ORDINANCE NO. 1036

AN ORDINANCE AMENDING THE SOLANO COUNTY CODE
BY ADDING CHAPTER 29 IMPLEMENTING THE
SURFACE MINING AND RECLAMATION ACT OF 1975

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

SECTION I.

The Solano County Code is hereby amended by the addition of Chapter 29, which shall read as follows:

CHAPTER 29

Article I

Section 29-100. Purpose and Intent.

(a) The Surface Mining and Reclamation Act of 1975, Chapter 9 of the Public Resources Code, authorizes and directs local agencies to adopt ordinances establishing procedures for the review and approval of reclamation plans and the issuance of permits to conduct surface mining operations. This ordinance is adopted to comply with the directive and fulfill various purposes of the Act.

(b) The Board of Supervisors hereby finds and declares that the extraction of minerals is essential to the continued economic well-being of the County and to the needs of the 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.

(c) The Board further finds that the reclamation of mined lands, as provided in this ordinance, will permit the continued mining of materials and will provide for the protection and subsequent beneficial use of the mined and reclaimed land.

(d) The Board further finds 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.

Article II

Section 29-200. Definitions.

As used in this chapter, the following definition shall apply:

(a) Area of Regional Significance means an area designated by the State Mining and Geology Board pursuant to Public Resources Code Section 2790 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 materials 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 permanent loss of minerals that are of more than local significance.

(b) Area of Statewide Significance means an area designated by the State Mining and Geology Board pursuant to Public Resources Code Section 2790 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 permanent loss of minerals that are of more than local or regional significance.

(c) Exploration or Prospecting means the search for minerals by geological, geophysical, geochemical and other techniques including, but not limited to, sampling, assaying, drilling, or any surface or underground works needed to determine the type, extent or quantity of minerals present.

(d) Mined Lands include the surface, subsurface, and ground water of an area in which surface mining operations will be, are being, or have been conducted, including private ways and roads appurtenant to any such area, land excavations, workings, mining wastes, and areas in which structures, facilities,
equipment, machines, tools, or other materials or property which result from, or are used in areas in which surface mining operations are located.

(e) Minerals means 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.

(f) Mining Waste includes the residual or soil, rock, mineral, liquid, vegetation, equipment, machines, tools, or other materials or property directly resulting from, or displaced by surface mining operations.

(g) Operator means any person who is engaged in surface mining operation himself, or who contracts with others to conduct operations on his behalf.

(h) Overburden means soil, rock, or other materials that lie above a natural mineral deposit, or in between deposits before or after their removal by surface mining operations.

(i) Person includes any individual, firm, association, corporation, organization or partnership, or any city, county, district, or the state, or any department or agency thereof.

(j) Reclamation means 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.
(k) **Reclamation Plan** means the plan approved by the County of Solano, and as required, by the Surface Mining and Reclamation Act of 1975, which meets all the requirements of Section 2772 of the Public Resources Code, administrative guidelines and regulations adopted pursuant thereto, and ordinances and resolutions of Solano County adopted in accordance therewith.

(l) **State Board** means the State Mining and Geology Board in the Department of Conservation, State of California.

(m) **State Geologist** means the individual holding office created by Section 677 of the Public Resources Code.

(n) **Surface Mining Operations** means 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:

1. In-place distillation, retorting or leaching.
2. The producing and disposal of mining waste.
3. Prospecting or exploratory activities.

(o) **Vested Right.** A person shall be deemed to have vested rights if prior to January 1, 1976, he has, in good faith and in reliance upon a permit or other authorization if such permit or other authorization was required and was in compliance with county regulations, diligently commenced surface mining operations and incurred substantial liabilities for work and materials necessary therefor. Expenses incurred in obtaining the enactment of an ordinance in relation to a particular operation or the issuance of a permit, shall not be deemed liabilities for work or materials.

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Article III

Section 29-300. Scope.

(a) The provisions of this chapter shall apply to the unincorporated areas of Solano County.

(b) The provisions of this chapter are not applicable to:

(1) Excavations or grading conducted for farming or on-site construction, or for the purpose of restoring land following a flood or natural disaster.

(2) Prospecting and exploration for minerals of commercial value where less than 1000 cubic yards of overburden is removed in any one location of one acre or less.

(3) Any surface mining operation that does not involve either the removal of a total of more than 1000 cubic yards of minerals, ores and overburden, or involve more than one acre in any one location.

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

(5) Reclamation of lands mined prior to, but not after January 1, 1976.

(6) Such other mining operations that the County determines to be of an infrequent nature and which involve only minor surface disturbances, and are categorically identified by the State Board pursuant to Section 2714(d) and 2758(c), California Surfacing Mining and Reclamation Act of 1975.

Article IV

Section 29-400. Permit and Reclamation Plan Requirement.

(a) Any person, except as provided in Section 29-300 of this Code and Section 2776 of the California Surface Mining and Reclamation Act of 1975, who proposes to engage in surface mining operations, or to make any changes which are determined
to be substantial by the Zoning Administrator in an existing
operation in which said existing operation the person has a
vested right shall, prior to the commencement of operations,

obtain 1) a use permit from the Planning Commission, pursuant
to Chapter 28-27 of this Code; and 2) approval by the Planning
Commission of a reclamation plan, in accordance with the pro-
visions set forth in this chapter and as further provided in
Article 5, California Surface Mining and Reclamation Act of
1975, commencing with Section 2770 of the California Public
Resources Code.

(d) Any person who obtained, prior to January 1, 1976,
and continues to hold a vested right to conduct surface mining
operations shall obtain the approval of the Planning Commission
of a reclamation plan for operations conducted after January 1,
1976, but said person shall not be required to obtain a use
permit for said operations except in accordance with the pro-
visions of this chapter. The reclamation plan shall provide for
the reclamation of the area disturbed by surface mining opera-
tions in those portions of the site mined after January 1, 1976.
Application forms and documents specified in Section 29-500 for
said reclamation plan shall be submitted for filing no later
than December 1, 1978. A reclamation plan prepared pursuant to
this chapter need not be prepared, filed, or approved for recla-
mation of lands mined prior to, but not later than January 1,
1976.

(c) The commencement of any surface mining operation after
a period of non-operation shall not require the obtaining of a
use permit if: 1) the operator has either (a) a vested right
in said operation, or (b) a previously obtained use permit as
required by this chapter when said use permit expressly pre-
scribes periodic non-operation; and 2) no substantial changes
in the operation are made. Periodic non-operation after
January 1, 1976, of a surface mining operation in which the operator has a vested right shall not by itself cause the lapse of said vested right so long as the non-operation: 1) is consistent with the historic periodicity of said operation; and 2) does not extend substantially longer than previous periods of non-operation.

Section 29-401. Review Procedure.

(a) All applications for a reclamation plan for surface mining or land reclamation projects shall be made on forms provided by the office of the County Planning Department and as provided for by the California Surface Mining and Reclamation Act of 1975, and any amendment or state policy subsequently adopted. A filing fee of three hundred fifty dollars ($350.00) at the time of filing the reclamation plan, or five hundred dollars ($500.00) at the time of concurrent filing of the reclamation plan and required use permit application shall be paid to the county. Such fee may, from time to time, be modified or adjusted by resolution of the Board of Supervisors, as provided in Section 1-18 of this Code.

(b) Prior to approval by the Planning Commission of any application for a use permit and/or any reclamation plan or amendment thereto, at least one public hearing shall be held by the Planning Commission.

(c) Notice of said public hearing shall be given at least ten (10) days prior to said hearing, pursuant to Section 28-38(b) of this Code. Any said public hearing may be held in conjunction and simultaneously with any other public hearing required by this chapter, the California Environmental Quality Act, or other applicable statute or ordinance.

(d) The state geologist shall be notified of the filing of any application for a permit to conduct surface mining operations, pursuant to Section 2774 of the California Surface
Mining and Reclamation Act of 1975.

Section 29-402. Performance Bond.

(a) To guarantee reclamation in accordance with the reclamation plan, liens, surety bonds, or other security may be required by the Planning Commission as a part or condition of any reclamation plan and/or use permit required by this chapter. Such surety shall be executed in favor of the County of Solano and reviewed and revised as necessary. Such security shall be maintained in an amount equal to the cost of completing the remaining reclamation of the site. The Zoning Administrator, on application of the operator and after a determination that there has been a change of circumstances, may make reasonable adjustments to the amount and type of the security required.

Section 29-403. Public Records.

(a) Reclamation plans, reports, applications, and other documents submitted pursuant to this chapter are public records unless it can be demonstrated to the satisfaction of the County that the release of such information, or part thereof, would reveal production, reserves, or rate of depletion entitled to protection as proprietary information. The County shall identify such proprietary information as a separate part of the application. Proprietary information shall be made available only to the state geologist and to persons authorized, in writing, by the operator and by the owner.

(b) A copy of all reclamation plans, reports, applications, and other documents submitted pursuant to this chapter shall be furnished to the state geologist on request.

Section 29-404. Periodic Review.

As a condition of approval for the permit or the reclamation plan, or both, a schedule for periodic inspections by the County of the site shall be established to evaluate continuing compliance with the permit and reclamation plan. There shall be
a fee of fifty ($50.00) dollars for each periodic inspection stipulated by the conditions of the permit or reclamation plan. Such fee may be adjusted from time to time by resolution of the Board of Supervisors, as provided by Section 1-18 of the Solano County Code.

Section 29-405. Amendments.

Amendment to an approved reclamation plan may be submitted detailing proposed changes from the original plan. Substantial deviations from the original plan shall not be undertaken until such amendment has been filed with and approved by the Planning Commission. A proposed amendment to a reclamation plan shall be processed in the same manner, and the applicant shall have the same rights and pay the same fee as established herein for original application.

Section 29-406. Enforcement.

(a) Alleged violations of this chapter shall be heard by the Planning Commission of the County of Solano in order for the Commission to determine and recommend proper remedies.

(b) An approved reclamation plan may be revoked by the Planning Commission after a public hearing of which ten (10) days' notice has been given, pursuant to Section 28-38(b) of this Code, and at least ten (10) days' written notice to the operator. Grounds shall exist for revocation of approval of said reclamation plan if the terms thereof are not complied with by the operator. Revocation of a reclamation plan shall be grounds for revocation of a use permit for any surface mining operation. In addition, any use permit required by this chapter may be revoked pursuant to the provisions of Section 28-27(j) of this Code.

(c) The conducting of any surface mining operation which requires a reclamation plan and/or use permit, pursuant to this chapter without such an approved reclamation plan and/or use
permit shall be unlawful and constitute a public nuisance, and
an action or proceeding for abatement, removal or injunction
may be commenced as set forth in Section 28-39 of this Code.

(d) Notwithstanding the foregoing, a violation of this
chapter may be enforced by the County of Solano by the use of
any legal or equitable remedy said county may have.

Section 29-407. Appeal.

Any person aggrieved by an act or determination of the
Zoning Administrator or Planning Commission 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. Any appeal must be filed, in
writing, within ten (10) days of the decision.

Section 29-408. Separability.

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

SECTION II.

This Ordinance shall be published once before the expira-
tion of FIFTEEN DAYS after its final passage in the Daily
Republican, a newspaper of general circulation,
printed and published in the County of Solano, State of Cali-
ifornia, and shall be in full force and effect THIRTY DAYS after
its passage.

ATTEST:

THOMAS M. HANNIGAN, Chairman,
Solano County Board of Supervisors

NEIL CRAWFORD
County Clerk and
ex officio Clerk of the
Board of Supervisors,

By DEAN AND KURTH
Deputy
I, NEIL CRAWFORD, County Clerk and ex officio Clerk of the Board of Supervisors of the County of Solano, State of California, do hereby certify that the above and foregoing Ordinance was introduced at a regular meeting thereof held on the __ day of __________, 1978.

On the motion of Supervisor __________ and the second of Supervisor __________, this Ordinance was adopted at a regular meeting of said Board on the __ day of __________, 1978, by the following vote:

AYES: __________  NOES: __________  ABSENT: __________

SUPERVISORS: __________  __________  __________

WITNESS my hand and the Seal of said Board this __ day of __________, 1978.

NEIL CRAWFORD, County Clerk

By __________ Deputy Clerk