

**CALIFORNIA COASTAL COMMISSION**

CENTRAL COAST DISTRICT OFFICE

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**RECORD PACKET COPY****Th-10a**

April 18, 2002

TO: Commissioners and Interested Parties

FROM: Steve Scholl, Deputy Director  
Chris Kern, North Central Coast District Supervisor  
Susan Craig, Coastal PlannerSUBJECT: **SAN MATEO COUNTY LCP AMENDMENT NO. SMC-MAJ-3-00 (PART B) CERTIFICATION REVIEW:** Concurrence with the Executive Director's determination that the action of the County of San Mateo accepting the Commission's certification of LCP Amendment No. SMC-MAJ-3-00 (Part B) is legally adequate. For Commission review at the meeting of May 2002 in Santa Rosa.**A. BACKGROUND**

The Commission acted on San Mateo County LCP Amendment No. SMC-MAJ-3-00 (Part B) on October 11, 2001. The proposed amendment includes changes that would update and revise the County's surface mining and reclamation ordinance to bring it into compliance with the state Surface Mining and Reclamation Act of 1975 (SMARA) as required by the state Mining and Geology Board. The proposed amendment includes changes to the Implementation Plan (consisting of the Zoning Regulations).

The Commission rejected the amendment as submitted but certified the proposed amendment to the LCP if modified to clarify the procedures for issuing Coastal Development Permits for surface mining and reclamation activities in the County's Coastal Zone to more effectively carry out the provisions of the LUP. Specifically, the modifications include language to clarify that: (1) the surface mining and reclamation ordinance does not govern the issuance of Coastal Development Permits; (2) surface mining may take place in the Coastal Zone of the County only if it is consistent with the Coastal Act and/or the San Mateo County certified Local Coastal Program; (3) Coastal Development Permits for mining activities shall either be reviewed by the Coastal Commission pursuant to the Coastal Act for development within the Commission's retained jurisdiction, or by the County, or the Commission on appeal, for development within the County's coastal permit jurisdiction pursuant to the certified Local Coastal Program standards governing the issuance of Coastal Development Permits, and; (4) the Coastal Commission, rather than the certified local government, shall administratively adjudicate all vested right

determinations for purposes of Coastal Development Permit requirements pursuant to the Coastal Act and all other applicable law.

**B. EFFECTIVE CERTIFICATION**

On March 19, 2002, the Board of Supervisors held a public hearing and adopted Resolution No. 65110, which acknowledged receipt of the Commission's resolution of certification, accepted and agreed to the Coastal Commission's modifications, agreed to issue permits in conformance with the modified LCP, and formally approved the necessary changes to the County's Implementation Program (see Exhibit 1). On March 26, 2002, the Board of Supervisors adopted Ordinance 04105, which amends the County's Surface Mining and Reclamation Ordinance to include the Coastal Commission's modifications (see Exhibit 2).

As provided in Sections 13544 and 13544.5 of the California Code of Regulations, for the amendment to become effective, the Executive Director must determine that San Mateo County's actions are legally adequate and report that determination to the Commission. Unless the Commission objects to the determination, the certification of San Mateo County LCP Amendment No. SMC-MAJ-3-00 (Part B) shall become effective upon the filing of a Notice of Certification for the LCP amendment with the Secretary of Resources, as provided in Public Resources Code Section 2180.5(2)(V).

**C. STAFF RECOMMENDATION**

Staff recommends that the Commission concur with the determination of the Executive Director that the action of the County of San Mateo accepting the Commission's certification of San Mateo County LCP Amendment No. SMC-MAJ-3-00 (Part B) is legally adequate, as noted in the attached letter (Exhibit 3), to be sent after Commission concurrence.

RESOLUTION NO. 65110

BOARD OF SUPERVISORS, COUNTY OF SAN MATEO, STATE OF CALIFORNIA

\* \* \* \* \*

**RESOLUTION ACCEPTING COASTAL COMMISSION SUGGESTED  
MODIFICATIONS TO THE SURFACE MINING AND RECLAMATION ORDINANCE**

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**RESOLVED**, by the Board of Supervisors of the County of San Mateo, State of California, that:

**WHEREAS**, on December 9, 1998, the San Mateo County Planning Commission held public hearings to consider amendments to the County's surface mining and reclamation ordinance; and

**WHEREAS**, on February 9, 1999, the San Mateo County Board of Supervisors held a public hearing to consider the Planning Commission's recommendation on the surface mining and reclamation amendments; and

**WHEREAS**, on February 9, 1999, the San Mateo County Board of Supervisors approved such surface mining and reclamation amendments by adopting Ordinance 3883; and

**WHEREAS**, on February 9, 1999, the San Mateo County Board of Supervisors directed staff to submit the surface mining and reclamation amendments to the Coastal Commission for certification of conformity with the California Coastal Act; and

**WHEREAS**, maximum opportunity for public participation at the Board of Supervisors' hearing was provided through: (1) publication of the meeting announcement in the San Mateo County Times newspaper, and (2) direct mailing of meeting announcements to all project participants; and

EXHIBIT NO. 1
APPLICATION NO.
SMC-MAJ-3-00(B)
pg. 1 of 3 California Coastal Commission

**WHEREAS**, at all public hearings, all interested parties were afforded the opportunity to be heard; and

**WHEREAS**, on October 11, 2001, the Coastal Commission certified the amendments subject to the inclusion of several modifications that clarify the requirement for a Coastal Development Permit for surface mining and reclamation activities in the Coastal Zone.

**NOW, THEREFORE, BE IT RESOLVED**, the San Mateo County Board of Supervisors:

1. Acknowledges receipt of the Coastal Commission's suggested modifications.
2. Accepts and agrees to the modifications, and has adopted, by ordinance, Zoning Regulation amendments to implement the modifications.
3. Agrees to issue Coastal Development Permits in San Mateo County subject to the certified LCP, as amended.
4. Submits this resolution and said adopted ordinance to the Coastal Commission.

\* \* \* \* \*

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EXHIBIT NO. 1
APPLICATION NO.
SMC-MAS-3-00(B)
pg. 2 of 3 California Coastal Commission

Regularly passed and adopted this 19<sup>th</sup> day of March, 2002.

AYES and in favor of said resolution:

Supervisors:

MARK CHURCH

JERRY HILL

ROSE JACOBS GIBSON

MICHAEL D. NEVIN

NOES and against said resolution:

Supervisors:

NONE

Absent Supervisors:

RICHARD S. GORDON

JERRY HILL

President, Board of Supervisors  
County of San Mateo  
State of California

Certificate of Delivery

I certify that a copy of the original resolution filed in the Office of the Clerk of the Board of Supervisors of San Mateo County has been delivered to the President of the Board of Supervisors.

Ashnita Narayan

Ashnita Narayan, Deputy  
Clerk of the Board of Supervisors

EXHIBIT NO. 1

APPLICATION NO.

SMC-MAT-3-00(B)

pg. 3 of 3  
California Coastal Commission



**ORDINANCE NO. 04105**  
**BOARD OF SUPERVISORS, COUNTY OF SAN MATEO,**  
**STATE OF CALIFORNIA**

\* \* \* \* \*

AN ORDINANCE AMENDING THE COUNTY  
SURFACE MINING AND RECLAMATION ORDINANCE

The Board of Supervisors of the County of San Mateo, State of California, ORDAIN that Division VI, Part Four, Chapter 3, Sections 7702 through 7706 are repealed and add Division VI, Part Four, Chapter 3, Sections 7702.0 through 7707.0 as follows:

**DIVISION VI. PLANNING, PART FOUR: MISCELLANEOUS**

**CHAPTER 3. SURFACE MINING AND RECLAMATION ORDINANCE**

**SECTIONS:**

7702.0	PURPOSE AND INTENT
7702.1	DEFINITIONS
7702.2	INCORPORATION BY REFERENCE
7702.3	SCOPE
7702.4	SURFACE MINING PERMIT - SUPPLEMENTAL USES
7702.5	VESTED RIGHTS
7703.0	PROCESS
7703.1	STANDARDS FOR RECLAMATION
7703.2	STATEMENT OF RESPONSIBILITY
7703.3	FINDINGS FOR APPROVAL
7703.4	FINANCIAL ASSURANCES
7703.5	INTERIM MANAGEMENT PLANS
7703.6	ANNUAL REPORT REQUIREMENTS
7703.7	INSPECTIONS
7703.8	VIOLATIONS AND PENALTIES
7703.9	APPEALS
7704.0	FEES
7705.0	MINERAL RESOURCE PROTECTION
7706.0	SEVERABILITY
7707.0	EFFECTIVE DATE

**SECTION 7702.0. PURPOSES AND INTENT.** The County of San Mateo recognizes that the extraction of minerals is essential to the continued economic well-being of the County and to the needs of society and that the reclamation of mined lands is necessary to prevent or minimize adverse effects on the environment and to protect the public health and safety. The County also recognizes that surface mining takes place in diverse areas where the geologic, topographic, climatic, biological, and social conditions are significantly different and that reclamation operations and the specifications therefore may vary accordingly.

The purpose and intent of this Chapter are to ensure the continued availability of important mineral resources, while regulating surface mining operations as required by California's Surface Mining and Reclamation Act of 1975 (Public Resources Code Section 2710 et seq.), as amended, hereinafter referred to as "SMARA," Public Resources Code (PRC) Section 2207 (relating to annual reporting requirements), and State Mining and Geology Board Regulations (hereinafter referred to as "State Regulations") for surface mining and reclamation practice (California Code of Regulations [CCR], Title 14, Division 2, Chapter 8, Subchapter 1, Sections 3500 et seq.), to ensure that:

- (a) Adverse environmental effects are prevented or minimized and that mined lands are reclaimed to a usable conditions which is readily adaptable for alternative land uses.
- (b) The production and conservation of minerals are encouraged, while giving consideration to values relating to recreation, watershed, wildlife, range and forage, and aesthetic enjoyment.
- (c) Residual hazards to the public health and safety are eliminated.

**This chapter shall not govern the issuance of a Coastal Development Permit for mining and reclamation activities in the Coastal Zone. Pursuant to Section 30600 of the California Coastal Act, Coastal Development Permits shall be required for all mining and reclamation activities in the Coastal Zone which constitute development under Section 30106 of the California Coastal Act. Coastal Development Permits shall either be reviewed: (1) by the Coastal Commission pursuant to the Coastal Act for development within the Commission's retained jurisdiction; or (2) by the County, or the Commission on appeal, pursuant to the certified Local Coastal Program standards governing the issuance of Coastal Development Permits for development within the County's Coastal Development Permit jurisdiction.**

**SECTION 7702.1. DEFINITIONS.** The definitions set forth in this section shall govern the construction of this Chapter.

- (a) **Area of Regional Significance.** An area designated by the State Mining and Geology Board which is known to contain a deposit of minerals, the extraction of which is judged to be of prime importance in meeting future needs for minerals in a particular region of the State within which the minerals are located and which, if prematurely developed for alternate incompatible land uses, could result in the premature loss of minerals that are of more than local significance.
- (b) **Area of Statewide Significance.** An area designated by the Board which is known to contain a deposit of minerals, the extraction of which is judged to be of prime importance in meeting future needs for minerals in the State and which, if prematurely developed for alternate incompatible land uses, could result in the premature loss of minerals that are of more than local or regional significance.
- (c) **Borrow Pits.** Excavations created by the surface mining of rock, unconsolidated geologic deposits or soil to provide material (borrow) for fill elsewhere.



- (d) Compatible Land Uses. Land uses inherently compatible with mining and/or that require a minimum public or private investment in structures, land improvements, and which may allow mining because of the relative economic value of the land and its improvements. Examples of such uses may include, but shall not be limited to, very low density residential, geographically extensive but low impact industrial, recreational, agricultural, silvicultural, grazing, and open space.
- (e) Development Requiring a Coastal Development Permit pursuant to Sections 30600 and 30106 of the Coastal Act. "Development" means, on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal or harvesting of major vegetation other than for agricultural purposes, kelp harvesting, and timber operations which are in accordance with a timber harvesting plan submitted pursuant to the provisions of the Z'berg-Nejedly Forest Practice Act of 1973 (commencing with Section 4511). As used in this section, "structure" includes, but is not limited to, any building, road, pipe, flume, conduit, siphon, aqueduct, telephone line, and electrical power transmission and distribution line.
- (f) Haul Road. A road along which material is transported from the area of excavation to the processing plant or stockpile area of the surface mining operation.
- (g) Idle. Surface mining operations curtailed for a period of one year or more, by more than 90 percent of the operation's previous maximum annual mineral production, with the intent to resume those surface mining operations at a future date.
- (h) Incompatible Land Uses. Land uses inherently incompatible with mining and/or that require public or private investment in structures, land improvements, and landscaping and that may prevent mining because of the greater economic value of the land and its improvements. Examples of such uses may include, but shall not be limited to, high density residential, low density residential with high unit value, public facilities, geographically limited but impact intensive industrial, and commercial.
- (i) Mined Lands. 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.

- (i) Minerals. Any naturally occurring chemical element or compound, or groups of elements and compounds, formed from inorganic processes and organic substances, including, but not limited to, coal, peat, and bituminous rock, but excluding geothermal resources, natural gas, and petroleum.
- (j) Operator. Any person who is engaged in surface mining operations, or who contracts with others to conduct operations on his/her behalf, except a person who is engaged in surface mining operations as an employee with wages as his/her sole compensation.
- (k) Reclamation. The combined process of land treatment that minimizes water degradation, air pollution, damage to aquatic or wildlife habitat, flooding, erosion, and other adverse effects from surface mining operations, including adverse surface effects incidental to underground mines, so that mined lands are reclaimed to a usable condition which is readily adaptable for alternate land uses and create no danger to public health or safety. The process may extend to affected lands surrounding mined lands, and may require backfilling, grading, resoiling, revegetation, soil compaction, stabilization, or other measures.
- (l) Stream Bed Skimming. Excavation of sand and gravel from stream bed deposits above the mean summer water level or stream bottom, whichever is higher.
- (m) Surface Mining Operations. 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 incident to an underground mine. Surface mining operations include, but are not limited to, in-place distillation or retorting or leaching, the production and disposal of mining waste, prospecting and exploratory activities, borrow pitting, stream bed skimming, and segregation and stockpiling of mined materials (and recovery of same).

**SECTION 7702.2. INCORPORATION BY REFERENCE.** The provisions of SMARA (PRC Section 2710 et seq.), PRC Section 2207, and State Regulations CCR Section 3500 et seq., 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 correlative State provisions, this Chapter shall prevail.

Within sixty (60) days of the effective date of any amendments to SMARA, PRC Section 2207 or State Regulations implementing SMARA, the Planning Division shall submit a written report to the Board of Supervisors analyzing how the amendment affects the implementation of this Chapter.

**SECTION 7702.3. SCOPE.** Except as provided in this Chapter, no person shall conduct surface mining operations unless a permit, Reclamation Plan, and financial assurances for reclamation have first been approved by the County. Any applicable exemption from this requirement does not automatically exempt a project or activity from the application of other regulations, ordinances or policies of the County, including but not limited to, the applicator CEQA, the requirements of Site Approvals or other permits, the payment of development ir

SMC-MAJ-3-00 (B)

fees, or the imposition of other dedications and exactions as may be permitted under the law. The provisions of this Chapter shall apply to all lands within the County, public and private.

**This chapter shall not govern the issuance of a Coastal Development Permit for mining or reclamation activities in the Coastal Zone. Pursuant to Section 30600 of the California Coastal Act, Coastal Development Permits shall be required for all mining and reclamation activities in the Coastal Zone which constitute development under Section 30106 of the California Coastal Act. Coastal Development Permits shall either be reviewed (1) by the Coastal Commission pursuant to the Coastal Act for development within the Commission's retained jurisdiction or; (2) by the County, or the Commission on appeal, pursuant to the certified Local Coastal Program standards governing the issuance of Coastal Development Permits for development within the County's Coastal Development Permit jurisdiction.**

This Chapter shall not apply to the following activities, subject to the above-referenced exceptions:

- (a) Excavations or grading conducted for farming or on-site construction or for the purpose of restoring land following a flood or natural disaster.
- (b) On-site excavation and on-site earthmoving activities which are an integral and necessary part of a construction project that are undertaken to prepare a site for construction of structures, landscaping, or other land improvements, including the related excavation, grading, compaction, or the creation of fills, road cuts, and embankments, whether or not surplus materials are exported from the site, subject to all of the following conditions:
  - (1) All required permits for the construction, landscaping, or related land improvements have been approved by a public agency in accordance with applicable provisions of State law and locally adopted plans and ordinances, including, but not limited to, the California Environmental Quality Act ("CEQA," Public Resources Code, Division 13, Section 21000 et seq.).
  - (2) The County's approval of the construction project included consideration of the on-site excavation and on-site earthmoving activities pursuant to CEQA.
  - (3) The approved construction project is consistent with the general plan and zoning of the site.
  - (4) Surplus materials shall not be exported from the site unless and until actual construction work has commenced and shall cease if it is determined that construction activities have terminated, have been indefinitely suspended, or are no longer being actively pursued.
- (c) Operation of a plant site used for mineral processing, including associated on-site structures, equipment, machines, tools, or other materials, including the on-site stockpiling and on-site recovery of mined materials, subject to all of the following conditions:

- (1) The plant site is located on lands designated for industrial or commercial uses in the County's General Plan.
- (2) The plant site is located on lands zoned industrial or commercial, or are contained within a zoning category intended exclusively for industrial or surface mining activities by the County.
- (3) None of the materials being processed are being extracted on site.
- (4) All reclamation work has been completed pursuant to the approved Reclamation Plan for any mineral extraction activities that occurred on site after January 1, 1996.
- (d) Prospecting for, or the extraction of, minerals for commercial purposes and the removal of overburden in total amounts of less than 1,000 cubic yards in any one location of one acre or less.
- (e) Surface mining operations that are required by federal law in order to protect a mining claim, if those operations are conducted solely for that purpose.
- (f) Any other surface mining operations that the State Mining and Geology Board determines to be of an infrequent nature and which involve only minor surface disturbances.
- (g) The solar evaporation of seawater or bay water for the production of salt and related minerals.
- (h) Emergency excavations or grading conducted by the Department of Water Resources or the Reclamation Board for the purpose of averting, alleviating, repairing, or restoring damage to property due to imminent or recent floods, disasters, or other emergencies.
- (i) Road construction and maintenance for timber or forest operations if the land is owned by the same person or entity, and if the excavation is conducted adjacent to timber or forest operation roads. This exemption is only available if slope stability and erosion are controlled in accordance with Board regulations and, upon closure of the site, the person closing the site implements, where necessary, revegetation measures and post-closure uses in consultation with the Department of Forestry and Fire Protection. This exemption does not apply to on-site excavation or grading that occurs within 100 feet of a Class One watercourse or 75 feet of a Class Two watercourse, or to excavations for materials that are, or have been, sold for commercial purposes. Class One and Class Two watercourses shall be defined per the California Department of Forestry and Fire Protection regulations as follows: (1) a Class One stream has a domestic supply downstream and fish present in it, and (2) a Class Two stream does not have a domestic supply located downstream but does have fish present.

**SECTION 7702.4. SURFACE MINING PERMIT - SUPPLEMENTAL USES.** When a surface mining permit has been granted according to these regulations and while operations are in conformity with the conditions of the permit, the property shall be used exclusively for surface mining operations and the following specific uses:

- (a) The stockpiling of rock, sand, gravel, and other minerals, including the installation, maintenance or operation of rock crushing equipment.
- (b) Batching plants or mixing plants for cement treated bases, Portland cement or asphaltic concrete, where permitted as a condition of the permit.
- (c) Resource management activities, when determined appropriate as a condition of the surface mining permit.
- (d) Such structures and facilities which are necessary for the conducting of normal related business, including a caretaker's dwelling, provided the dwelling is only on premises during the duration of the permit, or that it is so sited on the property as to conform to the purpose and intent of a single-family dwelling and is consistent with the appropriate zoning district regulations.
- (e) Any use permitted in the zone, subject to the limitations and conditions set forth in the district, and provided that the Planning Commission specifically authorizes such use in the permit and makes a finding regarding compatibility.

**SECTION 7702.5. VESTED RIGHTS.** No person who obtained a vested right to conduct surface mining operations prior to January 1, 1976, shall be required to secure a permit to mine, so long as the vested right continues and as long as no substantial changes have been made in the operation except in accordance with SMARA, State Regulations, and this Chapter. Where a person with vested rights has continued surface mining in the same area subsequent to January 1, 1976, he shall obtain County approval of a Reclamation Plan covering the mined lands disturbed by such subsequent surface mining. In those cases where an overlap exists (in the horizontal and/or vertical sense) between pre- and post-Act mining, the Reclamation Plan shall call for reclamation proportional to that disturbance caused by the mining after the effective date of the Act (January 1, 1976).

**This section is applicable only to local vested rights determinations and is not applicable to vested right determinations for purposes of Coastal Development Permit requirements. The California Coastal Commission, rather than the County, shall administratively adjudicate all vested right determinations for purposes of Coastal Development Permit requirements pursuant to the Coastal Act and all other applicable law.**

All other requirements of State law and this Chapter shall apply to vested mining operations.

**SECTION 7703.0. PROCESS.**

- (a) Applications for a Site Approval or Reclamation Plan for surface mining or land reclamation projects shall be made on forms provided by the Planning and Building Division. Said application shall be filed in accord with this Chapter and procedures to be established by the Planning Director. The forms for Reclamation Plan applications shall require, at a minimum, each of the elements required by SMARA (Sections 2772-2773) and State Regulations, and any other requirements deemed necessary to facilitate an expeditious and fair evaluation of the proposed Reclamation Plan, to be established at the discretion of the Planning Director. As many copies of the Site Approval application as

may be required by the Planning Director shall be submitted to the Planning and Building Division.

- (b) As many copies of a Reclamation Plan application as may be required shall be submitted in conjunction with all applications for Site Approvals for surface mining operations. For surface mining operations that are exempt from a Site Approval pursuant to this Chapter, the Reclamation Plan application shall include information concerning the mining operation that is required for processing the Reclamation Plan. All documentation for the Reclamation Plan shall be submitted to the County at one time.
- (c) Applications shall include all required environmental review forms and information prescribed by the Planning Director.
- (d) Upon completion of the environmental review procedure and filing of all documents required by the Planning Director, consideration of the Site Approval or Reclamation Plan for the proposed or existing surface mine shall be completed pursuant to Division VI, Part Four, Chapter 3, Sections 7702 through 7707 of the County's Zoning Regulations at a public hearing before the Planning Commission, and pursuant to Section 2774 of the Public Resources Code.
- (e) Within thirty (30) days of acceptance of an application for a Site Approval for surface mining operations and/or a Reclamation Plan as complete, the Planning and Building Division shall notify the State Department of Conservation of the filing of the application(s). Whenever mining operations are proposed in the 100-year floodplain 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, upstream or downstream, of any State highway bridge, the Planning and Building Division shall also notify the State Department of Transportation that the application has been received.
- (f) The Planning and Building Division shall process the application(s) through environmental review pursuant to the California Environmental Quality Act (Public Resources Code Sections 21000 et seq.) and the County's environmental review guidelines.
- (g) Subsequent to the appropriate environmental review, the Planning and Building Division shall prepare a staff report with recommendations for consideration by the Planning Commission.
- (h) The Planning Commission shall hold at least one noticed public hearing on the Site Approval and/or Reclamation Plan.
- (i) Prior to final approval of a Reclamation Plan, financial assurances (as provided in this Chapter), or any amendments to the Reclamation Plan or existing financial assurances, the Planning Commission shall certify to the State Department of Conservation that the Reclamation Plan and/or financial assurance complies with the applicable requirements of State law, and submit the plan, assurance, or amendments to the State Department of Conservation for review. The Planning Commission may conceptually approve the Reclamation Plan and financial assurance before submittal to the State Department of

SMC-MAJ-3-00 (B)

Conservation. If a Site Approval is being processed concurrently with the Reclamation Plan, the Planning Commission may simultaneously also conceptually approve the Site Approval. However, the Planning Commission may defer action on the Site Approval until taking final action on the Reclamation Plan and financial assurances. If necessary to comply with permit processing deadlines, the Planning Commission may conditionally approve the Site Approval for the mining operations until cost estimates for financial assurances have been reviewed by the State Department of Conservation and final action has been taken on the Reclamation Plan and financial assurances.

Pursuant to PRC Section 2774(d), the State Department of Conservation shall be given 30 days to review and comment on the Reclamation Plan and 45 days to review and comment on the financial assurance. The Planning Commission shall evaluate written comments received, if any, from the State Department of Conservation during the comment periods. Staff shall prepare a written response describing the disposition of the major issues raised by the State for the Planning Commission's approval. In particular, when the Planning Commission's position is at variance with the recommendations and objections raised in the State's comments, the written response shall address, in detail, why specific comments and suggestions were not accepted. Copies of any written comments received and responses prepared by the Planning Commission shall be promptly forwarded to the operator/applicant.

- (j) The Planning Commission shall then take action to approve, conditionally approve, or deny the Site Approval and/or Reclamation Plan, and to approve the financial assurances pursuant to PRC Section 2770(d).
- (k) The Planning and Building Division shall forward a copy of each approved Site Approval for mining operations and/or approved Reclamation Plan, and a copy of the approved financial assurances to the State Department of Conservation. By July 1 of each year, the Planning and Building Division shall submit to the State Department of Conservation for each active or idle mining operation a copy of the Site Approval or Reclamation Plan amendments, as applicable, or a statement that there have been no changes during the previous year.

#### **SECTION 7703.1. STANDARDS FOR RECLAMATION.**

- (a) All Reclamation Plans shall comply with the provisions of SMARA (Section 2772 and Section 2773) and State Regulations (CCR Sections 3500-3505). Reclamation Plans approved after January 15, 1993, Reclamation Plans for proposed new mining operations, and any substantial amendments to previously approved Reclamation Plans, shall also comply with the requirements for reclamation performance standards (CCR Sections 3700-3713).
- (b) The County may impose additional performance standards as developed either in review of individual projects, as warranted, or through the formulation and adoption of Countrywide performance standards.
- (c) Reclamation activities shall be initiated at the earliest possible time on those portions of the mined lands that will not be subject to further disturbance. Interim reclamation may

also be required for mined lands that have been disturbed and that may be disturbed again in future operations. Reclamation may be done on an annual basis, in stages compatible with continuing operations, or on completion of all excavation, removal, or fill, as approved by the County. Each phase of reclamation shall be specifically described in the Reclamation Plan and shall include: (a) the beginning and expected ending dates for each phase; (b) all reclamation activities required; (c) criteria for measuring completion of specific reclamation activities; and (d) estimated costs for completion of each phase of reclamation.

**SECTION 7703.2. STATEMENT OF RESPONSIBILITY.** The person submitting the Reclamation Plan shall sign a statement accepting responsibility for reclaiming the mined lands in accordance with the Reclamation Plan. Said statement shall be kept by the Planning and Building Division in the mining operation's permanent record. Upon sale or transfer of the operation, the new operator shall submit a signed statement of responsibility to the Planning and Building Division for placement in the permanent record.

**SECTION 7703.3. FINDINGS FOR APPROVAL.**

- (a) Site Approvals. In addition to any findings required by the County's Zoning Regulations, Site Approvals for surface mining operations shall include a finding that the project complies with the provisions of SMARA and State Regulations.
- (b) Reclamation Plans. For Reclamation Plans, the following findings shall be required:
  - (1) That the Reclamation Plan complies with SMARA Section 2772 and Section 2773, and any other applicable provisions.
  - (2) That the Reclamation Plan complies with applicable requirements of State Regulations (CCR Sections 3500-3505, and Sections 3700-3713).
  - (3) That the Reclamation Plan and potential use of reclaimed land pursuant to the plan are consistent with this Chapter and the County's General Plan and any applicable resource plan or element.
  - (4) That the Reclamation Plan has been reviewed pursuant to CEQA and the County's environmental review guidelines, and all significant adverse impacts from reclamation of the surface mining operations are mitigated to the maximum extent feasible.
  - (5) That the land and/or resources such as water bodies to be reclaimed will be restored to a condition that is compatible with, and blends in with, the surrounding natural environment, topography, and other resources, or that suitable off-site development will compensate for related disturbance to resource values.
  - (6) That the Reclamation Plan will restore the mined lands to a usable condition which is readily adaptable for alternative land uses consistent with the General Plan and applicable resource plan.



- (7) That a written response to the State Department of Conservation has been prepared describing the disposition of major issues raised by that Department. Where the County's position is at variance with the recommendations and objections raised by the State Department of Conservation, said response shall address, in detail, why specific comments and suggestions were not accepted.

#### SECTION 7703.4. FINANCIAL ASSURANCES.

- (a) To ensure that reclamation will proceed in accordance with the approved Reclamation Plan, the County shall require as a condition of approval security which will be released upon satisfactory performance. The applicant may pose security in the form of a surety bond, trust fund, irrevocable letter of credit from an accredited financial institution, or other method acceptable to the County and the State Mining and Geology Board as specified in State Regulations, and which the County reasonably determines are adequate to perform reclamation in accordance with the surface mining operation's approved Reclamation Plan. Financial assurances shall be made payable to the County of San Mateo and the State Department of Conservation.
- (b) Financial assurances will be required to ensure compliance with elements of the Reclamation Plan, including but not limited to, revegetation and landscaping requirements, restoration of aquatic or wildlife habitat, restoration of water bodies and water quality, slope stability and erosion and drainage control, disposal of hazardous materials, and other measures, if necessary.
- (c) Cost estimates for the financial assurance shall be submitted to the Planning and Building Division for review and approval prior to the operator securing financial assurances. The Planning Director shall forward a copy of the cost estimates, together with any documentation received supporting the amount of the cost estimates, to the State Department of Conservation for review. If the State Department of Conservation does not comment within 45 days of receipt of these estimates, it shall be assumed that the cost estimates are adequate, unless the County has reason to determine that additional costs may be incurred. The Planning Director shall have the discretion to approve the financial assurance if it meets the requirements of this Chapter, SMARA, and State Regulations.
- (d) The amount of the financial assurance shall be based upon the estimated costs of reclamation for the years or phases stipulated in the approved Reclamation Plan, including any maintenance of reclaimed areas as may be required, subject to adjustment for the actual amount required to reclaim lands disturbed by surface mining activities in the upcoming year. Cost estimates should be prepared by a California registered professional engineer and/or other similarly licensed and qualified professionals retained by the operator and approved by the Planning Director. The estimated amount of the financial assurance shall be based on an analysis of physical activities necessary to implement the approved Reclamation Plan, the unit costs for each of these activities, the number of units of each of these activities, and the actual administrative costs. Financial assurances to ensure compliance with revegetation, restoration of water bodies, restoration of aquatic or wildlife habitat, and any other applicable element of the approved Reclamation Plan shall be based upon cost estimates that include but may not be limited to labor, equipment, materials, mobilization of equipment, administration, and reasonable profit by a

commercial operator other than the permittee. A contingency factor of ten percent (10%) shall be added to the cost of financial assurances.

- (e) In projecting the costs of financial assurances, it shall be assumed without prejudice or insinuation that the surface mining operation could be abandoned by the operator and, consequently, the County or State Department of Conservation may need to contract with a third party commercial company for reclamation of the site.
- (f) The financial assurances shall remain in effect for the duration of the surface mining operation and any additional period until reclamation is completed (including any maintenance required).
- (g) The amount of financial assurances required of a surface mining operation for any one year shall be adjusted annually to account for new lands disturbed by surface mining operations, inflation, and reclamation of lands accomplished in accordance with the approved Reclamation Plan. The financial assurances shall include estimates to cover reclamation for existing conditions and anticipated activities during the upcoming year, excepting that the permittee may not claim credit for reclamation scheduled for completion during the coming year.
- (h) Revisions to financial assurances shall be submitted to the Planning Director each year prior to the anniversary date for approval of the financial assurances. The financial assurance shall cover the cost of existing disturbance and anticipated activities for the next calendar year, including any required interim reclamation. If revisions to the financial assurances are not required, the operator shall explain, in writing, why revisions are not required.

#### **SECTION 7703.5. INTERIM MANAGEMENT PLANS.**

- (a) Within 90 days of a surface mining operation becoming idle, the operator shall submit to the Planning and Building Division a proposed Interim Management Plan (IMP). The proposed IMP shall fully comply with the requirements of SMARA, including but not limited to all Site Approval conditions, and shall provide measures the operator will implement to maintain the site in a stable condition, taking into consideration public health and safety. The proposed IMP shall be submitted on forms provided by the Planning and Building Division, and shall be processed as an amendment to the Reclamation Plan. IMPs shall not be considered a project for the purposes of environmental review.
- (b) Financial assurances for idle operations shall be maintained as though the operation were active.
- (c) Upon receipt of a complete proposed IMP, the Planning and Building Division shall forward the IMP to the State Department of Conservation for review. The IMP shall be submitted to the State Department of Conservation at least 30 days prior to approval by the Planning Commission.

- (d) Within 60 days of receipt of the proposed IMP, or a longer period mutually agreed upon by the Planning Director and the operator, the Planning Commission shall review and approve or deny the IMP in accordance with this Chapter. The operator shall have thirty (30) days, or a longer period mutually agreed upon by the operator and the Planning Director, to submit a revised IMP. The Planning Commission shall approve or deny the revised IMP within sixty (60) days of receipt. If the Planning Commission denies the revised IMP, the operator may appeal that action to the Board of Supervisors.
- (e) The IMP may remain in effect for a period not to exceed five years, at which time the Planning Commission may renew the IMP for another period not to exceed five years, or require the surface mining operator to commence reclamation in accordance with its approved Reclamation Plan.

**SECTION 7703.6. ANNUAL REPORT REQUIREMENTS.** Surface mining operators shall forward an annual surface mining report to the State Department of Conservation and to the County Planning and Building Division on a date established by the State Department of Conservation, upon forms furnished by the State Mining and Geology Board. New mining operations shall file an initial surface mining report and any applicable filing fees with the State Department of Conservation within 30 days of permit approval, or before commencement of operations, whichever is sooner. Any applicable fees, together with a copy of the annual inspection report, shall be forwarded to the State Department of Conservation at the time of filing the annual surface mining report.

**SECTION 7703.7. INSPECTIONS.** The Planning and Building Division shall arrange for inspection of a surface mining operation within six months of receipt of the annual report required in Section 7703.6, to determine whether the surface mining operation is in compliance with the approved Site Approval and/or Reclamation Plan, approved financial assurances, and State regulations. In no event shall less than one inspection be conducted in any calendar year. Said inspections may be made by a State registered geologist, State registered civil engineer, State licensed landscape architect, or State registered forester, who is experienced in land reclamation and who has not been employed by the mining operation in any capacity during the previous 12 months, or other qualified specialists, as selected by the Planning Director. All inspections shall be conducted using a form approved and provided by the State Mining and Geology Board.

The Planning and Building Division shall notify the State Department of Conservation within thirty (30) days of completion of the inspection that said inspection has been conducted, and shall forward a copy of said inspection notice and any supporting documentation to the mining operator. The operator shall be solely responsible for the reasonable cost of such inspection.

**SECTION 7703.8. VIOLATIONS AND PENALTIES.** If the Planning Director, based upon an annual inspection or otherwise confirmed by an inspection of the mining operation, determines that a surface mining operation is not in compliance with this Chapter, the applicable Site Approval, any required permit and/or the Reclamation Plan, the County shall follow the procedures set forth in Public Resources Code, Section 2774.1 and Section 2774.2 concerning violations and penalties, as well as those provisions of the County Development Code for revocation and/or abandonment of a Site Approval which are not preempted by SMARA.

**SECTION 7703.9. APPEALS.** Any person aggrieved by an act or determination of the Planning and Building Division, in the exercise of the authority granted herein, shall have the right to appeal to the Planning Commission or the Board of Supervisors, whichever is the next higher authority. An appeal shall be filed on forms provided, within ten (10) working days after the rendition, in writing, of the appealed decision.

**SECTION 7704.0. FEES.** The County shall establish such fees as it deems necessary to cover the reasonable costs incurred in implementing this Chapter and the State Regulations, including but not limited to, processing of applications, annual reports, inspections, monitoring, enforcement and compliance. Such fees shall be paid by the operator, as required by the County, at the time of filing of the Site Approval application, Reclamation Plan application, and at such other times as are determined by the County to be appropriate in order to ensure that all reasonable costs of implementing this Chapter are borne by the mining operator.

**SECTION 7705.0. MINERAL RESOURCE PROTECTION.** Mine development is encouraged in compatible areas before encroachment of conflicting uses. Mineral resource areas that have been classified by the State Department of Conservation's Division of Mines and Geology or designated by the State Mining and Geology Board, as well as existing surface mining operations that remain in compliance with the provisions of this Chapter, shall be protected from intrusion by incompatible land uses that may impede or preclude mineral extraction or processing, to the extent possible for consistency with the County's General Plan.

In accordance with PRC Section 2762, the County's General Plan and resource maps will be prepared to reflect mineral information (classification and/or designation reports) within 12 months of receipt from the State Mining and Geology Board of such information. Land use decisions within the County will be guided by information provided on the location of identified mineral resources of regional significance. Conservation and potential development of identified mineral resource areas will be considered and encouraged. Recordation on property titles of the presence of important mineral resources within the identified mineral resource areas may be encouraged as a condition of approval of any development project in the impacted area. Prior to approving a use that would otherwise be incompatible with mineral resource protection, conditions of approval may be applied to encroaching development projects to minimize potential conflicts.

**SECTION 7706.0. 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.

**SECTION 7707.0. EFFECTIVE DATE.** This Chapter shall take effect thirty (30) days following its adoption.

MJS:kcd - MJSL2970\_WKQ.DOC

Regularly passed and adopted this 26<sup>th</sup> day of March, 2002.

AYES and in favor of said ordinance:

Supervisors:

MARK CHURCH

JERRY HILL

RICHARD S. GORDON

ROSE JACOBS GIBSON

MICHAEL D. NEVIN

NOES and against said ordinance:

Supervisors:

NONE

Absent Supervisors:

NONE

JERRY HILL

President, Board of Supervisors  
County of San Mateo  
State of California

Certificate of Delivery

I certify that a copy of the original resolution filed in the Office of the Clerk of the Board of Supervisors of San Mateo County has been delivered to the President of the Board of Supervisors.

Ashnita Narayan

Ashnita Narayan, Deputy  
Clerk of the Board of Supervisors

SMC-MAJ-3-00 (B)

Exhibit 2  
pg. 15 of 15

**CALIFORNIA COASTAL COMMISSION**

CENTRAL COAST DISTRICT OFFICE  
725 FRONT STREET, SUITE 300  
SANTA CRUZ, CA 95060  
(408) 427-4863  
HEARING IMPAIRED: (415) 904-5200



April 18, 2002

Michael Schaller  
County of San Mateo, Department of Planning and Building  
455 County Center, 2<sup>nd</sup> Floor  
Redwood City, CA 94063

Subject: ***Effective Certification of County of San Mateo Local Coastal Program  
Amendment No. SMC-MAJ-3-00 (Part B)***

Dear Mr. Schaller,

The Executive Director of the Coastal Commission has reviewed Board of Supervisors Resolution No. 65110 for effective certification of County of San Mateo LCP Amendment SMC-MAJ-3-00 (Part B). The County's resolution indicates that the County acknowledges receipt of and accepts the Commission's resolution for certification with the suggested modifications and that the County agrees to issue permits in conformance with the modified Implementation Plan.

The Executive Director has found that the County's resolution fulfills the requirements of Section 13544.5(a) of the California Code of Regulations. In accordance with Sections 13544(b) and 13544.5(b) of the regulations, the Executive Director has determined that the County's actions are legally adequate.

The Coastal Commission concurred with this determination at its meeting of May \_\_\_\_, 2002 in Santa Rosa. Commission approval and the amendment process are now complete. If you have any questions, please contact Susan Craig in our Santa Cruz office at (831) 427-4863.

Sincerely,

Steve Scholl  
Deputy Director  
North Central Coast District Office

EXHIBIT NO. 3
APPLICATION NO.
SMC-MAJ-3-00(B)
California Coastal Commission