



Surface Mining and Reclamation Act Ordinance Update Frequently Asked Questions

Section 1 – Federal Lands

1. Does the proposed ordinance reduce the County’s role or authority over mining operations on federal lands?

The proposed ordinance does not change or give up any of the County’s existing authority. For mining operations located partially or entirely on federal lands, agencies such as the Bureau of Land Management (BLM) or U.S. Forest Service (USFS) remain responsible for federal approvals.

The County will continue to carry out its responsibilities under the Surface Mining and Reclamation Act (SMARA) and the California Environmental Quality Act (CEQA). When the County is the SMARA lead agency, it remains responsible for reviewing and approving Mine Operation Permits (CUPs), Reclamation Plans, and Financial Assurances, and for ensuring compliance with SMARA.

The lead agency is the public agency responsible for administering SMARA requirements for a particular mining operation, including Mine Operation Permit (CUP), Reclamation Plan, and Financial Assurances review and approvals, as well as ensuring compliance with SMARA.

Relevant Section: § 88.03.040(b)-(c)

2. Does the proposed ordinance transfer any of the County’s permitting authority to federal agencies?

The County does not have authority to issue mining permits on federally managed lands. The County’s role is to review and approve reclamation plans, as applicable, in coordination with the lead federal agency through the environmental review process.

Therefore, the Ordinance Amendment does not transfer any of the County’s permitting authority to federal agencies.

- 3. If the answer to question #2 is no, please explain why the new “Permit shall not be required” language is being added. The current ordinance does not specifically state that a County permit “shall not be required” for federally authorized mining. If the County truly has never had permitting authority in these circumstances, why is this new exemption necessary?**

The phrase “permit shall not be required” is derived from the 1992 Memorandum of Understanding (MOU) between the State and federal government (Attachment 1). The MOU was established to clarify the respective roles and responsibilities of federal land management agencies and SMARA lead agencies in California, while also reducing duplication of review efforts, costs, and processing timelines.

This provision is being incorporated to the updated mining ordinance because the MOU plays a critical role in the day-to-day administration of SMARA on federal lands. The County aims to provide greater clarity and transparency regarding how mining operations on federal lands are reviewed, approved, and regulated. By formally acknowledging the MOU in Section 88.03.040(b), the ordinance makes the agreement easier for the public, mining operators, and County staff to locate, understand and reference.

Section 88.03.040(b) states that a County Permit is not required for those portions of a surface mining operation that require and have obtained a federally approved Plan of Operation or other federal authorization. This provision recognizes that the applicable federal land management agency, rather than the County, has permitting authority over mining activities occurring on federally managed land.

The provision does not exempt an entire mining operation from County review simply because a portion of the operation is located on federal land. Rather, the exemption applies only to those portions of the operation covered by the federal authorization. The County would continue to fulfill its responsibilities under SMARA, including reclamation plan review where the County is the lead agency, and applicable CEQA responsibilities.

The same section also allows the County to accept federal documents and environmental studies as functionally equivalent, provided they meet the County’s requirements. This may include the evaluation of potential environmental impacts addressed in CEQA. The intent is to promote coordination between agencies, streamline the review process, and avoid unnecessary duplication of environmental analysis.

Relevant Section: § 88.03.040(b)-(c)

4. What authority does the County have over mining operations on federally administered lands?

Under a 1992 Memorandum of Understanding (MOU) between the State and federal government, the County and the lead federal agency, either the Bureau of Land Management (BLM) or U.S. Forest Service (USFS), coordinate on the environmental review of mining projects subject to SMARA.

The federal agency retains authority to approve the mining operation on federally administered lands. The County is responsible for its CEQA review and, when serving as the SMARA lead agency, has authority to review and approve the reclamation plan.

5. How do the County and federal agencies coordinate the environmental review of proposed mining operations on federal lands?

As outlined in the 1992 MOU, a joint environmental review is conducted between the agencies under the National Environmental Policy Act (NEPA) and CEQA to assess potential impacts. The County may accept studies submitted for federal review provided they meet or exceed CEQA review standards. Once the NEPA and CEQA reviews are completed for the project, the federal agency will make a determination (approval or denial) regarding the permit, while the County will make a determination on the reclamation plan.

6. Are mining projects on federal lands subject to both CEQA and NEPA environmental review?

Mining projects proposed on federally administered lands in California are subject to both NEPA and CEQA environmental review. The lead federal agency is responsible for the NEPA review, while the County is responsible for the CEQA review.

7. When is an Environmental Impact Statement (EIS) under NEPA and an Environmental Impact Report (EIR) under CEQA required for a mining project on federal lands?

For mining projects subject to NEPA and CEQA, the appropriate level of environmental review depends on the project's potential environmental effects and the requirements applicable under each statute. Under NEPA, an Environmental Impact Statement (EIS) is required for a major federal action that is determined to significantly affect the quality of the human environment. If the significance of the project's effects is uncertain, the federal agency may prepare an Environmental Assessment (EA) to determine whether an EIS is necessary or whether a Finding of No Significant Impact (FONSI) is appropriate.

Under CEQA, an Environmental Impact Report (EIR) is required where substantial evidence supports a fair argument that the project may have a significant environmental effect. If an Initial Study identifies potentially significant effects but project revisions or mitigation measures agreed to by the applicant would reduce those effects to a less-than-significant level, and there is no substantial evidence that the revised project may have a significant environmental effect, the lead agency may instead prepare a Mitigated Negative Declaration (MND).

In addition, California law specifically requires preparation of an EIR for an open-pit mining operation subject to SMARA that utilizes a cyanide heap-leaching process to produce gold or other metallic minerals. Whether an EIS is also required for such a project is determined separately under NEPA.

8. Does the proposed federal lands provision change any existing County permitting, CEQA review, public notice, public hearing, or conditions of approval requirements?

The proposed federal lands provision does not eliminate any County approval authority, environmental review, public notice, or public hearing requirements that are required by law.

Section 88.03.040(b) clarifies that a County mining permit is not required for portions of a mining operation that require and have obtained a federally approved plan of operation or other federal authorization. This recognizes the permitting authority of the federal agency over mining activities occurring on

federally managed public land. It does not transfer County permitting authority to the federal government.

The County will continue to fulfill its responsibilities under SMARA and CEQA, including the review and approval of reclamation plans where the County serves as the SMARA lead agency. A reclamation plan processed by the County is subject to the review procedures established by the ordinance, including State Division of Mine Reclamation review and a public hearing before the Planning Commission.

For operations that cross jurisdictional boundaries, the appropriate SMARA lead agency is determined by State law.

Relevant Sections: §§ 88.03.040(b)-(c) and 88.03.070

Section 2 – Ordinance

9. What mining permits or revisions may be approved by the Director under the proposed ordinance?

The proposed ordinance gives the Land Use Services Department Director administrative authority over certain limited actions, but it does not change the Planning Commission's authority to approve new mining permits or reclamation plans.

New mining permits, reclamation plans, and major revisions would continue to require a public hearing before the Planning Commission. The Commission may approve, conditionally approve, or deny the permit, reclamation plan, and/or revision.

The Director may administratively review certain actions identified in the ordinance, such as non-substantial deviations from an approved reclamation plan and Interim Management Plans for idle mines.

For a non-substantial deviation, the Director must determine that the proposed change is not substantial under State regulations, will not adversely affect public health, safety, or welfare, and does not constitute significant new information requiring recirculation under CEQA. Examples of non-substantial deviations may include, but are not limited to, the following:

- 1) Minor changes to contours or final site topography;

- 2) Minor changes to existing on-site roads and encroachments directly from the surface mining operation to a public road;
- 3) Minor changes to revegetation plans, including but not limited to substitutions in the type and/or number of plant species, and/or changes in topsoil treatments;
- 4) Technological or administrative changes in methods used to achieve reclamation;
- 5) Measures which will ensure or maintain public safety (e.g., fences, gates, signs, or hazard removal);
- 6) Minor modifications to a previously approved phasing plan; and
- 7) Modifications that allow compliance with requirements imposed by other public agencies, provided the requirements are not inconsistent with the previously approved Permit.

Substantial deviations must go through the same review procedure used for the original reclamation plan.

Relevant Sections: §§ 88.03.070(e), 88.03.080 and 88.03.120

10. What prompted the County to update the mining ordinance?

In 2023, the State Mining and Geology Board (SMGB) directed lead agencies with outdated ordinances to update their regulations in accordance with SMARA Section 2774. Lead agencies are required to periodically review and update their ordinances to maintain consistency with State requirements.

The County's local surface mining and land reclamation regulations, outlined in Chapter 88.03, were last certified by the SMGB on May 4, 1999, and amended by the County in 2007 via Ordinance 4011. Since then, SMARA has undergone various legislative reforms, including changes to vested rights determinations, financial assurances, such as surety bonds, letters of credit, and other approved financial mechanisms, as well as inspections, idle mines, and addressing violations.

The proposed ordinance aims to update Chapter 88.03 to align it with the recent statutory changes to SMARA and to clarify the County's processes and enforcement procedures.

11. Are the standards in the proposed ordinance less restrictive than those currently established in the Development Code?

The updated ordinance is neither more lenient nor more stringent than the existing Development Code. Rather, it is better organized to improve the administration and enforcement of the County's mining regulations.

The proposed changes improve clarity, consistency, and enforceability of the regulations with current State laws and policies governing surface mining and reclamation. The ordinance also addresses new policy areas, including the reuse of mined lands for renewable energy and State certification requirements, and provides clearer procedures for permitting, reclamation planning, enforcement, and long-term site management.

12. What impacts, if any, will the proposed ordinance have on County residents?

The proposed update to the mining ordinance is not expected to negatively affect County residents. The update is intended to align the County Development Code with current State law and formally incorporate State requirements that County staff already apply when reviewing and overseeing mining operations.

The updated ordinance will also provide clearer procedures and standards, allowing County staff to administer and enforce mining regulations more consistently and effectively, including taking appropriate enforcement action when necessary.

13. What is the review and approval process for a Mine Plan and Reclamation Plan?

Mine Plans and Reclamation Plans are processed similarly to other industrial land use applications, with additional requirements under SMARA and review by applicable State agencies, including the State Mining and Geology Board (SMGB), California Department of Conservation, and Division of Mine Reclamation.

A Mine Plan and Reclamation Plan serve different purposes. The Mine Plan, processed as a Conditional Use Permit (CUP), addresses the proposed mining operation. The Reclamation Plan describes how environmental impacts associated with mining will be minimized and how the site will be reclaimed for

beneficial end use after mining activities are completed. Both are subject to applicable CEQA and SMARA requirements and require consideration at public hearings before the Planning Commission and, as applicable, the Board of Supervisors.

For new mining operations on private or State lands within the unincorporated County, the Mine Plan and Reclamation Plan are generally reviewed and processed concurrently through the County's approval process.

For new mining operations on federally administered lands, the lead federal agency, such as the Bureau of Land Management (BLM), reviews and approves the Plan of Operations. County staff coordinate with the federal agency and may require additional studies or information necessary to satisfy CEQA requirements. The County separately reviews and processes the Reclamation Plan in accordance with SMARA and CEQA.

When the County serves as the SMARA lead agency for a mine on federal land, it continues to oversee SMARA compliance, including annual inspections and updates to financial assurances.

14. Does the proposed ordinance reduce or eliminate any existing County or public oversight of mining operations?

The proposed ordinance will not eliminate or reduce the County authority or public oversight. Rather, it clarifies the respective responsibilities of the County, State, and federal agencies and aligns the County's ordinance with current SMARA requirements.

For mining operations on federally managed lands, the ordinance recognizes the federal land management agency's existing authority to issue federal approvals. The County will continue to carry out its responsibilities under SMARA, CEQA, and other applicable requirements.

The proposed ordinance also establishes or clarifies procedures for reclamation plan review, financial assurances, annual inspections, idle mines, amendments, enforcement, administrative penalties, and permit suspension or revocation.

Relevant Sections: §§ 88.03.040, 88.03.070, 88.03.100–160

15. Will the proposed changes impact existing mining operations?

Existing mining operations will remain subject to their approved permits, reclamation plans, financial assurances, and other applicable requirements. The ordinance update does not automatically expand or otherwise alter an existing mining operation's approved activities.

The updated ordinance clarifies and strengthens procedures applicable to ongoing mining operations, including annual inspections, financial assurances, amendments to reclamation plans, idle mine requirements, and enforcement.

If an existing operator proposes a change to an approved permit or reclamation plan, the applicable review and approval process will be dependent on the nature and extent of the proposed change.

Relevant Sections: §§ 88.03.050, 88.03.080, 88.03.100–150

16. How are vested mining rights being addressed?

Vested mining rights protect certain existing mining operations that were legally established and operating before January 1, 1976, when SMARA took effect. Vested mining rights allow the operation of a mine to continue without an approved Mining Permit (Conditional Use Permit).

The proposed ordinance establishes a clearer and more transparent process for determining whether a mining operation holds vested rights and, when vested rights are established, the scope of mining operations are covered under those rights.

An operator claiming vested rights must provide evidence supporting the claim. The responsibility to prove the existence of these rights lies with the claimant. The determination must specify the property in question and the nature and scope of the mining activities covered by the vested rights. Where required, the determination is considered at a public hearing that is announced beforehand, conducted by the Board of Supervisors.

Recognition of a vested right does not exempt an operation from all County or SMARA requirements. Vested operations remain subject to applicable reclamation plans, financial assurances, inspections, reporting, and other regulations. In addition, vested rights do not automatically authorize substantial

changes or expansions beyond the established scope of the vested mining operation.

Relevant Section: § 88.03.060

17. What enforcement provisions are included in the proposed ordinance?

The proposed ordinance establishes a clearer, more comprehensive enforcement process for mining operations that are not in compliance with SMARA, the County ordinance, or other applicable requirements.

The updated procedures include notices of violation, reasonable opportunities to correct violations, stipulated orders to comply, formal orders to comply, administrative penalties, appeals, and court action to address violations that pose an imminent and substantial danger to public health or the environment.

The ordinance also clarifies procedures for suspending or revoking County-issued mining permits and/or reclamation plans.

These changes are intended to provide the County with clear and consistent procedures for addressing noncompliance while also ensuring that operators receive appropriate notice and an opportunity to appeal.

Relevant Sections: §§ 88.03.150–160

18. What impact will the proposed ordinance have on mines in the Morongo Basin and Mojave Desert?

The ordinance applies Countywide to surface mining activities regulated under SMARA within the unincorporated areas of San Bernardino County including applicable operations in the Morongo Basin and Mojave Desert.

The ordinance does not approve new mining operations or authorize the expansion of existing mines in these communities. Any proposed new mine or expansion of an existing mine will continue to be evaluated based on their location, land use requirements, environmental review, SMARA requirements, and other applicable regulations.

The proposed ordinance also recognizes that mining operations occur in areas with significantly diverse geologic, topographic, climatic, biological, and

community conditions. As a result, reclamation requirements and specifications may vary based on the characteristics and conditions of an individual site.

Relevant Sections: §§ 88.03.010(b) and 88.03.040

19. What opportunities will the public have to participate in the ordinance update process?

The public had the opportunity to participate and provide comments during the Planning Commission hearing held on July 9 and the Board of Supervisors hearing held on August 18. The Board of Supervisors hearing was subsequently continued to October 20, allowing additional time for public participation and the submission of comments through the date of the hearing.

The County is also reviewing comments and concerns received from community members and other stakeholders as part of the current ordinance update.

Additional opportunities for public participation may be available for individual mining projects, reclamation plans, vested rights determinations, or other actions requiring public hearings are considered by the County.

The public is welcome to submit comments to the Mining Division by email or traditional mail using the contact information below:

Email: miningreclamation@lus.sbcounty.gov

Mail: Land Use Services Attn: Mining
385 N. Arrowhead Ave.
San Bernardino, CA 92415

Relevant Sections: Ordinance Findings; §§ 88.03.060 and 88.03.070

20. If the ordinance is adopted, will any mining operation, or portion of an operation, that currently requires County permitting, CEQA review, public notice, public hearings, or County-imposed conditions no longer be subject to those processes because of the new federal land provision?

The ordinance does not change the existing permitting or reclamation authority for mining operations on federal lands. The applicable federal land management agency will continue to serve as the approval authority for mining activities on federally managed lands, while the County will continue to serve as the approval

authority for the reclamation plan. The project as a whole will also continue to be subject to the applicable NEPA and CEQA environmental review processes.

21. Would the proposed ordinance eliminate or reduce any County or public oversight that currently applies to mining operations?

The County will continue to retain its existing authority as the SMARA lead agency, including its responsibilities for CEQA environmental review, public hearings, and other applicable oversight requirements.

Attachments

- 1) 1992 Memorandum of Understanding (MOU) between the State and federal government.

MEMORANDUM OF UNDERSTANDING

Surface mining and reclamation coordination in the State of California in accordance with California's Surface Mining and Reclamation Act (SMARA) of 1975, as amended,

by and between the

STATE OF CALIFORNIA, DEPARTMENT OF CONSERVATION
AND THE STATE MINING AND GEOLOGY BOARD,

the

U.S. DEPARTMENT OF AGRICULTURE,
FOREST SERVICE, PACIFIC SOUTHWEST REGION,

and the

U.S. DEPARTMENT OF THE INTERIOR,
BUREAU OF LAND MANAGEMENT, CALIFORNIA

THIS AGREEMENT is made and entered into by and between the State of California, Department of Conservation, through its Director, and the State Mining and Geology Board, through its Chairman (jointly referred to herein as "the State"), the Pacific Southwest Region of the United States Forest Service, through its Regional Forester ("the Forest Service"), and the Bureau of Land Management, through its State Director, California ("BLM"), for the purposes of: (1) assuring the application of adequate and appropriate reclamation throughout the State of California; (2) simplifying the administration of surface mining and reclamation practice requirements on Federal lands and on a combination of Federal and private lands; (3) achieving coordination of activity governing reclamation; and (4) eliminating duplication among the aforementioned agencies and counties serving as lead agencies ("lead agencies" pursuant to the Surface Mining and Reclamation Act, Public Resources Code Section 2728) in implementing State and Federal requirements.

WITNESSETH:

WHEREAS, local, State, and Federal agencies have certain legal requirements in regulating the effects of surface mining on Federal lands and on combinations of Federal and private lands, it is deemed advisable to develop an understanding between BLM, the Forest Service, and the State to serve as guidance for local agencies, BLM, the Forest Service, and the State in fulfilling their agency regulatory responsibilities in such situations.

WHEREAS, for purposes of this agreement, the following are exempt from SMARA pursuant to Public Resources Code Section 2714:

- (1) 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;
- (2) Surface mining operations that are required by federal law in order to protect a mining claim (i.e. annual assessment work), if such operations are conducted solely for that purpose; and
- (3) Such other surface mining operations which the State determines to be of an infrequent nature and which involve only minor surface disturbances.

WHEREAS, a Memorandum of Understanding (MOU) between the State, the Forest Service, and BLM, governing surface mining and reclamation coordination in the State of California, was signed in 1979 and remains in effect until this new agreement is signed by each party.

WHEREAS, the 1979 MOU was completely rewritten and resigned by the Bureau of Land Management and the State of California on February 7, 1990; and, that the purpose of this updated agreement is to make minor amendments to the 1990 MOU and to add the U.S. Forest Service as signatory.

WHEREAS, several acts of Congress provide for persons to prospect and mine on Federal lands which are administered by the Forest Service and BLM, and which are open to the operation of the United States mining, mineral leasing and mineral materials laws, providing they comply with the rules and regulations covering the Federal lands involved (applicable regulations include 25 CFR 211, 36 CFR 228 et seq., 43 CFR 3802, 3809, 3500, and 3600).

WHEREAS, Federal laws and regulations require that operations authorized under Federal mining, mineral leasing, and mineral material laws shall be conducted so as to minimize adverse environmental impact, or prevent unnecessary or undue degradation caused by such operations, and that the land be reclaimed to a second productive use, where practicable.

WHEREAS, BLM and the Forest Service are authorized to work with the State for purposes of coordinating Federal, State and local regulatory activities for environmental protection [applicable regulations include 43 CFR 3809.3-1(a)-(c) and 36 CFR 228.8 and 228.46].

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WHEREAS, for proposed mineral operations, the purpose of both the National Environmental Protection Act of 1969 (NEPA) and the California Environmental Quality Act (CEQA) is to assure the identification, analysis, and disclosure of significant environmental impacts associated with proposed projects and the incorporation of feasible mitigation to address significant adverse environmental impacts.

WHEREAS, the statutory requirements of the National Environmental Protection Act of 1969 (NEPA) for the Forest Service and BLM, and the California Environmental Quality Act (CEQA) for State and local agencies are largely equivalent.

WHEREAS, city and county "lead agencies" have the responsibility under the Surface Mining and Reclamation Act of 1975 (Public Resources Code Sections 2710-2795), as amended, and State policy for surface mining and reclamation practice (California Code of Regulations Sections 3500-3505), to regulate surface mining and reclamation within their jurisdictions to assure that:

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

WHEREAS, "lead agencies" are cities, counties, or other agencies designated by the Board which have the principal responsibility for approving a surface mining operation or reclamation plan (as defined by SMARA and other relevant regulations and ordinances) pursuant to the provisions of SMARA, and the use herein of the words "lead agencies" shall signify the Board's approval for lead agencies to use the guidance in this MOU to satisfy the requirements of applicable State laws and regulations for surface mining and reclamation on lands in California.

WHEREAS, lead agency surface mining and reclamation ordinances certified by the Board include and comply with applicable provisions of State laws and regulations for surface mining and reclamation practice.

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NOW, THEREFORE BE IT RESOLVED that the parties to this memorandum hereby understand and agree that the following will satisfy the aforesaid requirements of the aforesaid laws and are acceptable to both the Forest Service, BLM and the State. It is agreed that in regulation of surface mining of minerals on Federal lands and on combinations of Federal and private lands that:

- (1) Lead agencies and the Forest Service and/or BLM will work cooperatively to insure that conditions required of operators (as defined by Federal law, and by SMARA and any other relevant regulations and ordinances) in minimizing adverse environmental impacts conform to all applicable local, State, and Federal regulations.
- (2) Lead agencies may accept as functionally equivalent documents to meet their requirements under SMARA, operating plans, reclamation plans and environmental studies that meet the requirements of Forest Service and BLM regulations [submitted pursuant to federal regulation provided such plans and studies meet or exceed lead agency requirements as included in the lead agency's State-certified surface mining and reclamation ordinance and any other applicable laws and regulations]; and alternatively, Forest Service and BLM may accept as functionally equivalent documents to meet their requirements, operating plans, reclamation plans and environmental studies [submitted to the lead agency when such plans and studies meet or exceed requirements set by the BLM] that meet SMARA requirements.
- (3) Lead agencies may accept as functionally equivalent, documents prepared under NEPA (40 CFR 1500-1508) that meet the requirements of CEQA.
- (4) Lead agencies may enter, and in fact are encouraged to enter, into specific area agreements (including but not limited to, joint powers agreements and MOUs) with the Forest Service and/or BLM for purposes of implementing this agreement, coordinating reviews, avoiding duplication, and facilitating participation by affected agencies. Issues that may be addressed by such agreements include, but are not limited to, the filing, review, and procedures for approval of reclamation plans, fees, public inspection and enforcement activities, and bonding requirements. Such specific area agreements shall be in conformance with the lead agency's certified surface mining and reclamation ordinance and Federal law and regulation.

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- (5) By written agreement BLM may delegate authority to lead agencies to be solely responsible for processing, to approval, all mining operations which are subject to federal mining law in accordance with 43 CFR 3809. A delegation agreement may provide, among other things, for lead agencies to forward copies of submitted exploration and development permit applications to the BLM; to provide a 10-day comment period to the BLM; and prior to approval, or rejection, to provide BLM 5 working days to comment on proposed reclamation and other requirements.
- (6) For the purposes of this agreement, assessment work required to protect claims under federal law is defined as prospecting or exploration work completed for the purposes of discovering an ore body. It does not include development drilling or extraction of minerals for commercial purposes, which are not exempted from the provisions of SMARA.
- (7) For BLM's Notices (written notification required to be provided to the BLM under 43 CFR 3809.1-3) for those operations of 5 acres in size or less, within 5 days after receipt by the BLM of an accepted Notice, the BLM will forward a copy of the Notice to the lead agency for appropriate action by the lead agency. The lead agency may correspond directly with the operator for purposes of approval in accordance with SMARA, including any and all additional conditions and requirements, and will send copies of all correspondence and requirements to the BLM.
- (8) For mining operations requiring a Plan of Operations for projects solely on Federal land, that are not exempt from SMARA, BLM and the Forest Service will provide lead agencies notice and the opportunity for early participation, consultation, and submission of information and recommendations for the development of environmental documents and reclamation plans.
- (9) Within 30 days of receipt of notification under paragraph (8) above and copies of relevant informational documents, lead agencies will provide comments and recommendations to the Forest Service and/or BLM so that they may be considered and incorporated, as appropriate, as part of the environmental review and proposed Forest Service and/or BLM decision.

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- (10) Public hearings for compliance with SMARA and the certified lead agency SMARA ordinance should be coordinated with the Forest Service and/or BLM.
- (11) Forest Service and BLM will forward the environmental and decision documentation, which includes the reclamation plan requirements, to the lead agency for appropriate consideration. The lead agency will correspond directly with the applicant, and within 45 days of the date of the Forest Service or BLM decision, send copies to the BLM or the Forest Service of adopted conditions of approval which differ from conditions of BLM or Forest Service approval.
- (12) Lead agencies will forward to the Forest Service and/or BLM copies of all surface mining proposals and draft reclamation plans they receive for operations located entirely on Forest Service and/or BLM lands.
- (13) Implementation of measures to mitigate adverse environmental impacts to off-site, non-federal lands will be authorized, permitted, or otherwise directed by the lead agency or other responsible local or State agency.
- (14) Lead agencies will notify the Forest Service and/or BLM whenever an application for approval of mining activities is received and a draft reclamation plan is completed for an operation which comes under the purview of SMARA and lead agency requirements on areas adjacent to Forest Service and/or BLM public lands, and will give the Forest Service and/or BLM an opportunity to provide information and recommendations for such plans.
- (15) Lead agencies and the Forest Service and/or BLM will review and coordinate Environmental Documents, Operating Plans, Reclamation Plans and Permits for those mining operations that include both Forest Service and/or BLM lands and private lands. The objective of the review and coordination process is to avoid conflicting and duplicative requirements in Operating Plans and Permits and to keep procedural impacts on the mining operators to a minimum necessary to meet all applicable requirements. Coordination responsibilities for operations encompassing two or more mixed private and Forest Service and/or BLM ownerships should be determined on a case-by-case basis by the parties involved.

- (16) The Forest Service and/or BLM will approve the Plan of Operations when the operator agrees to the conditions and stipulations, including the appropriate measures to mitigate adverse environmental impacts, incorporated into the plan or permit to meet applicable Forest Service, BLM, State and local reclamation requirements. The operator must also comply with other applicable Federal, State, and local laws and regulations including those pertaining to hazardous substances.
- (17) Where the Forest Service and BLM are the operators (i.e., for community pits), and where a Federal agency contractor will be the operator for surface mining activities on Federal lands that are not exempt from SMARA, requirements for reclamation and any other necessary environmental documentation will be prepared and approved in accordance with paragraphs 8 and 9 of this MOU.
- (18) To the extent practicable, lead agencies and the Forest Service and/or BLM will coordinate their enforcement and monitoring responsibilities, and will cooperate in the correction and abatement of any violations of the conditions of operation imposed in accordance with the procedures described in this MOU.
- (19) Financial assurances for reclamation are mandatory for surface mining operations that exceed the SMARA threshold. Any federally-required financial assurance may be used to satisfy local and State surety requirements.

Effective Date of this Agreement:

This agreement shall become effective upon each party by signature of that designated party and shall supersede the previously referenced 1979 and 1990 MOU's when signed by all parties.

Modification of this Agreement:

This agreement may be modified upon the initiative of any of the parties for the purpose of ensuring consistency with state or federal statutes or regulations, or for any other purpose mutually agreed upon. In order to be effective, any such modification must be in writing, subject to 30 days notice, and must be signed by all of the designated parties.

Termination of this Agreement:

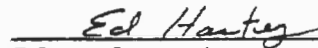
This agreement shall continue in force until terminated by any party upon thirty (30) days written notice to the other parties. The parties intend to review this agreement at the end of 12 months, and periodically thereafter, as needed.

STATE OF CALIFORNIA:


Edward G. Heidig
Director,
Department of Conservation

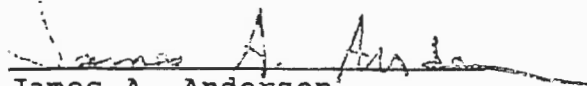
DATE: Oct 19, 1992

BUREAU OF LAND MANAGEMENT:


Edward Hastey
State Director
California

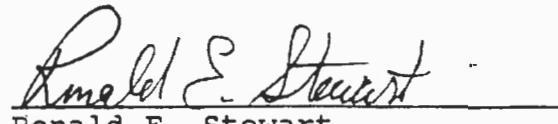
DATE: 10/20/92

STATE OF CALIFORNIA:


James A. Anderson
Chairman,
State Mining and Geology Board

DATE: Oct 19, 1992

UNITED STATES FOREST SERVICE


Ronald E. Stewart
Regional Forester,
Pacific Southwest Region

DATE: Oct. 19, 1992