pit mining area shall be subject to review by the Yolo County Environmental Health Department. The County shall determine, based on site-specific hydrogeology and available water quality data, whether to approved the proposed well

installation. Analysis of environmental impact for projects in the vicinity of the wet pits shall include consideration of potential water quality impacts on the open water bodies.

The County may retain appropriate staff or a contract consultant to provide third party critical review of all hydrogeologic reports related to mining applications.

Sec. 10-4.428. Sanitary facilities.

At least one toilet shall be provided for each off-channel mining operation. Chemical toilets shall be properly maintained and serviced regularly. Permanent toilets shall be properly engineered and the design approved by the Yolo County Building Official and the Environmental Health Department prior to installation. All on-site water storage facilities shall be labeled "potable" or "non-potable."

Sec. 10-4.429. Setbacks.

All off-channel surface mining operations shall comply with the following setbacks:

(a) New processing plants and material stockpiles shall be located a minimum of one-thousand (1,000) feet from public rights-of-way, public recreation areas, and/or off-site residences, unless alternate measures to reduce potential noise, dust, and aesthetic impacts are developed and implemented;

(b) Soil stockpiles shall be located a minimum of five-hundred (500) feet from public rights-of-way, public recreation areas, and off-site residences, unless alternate measures to reduce potential dust and aesthetic impacts are developed and implemented;

(c) Off-channel excavations shall maintain a minimum one-thousand (1,000) foot setback from public rights-of-way and adjacent property lines off-site residences, unless a landscaped buffer is provided or site-specific characteristics reduce potential aesthetic impacts. Where landscaped buffers are proposed, the setback for off-channel excavations may be reduced to a minimum of fifty (50) feet from either the property line or the adjoining right-of-way, whichever is greater. Where mining occurs within one-thousand (1,000) feet of a public right-of-way, operators shall phase mining such that no more than fifty (50) acres of the area that lies within one-thousand (1,000) feet of the right-of-way would be actively disturbed at any time, except where operations are adequately screened from public view. Where adequate screening exists in the form of mature vegetation and/or constructed berms that effectively block public views, the area of active disturbance within one-thousand (1,000) feet of the right-of-way shall not exceed the area that is screened by more than fifty (50) acres at any one time. Actively disturbed areas are defined as those on which mining operations of any kind, or the implementation of reclamation such as grading, seeding, or installation of plant material are taking place.

(d) Proposed off-channel excavations located within the streamway influence boundary shall be set back a minimum of seven-hundred (700) feet from the existing channel bank, unless it is demonstrated that a smaller distance will not adversely affect channel stability. The evaluation of the potential for adverse effects of bank erosion or failure of the land separating pits located less than seven-hundred (700) feet from the active channel shall address, at a minimum, the following:

(1) The two-hundred (200) foot setback area shall not include portions of the former historic active floodplain or formerly mined lands separated from the active channel by levees or unmined areas less than two-hundred (200) feet wide (measured perpendicular to the active channel).

(2) Identification of the former historic positions of the Cache Creek channels as delineated in the CCRMP Technical Studies, and determination if the proposed project is located within the limits of the historic channel.

(3) Description of current channel hydraulic conditions (based on existing or site-specific hydraulic models) for the Cache Creek channel adjacent to the site and extending not less than one-thousand (1,000) feet upstream and downstream of the site.

(4) Determination of the erosion potential of the stream bank adjacent to the site made on the basis of stream flow velocity and estimated shear stress on bank materials during 100-year flood flows and historic patterns of erosion.

(5) Analytical slope stability analysis in conformance with Sections 10-4.426 and 10-5.517 of this title. The analysis of the slopes separating the mining area from the creek channel shall include evaluation of stability conditions during 100-year flood flows in the channel.

(6) Future proposed bank stabilization designs, if recommended, shall not conflict with channel design recommendations of the Cache Creek Resource Management Plan unless approved by the Technical Advisory Committee.

(f) Off-channel excavations shall be set back a minimum of twenty-five (25) feet from riparian vegetation; and

(g) Recreational facilities shall be located a minimum of one-hundred and fifty (150) feet from private dwellings, with a landscaped buffer provided to reduce noise and maintain privacy, unless the dwelling is proposed to be an integral component of the recreational facility.

(h) No mining activities shall occur within two-thousand (2,000) feet of the community boundaries of Capay, Esparto, Madison, Woodland, and/or Yolo. This setback may be reduced by up to five-hundred (500) feet when existing mature vegetation, proposed landscape buffers of a sufficient height and density to create a visual buffer (consisting of native species and fence-row habitat appropriate to the area), or other site-specific characteristics reduce potential incompatibilities between urban land uses and mining. Commercial mining shall not take place east of County Road 96.

Sec. 10-4.430. Site maintenance.

During operations, the site shall be kept free of debris and maintained in a neat and orderly manner so as not to create any hazardous or unsightly conditions. All overburden shall be stockpiled and all stumps, brush, or other debris resulting from excavation and/or processing shall be properly disposed.

Sec. 10-4.431. Slopes.

Except where benches are used, all banks above groundwater level shall be sloped no steeper than 2:1 (horizontal:vertical). Proposed steeper slopes shall be evaluated by a slope stability study, prepared by a Registered Civil engineer. Slopes below the groundwater level shall be no steeper than 1:1 (horizontal:vertical). Slopes located five (5) feet or less below the summer low groundwater level shall not be steeper than 2:1 (horizontal:vertical).

Sec. 10-4.432. Soil removal.

Soil shall be cut in maximum depths in order to minimize traffic and limit compaction. The handling and transportation of soil shall be minimized. All handling of topsoil shall be accomplished when the soil is dry in order to avoid undue compaction.

Sec. 10-4.433. Soil stockpiles.

Topsoil, subsoil, and subgrade materials in stockpiles shall not exceed forty (40) feet in height, with slopes no steeper than 2:1 (horizontal:vertical). Stockpiles, other than aggregate stockpiles, shall be seeded with a vegetative cover to prevent erosion and leaching. The use of topsoil for purposes other than reclamation shall not be allowed without the prior approval of the Director.

Slopes on stockpiled soils shall be graded to a 2:1 (horizontal:vertical) slope for long-term storage to prevent use by bank swallows. At no time during the active breeding season (May 1 through July 31) shall slopes on stockpiles exceed a slope of 1:1, even on a temporary basis. Stockpiles shall be graded to a minimum 1:1 slope at the end of each work day where stockpiles have been disturbed during the active breeding season.

Sec. 10-4.434. Technical report recommendations.

The recommendations contained within each technical report submitted with a surface mining permit application shall be consistent with the OCMP and with all other technical reports submitted. The recommendations of all technical reports shall be implemented.

Sec. 10-4.435. Transfer of allocation.

If a property is sold or transferred, the allocation attributed to the property transfers as well. If the transferred tonnage is still processed at the original plant site pursuant to the original permit approval, no additional environmental assessment or permits are required. If that transferred tonnage is processed elsewhere, additional analysis and approval shall be required. The new operator shall submit a signed statement of responsibility for reclamation of the site and post financial assurances with the Agency prior to commencement.

Sec. 10-4.436. Vegetation protection.

Existing vegetation and habitat to be retained shall be enclosed by temporary fencing to restrict access, protect against damage and/or provide buffers to reduce the impact of dust. Temporary fencing shall be a minimum of four (4) feet high. The disturbance of riparian or oak woodland vegetation, including identified off-channel vegetation. Replacement habitat and plantings shall be established where complete avoidance is not possible, according to a habitat restoration plan prepared by a qualified biologist, consistent with the goals of this plan.

Sec. 10-4.437. Wastewater discharge.

No wastewater shall be directly discharged to Cache Creek. Sediment fines generated by aggregate processing shall either be used for agricultural soil enhancement, habitat restoration sites, or shall be placed in settling ponds, designed and operated in accordance with all applicable regulations, and used for backfill materials in off-channel

excavations. Agricultural tailwater shall be diverted to catchment basins prior to its release to the creek.

Sec. 10-4.438. Watercraft.

Only motorized dredges and draglines shall be allowed on the wet pit lakes. All other fuel-powered (gasoline or diesel) watercraft shall not be used on the wet pit lakes. Electric-powered or non-motorized boats shall be permissible.

Sec. 10-4.439. Wetlands.

Existing jurisdictional wetlands shall be retained to the extent possible. Replacement wetlands shall be provided where complete avoidance is not possible according to a habitat restoration plan prepared by a qualified wetland specialist and approved by jurisdictional agencies, ensuring no net loss of wetland acreage or habitat value.

Sec. 10-4.440. Wildlife habitat.

Avoid disturbance to important wildlife habitat features such as nest trees, colonial breeding locations, elderberry host plants for Valley Elderberry Longhorn Beetle, and essential cover associated with riparian forest and oak woodland habitat. This shall include sensitive siting of haul roads, trails, and recreational facilities away from these features. Essential habitat for special-status species shall be protected and enhanced, or replaced as a part of mitigation plans prepared by a qualified biologist.

Sec. 10-4.441 Exceptions.

Where an operator demonstrates to the lead agency that an exception to the standards specified in this article is necessary, the Commission may approve an alternative standard for inclusion in the approved surface mining permit. Exceptions shall only be approved where the strict application of the off-channel mining standards would deprive the operator of privileges enjoyed by other mining operators in the vicinity, due to special circumstances associated with the subject site, including size, shape, topography, location, or surroundings. Although the Commission may set alternative standards, in no case may the Commission set any standard which does not meet or exceed the policy objectives set forth in the OCMF.

Article 5. Surface Mining Permit Approval Process

Sec. 10-4.501. Zoning requirements.

Off-channel surface mining operations shall only be permitted within the Special Sand and Gravel Combining (S-G) Zone defined in Article 23.1 of Chapter 2 of Title 8 of this Code.

Sec. 10-4.502. Applications: Contents.

Except as provided for in Section 10-4.503 of this article, all documentation for the surface mining permit shall be submitted to the Director at one time. Ten (10) complete copies of the application shall be provided to the County. An executive summary and a

table of contents shall be submitted with each application. Applications for proposed surface mining permit shall include, but shall not be limited to, the following:

(a) A narrative description of the proposed surface mining operations, including the following information:

(1) The consistency of the proposed surface mining operations with this chapter, the General Plan, zoning, and applicable specific plans;

(2) The manner in which waste generated by the surface mining operation will be disposed and the methods by which contamination will be controlled during surface mining;

(3) The methods to be used for on-site and off-site surface water drainage and erosion control during surface mining operations, including provisions for ensuring flood protection of the site for the one-hundred (100) year event;

(4) The proposed hours of operation, including the estimated number of nights when surface mining operations may be necessary;

(5) The results of all soil test borings performed within the mined area, to provide information on soil quality and slope stability;

(6) The anticipated quantity and type of minerals for which the proposed surface mining operation will be conducted, including the estimated maximum annual production with calculations presented in both tons mined and in tons sold;

(7) A summary table showing the following information, listed by phases for the proposed surface mining project: the length of time for both mining and reclamation, acreage proposed for mining, acreages proposed for appropriate reclaimed uses, projected mineral reserves (both mined and sold), and Williamson Act contracted acreage.

(b) Site-specific technical reports, performed by qualified professionals in the appropriate area of expertise, shall provide specific proposals for inclusion in the surface mining permit to address the following potential environmental impacts:

(1) A biological inventory and analysis to evaluate the on-site habitat value of the proposed mined area, as well as the potential impacts to species of concern, both on-site and within the immediate area. The analysis shall propose appropriate measures to reduce any potential adverse impacts to species of concern or significant habitat. The analysis shall also include a wetlands delineation study for any potential on-site wetlands. If landscaping is proposed to screen the surface mining operations from adjoining public rights-of-way or public and private lands, then the biological analysis shall include an evaluation of the feasibility of the species, weed control, and irrigation methods to be used;

(2) If the maximum depth of proposed mining will exceed the average high groundwater level for the site, and the proposed pit boundaries are within one-thousand (1,000) feet of an active off-site well, then a groundwater analysis shall be submitted to evaluate the effect of the proposed mining plan on the groundwater levels and quality of the off-site active wells. The analysis shall be consistent with the procedures described in Section 10-4.430 of this chapter. A detailed groundwater monitoring program shall be prepared in conformance with 10-4.419 of this chapter, including maps and hydrographs of the wells to be used in the monitoring network and their respective groundwater measurements. A well survey shall be conducted and all wells within one-thousand (1,000) feet of the limits of mining plotted on a scaled map. Each property owner owning parcels within one-thousand (1,000) feet of the proposed limits of wet pit mining shall be

contacted and queried about wells that may be located near the wet pit mining area. Measures to reduce the potential for contamination shall be included within the analysis;

(3) A noise analysis to evaluate the impacts of surface mining operations on adjoining land uses and sensitive receptors (i.e. residences) within the immediate area. The analysis shall include a map of projected noise contours generated by the mine, for both daytime and nighttime operations, with appropriate measures to reduce excessive noise levels. The analysis shall be performed in accordance with Sections 10-4.423 through 10-4.425 of this chapter;

(4) A traffic analysis to evaluate the impacts of proposed haul routes on the Levels of Service for County roads and State highways. The analysis shall evaluate specific designated truck routes and shall include an evaluation of existing road conditions for those routes to be used. The analysis shall also specify the projected number of average truck trips per year, average truck trips per day, estimated maximum truck trips on peak days, estimated number of peak days per year, and estimated months in which peak days will occur. The analysis shall include appropriate measures to reduce any significant adverse impacts to traffic flow and/or safety; and

(5) A geotechnical study to evaluate any proposed operational slopes steeper than a 2:1 (horizontal:vertical) ratio to ensure that they will be stable while mining is being conducted and that the slopes possess an adequate factor of safety. The study shall include an evaluation of any slopes proposed to provide flood protection from Cache Creek and shall indicate what measures are proposed to prevent breaching or pit capture. Measures shall be included within the study to ensure slope stability and maintenance;

(6) A cultural resources survey of the proposed mining area, in order to evaluate the potential for historic and/or prehistoric artifacts. A survey may not be required if a preliminary investigation from the Northwest Information Center indicates that the likelihood of archaeological resources is low for the proposed site;

(7) An engineering analysis to evaluate any off-channel excavations located within the streamway influence boundary, which are proposed within seven-hundred (700) feet of the existing channel bank. The analysis shall be performed in accordance with Section 10-4.432 of this chapter. Measures shall be included to reduce adverse impacts to streamflow characteristics resulting from the proposed mining operations; and

(8) An engineering analysis of the potential for a 100-year flood event to affect the proposed mining site. Measures shall be included to provide necessary flood protection for the site, in conformance with Section 10-4.417 of this chapter.

(c) A site plan submitted in the form prescribed by the Planning Director, including all property proposed to be included in the mined area, drawn to a scale of one inch equals one-hundred feet (1" = 100'), or other scale acceptable to the Director for larger holdings. Small-scale, reproducible copies shall be provided along with all site plans submitted. Site plans shall show the following information:

(1) All property lines, including the boundaries of all parcels proposed for mining and reclamation; the boundaries of any ownerships, leases, and/or other entitlements vested in the surface mining operator which allow surface mining and reclamation to be conducted on-site; and all Assessor parcel numbers for properties included in the application;

(2) The location of all streams, residences, roads, railroads, and utility facilities within, or adjacent to, the lands to be mined;

(3) The location and condition of any previously mined areas within the site, specifically designating those portions of the site, if any, where mining was completed prior to January 1, 1976, and which is claimed to be exempt from the requirements of the Act;

(4) The existing and proposed topography of all mined lands, including the location of the control cross-section submitted pursuant to subsection (d) of this section;

(5) The location of all development proposed as a part of the surface mining operations, including settling basins, drainage conveyances, equipment, fences, and other man-made structures;

(6) The locations for the storage of overburden and topsoil material in any proposed stockpiles;

(7) The proposed points of ingress and egress, access roads, driveways, haul roads, and parking areas proposed as a part of the surface mining operation;

(8) The location of existing vegetation, including areas where vegetation is proposed to be removed; and

(d) Graphic depictions of control cross-sections located as follows and including the following information:

(1) At least three (3) control cross-sections within the area to be mined, with two (2) of the cross-sections perpendicular to one another;

(2) In no event may the interval between the control cross-sections exceed twelve-hundred (1,200) feet; and

(3) The cross-sections shall identify both the existing and proposed mining elevations, and shall identify the angle of operational slopes.

(e) A certificate from a licensed land surveyor or registered civil engineer certifying that the site plans and cross-sections were prepared by or under the direct supervision of the surveyor or engineer;

(f) A Land Survey or Record of Survey for all parcels included in the application which has a basis of bearing in the California Coordinate System (NAD 27 or NAD 83);

(g) An initial environmental assessment describing the potential impacts of approving the surface mining permit;

(h) A list of all other applicable discretionary permits required by other public agencies;

(i) A proposal for providing a "net gain" to the County, as determined by the following criteria:

(1) reclamation to multiple or conjunctive uses;

(2) enhancement and enrichment of existing resources; and/or

(3) restoration of past sites where the requirements of reclamation at the time no longer meet community expectations in terms of good stewardship of the land.

"Net gain" may include participation in an established program whose goals are consistent with the above criteria. Benefits included in the technical studies submitted with each application which serve as mitigation measures for potentially adverse environmental impacts created by the project may not be included as a "net gain;" and,

(j) A set of completed application forms provided by the Agency, and all pertinent information required therein.

In addition to the foregoing, the Director may require such other and further information relevant to the project as needed to determine whether the proposal may affect the public health and safety.

Sec. 10-4.503. Applications: Waiver of Information.

The Director may temporarily waive any of the items of information required in Section 10-4.502 of this Article, if the following conditions apply:

(a) The gathering of such information is precluded by physical conditions existing on the site on the date of the application; and

(b) The operator has provided a statement describing the reasons for the delay, including the date by which the information required in the application will be submitted. If granted, the Director shall notify the operator in writing, specifically describing the information which is being waived and specifying the date by which the operator shall provide the necessary information. If all other information required pursuant to this chapter has been submitted and the appropriate fees have been paid, then the Director shall receive the application for filing.

Sec. 10-4.504. Applications: Filing.

Applications for surface mining permits shall be submitted to the Director for review and determination as to completeness. If the application is determined to be incomplete, the Director shall notify the operator in writing within thirty (30) days of receipt of the application. The written notice shall specifically describe the information necessary to complete the application. The application shall not be processed until the Director has determined it to be complete and the appropriate fees have been paid, as required under Article 8 of this chapter.

Once the application has been determined to be complete and the appropriate fees have been paid, the application shall be processed by the Director, who shall set it for a hearing pursuant to Section 10-4.506 of this article.

Sec. 10-4.505. Applications: Review.

The Director shall notify the Department in writing of any application for a surface mining permit within thirty (30) days of its being filed. The application shall also be circulated to all other agencies of jurisdiction for their review and comments in accordance with CEQA, or other applicable regulatory requirements. In addition, a notice of the filing of a reclamation plan shall be mailed to any other person with an interest in the application, who has deposited a self-addressed, stamped envelope with the Agency for the purpose of receiving a notice of the filing.

Sec. 10-4.506. Applications: Public hearing.

Once the application has been processed, the Director shall set a public hearing before the Commission to consider the proposed surface mining permit. Said hearing shall be held within six (6) months after the completion of the final EIR or within three (3) months after the completion of the negative declaration.

Sec. 10-4.507. Public hearing: Notice.

The Director shall mail notices of the public hearing to the operator and to all property owners and property occupants located within three-hundred (300) feet of the exterior boundaries of the property containing the proposed site. Notices shall be mailed to said property owners at the addresses shown on the latest equalized County assessment roll, as well as the occupants at the situs addresses. In addition, the Director shall publish a notice of the public hearing at least once in a newspaper of general circulation, published and circulated in the area of the proposal. All notices shall be mailed and published at least ten (10) days prior to the public hearing. The Director shall also provide such other notice as may be appropriate in the circumstances of the project.

Notices of public hearing shall state the date, time, and place set for the commencement of the hearing; shall identify the property included within the proposal; and shall generally describe the subject matter of the hearing. A metes and bounds legal description of the subject property shall not be required. Notices required by this chapter may describe the subject property using landmarks, Assessor parcel numbers, and/or similar identifying information.

Failure to mail or to receive such notice, as a result of mistake or inadvertence, shall not affect the validity of the hearing or the decision rendered.

Sec. 10-4.508. Public hearing: Review.

Prior to the hearing, the Director shall submit copies of the following to the Department for a thirty (30) day review period:

- (a) A copy of the proposed surface mining permit;
- (b) A copy of the environmental document for the reclamation plan, prepared in accordance with CEQA; and
- (c) Other related documentation, as appropriate.

No surface mining permit may be approved until the Department has completed its review, or the thirty (30) day review period has expired. The Director shall prepare a written response to any written comments received from the Department regarding the surface mining permit submitted. If applicable, the Director's response shall specifically address, in detail, why any comments or suggestions submitted by the Department were not accepted. The Director shall forward copies of both the Department's comments and the Director's response to the operator.

If proposed surface mining operations are located within the 100-year flood plain of any stream, as shown in Zone A of the Flood Insurance Rate Maps issued by the Federal Emergency Management Agency, and within one mile of any County or State maintained bridge, then the Director shall mail a copy of the proposed surface mining permit to the State Department of Transportation for a forty-five (45) day review period. No surface mining permit may be approved until the Department of Transportation has completed its review or the forty-five (45) day period has expired.

Sec. 10-4.509. Public hearing: Findings for approval.

The Commission or, on appeal, the Board may approve a surface mining permit pursuant to this chapter only if all of the following findings are made:

- (a) That the proposed surface mining permit complies with the Act and this chapter;

- (b) That surface mining shall be conducted pursuant to a reclamation plan approved in accordance with Chapter 5 of this title;
- (c) That surface mining will not be detrimental to the public health and safety;
- (d) That the surface mining permit is consistent with the General Plan, any applicable specific plans, and the zoning of the site;
- (e) That surface mining is compatible with the existing uses of surrounding lands;
- (f) That the site is physically suitable for surface mining, giving consideration, but not limited to such factors as local groundwater conditions, flood protection, drainage, habitat, and aesthetics;
- (g) That the surface mining operation includes provisions for a "net gain" to the County;
- (h) That the environmental document for the proposed surface mining permit was prepared in accordance with the provisions of CEQA and the State CEQA Guidelines; and,
- (i) That a written response to the State Department of Conservation has been prepared and considered, describing the disposition of major issues raised by the Department.

Sec. 10-4.510. Public hearing: Decision.

After considering the evidence in the public hearing, the Commission or Board shall approve, conditionally approve, or deny the application by a written decision setting forth the findings supporting the action. Approval may be granted subject to any relevant condition which the Commission or Board may deem necessary to effectuate the purposes of the Act and this chapter. Such conditions may address any or all of the findings required by Section 10-4.509 of this article. If the application is conditionally approved, the conditions shall be specified in writing.

Within ten (10) days after the decision of the Commission or Board, the Director shall mail a copy of the decision to the operator. Copies of the decision shall also be mailed to any other person with an interest in the application, who has deposited a self-addressed, stamped envelope with the Agency for the purpose of receiving a copy of the decision.

**Article 6. Amendments and Modifications to
Approved Surface Mining Permits**

Sec. 10-4.601. Amendments and modifications: Purpose.

The purpose of this article is to provide procedures for changing the conditions of approval or project description (as described in the application and accompanying analyses) to account for unanticipated changes in the surface mining operation, site characteristics, regulations, or other aspects of the approved surface mining permit.

Sec. 10-4.602. Amendments: Applications.

Applications for amendments to previously approved surface mining permits shall be submitted to the Director, on forms provided by the Agency, and shall be accompanied

by the appropriate fees, as determined in Article 8 of this chapter. Such applications shall be processed pursuant to the procedures set forth in Article 5 of this chapter.

Sec. 10-4.603. Amendments: Exceptions.

Proposed exceptions to the off-channel mining standards may not be included as part of any application for a minor modification. Any changes in the conditions of approval or the amount of surface area and/or depth to be disturbed shall also be treated as a substantial deviation from the approved plan. Such changes and exceptions shall be processed as an amendment to the surface mining permit.

Sec. 10-4.604. Minor Modifications.

The Director may approve minor modifications of surface mining permits approved by the Commission pursuant to this chapter. Minor modifications may only be approved if it is found that such changes would be consistent with the conclusions of the certified EIR or other applicable environmental document, and that such changes will not have a significantly adverse effect on the public health and safety. Such modifications shall be noted on the approved plans and shall be initialed by the Director.

The decision of the Director shall be mailed and posted in accordance with Section 10-5.507 of this chapter. Any minor modification approved by the Director shall become final within fifteen (15) days, unless appealed to the Commission, as provided in Article 10 of this chapter.

Sec. 10-4.605. Interim permit review.

Every ten years after a surface mining permit has been approved, the Commission shall hold a public hearing in accordance with Article 5 of this chapter, for the purpose of amending the permit to bring it into conformance with applicable future environmental regulations and statutory changes. An additional public hearing may be held fifteen (15) years after a surface mining permit has been approved, at the discretion of the Commission. The Commission shall evaluate the permit to determine if there have been any subsequently adopted environmental regulations or statutory provisions which should be made applicable to the mining operation, even if such laws themselves are not made retroactive to affect the permit. For the purposes of this article, an environmental regulation or statutory provision is one that is promulgated by a responsible or trustee agency that has authority for a particular natural resource (e.g., Yolo-Solano Air Quality Management District, California Department of Fish and Game, California Department of Conservation, Regional Water Quality Control Board, State Lands Commission, State Reclamation Board, etc.), including the County of Yolo.

As a part of this review, the Commission shall also consider whether per-ton fees to which the permit is subject, reasonably reflect actual costs. The fees shall be adjusted up or down accordingly.

Should the Commission decide to incorporate into the permit new regulatory or statutory provisions that were not available at the time of project approval, said provisions shall be applied as an amendment to the permit and processed in accordance with Article 6 of this chapter. The decision of the Commission may be appealed, in accordance with Article 10 of this chapter.

Article 7. Annual Reports

Sec. 10-4.701. Annual Reports: Contents.

Every surface mining operator shall submit an annual report of surface mining operations no later than November 1 of each year, describing the activities of the previous twelve (12) months. Annual reports shall no longer be required, once final reclamation has been completed and financial assurances have been released. Such reports shall contain the following information:

(a) A site plan submitted in the form prescribed by the Planning Director, including all property proposed to be included in the reclamation plan, drawn to a scale of one inch equals one-hundred feet (1" = 100'), or other scale acceptable to the Director for larger holdings, and showing the following information:

- (1) Property boundaries and the boundaries of permitted mining areas, including the depiction of separate mining phases;
- (2) The existing contours;
- (3) Contours which show the areas and depth of mining which have occurred since the previous annual report;
- (4) Identification of any significant changes in the topography, such as bank failures, levee breaches, extensive erosion, etc. which have occurred since the previous annual report;
- (5) Identification of erosion control structures, levees, berms, stockpiles, haul roads, settling ponds, habitat avoidance areas, and processing facilities;
- (6) The extent of areas reclaimed since the previous annual report;
- (7) The extent of any borrow areas, where topsoil and overburden are excavated for use in the reclamation of mined lands; and
- (8) Updated graphic depictions of the control cross-sections approved in the surface mining permit application.

The site plan shall include a certificate from a licensed land surveyor or registered civil engineer certifying that the site plan and cross-sections were prepared by or under the direct supervision of the surveyor or engineer;

(b) A statement of the total amount of minerals produced since the date of the initial permit approval and since the date of the preceding annual report. Such information shall be consistent with the data submitted to the Department, as required in Section 2207 et seq. of Chapter 2 of Division 2 of the Public Resources Code of California. Production information shall be considered confidential under Section 10-4.901 of this chapter. Such reports shall be submitted as a declaration under penalty of perjury;

(c) A statement of the total amount of concrete and asphalt materials recycled since the date of the preceding annual report, and a statement of the total amount of aggregate removed from Cache Creek as a result of channel maintenance and reshaping activities in accordance with the CCRMP;

(d) A report prepared by a qualified hydrologist describing the data obtained from the on-site groundwater monitoring program, prepared in accordance with Section 10-4.419. The report shall recommend appropriate remedial measures if contamination in exceedance of established thresholds is indicated;

(e) A report describing the previous year's crop yields on any land in the process of being reclaimed to agriculture in accordance with the approved reclamation plan. The

report shall include a soil analysis and appropriate remedial measures prepared by a qualified agronomist if crop yields do not meet the production standards set forth in the approved reclamation plan;

(f) A report prepared by a qualified biologist describing the density, coverage, and species-richness of any on-site areas that are being revegetated with plants other than agricultural crops in accordance with the approved reclamation plan. The report shall compare the observed data with the performance standards set forth in the approved reclamation plan and shall recommend remedial measures if the previous year's revegetation efforts have not been successful;

(g) A report prepared by a Registered Geologist, a Licensed Geotechnical Engineer, or a Registered Civil Engineer describing the remedial measures necessary to remediate any slope failures, levee breaches, or other topographical problems referred to in the site plan above;

(h) A report describing the extent of mining carried out over the previous year and the conformance of the operation with the approved reclamation timetable and/or phasing plan. Said report shall also describe the proposed extent of operations to be carried out over the following year;

(i) A report describing the compliance of the surface mining operation with the approved conditions of approval;

(j) A table, matrix, or report identifying all adopted CEQA mitigation measures by number and text, and describing compliance with these measures, pursuant to the Mitigation Monitoring Program adopted for the project; and

(k) A statement describing the status of any permits or approval issued by other agencies of jurisdiction.

Sec. 10-4.702. Annual reports: filing.

Annual reports shall be submitted to the Director for review and determination as to completeness. If the annual report is determined to be incomplete, the Director shall notify the operator in writing within thirty (30) days of receipt of the annual report. The written notice shall specifically describe the information necessary to complete the annual report. The annual report shall not be processed until the Director has determined it to be complete and the appropriate fees have been paid, as required under Article 8 of this chapter.

Once the annual report has been determined to be complete and the appropriate fees have been paid, the annual report shall be filed by the Director and made available for public review.

Sec. 10-4.703. Annual reports: hearing.

Every year, the Planning Commission shall hold a public hearing, in accordance with Article 5 of this chapter, regarding the compliance status of each surface mining operation permitted pursuant to this title. After considering the evidence in the public hearing, the Commission shall find that the operation either complies or does not comply with the Act, this chapter, and the conditions of approval for the surface mining permit. If the Commission finds that the operation is not in compliance, then the Director shall file a Notice of Violation, pursuant to Article 11 of this chapter.

Within ten (10) days after the decision of the Commission, the Director shall mail a copy of the decision to the operator. Copies of the decision shall also be mailed to any other person with an interest in the application, who has deposited a self-addressed, stamped envelope with the Agency for the purpose of receiving a copy of the decision. The decision of the Commission may be appealed, in accordance with Article 10 of this chapter.

Article 8. Fees

Sec. 10-4.801. Fees: Applications.

Each application for a surface mining permit or any amendments and modifications thereto shall be accompanied by the appropriate fee as determined in the Master Fee Resolution adopted by the Board.

Sec. 10-4.802. Fees: Inspections and Administrative.

The operator shall be responsible for the payment of fees to cover the costs incurred by the County in annually inspecting each mine site, pursuant to Section 10-3.1103 of this chapter, as determined by the Master Fee Resolution adopted by the Board. Said fee shall be due within thirty (30) days of written notification by the Director. This fee shall also cover the costs of the annual compliance review required under Section 10.4.703 of this chapter.

In addition, each operator shall participate in a funding mechanism to reimburse the County for any costs associated with administering the Act and this chapter, not otherwise covered by the fees listed above. Administrative fees shall be placed in a separate account of the General Fund that is used solely for the purpose of administering the Act and this chapter.

Sec. 10-4.803. Fees: Maintenance and remediation fund.

Each operator shall pay an annual surcharge of \$0.02 per ton (sold) to be placed into a maintenance and remediation fund to be used solely for purposes directly related to the protection and restoration of the lower Cache Creek watershed. This surcharge shall be imposed in addition to the surcharge required for the CCRMP and CCIP. The maintenance and remediation fund shall be held by the County in a separate trust account, segregated from any other revenues.

No expenditures may be drawn from this fund for thirty (30) years. After 2026, interest derived from the maintenance and remediation fund shall be made available for the following activities: remediation of problems related to mercury bioaccumulation in wildlife; remediation of hazardous materials contamination; environmental monitoring; and/or ongoing site maintenance (e.g., fencing, berms, drainage, levees, or permanent lakes). After 2046, the County shall determine whether the fund is still merited. If it is determined that monitoring, maintenance, and/or remediation is no longer required, then the entire fund shall be made available for implementation of the goals of the OCMP and/or CCRMP, such as the creation of long-term habitat restoration, the creation of open space and passive recreation opportunities, and restoration and stabilization of Cache Creek.

Any disbursement of money from the maintenance and remediation fund shall require approval by the Board of Supervisors. Use of this fund for any purposes other than those specified above is prohibited.

Sec. 10-4.804. Fees: Delinquent payment.

Failure to pay the above fees in a timely manner shall be considered a violation and may be enforced under the provisions of Article 12 of this chapter.

Article 9. Confidentiality of Records

Sec. 10-4.901. Confidentiality of records.

Any proprietary information submitted in a surface mining permit application, a report, or other document required by this chapter, which is considered by the operator to be confidential shall be submitted under separate cover and shall be so marked by the Director. Proprietary information shall include, but may not be limited to, the following:

- (a) Annual production figures, reserves, or rates of depletion of the aggregate resource being mined, pursuant to Section 2778.(a) of the Act;
- (b) Well log information; and
- (c) The location and extent of sensitive archaeological sites.

The proposed confidential information shall be accompanied by a statement citing the legal authority supporting the operator's claim of confidentiality. The request for confidentiality shall be reviewed by the Director and either approved or denied.

The decision to reject or accept the claim of confidentiality by the Director shall be mailed and posted in accordance with Section 10-4.507 of this chapter. Any request for confidentiality approved by the Director shall become final within fifteen (15) days, unless appealed to the Commission, as provided in Article 10 of this chapter. The appellate hearing shall be conducted such that the information remains confidential until a decision is reached.

If the request is approved, then the confidential information shall be filed under separate cover. The contents of the confidential file shall be made available only to the Director and those persons authorized in writing by the operator and by the property owner. If the request is denied, the operator may withdraw the information and include it with the application or report as a public document. Failure to submit any necessary information may result in an incomplete application or report.

Article 10. Appeals

Sec. 10-4.1001. Appeals: Planning Commission.

The action of the Director on any decision made pursuant to this chapter shall be final unless, within fifteen (15) days after such action, any person with appropriate standing files a written appeal, and pays the appropriate fee, to the Clerk of the Commission. The timely filing of an appeal shall stay the Director's decision, which shall serve as a recommendation to the Commission. All such appeals shall reference the decision of the Director and shall specifically describe the grounds for the appeal.

Sec. 10-4.1002. Planning Commission Appeals: Hearings.

The hearing on an appeal of a decision by the Director shall be scheduled within sixty (60) days from when the appeal was filed. The Director shall provide notice of the appeal hearing, pursuant to Section 10-4.507 of this chapter. Upon hearing the appeal, the Commission shall either affirm, reverse, or modify the appealed decision, or refer the matter back to the Director for further action.

A decision of the Commission may be appealed to the Board, pursuant to this article. The appeal rights under this section shall be exercised prior to filing an appeal pursuant to Section 10-3.1007 of this chapter.

Sec. 10-4.1003. Appeals: Board of Supervisors.

The action of the Commission on any decision made pursuant to this chapter shall be final unless, within fifteen (15) days after such action, any person with appropriate legal standing files a written appeal, and pays the appropriate fee, to the Clerk of the Board. The timely filing of an appeal shall stay the Commission's decision, which shall serve as a recommendation to the Board. All such appeals shall reference the decision of the Commission and specifically describe the grounds for the appeal.

Sec. 10-4.1004. Board of Supervisors: Hearing.

The hearing on an appeal of a decision by the Commission shall be scheduled within sixty (60) days from when the appeal was filed. The Clerk of the Board shall provide notice of the hearing pursuant to Section 10-4.507 of this chapter. Upon hearing the appeal, the Board may either affirm, reverse, or modify the appealed decision, or refer the matter back to the Commission for further action. The appeal rights under this section shall be exercised prior to filing an appeal pursuant to Section 10-3.1007 of this chapter.

If the Board fails to take one of the above actions, the appeal shall be considered denied without prejudice. Appeals that are denied without prejudice may be reconsidered at a new public hearing, noticed in accordance with Section 10-4.505 of this chapter.

Sec. 10-4.1005. Appeals: Scope.

Any appeal of a decision or action shall serve only as an appeal of the specific action or issue identified, based on the grounds and issues described in the appeal. The appellate body shall consider the record of the decision being appealed. New evidence not previously introduced in the record of the decision may not be presented at the hearing regarding the appeal.

Sec. 10-4.1006. Appeals: Withdrawal.

Appeals to either the Commission or the Board may be withdrawn at any time.

Sec. 10-4.1007. Appeals: State Mining and Geology Board.

An appeal of a decision by the Board may be filed with the State Mining and Geology Board, if the appellant can substantiate, based on the record, that the County has failed to act within a reasonable time after receiving a completed application. If the State Mining and Geology Board remands a decision pursuant to this section, then the

Board shall reconsider their decision in accordance with the procedures described in this article.

Article 11. Inspections: Notices of Violations

Sec. 10-4.1101. Inspections: Purpose.

The Director shall make such necessary inspections and investigations of all surface mining operations within the unincorporated portion of the County in order to accomplish any of the following purposes:

- (a) To determine compliance with this chapter and the Act;
- (b) To determine compliance with the conditions of any surface mining permit approved pursuant to this chapter;
- (c) To investigate the environmental effects which the surface mining operations may be causing to the surrounding area; and
- (d) To verify the information submitted in any application or any annual report submitted pursuant to this chapter.

Sec. 10-4.1102. Inspections: Annual.

At least once every year, the Director shall conduct an inspection of each surface mining operation to determine whether the operator is in compliance with the Act and this chapter. Each inspection shall be conducted within six (6) months after receipt by the County of the operation's annual report, submitted pursuant to Section 2207 of the Public Resources Code, and may be combined with other site inspections, as appropriate.

Sec. 10-4.1103. Annual Inspections: Notification.

All annual inspections shall be documented using forms adopted by the Department. The Director shall notify the Department of the inspection within thirty (30) days after it has been completed. Said notice shall include the following:

- (a) A statement regarding whether the operation is in compliance with the Act and this chapter. Any violations of either the Act or this chapter shall be specifically described;
- (b) The completed inspection forms;
- (c) A description of any pending reviews or appeals of surface mining permits, reclamation plans, financial assurances, amendments or modifications thereto, or interim management plans pertaining to the operation; and
- (d) Any supporting documentation.

Copies of the notice shall also be provided to the operator.

Sec. 10-4.1104. Inspections; Designee.

Inspections shall be conducted by a state-registered geologist, state-registered civil engineer, state-licensed landscape architect, state-registered forester, County staff, or other designee as determined by the Director, who is experienced in mined land reclamation and who has not been employed by the mining operation in any capacity during the previous twelve (12) months.

Sec. 10-4.1105. Violations: Notice.

Whenever the Director has reasonable cause to believe that a surface mining operation is in violation of the Act, this chapter, or any terms or conditions of a surface mining permit issued pursuant to this chapter, a written notice of violation shall be served to the operator. The notice shall specifically describe both the violation(s) and the remedial steps required for compliance. Said notice shall be served by certified mail and a copy shall be sent to the Department. In the event that the notice is returned unreceived, a copy of the notice shall be posted in a conspicuous place within the surface mining site.

Sec. 10-4.1106. Violations: Order to comply.

If the violation continues after thirty (30) days from the date of notification, then the Director shall issue an order requiring compliance. Said order shall be served upon the operator by certified mail, with a copy sent to the Department. The order shall specify a time by which compliance must be completed, as determined by the Director. A reasonable amount of time shall be allowed to bring the operation into compliance, taking into account the seriousness of the violation and any good faith efforts to comply with the applicable requirements.

The order shall also state the date, time, and place set for a hearing before the Commission regarding the notice of violation. The hearing shall be conducted no sooner than thirty (30) days and no later than sixty (60) days after the service of the order upon the operator. Public notice of such hearing shall be given as set forth in Section 10-4.507 of this chapter.

Sec. 10-4.1107. Violations: Hearing.

At the time and place described in the order of compliance, the Commission shall conduct a public hearing to consider the violation. Before the close of the hearing, the Commission shall take one of the following actions:

- (a) Approve the order of the Director;
- (b) Remove any of the violations and approve the order as modified; or
- (c) Decline to approve the order of the Director.

If the order of the Director is approved, the Commission's decision shall become final and the approved order will take effect fifteen (15) days after the decision, unless an appeal is filed with the Board, pursuant to Article 11 of this chapter.

Sec. 10-4.1108. Violations: Revocation.

If an operator fails to observe an order of compliance, then the surface mining permit shall be considered revoked and the Director shall initiate procedures to forfeit the operator's financial assurances in accordance with Article 9 of Chapter 5 of this title.

Sec. 10-4.1109. Violations: Administrative penalties.

If the operator fails to comply with an effective order of compliance, issued pursuant to this article, the Commission may issue an order imposing administrative penalties of not more than five thousand dollars (\$5,000) per day, retroactive to the original date of noncompliance. When determining the amount of the penalty, the Commission shall consider, but may not be limited to, the following factors:

- (a) The nature, circumstances, extent, and gravity of the violation(s);
- (b) Any prior history of violations; and,
- (c) The degree of culpability by the operator.

The order establishing administrative penalties shall be served by certified mail to the operator. Any such order shall become effective upon issuance and the penalties imposed therein shall be paid to the Director within thirty (30) days, unless the order imposing administrative penalties is appealed to the Board, pursuant to Article 11 of this chapter. If no writ petition is filed, then the order setting administrative penalties shall not be subject to review by any court or agency.

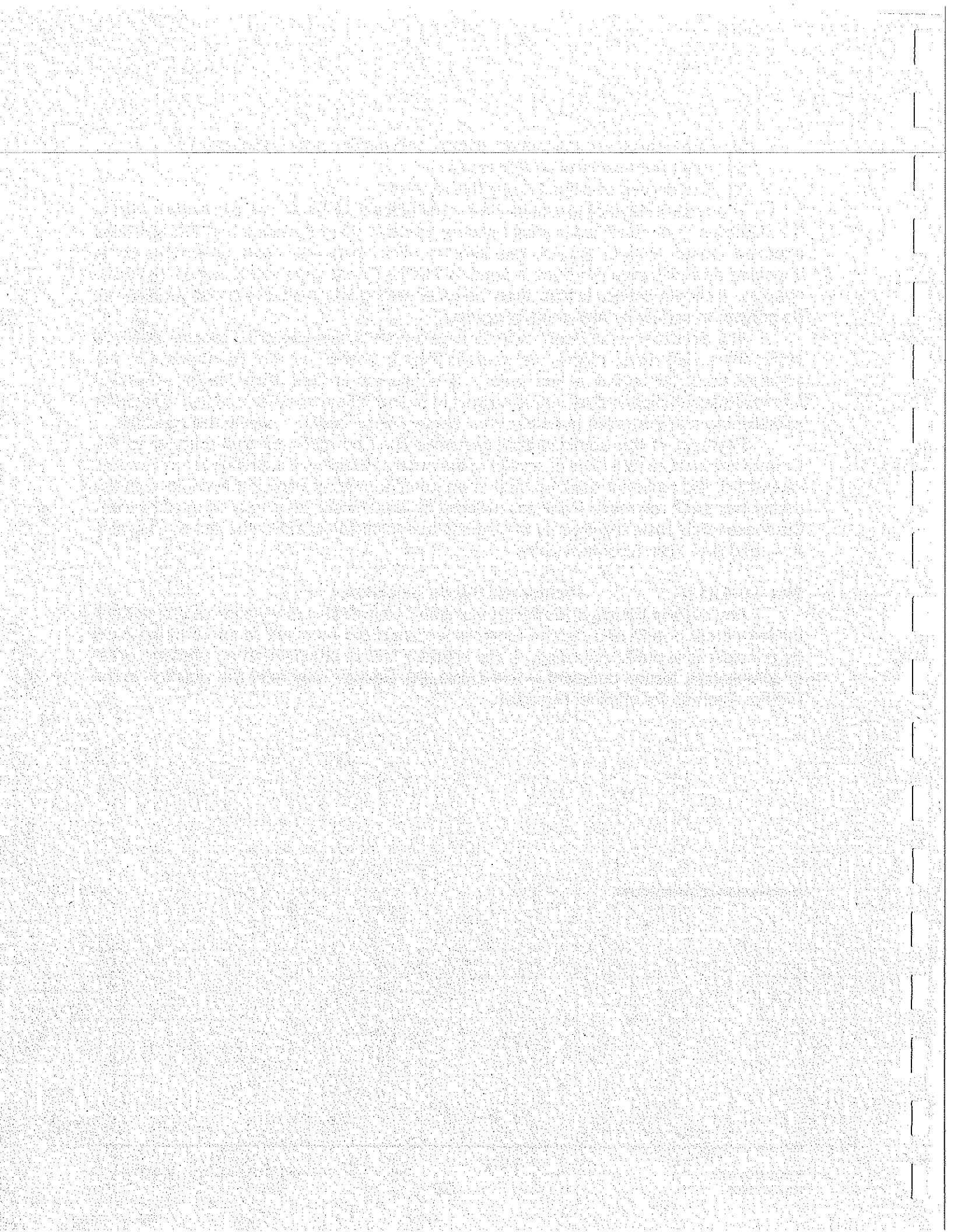
Any decision by the Board to order administrative penalties shall become effective within thirty (30) days, unless the operator files a petition for writ of mandate in the superior court for review of the order. If no appeal is filed, then the order setting administrative penalties shall not be subject to review by any court or agency. The order establishing administrative penalties shall be served by certified mail to the operator.

Payment of the administrative penalties shall be made by the operator to the County within thirty (30) days of receipt of the order. However, if a petition for review has been filed, the payment shall be held in an interest bearing impound account until the matter has been resolved. Penalties collected by the Director shall only be used to cover the reasonable costs incurred by the County in administering either the Act or Chapters 3, 4, and 5 of Title 10 of this Code.

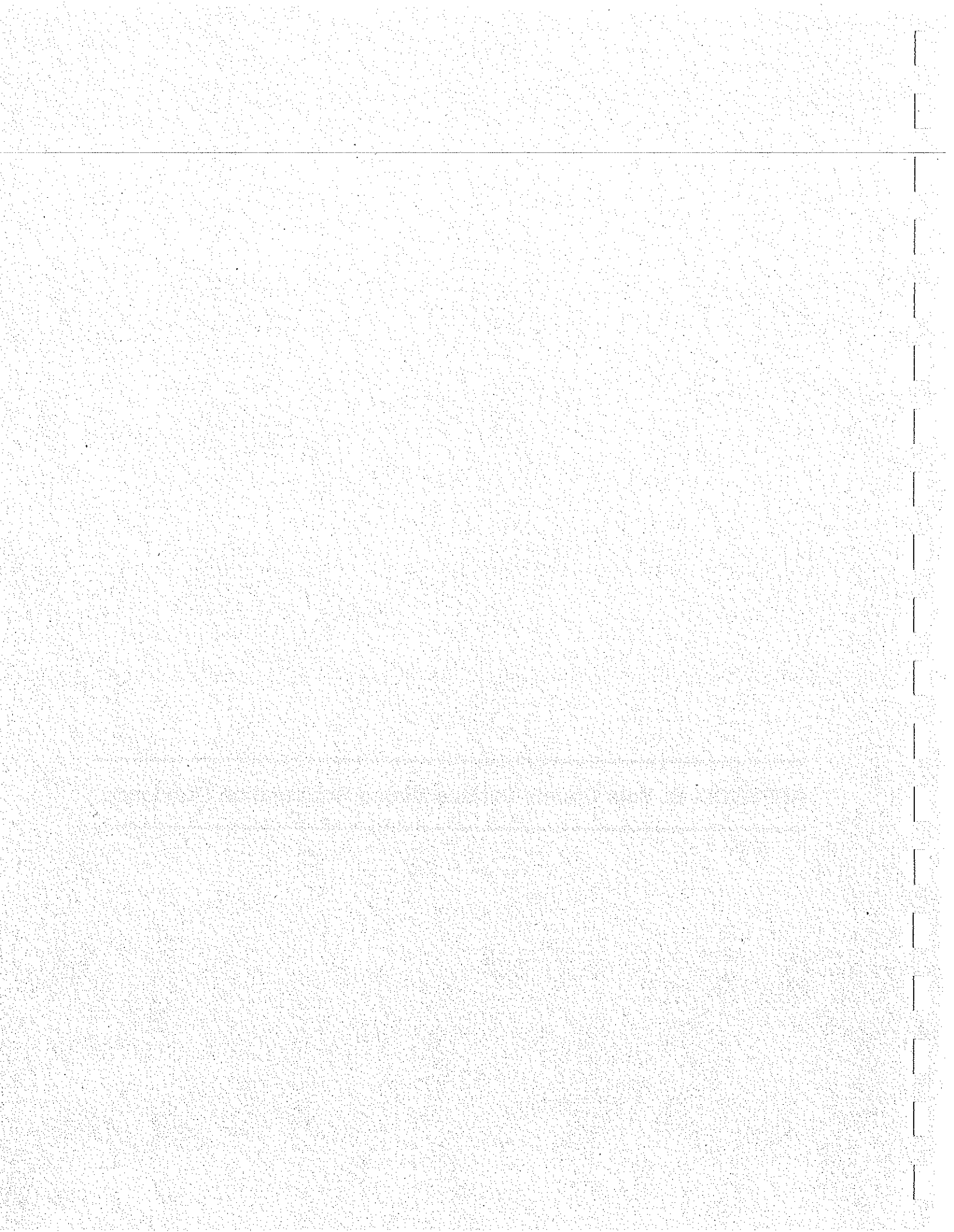
Sec. 10-4.1110. Violations: Public nuisance.

Any surface mining operation in violation of this title, or in violation of any surface mining permit or effective order of compliance approved pursuant to this chapter, shall be considered a public nuisance. If the operator fails to comply with an effective order of compliance, issued pursuant to this article, the Director may refer the violation to the District Attorney for criminal remedies.

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APPENDIX B: Yolo County Surface Mining Reclamation Ordinance



ORDINANCE 1191

**AN ORDINANCE OF THE BOARD OF SUPERVISORS
OF THE COUNTY OF YOLO
AMENDING THE YOLO COUNTY CODE
TO MODIFY CHAPTER 5, TITLE 10
ENTITLED SURFACE MINING RECLAMATION ORDINANCE**

WHEREAS, the Board of Supervisors of the County of Yolo is desirous of adopting an amendment to the Yolo County Code to modify the Chapter 5 of Title 10 entitled Surface Mining Reclamation Ordinance, in order to implement the Off-Channel Mining Plan; and

WHEREAS, an environmental impact report (SCH# 95113034) prepared by the County of Yolo analyzing the Off-Channel Mining Plan and its implementing ordinances, including the amendments to the Surface Mining Reclamation Ordinance, has been certified by the Board of Supervisors; and

WHEREAS, the Planning Commission and Board of Supervisors held seven workshops and/or hearings, after proper notice, for the purposes of hearing public testimony and comment regarding the Off-Channel Mining Plan and its implementing ordinances, including the proposed Surface Mining Reclamation Ordinance; and

WHEREAS, the Board of Supervisors has determined that the proposed action is in the best interests of the residents of the County of Yolo;

WHEREAS, subject to other actions required of the Board of Supervisors, the proposed amendments to the Surface Mining Reclamation Ordinance are consistent with the General Plan, and in compliance with all other applicable plans and codes of the County of Yolo;

NOW, THEREFORE, BE IT ORDAINED by the Board of Supervisors of the County of Yolo that:

1. Adopt the Surface Mining Reclamation Ordinance, as modified (attached), in order to provide a regulatory framework for reclamation plans in accordance with the Off-Channel Mining Plan, the Surface Mining and Reclamation Act, and the State Mining and Geology Board Reclamation Regulations.
2. This Ordinance shall take effect thirty (30) days after its adoption and within 15 days after its passage, shall be published at least once in a paper of general circulation published and circulated within the County of Yolo.

3. This Ordinance shall be repealed if the "Initiative Regulating Commercial Mining" is approved by the voters. In the event that the Off-Channel Mining Plan (OCMP) and the Cache Creek Resources Management Plan (CCRMP) are placed on the ballot by the County, and both the Initiative Regulating Commercial Mining and the OCMP/CCRMP pass, this ordinance shall be repealed only if the OCMP/CCRMP receive less votes than the Initiative Regulating Commercial Mining.

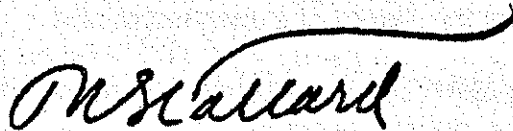
PASSED AND ADOPTED BY TITLE at the regular meeting of the Board of Supervisors on this 6th day of August 1996 by the following vote:

AYES: Marchand, McGowan, Stallard, Thomson, Siefertman

NOES: None.

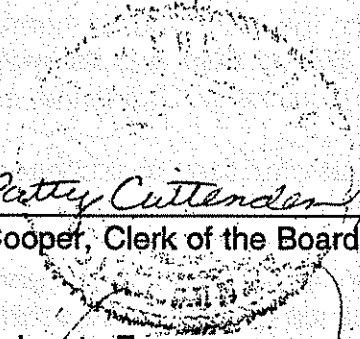
ABSENT: None

ABSTAIN: None

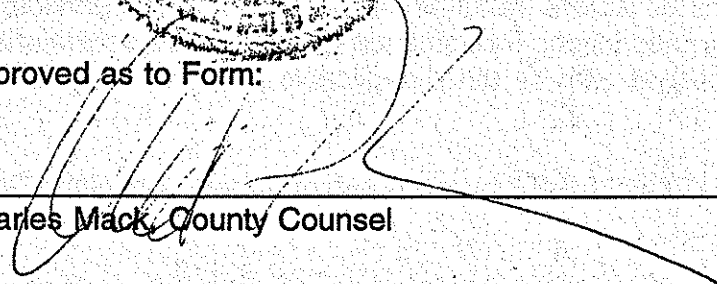


Tom Stallard, Chairman

Attest:


Paula Cooper, Deputy
Paula Cooper, Clerk of the Board

Approved as to Form:


Charles Mack, County Counsel

CHAPTER 5. SURFACE MINING RECLAMATION ORDINANCE

Article 1. Title, Authority, and Purpose

Sec. 10-5.101. Title.

This chapter shall be known as the "The Surface Mining Reclamation Ordinance of Yolo County."

Sec. 10-5.102. Authority.

This chapter is enacted pursuant to the authority granted by the California Surface Mining and Reclamation Act of 1975, Chapter 9 of Division 2 of the Public Resources Code of the State, commencing with Section 2710; the State Mining and Geology Board Reclamation Regulations, Chapter 8 of Division 2 of Title 14 of the California Code of Regulations, commencing with Section 3500; and pursuant to the powers of the County to protect the public health, safety, and welfare pursuant to Section 7 of Article XI of the Constitution of the State.

Sec. 10-5.103. Purposes.

The purposes of this chapter are as follows:

- (a) The reclamation of mined lands is necessary to prevent or minimize the adverse effects of mining on the environment and to protect the public health and safety;
- (b) The reclamation of mined lands shall provide for the protection and subsequent beneficial use of mined lands. However, mining takes place in diverse areas, with significantly different geologic, topographic, climatic, biological, and social conditions, so that the methods and operations of reclamation plans may vary accordingly to provide for the most beneficial reclamation of mined lands;
- (c) In order to provide for reclamation plans that are specifically adapted to the requirements of particular mined lands; and to ensure that mined land is reclaimed to end uses such as agriculture, habitat, groundwater recharge, flood control, and channel stabilization in a consistent manner to maximize their overall management; this chapter imposes performance standards by which reclamation methods and operations shall be measured;
- (d) The continued protection of agriculture and open-space uses is essential. As such, all off-channel, prime agricultural land and/or off-channel lands zoned Agricultural Preserve (A-P) and within a Williamson Act contract at the time that mining commences shall be reclaimed to an agriculturally productive state equal to or greater than that which existed before mining commenced. Prime agricultural land that is within the A-P Zone and is not within a Williamson Act contract shall be reclaimed to those uses which are declared by the County to be compatible with agricultural activities. Such uses include, but are not limited to, the following:
 - (1) Agriculture and range land;
 - (2) Groundwater storage and recharge areas;
 - (3) Fish, wildlife, and plant habitat;
 - (4) Watercourses and flood control basins; and,

(5) Recreational or open space lands;

(e) Non-prime agricultural land shall be similarly reclaimed to one of the alternate uses described above; and

(f) Reclamation plans shall be designed to integrate with the long-term goals of encouraging agriculture, habitat, recreation, and the riparian corridor. Provisions shall be made to continue monitoring and maintenance activities after reclamation is completed, where appropriate, in order to ensure that reclaimed uses remain compatible with and enhance local resource management.

Article 2. Definitions

Sec. 10-5.201. Scope.

The definitions set forth in section 2725 et seq. of the Act and 3500 et seq. of the Regulations shall apply throughout this chapter. In addition, the definitions set forth in this article shall also govern the interpretation of this chapter.

Sec. 10-5.202. Abandon: Abandonment.

"Abandon" or "abandonment" shall mean to cease surface mining or reclamation with the intention of not resuming or reclaiming. Operations that have an approved interim management plan shall not be considered abandoned, unless the operator is financially incapable of performing reclamation or has failed to observe an order to comply. However, any surface mining operation that is idle for twelve (12) consecutive months or longer shall be considered abandoned.

Sec. 10-5.203. Act.

"Act" shall mean the Surface Mining and Reclamation Act of 1975, specifically referring to Chapter 9 of Division 2 of the State Public Resources Code, Sections 2710 et seq.

Sec. 10-5.204. Agency.

"Agency" shall mean the Community Development Agency of the County.

Sec. 10-5.205. Board.

"Board" shall mean the Board of Supervisors of the County.

Sec. 10-5.206. CEQA.

"CEQA" shall mean the California Environmental Quality Act set forth in Sections 21000 et seq. of Division 13 of the Public Resources Code of California.

Sec. 10-5.207. Commission.

"Commission" shall mean the Planning Commission of the County, or its successor in function.

Sec. 10-5.208. County.

"County" shall mean the County of Yolo. "Director" shall mean the Director of the County Community Development Agency, a designee chosen by the Director, or the Director's successor in function.

Sec. 10-5.209. Department.

"Department" shall mean the State Department of Conservation, or its successor in function with regards to surface mining and reclamation regulation.

Sec. 10-5.210. Director.

"Director" shall mean the Director of the County Community Development Agency, a designee chosen by the Director, or the Director's successor in function.

Sec. 10-5.211. Financial Assurances.

"Financial assurances" shall mean monetary funds, securities, or other instruments provided by the operator to ensure that surface mining operations are reclaimed according to the approved reclamation plan, should the operator abandon the mine site.

Sec. 10-5.212. Haul road.

"Haul road" shall mean a road along which material is transported from the area of excavation to the processing plant or stock pile area of the surface mining operation.

Sec. 10-5.213. Idle.

"Idle" shall mean those surface mining operations where production has been reduced by more than 90 percent of the operation's previous maximum annual mineral production, for a period of one year or more, with the intent to resume operations at a later date.

Sec. 10-5.214. Interim Management Plan.

"Interim management plan" shall mean an amendment to the approved reclamation plan to provide measures for maintaining an idle mine site until operations are resumed.

Sec. 10-5.215. Irrevocable Letter of Credit.

"Irrevocable letter of credit" shall mean a form of financial assurance whereby a bank authorized to do business in the State of California submits a letter granting credit on behalf of the mine operator.

Sec. 10-5.216. Mined lands.

"Mined lands" shall mean the surface, subsurface, and groundwater 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 areas in which structures, facilities, equipment, machines, tools, or other materials or property which result from, or are used in, surface mining operations are located.

Sec. 10-5.217. Mining waste.

"Mining waste" shall mean the residual of soil, rock, mineral, liquid, vegetation, equipment, machines, tools, or other materials or property directly resulting from, or displaced by, surface mining operations.

Sec. 10-5.218. Minor Modification.

"Minor modification" shall mean a change in the approved reclamation plan that does not substantially alter the intent or the conditions of the reclamation plan.

Sec. 10-5.219. Operator.

"Operator" shall mean any person who is engaged in surface mining operations, or who contracts with others to conduct operations on their behalf, except a person who is engaged in surface mining operations as an employee with wages as their sole compensation.

Sec. 10-5.220. Overburden.

"Overburden" shall mean soil, rock, or other materials that lie above a natural mineral deposit or in between mineral deposits, before or after their removal by surface mining operations.

Sec. 10-5.221. Prime Agricultural Land.

"Prime agricultural land" shall mean all land zoned Agricultural Preserve (A-P) and all land which meets the definition of prime agricultural land set forth in Section 51201 of the Government Code of the State as administered by the County in the administration of its agricultural preserve program.

Sec. 10-5.222. Reclamation.

"Reclamation" shall mean the process of land treatment that minimizes water degradation, air pollution, damage to aquatic or wildlife habitat, flooding, erosion, threats to public health or safety, 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. The process may extend to affected lands surrounding mined lands, and may require backfilling, grading, resoiling, revegetation, soil compaction, stabilization, or other measures.

Sec. 10-5.223. Reclamation Plan.

"Reclamation plan" shall mean the operator's completed and approved plan for reclaiming lands affected by any surface mining operations conducted after January 1, 1976, as required by Section 2772 of the Public Resources Code of the State.

Sec. 10-5.224. Regulations.

"Regulations" shall mean the State Mining and Geology Board Reclamation Regulations, specifically referring to Subchapter 1 of Chapter 8 of Division 2 of Title 14 of the California Code of Regulations.

Sec. 10-5.225. Responsible Agency.

"Responsible agency" shall mean all public agencies other than the County which have discretionary approval power over the project.

Sec. 10-5.226. Slope.

"Slope" shall mean the angle of the ground surface, expressed as a ratio of the horizontal distance to the vertical distance.

Sec. 10-5.227. State CEQA Guidelines.

"State CEQA guidelines" shall mean those regulations set forth in Sections 15000 et. seq. of Chapter 3 of Title 14 of the California Code of Regulations.

Sec. 10-5.228. Surety Bond.

"Surety bond" shall mean a form of financial assurance whereby an indemnity agreement is executed in a certain amount, either by the mine operator as principal and surety, or by a surety firm authorized to do business in the State of California.

Sec. 10-5.229. Surface mining operations.

"Surface mining operations" shall mean all, or any part of, the process involved 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 incidental to an underground mine. Surface mining operations shall include, but are not limited to: in-place distillation or retorting or leaching; the production and disposal of mining waste; and prospecting and exploratory activities.

Sec. 10-5.230. Trustee Agency.

"Trustee agency" shall mean a state agency having jurisdiction by law over natural resources affected by a project which are held in trust for the people of the State of California.

Sec. 10-5.231. Trust Fund.

"Trust fund" shall mean a form of financial assurance, including: cash deposited in a federally insured account; negotiable bonds "held in escrow" by a political subdivision and endorsed by the operator, and rated "A" or better by a nationally recognized bond rating organization; or negotiable certificates of deposit in a federally insured depository.

Article 3. Scope and Exemptions

Sec. 10-5.301. Incorporation by reference.

The provisions of the Act and the Regulations, as those provisions and regulations may be amended from time to time, are made a part of this chapter by reference with the same force and effect as if the provisions therein were specifically and fully set out herein, excepting that when the provisions of this chapter are more restrictive than corresponding state provisions, this chapter shall prevail.

Sec. 10-5.302. Scope of regulations.

Unless otherwise provided in this article, no person shall conduct surface mining operations within the unincorporated area of the County unless a reclamation plan has been approved and adequate financial assurances have been submitted, in accordance with this chapter. Nothing in this chapter shall be interpreted as requiring the filing of a reclamation plan or financial assurances for, or the reclamation of, mined lands where surface mining operations were completed prior to January 1, 1976.

No reclamation plan application is required if the operator can provide evidence of a reclamation plan for the site approved by the County prior to January 1, 1976, and if the operator has accepted responsibility for reclaiming the mined lands in accordance with the approved reclamation plan.

Sec. 10-5.303. Scope: Area defined.

This chapter shall apply only to the area located within the boundaries of the Cache Creek Area Plan of the Yolo County General Plan.

Sec. 10-5.304. Exemptions: Defined.

The provisions of this chapter shall not apply to those activities and operations which are exempted by Sections 2714 and 2776 of the Act. Any exemption granted from the provisions of this chapter shall not, in and of itself, exempt a project or activity from the application of other applicable regulations and requirements.

Sec. 10-5.305. Exemptions: Applications.

Applications for exemptions shall be submitted to the Director for review and determination as to completeness. If the application is determined incomplete, the Director shall notify the applicant in writing within thirty (30) days, specifically describing the information necessary to complete the application. Upon receipt of a completed application, the Director shall determine whether the operation is exempt or is subject to the provisions of this chapter. Any person with standing may appeal the Director's decision to the Commission, pursuant to Article 11 of this chapter.

Sec. 10-5.306. Severability.

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 this chapter.

Sec. 10-4.307. Effective date.

This chapter shall take effect thirty (30) days following its adoption.

Article 4. Minimum Reclamation Standards: In-Channel Operations

(Not Used)

Article 5. Minimum Reclamation Performance Standards Off-Channel Operations

Sec. 10-5.501. Reclamation Standards: Scope.

The general standard for the reclamation of mined lands is to restore the site to a usable condition which is readily adaptable for alternate land uses consistent with the policies of the County expressed in Article 1 of this chapter and in the General Plan, specific plans, and zoning laws.

This article sets forth minimum acceptable practices to be followed in reclamation operations to implement this general standard. These minimum acceptable standards shall be considered and discussed in every reclamation plan approved pursuant to this chapter. In addition, the minimum statewide reclamation practices and standards set forth in the Regulations shall also be considered and discussed in every reclamation plan approved pursuant to this chapter. These standards shall be followed in addition to any other conditions of approval or regulations imposed on the surface mining permit.

Sec. 10-5.502. Aesthetics.

Means of improving the appearance of the landscape after mining has been completed shall be assessed based on site-specific visual characteristics, site lines, and view corridors. The use and placement of berms, vegetative screens, special plant materials, grading slopes, and contouring the sides and top surfaces of modified landforms to mimic surrounding landforms, or other measures, shall be incorporated into the mine reclamation plan as appropriate.

Sec. 10-5.503. Backfilled excavations: Groundwater flow impacts.

The area of backfilled off-channel excavations extending below the groundwater table shall be minimized in order to reduce changes to groundwater levels and flow. Backfilled pits shall be oriented with regard to the direction of groundwater flow to prevent localized obstructions. If a backfilled off-channel excavation is proposed to penetrate either fifty (50) feet or one-half (1/2) into the saturated thickness of the shallow aquifer, then at least six months prior to the commencement of excavation below the average high groundwater level, the applicant shall demonstrate in a manner consistent with the Technical Studies that the pit design will not adversely affect active off-site wells within one-thousand (1,000) feet of the proposed pit boundary. If the application includes a series of backfilled pits, then the applicant shall also demonstrate that the cumulative effects of the multiple backfilled pits will not adversely affect groundwater flow, if there are any active off-site wells within one-thousand (1,000) feet of the pit boundaries.

The applicant shall demonstrate, using MODFLOW (or a similar model of equal capability and proven reliability, as approved by the Yolo County Community Development Director), that the proposed pit design would not adversely impact active off-site wells within one-thousand (1000) feet of the proposed pit boundary or result in well failure. Average, historic low groundwater levels, which represent the condition of maximum threat to water levels in the subject well, shall be used for this simulation. If an adverse impact is identified by the MODFLOW (or other approved model) simulation, the mining and reclamation plan shall be modified or the applicant shall submit a written agreement

that the well owner has agreed to relocate or redesign the well, or accept the potential impact (at no expense to the County).

Site-specific aquifer testing shall be conducted, if needed, to determine aquifer properties for the required modeling.

Sec. 10-5.504. Backfilled excavations: Improvements.

Improvements, including the construction of buildings, roadways, or other public facilities proposed for construction in reclaimed mining pits shall require a geotechnical investigation of the stability of fills conducted by a Licensed Geotechnical Engineer or a Registered Civil Engineer. A report on the results and recommendations of the investigation shall be submitted to the Yolo County Community Development Agency prior to the issuance of building permits. The recommendations of the geotechnical investigations shall be fully implemented by the applicant.

Sec. 10-5.505. Backfilled excavations: Inspections.

Backfilled mining areas and slopes shall be inspected by the Yolo County Community Development Agency following strong seismic shaking events. Observable damage shall be reported to the landowner. If the YCCDA determines that the damage requires repair to meet the intended use of the reclaimed land, the landowner shall perform the required repairs.

Sec. 10-5.506. Bank stabilization maintenance.

Financial assurances for off-channel mining operations which include mining within seven-hundred (700) feet of the active channel of Cache Creek shall include adequate funding for maintenance during the mining and reclamation period of any bank stabilization features approved for the mining permit. Maintenance of the bank stabilization features following the completion of reclamation shall be the responsibility of the property owners under the Cache Creek Resource Management Plan.

The condition of flood protection structures and the integrity of the land within the approved setback zone separating the mining areas and the stream channel shall be inspected annually by a Registered Civil Engineer and reported to the Yolo County Community Development Agency. The annual report shall include recommendations for remedial action for identified erosion problems. Following reclamation, the YCCDA shall inspect the land separating the mining areas and creek channel every five (5) years. Observable damage shall be reported to the property owner. If the YCCDA determines that damage requires repair to meet the intended performance of the separator, the property owner shall perform the required repairs.

Sec. 10-5.507. Drainage.

Upon the completion of operations, grading and revegetation shall minimize erosion and convey storm water runoff from reclaimed mining areas to natural outlets or interior basins. The condition of the land shall allow sufficient drainage to prevent water pockets or undue erosion. Natural and stormwater drainage shall be designed so as to prevent flooding on surrounding properties and County rights-of-way.

Drainage and detention facilities within the proposed mining areas and vicinity shall be designed to prevent discharges to the wet pits and surface water conveyances (i.e.,

creeks and sloughs) from the 20-year/1-hour storm or less. For events greater than the 20-year/1-hour storm, runoff from around the perimeter of the mining areas shall be directed into surface water conveyances. Runoff from within the lowered mining area shall be directed away from wet pits to detention/infiltration areas. Drainage plans shall not rely solely on ditches and berms to direct runoff away from the wet pit. Without proper maintenance, berms and ditches may deteriorate with time and become ineffective. Drainage plans shall emphasize the grading of disturbed areas that results in broad gently slopes that drain away from the pits. Grading plans shall be reviewed by the County to evaluate compliance with drainage plan objectives prior to project approval.

In addition, a restriction shall be recorded on the deed that requires berms and ditches to be permanently maintained in a condition consistent with the final approval. The deed restriction shall require an inspection easement which allows County staff or other authorized personnel access for the inspection of berms and ditches. If the County determines that evidence of damage to those facilities exist, the County shall require that the owner have an inspection report for the property prepared by a Registered Geologist or Registered Civil Engineer. The inspection report including recommendations for corrective action, if needed, shall be submitted to the Yolo County Community Development Agency. The property owner shall be required to implement recommended corrective action, if any.

Sec. 10-5.508. Erosion control.

The grading of final slopes, the replacement of soil, and associated erosion control measures shall take place prior to November 1 in areas where mining has been completed. To minimize erosion, the finish grading of mining pit slopes above the average seasonal high groundwater level, with the exception of the location of designated haul roads, shall be performed as soon as practical after the mining of overburden and unsaturated aggregate resources has been completed. A drought-tolerant, weed-free mix of native and non-native grass species shall be established on slopes prior to November 1 or alternate erosion control (mulch or netting) shall be placed on exposed soil on the slopes prior to this date. Phasing of mining to minimize the length of exposed mining slopes during the rainy season is encouraged.

Sec. 10-5.509. Fence row habitat.

Where fence row or field margin habitat previously existed, reestablish similar habitat as part of reclamation to agricultural use to replace and improve the wildlife habitat value of agricultural lands, allowing for the reestablishment of scattered native trees, shrubs, and ground covers along the margins of reclaimed fields. Reestablished habitat can be located in areas other than where it occurred originally. Restoration plans shall specify ultimate fence row or field margin locations, identify planting densities for trees and shrubs, and include provisions for monitoring and maintenance to ensure establishment.

Sec. 10-5.510. Fencing.

Open wet pits shall be fenced with a forty-two (42) inch minimum, four (4) strand barbed wire fence or the equivalent (e.g., welded square "hog" fencing), prior to the commencement of excavation, during excavation, and during reclamation. Fencing may

enclose the property of which mining is a part, the mining site, or both. In addition, signs shall be installed at the project site boundaries and access road, indicating that the excavation area is restricted. Additional security (e.g., gates with protected locks and wing fences to prevent drive-arounds) shall be provided at all vehicular routes. The fencing and gates shall be maintained throughout the mining and reclamation period after completion of reclamation. A requirement shall be recorded on the deed of the property which requires the landowner to maintain fences.

Sec. 10-5.511. Field drainage.

Reclaimed agricultural surfaces shall be graded to provide adequate field gradients to allow surface/furrow irrigation of crops and allow for adequate storm water drainage.

Sec. 10-5.512. Field releveling.

The operator shall retain a Licensed Land Surveyor or Registered Civil Engineer to resurvey any areas reclaimed to agricultural usage after the first two (2) crop seasons have been completed. Any areas where settling has occurred shall be relevelled to the field grade specified in the approved reclamation plan.

Sec. 10-5.513. Floodplain development.

New development proposed within the reclamation plan (such as buildings, levees, or dikes) located within the floodplain shall conform to all applicable requirements of the Yolo County Flood Ordinance, the Federal Emergency Management Agency (FEMA), and the State Reclamation Board.

Sec. 10-5.514. Habitat management plan compliance.

All reclamation plans shall complement the preservation and enhancement measures in the Yolo County Habitat Conservation Plan (HCP). Mining operators with lands designated as having a moderate to high potential for use as mitigation areas in the HCP shall be encouraged to participate in the Developer HCP Participation Options, including use of lands as mitigation sites.

Sec. 10-5.515. Habitat plan referral.

Proposed habitat restoration or mitigation plans for lands within the OCMP plan area shall be sent to the California Department of Fish and Game, U.S. Fish and Wildlife Service, the U.S. Army Corps of Engineers, and other interested parties for review and comment to ensure that the projects do not conflict with other existing habitat enhancement efforts.

Sec. 10-5.516. Lowered elevations for reclaimed agricultural fields.

The final distance between lowered surfaces reclaimed to agriculture and the average high groundwater shall not be less than five (5) feet. The average high groundwater level shall be established for each proposed mining area. The degree of groundwater level fluctuation varies with location throughout the basin and within relatively small areas (proposed mining sites). The determination of the average high groundwater level shall be conducted by a Registered Civil Engineer or Certified Hydrogeologist and shall be based on wet season water level elevation data collected at the proposed site

or adjacent areas with similar hydrogeological conditions. Water level records prior to 1977 shall not be used since they would reflect conditions prior to the installation of the Indian Valley Dam. The dam caused a significant change in hydrology of the basin and data collected before its installation shall not be used in estimating current average high groundwater levels. The wells shall be adequately distributed throughout the proposed mining site to reflect spatial variation in groundwater levels and fluctuations.

Sec. 10-5.517. Mercury bioaccumulation in wildlife.

Prior to the approval of reclamation of aggregate mining areas to permanent lakes, the County shall commission a sampling and analysis program, to be implemented in one existing wet pit mining area within the OCMP planning area, to evaluate the potential for increased methylmercury production associated with wet pit mining and reclamation of mining areas to permanent lakes. The program shall include the sampling of water and sediments from the bottom of the existing pit and analysis of the samples for organic content; pH; dissolved oxygen content; dissolved carbon content; and total mercury. In addition, samples of predatory fish (preferably largemouth bass) shall be collected and analyzed for mercury and methylmercury content. If the initial sampling indicates either of the following conditions, the County shall perform verification sampling:

(a) Average concentrations of total mercury in excess of 0.000012 milligrams per liter (mg/l) in the water; and

(b) Average mercury levels in fish samples in excess of 0.5 milligrams per kilogram (mg/kg).

If verification sampling indicates exceedance of these mercury criteria, the County shall approve the reclamation of mining areas to permanent lakes only if the average level of mercury in fish collected from the existing mining pits is shown to be equal to or less than ambient (background) mercury levels determined from a representative sample of similar species of fish (of similar size) collected in the Cache Creek channel within the planning area. The determination of the ambient mercury level shall be performed by the County prior to the excavation of any new wet pit mine and at years 10, 20, and 30 in the permit time period, and shall be paid for by the mining permit operators on a fair-share basis. The County shall evaluate available data to determine any significant change in ambient concentrations of mercury in fish within the Cache Creek channel.

In the event of approval of reclamation of mined areas to permanent lakes, each mining area to be reclaimed to a permanent lake as part of each approved long-range mining plan shall be evaluated annually by the operator for five years after creation of the lake for conditions that could result in significant methylmercury production. An additional ten years of biennial monitoring shall be performed after reclamation of each lake has been completed. The evaluations shall be conducted by a qualified aquatic biologist or limnologist acceptable to the County and shall include the following analyses:

(c) Lake condition profiling during the period of June through September, including measurements of pH; eH (or redox potential); temperature; dissolved oxygen; and total dissolved carbon.

(d) Collection of a representative sample of fish specimens (including a minimum of five (5) predator fish if available) and analysis of the specimens for mercury content. Sampling and analysis shall be conducted using methodologies which are

consistent with the California State Water Resources Control Board Toxic Substances Monitoring Program procedures, or more stringent procedures.

(e) The results of the evaluation shall be summarized in a report and submitted to the County. The report shall include a comparison of the site specific data to available data on the background concentrations of mercury in fish within the Cache Creek watershed. The County shall be responsible for submitting the data on mercury levels in fish to the California Department of Fish and Game and the Office of Environmental Health Hazard Assessment for a determination of whether a fish advisory should be issued.

(f) If a fish advisory is issued, the owner/operator shall be required to post warnings on fences surrounding the mining pit lakes which prohibit fishing in the lakes and describe the fish advisory.

If the average fish specimen mercury content exceeds the statistically verified ambient mercury concentrations for comparable fish species (of similar size) collected within the CCRMP planning area for two (2) consecutive years, wet pit mining on property controlled by the mining operator/owner shall be suspended and the owner/operator shall either:

(g) Present a revised reclamation plan to the Yolo County Community Development Agency which provides for filling the reclaimed lake to a level five (5) feet above the average seasonal high groundwater level with a suitable backfill material; or

(h) Present a mitigation plan to the Yolo County Community Development Agency which provides a feasible and reliable method for reducing methylmercury production or exposure to elevated mercury levels. Potential mitigation could include permanent aeration of the bottom levels of the lake, alteration of the water chemistry (increasing pH or dissolved organic carbon levels), control of anaerobic bacteria populations, or removal and replacement of affected fish populations. The mitigation plan would require review by the Regional Water Quality Control Board, California Department of Fish and Game, and the Yolo County Department of Environmental Health. (The removal and replacement of fish is not intended to be a long-term solution.)

The reclamation plan shall be modified such that the mitigation approved for methylmercury reduction shall be applied to all mining areas proposed for reclamation to permanent lakes within the reclamation plan.

Sec. 10-5.518. Mining in reclaimed lands.

Once the reclamation plan or any portion thereof has been completed, no further surface mining operations shall be allowed within reclaimed lands, without approval of an amendment to the surface mining permit and reclamation plan.

Sec. 10-5.519. Motorized watercraft prohibition.

The use of motorized watercraft on any pond, lake or other body of water created as a part of the approved reclamation plan is prohibited.

Sec. 10-5.520. Operational areas.

Operational areas and haul roads that are not required for future use of the site shall be ripped, resoiled, and prepared accordingly, to allow for replanting.

Sec. 10-5.521. Permanent stockpiles.

There shall be no permanent piles of mine waste and/or overburden. Berms established for visual screening and noise abatement shall be contoured to conform visually with the surrounding topography.

Sec. 10-5.522. Phasing plans.

All proposed mining and reclamation plans shall present a phasing plan for mining and reclamation activities. The phasing plan shall be structured to minimize the area of disturbed agricultural lands during each mining phase, and encourage the early completion of the reclamation of agricultural land.

Sec. 10-5.523. Planting plans.

Site-specific planting plans shall be developed by a qualified biologist for proposed habitat reclamation projects. Restoration components of reclamation plans shall include provisions to enhance habitat for special-status species, where feasible.

Sec. 10-5.524. Post-reclamation groundwater monitoring.

Monitoring during the mining and reclamation period shall be a condition of the permit. The applicant shall ensure that the groundwater monitoring of wet pit mining continues for (10) years after the completion of reclamation.

Sec. 10-5.525. Prime farmland conversion.

All mining permit applications that include "prime farmlands" as defined by the provisions of the Williamson Act shall identify the location and acreage of "prime farmlands," which, as a result of reclamation, would be permanently converted to non-agricultural uses. For each acre of "prime farmland" that would be converted to non-agricultural use, the reclamation plan shall present provisions to offset (at a 1:1 ratio) the conversion of these lands. The potential offsets can included, but not be limited to, one or more of the following options:

(a) Identification of improvements by a qualified soil scientist to the agricultural capability of non-prime lands within or outside the project site that convert non-prime to prime agricultural conditions. These improvements can include permanent improvement of soil capability through soil amendments, reduction of soil limitations (such as excessive levels of toxins), or improvements in drainage for areas limited by flooding or low permeability soils.

(b) Placement of permanent conservation easements on land meeting the Williamson Act definition of "prime farmland." The operator shall be encouraged to target property "at risk" of conversion to non-agricultural uses in selecting areas for the offset. Prior to approval of the conservation easement, the operator shall consult with the County and/or an appropriate non-profit agency to determine the relative risk of conversion, to which the proposed property might otherwise be subject.

(c) Demonstration of the ability to provide irrigation to non-prime lands limited only by the lack of an irrigation water supply. The identified water supply cannot be provided at the expense of "prime farmlands" currently using the same water supply.

Sec. 10-5.526. Repair of damage due to natural disaster.

The cost of implementing recommendations for repair of reclaimed land caused during earthquakes or other natural events shall be met through application of contingency costs provided for by the project's financial assurances as required by SMARA.

Sec. 10-5.527. Recreational and habitat uses of permanent wet pits.

If any permanent wet pit is proposed to be reclaimed for recreational uses and/or riparian habitat, the design shall account for fluctuations in the groundwater table.

Sec. 10-5.528. Sewage storage prohibition.

The use of off-channel wet pits for the storage and treatment of sewage effluent, or for landfill purposes, is prohibited.

Sec. 10-5.529. Shallow depths.

All permanent wet pits shall be reclaimed to include valuable wildlife habitat as a beneficial use of the water lost from wet pits due to evaporation.

Sec. 10-5.530. Slopes.

All final reclaimed slopes shall have a minimum safety factor equal to or greater than the critical gradient as determined by an engineering analysis of the slope stability. Final slopes less than five (5) feet below the average summer low groundwater level shall be designed in accordance with the reclaimed use and shall not be steeper than 2:1 (horizontal:vertical). Reclaimed wet pit slopes located five (5) feet or more below the average summer low groundwater level shall not be steeper than 1:1 (horizontal:vertical), in order to minimize the effects of sedimentation and biological clogging on groundwater flow, to prevent stagnation, and to protect the public health.

The maximum slope angle for all final reclaimed slopes shall be determined by slope stability analysis performed by a Licensed Geotechnical Engineer or Registered Civil Engineer and submitted with any mining and reclamation application for review by the Yolo County Community Development Agency. The slope stability analysis shall conform with industry standard methodologies regarding rotational slope failures under static and pseudostatic (seismic) conditions. The minimum factor of safety for all design reclamation slopes located adjacent to levees or below existing structures shall not be less than 1.5 for static and 1.1 for pseudostatic (seismic) conditions. Other reclamation slopes shall meet a minimum factor of safety that is consistent with the post-reclamation use proposed for the mining area.

Sec. 10-5.531. Soil ripping.

Where areas are to be reclaimed to agricultural usage, all A and B horizon soil shall be ripped to a depth of three (3) feet after every two (2) foot layer of soil is laid down, in order to minimize compaction.

Sec. 10-5.532. Use of overburden and fine sediments in reclamation.

Sediment fines associated with processed in-channel aggregate deposits (excavated as a result of maintenance activities performed in compliance with the CCIP)

shall not be used in the backfill or reclamation of off-channel permanent lakes. Fines that result from the processing of in-channel sand and gravel shall be used for in-channel habitat restoration efforts or as soil amendments in agricultural fields.

Overburden and processing fines shall be used whenever possible to support reclamation activities around reclaimed wet pits. These materials may be used in reclamation activities without testing for agricultural chemicals. If topsoil (A-horizon soil), formerly in agricultural production, is proposed for use within the drainage area of a wet pit, the soils must be sampled prior to placement and analyzed for pesticides and herbicides (EPA 8140 and 8150). Samples shall be collected and analyzed in accordance with EPA Test Methods for Evaluating Solid Waste Physical/Chemical Methods, SW-846, Third Edition (as updated). Topsoil that contains pesticides or herbicides above the Maximum Contaminant Levels for primary drinking water (California Code of Regulations) shall not be placed in areas that drain to the wet pits.

Sec. 10-5.533. Wetland habitat.

Off-channel excavations that are proposed to be reclaimed to permanent lakes shall include wetland habitat. The creation of wetland habitat along the perimeter of permanent lakes shall include appropriate features such as: scalloped basin perimeters with extended peninsulas, islands, and stepped benches of various widths at approximately three (3) foot vertical intervals both above and below the groundwater level. Where wetlands are not proposed, either grassland and/or woodland habitat, or agricultural fields separated from the lake by a berm, shall be established in order to provide continuous habitat value around the permanent lakes.

Sec. 10-5.534. Exceptions.

Where an operator demonstrates to the lead agency that an exception to the standards specified in this article is necessary, the Commission may approve an alternative standard for inclusion in the approved reclamation plan. Exceptions shall only be approved where the strict application of the off-channel reclamation standards would deprive the operator of privileges enjoyed by other mining operators in the vicinity, due to special circumstances associated with the subject site, including size, shape, topography, location, or surroundings. Although the Commission may set alternative standards, in no case may the Commission set any standard which does not meet or exceed the policy objectives set forth in the OCMP.

Article 6. Reclamation Plan Approval Process

Sec. 10-5.601. Applications: Contents.

Except as provided for in Section 10-5.602 of this article, all documentation for the reclamation plan shall be submitted to the Director at one time. Ten (10) complete copies of the application shall be provided to the County. An executive summary and a table of contents for the reclamation plan shall be submitted with each application. Applications for proposed reclamation plan shall include, but shall not be limited to, the following:

(a) A narrative description of the proposed use of mined lands after reclamation has been completed and the manner in which reclamation will be accomplished, including the following information:

(1) The consistency of the proposed reclaimed use with this chapter, the General Plan, zoning, and applicable specific plans;

(2) The manner by which contamination will be controlled in the reclaimed use;

(3) The manner in which affected streambed channels and streambanks will be rehabilitated to a condition minimizing erosion;

(4) The effect that proposed reclamation will have on future mining, both on-site and in the surrounding area;

(5) A time schedule of reclamation activities, showing the beginning date, completion dates for each proposed phase, and the final completion date, supported by a statement indicating that reclamation will be initiated at the earliest possible time on those portions of the site that will not be subject to further disturbance by mining;

(6) Separate sections demonstrating compliance of the proposal with each minimum performance standard set forth in the Regulations and Article 5 of this chapter;

(7) A signed statement that the person submitting the application accepts responsibility for implementing the approved reclamation plan;

(8) The acreages of proposed reclaimed uses, such as agriculture, wetlands, groundwater recharge, etc.;

(9) The methods to be used for on-site and off-site surface water drainage and erosion control after reclamation has been completed, including provisions for ensuring flood protection of the site for the one-hundred (100) year event;

(10) A discussion of the maximum amount of mined lands to be disturbed at any one time;

(11) A description of whether any portion of the project site is currently under a Land Conservation Contract (Williamson Act) and/or Agricultural Preserve, including any lands for which a Notice of Nonrenewal has been filed and the date of expiration. Proposed mined lands that meet the definition of "prime farmlands" as defined under the Williamson Act shall also be identified;

(b) A narrative description of the type of surface mining proposed to be employed, including the following information:

(1) The name and address of the proposed surface mine operator and the names and addresses of any persons designated by the operator to act as an agent for the applicant through the permit process;

(2) The anticipated quantity and type of minerals for which the proposed surface mining operation will be conducted, including the estimated maximum annual production with calculations presented in both tons mined and in tons sold;

(3) The proposed dates for the initiation and termination of the proposed surface mining operation;

(4) The maximum anticipated depth of the proposed surface mining operation;

(5) Evidence that all owners of a possessory interest in the lands included in the application have given authority to the applicant to conduct surface mining as proposed and to implement the reclamation plan as proposed;

(6) The acreage of the lands that will be affected by the surface mining operations (separately identifying buffer and setback areas), as well as acreages and legal descriptions of the original parcels;

(7) A description of the general geology of the region, including a detailed description of the geology of the area in which surface mining is to be conducted;

(8) The names and addresses of the owners of all surface interests and mineral interest in the lands to be mined;

(c) Site-specific technical studies, performed by qualified professionals in the appropriate area of expertise, shall provide specific proposals for inclusion in the reclamation plan to address the following potential environmental impacts:

(1) A biological analysis to evaluate the feasibility of proposed revegetation efforts, including detailed plans describing planting methods, appropriate planting times, species to be used, irrigation requirements, erosion control, weed control, and proposed success rates for plant cover and density. The analysis shall also include cross-sections for those areas proposed to be revegetated, including slopes, visual screens, and wildlife habitat;

(2) If the proposed reclamation plan includes agriculture as an end use, then a soil analysis shall be submitted to evaluate the methods and feasibility of restoring those portions of the mined site to agricultural productivity, including discussions of current and reclaimed soil conditions and classifications, the types of crops grown on the lands proposed for reclamation and their historic yields for a minimum of five (5) years, and projected production of reclaimed agricultural lands. The analysis shall also include detailed plans for the removal and replacement of topsoil and overburden, including cross-sections of the areas to be reclaimed to agriculture, the depth of soils replaced, field irrigation slope grades, detention basins, and the relationship between finished field elevations and the groundwater level for the site; and

(3) A geotechnical study to evaluate the proposed final slopes to ensure that they will be stable once mining has been completed and that the slopes possess an adequate factor of safety. Measures shall be included within the study to ensure slope stability and maintenance.

(d) A site plan submitted in the form prescribed by the Planning Director, including all property proposed to be included in the reclamation plan, drawn to a scale of one inch equals one-hundred feet (1" = 100'), or other scale acceptable to the Director for larger holdings. Small-scale, reproducible copies shall be provided along with all site plans submitted. Site plans shall show the following information:

(1) All property lines, including the boundaries of all parcels proposed for mining and reclamation; the boundaries of any ownerships, leases, and/or other entitlements vested in the surface mining operator which allow surface mining and reclamation to be conducted on-site; and all Assessor parcel numbers for properties included in the application;

(2) The location of all streams, roads, railroads, and utility facilities within, or adjacent to, the lands to be reclaimed;

(3) The location and condition of any previously mined areas within the site, specifically designating those portions of the site, if any, where mining was completed prior to January 1, 1976, and which is claimed to be exempt from the requirements of this chapter;

(4) The existing and proposed topography of all reclaimed lands, including the location of the control cross-sections submitted pursuant to subsection (e) of this section;

(5) The location of all development proposed as a part of the reclaimed end use, including settling basins, drainage conveyances, equipment, fences, and other man-made structures;

(6) The depiction of separate reclamation phases;

(7) The locations for the permanent storage of overburden and waste material in any proposed berms;

(8) The proposed points of ingress and egress, access roads, driveways, and parking areas proposed as a part of the reclaimed end use; and

(9) The extent of any borrow areas, where topsoil and overburden material are excavated to be used in the reclamation of mined lands.

(e) Graphic depictions of control cross-sections located as follows and including the following information:

(1) At least three (3) control cross-sections within the area to be reclaimed, with two (2) of the cross-sections perpendicular to one another;

(2) In no event may the interval between the control cross-sections exceed twelve-hundred (1,200) feet; and

(3) The cross-sections shall identify both the existing and proposed reclaimed elevations, and shall identify the angle of reclaimed slopes.

(f) A certificate from a licensed land surveyor or registered civil engineer certifying that the site plans and control cross-sections were prepared by or under the direct supervision of the surveyor or engineer;

(g) An estimate of the financial assurances necessary to implement the proposed reclamation plan, or phases thereof, prepared in accordance with Article 7 of this title and including the following information:

(1) An estimate of the equipment usage and manhours necessary to complete reclamation. Estimates for equipment usage shall be substantiated (e.g. the Caterpillar Performance Handbook or similar reference document) and labor requirements explained;

(2) An estimate of indirect costs, such as supervision, contingency, mobilization, profit, and overhead;

(3) The acreages of each type of area proposed in the reclamation plan (e.g., agriculture, slopes, roads, habitat, etc.), referenced to a site plan; and,

(4) An estimate of the amounts of soil, subsoil, wash sediments, and overburden to be used in reclamation, including the average distance from the soil stockpiles to the areas being reclaimed.

(h) A Land Survey or Record of Survey for all parcels included in the application which has a basis of bearing in the California Coordinate System (NAD 27 or NAD 83);

- (i) An initial environmental assessment describing the potential impacts of approving the proposed reclamation plan; and,
- (j) A list of all other applicable discretionary permits required by other public agencies.

In addition to the foregoing, the Director may require such other and further information relevant to the project as needed to determine whether the proposal may affect the public health and safety.

Sec. 10-5.602. Applications: Waiver of Information.

The Director may temporarily waive any of the items of information required in Section 10-5.601. of this Article, if the following conditions apply:

- (a) The gathering of such information is precluded by physical conditions existing on the site on the date of the application; and
- (b) The operator has provided a statement describing the reasons for the delay, including the date by which the information required in the application will be submitted. If granted, the Director shall notify the operator in writing, specifically describing the information which is being waived and specifying the date by which the operator shall provide the necessary information. If all other information required pursuant to this chapter has been submitted and the appropriate fees have been paid, then the Director shall receive the application for filing.

Sec. 10-5.603. Applications: Confidentiality.

Any information in the reclamation plan application which is considered by the applicant to be confidential, as provided in Article 9 of Chapter 4 of this title, shall be submitted under separate cover and shall be so marked by the Director. The proposed confidential information shall be accompanied by a statement citing the legal authority supporting the applicant's claim of confidentiality. The request for confidentiality shall be reviewed by the Director and either approved or denied.

The decision of the Director to reject or accept the claim of confidentiality shall be mailed and posted in accordance with Section 10-5.607 of this chapter. Any request for confidentiality approved by the Director shall become final within fifteen (15) days, unless appealed to the Commission, as provided in Article 11 of this chapter. The appellate hearing shall be conducted such that the information remains confidential until a decision is reached.

If the request is approved, then the confidential information shall be filed under separate cover. The contents of the confidential file shall be made available only to the Director and those persons authorized in writing by the operator and by the property owner. If the request is denied, the applicant may withdraw the information and include it with the application as a public document. Failure to submit any necessary information may result in an incomplete application.

Sec. 10-5.604. Applications: Filing.

Applications for reclamation plans shall be submitted to the Director for review and determination as to completeness. If the application is determined to be incomplete, the Director shall notify the applicant in writing within thirty (30) days of receipt of the application. The written notice shall specifically describe the information necessary to

complete the application. The application shall not be processed until the Director has determined it to be complete and the appropriate fees have been paid, as required under Article 10 of this chapter.

Once the application has been determined to be complete and the appropriate fees have been paid, the application shall be processed by the Director, who shall set it for a hearing pursuant to Section 10-5.605 of this article.

Sec. 10-5.605. Applications: Review.

The Director shall notify the Department in writing of any application for a reclamation plan within thirty (30) days of its being filed. The application shall also be circulated to all other agencies of jurisdiction for their review and comments in accordance with CEQA, or other applicable regulatory requirements. In addition, a notice of the filing of a reclamation plan shall be mailed to any other person with an interest in the application, who has deposited a self-addressed, stamped envelope with the Agency for the purpose of receiving a notice of the filing.

Sec. 10-5.606. Applications: Public hearing.

Once the application has been processed, the Director shall set a public hearing before the Commission to consider the proposed reclamation plan. Said hearing shall be held within six (6) months after the completion of the final EIR or within three (3) months after the completion of the negative declaration.

Sec. 10-5.607. Public hearing: Notice.

The Director shall mail notices of the public hearing to the applicant and to all property owners and property occupants located within three-hundred (300) feet of the exterior boundaries of the property containing the proposed site. Notices shall be mailed to said property owners at the addresses shown on the latest equalized County assessment roll, as well as the occupants at the situs addresses. In addition, the Director shall publish a notice of the public hearing at least once in a newspaper of general circulation, published and circulated in the area of the proposal. All notices shall be mailed and published at least ten (10) days prior to the public hearing. The Director shall also provide such other notice as may be appropriate in the circumstances of the project.

Notices of public hearing shall state the date, time, and place set for the commencement of the hearing; shall identify the property included within the proposal; and shall generally describe the subject matter of the hearing. A metes and bounds legal description of the subject property shall not be required. Notices required by this chapter may describe the subject property using landmarks, Assessor parcel numbers, and/or similar identifying information.

Failure to mail or to receive such notice, as a result of mistake or inadvertence, shall not affect the validity of the hearing or the decision rendered.

Sec. 10-5.608. Public hearing: Review.

Prior to the hearing, the Director shall submit copies of the following to the Department for a thirty (30) day review period:

- (a) A copy of the proposed reclamation plan;

(b) A copy of the environmental document for the reclamation plan, prepared in accordance with CEQA; and

(c) Other related documentation, as appropriate.

No reclamation plan may be approved until the Department has completed its review, or the thirty (30) day period has expired. The Director shall prepare a written response to any written comments received from the Department regarding the reclamation plan submitted. If applicable, the Director's response shall specifically address, in detail, why any comments or suggestions submitted by the Department were not accepted. The Director shall forward copies of both the Department's comments and the Director's response to the applicant.

Sec. 10-5.609. Public hearing: Conflict of comments.

If there is a conflict between comments submitted by a trustee or responsible agency and the comments of other reviewing agencies received during circulation of the reclamation plan, as required by CEQA, the Commission or Board shall only consider the comments of the trustee or responsible agency.

Sec. 10-5.610. Public hearing: Findings for approval.

The Commission or, on appeal, the Board may approve a reclamation plan pursuant to this chapter only if all of the following findings can be made:

(a) That the proposed reclamation plan and financial assurances comply with the Act, the Regulations, and this chapter;

(b) That the proposed mining shall be conducted pursuant to a surface mining permit granted in accordance with this title, or that the operator has vested rights to conduct surface mining pursuant to Section 2776 of the Act;

(c) That the site, during and after reclamation, will not be detrimental to the public health and safety, giving consideration to the degree and type of present and probable future exposure of the public to the site;

(d) That the proposed reclaimed use is consistent with the General Plan, any applicable specific plans, and the zoning of the site;

(e) That the proposed reclaimed use is compatible with the existing and probable future uses of surrounding lands, as designated in the General Plan;

(f) That the site is physically suitable for the proposed use of the land in its reclaimed condition, giving consideration, but not limited to, such factors as on-site soil conditions, local groundwater conditions, surface water flow, surrounding habitat areas, and public access to the proposed site;

(g) That the estimated financial assurances reasonably approximate the probable costs of carrying out the proposed reclamation plan; and,

(h) That a written response to the State Department of Conservation has been prepared and considered, describing the disposition of major issues raised by the Department.

Sec. 10-5.611. Public hearing: Decision.

After considering the evidence in the public hearing, the Commission or Board shall approve, conditionally approve, or deny the application by a written decision setting forth the findings supporting the action. Approval may be granted subject to any relevant

condition which the Commission may deem necessary to effectuate the purposes of the Act, the Regulations, and this chapter. Such conditions may address any or all of the findings required by Section 10-5.610 of this article. If the application is conditionally approved, the conditions shall be specified in writing.

Within ten (10) days after the decision of the Commission or Board, the Director shall mail a copy of the decision to the applicant. Copies of the decision shall also be mailed to any other person with an interest in the application, who has deposited a self-addressed, stamped envelope with the Agency for the purpose of receiving a copy of the decision.

Article 7. Financial Assurances

Sec. 10-5.701. Financial assurances: Scope.

Prior to the commencement of any mining activities, all new and existing surface mining operations conducted within the unincorporated territory of the County shall submit sufficient financial assurances to ensure the faithful performance of the reclamation plan approved pursuant to this chapter.

Sec. 10-5.702. Financial assurances: Form.

Surface mining operations that are not undertaken by governmental agencies shall provide financial assurances in any one or a combination of the following forms:

- (a) Surety bonds;
- (b) Trust funds;
- (c) Irrevocable letters of credit; and/or,
- (d) Such other forms of financial assurances as the State Mining and Geology Board may adopt.

In addition those listed above, governmental agencies undertaking surface mining operations may provide financial assurances in the following forms:

- (e) Pledges of revenue; and/or,
- (f) Budget set asides.

Financial assurances shall be issued by a corporate surety authorized to do conduct surety business in the State of California and shall be made payable to the "County of Yolo or the Department of Conservation." Financial assurances that were approved by the County prior to January 1, 1993, and were made payable to the State Geologist shall be considered payable to the Department for the purposes of this chapter.

The form of such financial assurance instruments shall be subject to the approval of the County Counsel who may require such additional provisions as are necessary to ensure the performance of the obligations.

Sec. 10-5.703. Financial assurances: Pledges of revenue.

The action approving a pledge of revenue shall take the form of a resolution or other appropriate document from the governing body of the agency responsible for reclamation. The resolution or document shall remain in effect continuously until the approved reclamation plan has been determined to be completed by the Director, pursuant to this chapter. The pledge of revenue shall consist of the following items:

- (a) The resolution or document establishing the pledge of revenue;
- (b) The types and sources of pledged revenue;
- (c) The period of time that each source of revenue is pledged to be available;
- (d) The estimated amount of financial assurances necessary to complete the approved reclamation plan; and,
- (e) An authorization for the County or the Department to use the proceeds of the pledge to complete reclamation, if the operator is incapable of performing reclamation, as determined in Article 9 of this chapter.

The government agency may pledge the following types of revenue that it controls, as long as the revenue is available in a timely manner to perform the necessary reclamation work:

- (f) Fees, rents, or other charges;
- (g) Tax revenues within statutory limitations; and/or
- (h) Other guaranteed revenues that are acceptable to the lead agency and the State Mining and Geology Board.

If the government agency ceases at any time to retain control of its ability to allocate pledged revenue to complete reclamation, the governing body of the agency shall notify both the lead agency and the Department within sixty (60) days after control lapses.

Sec. 10-5.704. Financial assurances: Budget set asides.

Government agencies may also submit financial assurances in the form of a specific fund or line item set aside to provide funds for reclamation. The budget set aside shall remain in effect continuously until the approved reclamation plan has been determined to be completed by the Director, pursuant to this chapter. The budget set aside shall consist of the following items:

- (a) A resolution or other appropriate document establishing the set aside or line item including proof of approval by the governing body or appropriate official of the government agency;
- (b) The types and sources of specific funds;
- (c) The period of time that each funding source is to be available;
- (d) The estimated amount of financial assurances necessary to complete the approved reclamation plan; and,
- (e) The authorization for the County or the Department to use the funds to complete reclamation, if the operator is incapable of performing reclamation, as determined in Article 9 of this chapter.

Sec. 10-5.705. Financial assurances: Term.

Financial assurances shall remain in effect until the County has determined that the reclamation plan has been completed as approved. Financial assurances may be made renewable for periods of at least one year. However, the failure of an operator to renew any financial assurance before its expiration date shall be considered a violation of this chapter. New or renewed financial assurances shall be submitted to the County prior to the expiration date of the existing financial assurances.

Sec. 10-5.706. Financial assurances: Calculations.

The amount of the financial assurances shall be equal to one-hundred percent (100%) of the estimated cost of implementing the approved reclamation plan. The estimated cost of reclamation shall be calculated by the operator and shall be based on the following factors:

- (a) An analysis of the physical activities and materials necessary to implement the approved reclamation plan;
- (b) The lead agency's unit costs for each of the specified activities, or the unit costs for a third party contract, if applicable. When calculating the unit costs of reclamation activities, prevailing wage rates shall not be used;
- (c) The number of units for each of the specified activities; and,
- (d) An amount to cover contingency costs, not to exceed ten percent (10%) of the reclamation costs estimated above.

The costs associated with the completion of permitted mining shall not be used in the calculation of financial assurances.

The salvage value of buildings and equipment left on-site as a result of abandonment by the operator may be included to offset the costs of reclamation in the calculation of financial assurances.

Sec. 10-5.707. Financial assurances: Phasing.

If a phased reclamation plan is approved, the initial amount of the financial assurances shall be no less than one-hundred percent (100%) of the total cost of all reclamation work to be done in the first approved phase. Before mining commences in the any subsequent phase, additional financial assurances shall be submitted in an amount equal to one-hundred percent (100%) of the total cost of reclamation for that phase.

Sec. 10-5.708. Financial Assurances: Annual Adjustments.

As a part of the annual report, each operator shall submit a revised estimate of financial assurances for the following year. Financial assurances may be adjusted annually by the Planning Commission to account for any of the following factors:

- (a) The addition of new permitted lands to be mined in the following year;
- (b) Previously mined lands which have been completely reclaimed in accordance with the approved reclamation plan; and,
- (c) The increased labor and/or material costs of reclamation.

Any decision to either increase or decrease financial assurances shall become final within fifteen (15) days, unless appealed to the Board of Supervisors within that fifteen (15) day period, as provided in Article 11 of this chapter.

The review of existing financial assurances shall not be considered a project within the meaning of CEQA, pursuant to the exemption granted under Section 2770(c) of the Act.

Sec. 10-5.709. Financial assurances: Review.

The Director shall submit a copy of all new and revised financial assurance estimates and any supporting documentation to the Department for a forty-five (45) day review period. No financial assurances may be approved until the Department has

completed its review. The Director shall prepare a written response to any written comments received from the Department regarding the financial assurances submitted. If applicable, the Director's response shall specifically address, in detail, why any comments or suggestions submitted by the Department were not accepted. The Director shall forward copies of both the Department's comments and the Director's response to the operator.

Sec. 10-5.710. Financial assurances: Transfer.

If a surface mining operation is sold or ownership is transferred to another person, the existing financial assurances shall remain in full force and effect and shall not be released until new financial assurances are secured by the new owner and approved by the County.

Sec. 10-5.711. Financial assurances: Release.

The mining operator shall notify the Director in writing when all or any portion of the required reclamation work is completed. Within sixty (60) days after notification to the County by the operator, the Director shall inspect the site in order to determine whether the site or the portion thereof complies with the approved reclamation plan. If it is determined that reclamation has not been completed pursuant to the approved reclamation plan, then the Director shall notify the operator in writing, specifically describing the remedial steps required for compliance. If it is determined that reclamation has been completed as approved, then the Director shall place the matter on the agenda of the Planning Commission for action within thirty (30) days. The Planning Commission may release all or a portion of the financial assurances, as appropriate. The Director shall send written notification of the proposed release of financial assurances to both the operator and the Department prior to the Planning Commission action.

Sec. 10-5.712. Financial Assurances: Disasters.

Prior to final approval of reclamation by the County and the release of financial assurances, if a reclaimed site or any reclaimed phases thereof have been adversely affected by a disaster, such as flood, earthquake, or other natural occurrence beyond the operator's control, then the Director shall take the following factors into account in determining the operator's responsibility:

- (a) The extent to which the operator had completed reclamation prior to the natural occurrence;
- (b) The extent to which the reclamation work has been destroyed by the natural occurrence;
- (c) The effect of the natural occurrence on the public health and safety;
- (d) The degree to which the site can be reclaimed naturally without human intervention;
- (e) The specific reasons a particular monitoring period was established for reclamation; and,
- (f) The site characteristics, reclamation program, and the proposed end use.

The operator may not be held responsible for the adverse impacts caused by a natural occurrence if the reclamation has been approved and the financial assurances released by the County.

Article 8. Amendments and Modifications to Approved Reclamation Plans

Sec. 10-5.801. Amendments and modifications: Purpose.

The purpose of this article is to provide procedures for changing the conditions of approval or project description (as described in the application and accompanying analyses) to account for unanticipated changes in the reclamation, site characteristics, regulations, or other aspects of the approved reclamation plan.

Sec. 10-5.802. Amendments: Applications.

Applications for amendments to of previously approved reclamation plans shall be submitted to the Director, on forms provided by the Agency, and shall be accompanied by the appropriate fees, as determined in Article 10 of this chapter. Such applications shall be processed pursuant to the procedures set forth in Article 6 of this chapter.

Sec. 10-5.803. Amendments: Exceptions and changes.

Proposed exceptions to the reclamation standards may not be included as part of any application for a minor modification. Any changes in the conditions of approval or the amount of surface area and/or depth to be disturbed shall also be treated as a substantial deviation from the approved plan. Such changes and exceptions shall be processed as an amendment to the reclamation plan.

Sec. 10-5.804. Minor modifications.

The Director may approve minor modifications of reclamation plans approved by the Commission pursuant to this chapter. Minor modifications may only be approved if it is found that such changes would be consistent with the conclusions of the EIR or other applicable environmental document, and that such changes will not have a significantly adverse effect on the successful achievement of the approved reclamation plan. Such modifications shall be noted on the approved plans and shall be initialed by the Director.

The decision of the Director shall be mailed and posted in accordance with Section 10-5.607 of this chapter. Any minor modification approved by the Director shall become final within fifteen (15) days, unless appealed to the Board, as provided in Article 11 of this chapter.

Sec. 10-5.805. Interim management plans: Scope.

Anytime that the annual production of a surface mining operation is reduced by more than ninety percent (90%) for a period of one year or more, then the operator shall submit an interim management plan to provide measures for maintaining the site until normal production is resumed. The interim management plan shall be considered an amendment to the approved reclamation plan, but not just cause to re-examine an

approved reclamation plan and/or cause the plan to be subsequently amended. An interim management plan shall not be considered a project within the meaning of CEQA, pursuant to the exemption granted under Section 2770 of the Act.

Sec. 10-5.806. Interim management plans: Application.

Within ninety (90) days of a surface mining operation becoming idle, the operator shall submit an application for an interim management plan to the County. A proposed interim management plan shall be reviewed by the Director within thirty (30) days of receipt to determine whether the application complies with the requirements of this article. If the application is complete, then within sixty (60) days of the receipt of the application, a public hearing shall be held before the Commission to approve or deny the interim management plan in accordance with the procedures set forth in Article 6 of this chapter.

The interim management plan application shall include, at a minimum, the following:

- (a) A statement describing why the mining operation is idle, include a description of those conditions necessary to reactivate the operation;
- (b) The requested duration of the interim management plan (not to exceed five (5) years);
- (c) A description of the measures to be taken to maintain site security;
- (d) An analysis prepared by a Registered Civil Engineer describing interim slope angles, slope stability, and erosion control measures to be implemented during the interim period;
- (e) A description of the equipment to be retained on the site;
- (f) A plan prepared by a qualified biologist describing how revegetation efforts would be maintained in the interim period; and
- (g) A plan showing the extent of mined areas, areas where reclamation has not yet been completed, internal haul roads and parking areas, stockpile locations, and equipment storage.

In addition to the foregoing, the Director may require such other and further information relevant to the project as needed to determine whether the proposal may affect the public health and safety.

Sec. 10-5.807. Interim management plans: Incomplete.

If the application does not comply with the requirements of this article, then the Director shall notify the applicant in writing, describing any deficiencies in the plan. The applicant shall have thirty (30) days to submit a revised plan correcting the deficiencies noted by the Director. If the revised application is complete, then within sixty (60) days of the receipt of the revised application, a public hearing shall be held before the Commission to approve or deny the interim management plan in accordance with the procedures set forth in Article 6 of this chapter.

Sec. 10-5.808. Interim management plans: Review.

The Director shall submit a copy of the interim management plan to the Department for a 45-day review period. No interim management plan may be approved until the Department has completed its review. The Director shall prepare a written response to any written comments received from the Department regarding the interim

management plan. If applicable, the Director's response shall specifically address, in detail, why any comments or suggestions submitted by the Department were not accepted. The Director shall forward copies of both the Department's comments and the Director's response to the operator.

Sec. 10-5.809. Interim management plans: Appeal.

The decision of the Commission may be appealed to the Board of Supervisors within fifteen (15) days of the date of the decision, pursuant to Article 11 of this chapter.

Sec. 10-5.810. Interim management plans: Term.

Approved interim management plans shall remain in effect for a period not to exceed five (5) years. Prior to the expiration of the interim management plan, the Commission shall take one of the following actions:

(a) If the operator has fully complied with the terms of the interim management plan, then the Commission may renew the plan for another period, not to exceed five (5) years; or

(b) If the operator has not complied with the terms of the interim management plan, then the surface mining operation shall be considered to be in violation and the Director shall carry out the procedures described in Article 12 of this chapter.

The operator shall notify the Director in writing prior to the reactivation of the surface mining operation.

Sec. 10-5.811. Interim management plans: Financial assurances.

Financial assurances shall remain in effect during the term of the interim management plan and any extensions granted thereto.

Sec. 10-5.812. Interim management plans: Abandonment.

Unless the operation has a pending or approved interim management plan, or an appeal of the interim management plan is pending before the Board of Supervisors, any surface mining operation which remains idle for more than one year shall be considered abandoned. All abandoned mining operations shall commence and complete reclamation in accordance with the approved reclamation plan, pursuant to Article 9 of this chapter.

Sec. 10-5.813. Interim management plans: Conditions.

All applicable conditions of approval shall remain in effect during the interim period. The Commission may impose additional conditions of approval necessary to safeguard the environment and the public health and safety.

Sec. 10-5.814. Interim permit review.

Every ten years after a reclamation plan has been approved, the Commission shall hold a public hearing in accordance with Article 5 of this chapter, for the purpose of amending the plan to bring it into conformance with applicable future environmental regulations and statutory changes. An additional public hearing may be held fifteen (15) years after a reclamation plan has been approved, at the discretion of the Commission. The Commission shall evaluate the plan to determine if there have been any subsequently adopted environmental regulations or statutory provisions which should be

made applicable to the reclamation plan, even if such laws themselves are not made retroactive to affect the plan. For the purposes of this article, an environmental regulation or statutory provision is one that is promulgated by a responsible or trustee agency that has authority for a particular natural resource (e.g., Yolo-Solano Air Quality Management District, California Department of Fish and Game, California Department of Conservation, Regional Water Quality Control Board, State Lands Commission, State Reclamation Board, etc.), including the County of Yolo.

As a part of this review, the Commission shall also consider whether per-ton fees to which the permit is subject, reasonably reflect actual costs. The fees shall be adjusted up or down accordingly.

Should the Commission decide to incorporate into the reclamation plan new regulatory or statutory provisions that were not available at the time of project approval, said provisions shall be applied as an amendment to the plan and processed in accordance with Article 6 of this chapter. The decision of the Commission may be appealed, in accordance with Article 10 of this chapter.

Article 9. Abandonment

Sec. 10-5.901. Abandonment: Hearing.

If at any time, the Director determines that the operator is financially incapable of performing the required reclamation, or has abandoned the surface mining operation without completing the approved reclamation plan, or has failed to observe an order to comply, then a public hearing shall be held before the Commission as provided for in Article 6 of this chapter.

Sec. 10-5.902. Abandonment: Notice.

If the Commission determines that the operator is financially incapable of performing the required reclamation, or has abandoned the surface mining operation without completing the approved reclamation plan, or has failed to observe an order to comply, then the Director shall provide written notification to the operator by personal service or certified mail that the County intends to forfeit the financial assurances. The written notification shall include the specific reasons for the forfeiture.

Sec. 10-5.903. Abandonment: Forfeit of financial assurances.

The operator shall be allowed sixty (60) days to commence reclamation in accordance with the approved reclamation plan. Reclamation shall be completed within the time specified in the approved reclamation plan, or at a time mutually agreed to by the Director and the operator.

If the operator fails to begin reclamation within the sixty (60) days after notification, or otherwise fails to complete the approved reclamation plan within the time specified, then the Director may demand performance of any surety company issuing the financial assurances and commence reclamation of the site.

Sec. 10-5.904. Abandonment: Reclamation.

The following persons may enter the mine site and any adjacent property of the operators to plan or conduct all or any of the work described in the approved reclamation plan:

- (a) Officers, employees, and agents of the County;
- (b) Contractors hired by the County, as well as their subcontractors and agents; and
- (c) Surveyors, engineers, and other consultants retained by the County.

These persons may bring onto the site and use thereon any and all equipment and machines necessary for completing the reclamation plan, and may use any equipment, supplies, earth, or other materials abandoned by the operator to perform required reclamation work.

The County shall follow the approved reclamation plan and all applicable permit conditions of approval in completing reclamation work.

Sec. 10-5.905. Abandonment: Use of financial assurances.

All or any portion of the financial assurances shall be deposited into a separate fund held by the County for the costs and reasonable expenses and fees associated with completing the approved reclamation plan. In no event shall the financial assurances be used for any other purpose.

If, after the Director has determined that the approved reclamation plan has been completed and all costs incurred by the County in performing such work have been accounted for, then any remaining monies from the financial assurances shall be refunded to the operator or the surety company, as their interests may appear, in accordance with Section 10-5.711 of this chapter. The operator shall be held responsible for all costs incurred by the County in completing the reclamation plan which exceed the amount of the forfeited financial assurances. Costs accrued by the County which exceed the amount of financial assurances shall be paid according to a schedule agreed to by the operator and the Director.

Article 10. Fees

Sec. 10-5.1001. Fees: Applications.

Each application for a reclamation plan and/or approval of financial assurances or any amendments and modifications thereto shall be accompanied by the appropriate fee as determined by the Master Fee Resolution adopted by the Board.

Sec. 10-5.1002. Annual reviews.

The operator shall be responsible for the payment of fees to cover the costs incurred by the County in annually inspecting each mine site, pursuant to Section 10-5.1203 of this chapter, as determined by the Master Fee Resolution adopted by the Board. Said fee shall be due within thirty (30) days of written notification by the Director. This fee shall also cover the costs of the annual review required under Section 12-5.1203 of this chapter.

In addition, each operator shall participate in a cost-sharing agreement among the individual surface mining companies to reimburse the County for any costs associated with administering the Act and this chapter, not otherwise covered by the fees listed above. The amount shall be reviewed and agreed to by both the County and the mining companies on an annual basis, prior to July 1 of each year. Payments shall be made according to a mutually agreed upon schedule and shall be placed in a separate account of the General Fund that is used solely for the purpose of administering the Act and this chapter.

Failure to pay the above fees in a timely manner shall be considered a violation and may be enforced under the provisions of Article 12 of this chapter.

Article 11. Appeals

Sec. 10-5.1101. Appeals: Planning Commission.

The action of the Director on any decision made pursuant to this chapter shall be final unless, within fifteen (15) days after such action, any person with appropriate legal standing files a written appeal, and pays the appropriate fee to the clerk of the Commission. The timely filing of an appeal shall stay the Director's decision, which shall serve as a recommendation to the Commission. All such appeals shall reference the decision of the Director and shall specifically describe the grounds for the appeal.

Sec. 10-5.1102. Planning Commission: Hearings.

The hearing on an appeal of a decision by the Director shall be scheduled within sixty (60) days from when the appeal was filed. The Director shall provide notice of the appeal hearing, pursuant to Section 10-5.607 of this chapter. Upon hearing the appeal, the Commission shall either affirm, reverse, or modify the appealed decision, or refer the matter back to the Director for further action.

A decision of the Commission may be appealed to the Board, pursuant to this article. The appeal rights under this section shall be exercised prior to filing an appeal pursuant to Section 10-5.1107 of this chapter.

Sec. 10-5.1103. Appeals: Board of Supervisors.

The action of the Commission on any decision made pursuant to this chapter shall be final unless, within fifteen (15) days after such action, any person with appropriate legal standing files a written appeal, and pays the appropriate fee, to the Clerk of the Board. The timely filing of an appeal shall stay the Commission's decision, which shall serve as a recommendation to the Board. All such appeals shall reference the decision of the Commission and specifically describe the grounds for the appeal.

Sec. 10-5.1104. Board of Supervisors: Hearing.

The hearing on an appeal of a decision by the Commission shall be scheduled within sixty (60) days from when the appeal was filed. The Clerk of the Board shall provide notice of the hearing pursuant to Section 10-5.607 of this chapter. Upon hearing the appeal, the Board may either affirm, reverse, or modify the appealed decision, or refer the matter back to the Commission for further action. The appeal rights under this

section shall be exercised prior to filing an appeal pursuant to Section 10-5.1107 of this chapter.

If the Board fails to take one of the above actions, the appeal shall be considered denied without prejudice. Appeals that are denied without prejudice may be reconsidered at a new public hearing, noticed in accordance with Section 10-5.605 of this chapter.

Sec. 10-5.1105. Appeals: Scope.

Any appeal of a decision or action shall serve only as an appeal of the specific action or issue identified, based on the grounds and issues described in the appeal. The appellate body shall consider the record of the decision being appealed. New evidence not previously introduced in the record of the decision may not be presented at the hearing regarding the appeal.

Sec. 10-5.1106. Appeals: Withdrawal.

Appeals to either the Commission or the Board may be withdrawn at any time.

Sec. 10-5.1107. Appeals: State Mining and Geology Board.

An appeal of a decision by the Board may be filed with the State Mining and Geology Board, if the appellant can substantiate, based on the record, that the County has failed to take any of the following actions:

- (a) Act according to due process;
- (b) Consider the specific applicable requirements of Sections 2772, 2773, and 2773.1 of the Act or this chapter in the denial of a reclamation plan or financial assurances;
- (c) Act within a reasonable time after receiving a completed application; or
- (d) Review and approve reclamation plans or financial assurances pursuant to Sections 2770(c) and 2770(d) of the Act.

If the State Mining and Geology Board remands a decision pursuant to this section, then the Board shall reconsider their decision in accordance with the procedures described in this article.

Sec. 10-5.1108. Appeals: Judicial Review.

When giving notice to the applicant of its decision to deny, the Board shall notify the applicant that the time within which judicial review must be sought is governed by Section 1094.6 of the State Code of Civil Procedure.

Article 12. Inspections: Notices of Violations

Sec. 10-5.1201. Inspections: Purpose.

The Director shall make such necessary inspections and investigations of all surface mining reclamation activities within the unincorporated portion of the County in order to accomplish any of the following purposes:

- (a) To determine compliance with this chapter and the Act;
- (b) To determine compliance with the conditions of reclamation plan approved pursuant to this chapter;

(c) To investigate the environmental effects which reclamation work may be causing to the surrounding area; and,

(d) To verify the information submitted in any application or any annual report submitted pursuant to this title.

Sec. 10-5.1202. Inspections: Annual.

At least once every year, the Director shall conduct an inspection of each surface mining operation to determine whether the operator is in compliance with the Act, the Regulations, and this chapter. Each inspection shall be conducted within six (6) months after receipt by the County of the operation's annual report, submitted pursuant to Section 2207 of the Public Resources Code, and may be combined with other site inspections, as appropriate. The Director shall notify the Department within thirty (30) days of the completion of the inspection, and shall forward a copy of said inspection notice and any supporting documentation to the operator.

Sec. 10-5.1203. Annual Inspections: Notification.

All annual inspections shall be documented using forms adopted by the Department. The Director shall notify the Department of the inspection within thirty (30) days after it has been completed. Said notice shall include the following:

(a) A statement regarding whether the operation is in compliance with the Act and this chapter. Any violations of either the Act or this chapter shall be specifically described;

(b) The completed inspection forms;

(c) A description of any pending reviews or appeals of surface mining permits, reclamation plans, financial assurances, amendments or modifications thereto, or interim management plans pertaining to the operation; and,

(d) Any supporting documentation.

Copies of the notice shall also be provided to the operator.

Sec. 10-5.1204. Inspections; Designee.

Inspections shall be conducted by a state-registered geologist, state-registered civil engineer, state-licensed landscape architect, state-registered forester, County staff, or other designee as determined by the Director, who is experienced in mined land reclamation and who has not been employed by the mining operation in any capacity during the previous twelve (12) months.

Sec. 10-5.1205. Annual compliance review.

An annual report of reclamation operations shall be filed by each operator and reviewed by the Commission in a public hearing in order to determine compliance with the approved reclamation plan, in accordance with Article 7 of Chapter 4 of this title.

Sec. 10-5.1206. Violations: Notice.

Whenever the Director has reasonable cause to believe that mining reclamation activities are in violation of the Act, the Regulations, this chapter, or any terms or conditions of a reclamation plan issued pursuant to this chapter, a written notice of violation shall be served to the operator. The notice shall specifically describe both the

violation(s) and the remedial steps required for compliance. Said notice shall be served by certified mail and a copy shall be sent to the Department. In the event that the notice is returned unreceived, a copy of the notice shall be posted in a conspicuous place within the surface mining site.

Sec. 10-5.1207. Violations: Order to comply.

If the violation continues after thirty (30) days from the date of notification, then the Director shall issue an order requiring compliance. Said order shall be served upon the operator by certified mail, with a copy sent to the Department. The order shall specify a time by which compliance must be completed, as determined by the Director. A reasonable amount of time shall be allowed to bring the operation into compliance, taking into account the seriousness of the violation and any good faith efforts to comply with the applicable requirements.

The order shall also state the date, time, and place set for a hearing before the Commission regarding the notice of violation. The hearing shall be conducted no sooner than thirty (30) days and no later than sixty (60) days after the service of the order upon the operator. Public notice of such hearing shall be given as set forth in Section 10-5.607 of this chapter.

Sec. 10-5.1208. Violations: Hearing.

At the time and place described in the order of compliance, the Commission shall conduct a public hearing to consider the violation. Before the close of the hearing, the Commission shall take one of the following actions:

- (a) Approve the order of the Director;
- (b) Remove any of the violations and approve the order as modified; or,
- (c) Decline to approve the order of the Director.

If the order of the Director is approved, the Commission's decision shall become final and the approved order will take effect fifteen (15) days after the decision, unless an appeal is filed with the Board, pursuant to Article 11 of this chapter.

Sec. 10-5.1209. Violations: Abandonment.

If an operator fails to observe an order of compliance, then the mining reclamation activities shall be considered abandoned and the Director shall initiate procedures to forfeit the operator's financial assurances in accordance with Article 9 of this chapter.

Sec. 10-5.1210. Violations: Administrative penalties.

If the operator fails to comply with an effective order, issued pursuant to this article, the Commission may issue an order imposing administrative penalties of not more than five thousand dollars (\$5,000) per day, retroactive to the original date of noncompliance. When determining the amount of the penalty, the Commission shall consider, but may not be limited to, the following factors:

- (a) The nature, circumstances, extent, and gravity of the violation(s);
- (b) Any prior history of violations; and,
- (c) The degree of culpability by the operator.

The order establishing administrative penalties shall be served by certified mail to the operator. Any such order shall become effective upon issuance and the penalties

imposed therein shall be paid to the Director within thirty (30) days, unless the order imposing administrative penalties is appealed to the Board, pursuant to Article 11 of this chapter. If no writ petition is filed, then the order setting administrative penalties shall not be subject to review by any court or agency.

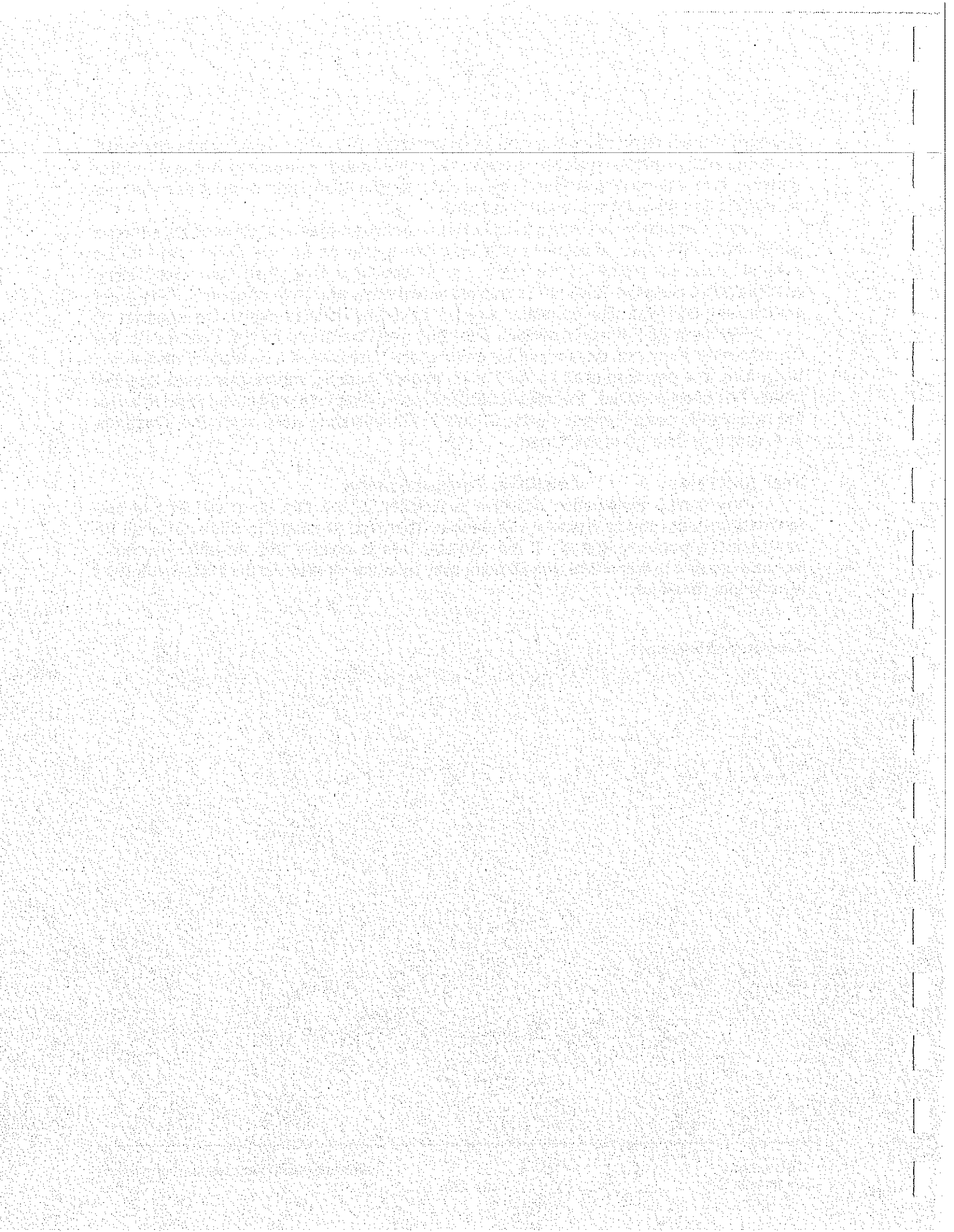
Any decision by the Board to order administrative penalties shall become effective within thirty (30) days, unless the operator files a petition for writ of mandate in the superior court for review of the order. If no appeal is filed, then the order setting administrative penalties shall not be subject to review by any court or agency. The order establishing administrative penalties shall be served by certified mail to the operator.

Payment of the administrative penalties shall be made by the operator to the County within thirty (30) days of receipt of the order. However, if a petition for review has been filed, the payment shall be held in an interest bearing impound account until the matter has been resolved. Penalties collected by the Director shall only be used to cover the reasonable costs incurred by the County in administering either the Act or Chapters 3, 4, and 5 of Title 10 of this Code.

Sec. 10-5.1211. Violations: Public nuisance.

Any mining reclamation activities in violation of this title, or in violation of any reclamation plan and/or financial assurances approved pursuant to this title, shall be considered a public nuisance. If the operator fails to comply with an effective order, issued pursuant to this article, the Director may refer the violation to the District Attorney for criminal remedies.

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APPENDIX C: Surface Mining and Reclamation Act



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(916) 666-8041**