

Title 10
ENVIRONMENT

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Chapter 1

ENVIRONMENTAL IMPACT ASSESSMENTS*

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Article 1. Authority and Purpose

Sec. 10-1.101. Authority.

This chapter is enacted pursuant to the provisions of Section 21082 of the Public Resources Code of the State and Section 15000 of Title 14 of the California Administrative Code. (§ 2, Ord. 1020, eff. October 17, 1985)

Sec. 10-1.102. Purpose.

The purpose of this chapter is to adopt the State CEQA Guidelines as the regulations for the County regarding the objectives, criteria, and procedures for the evaluation of projects and the preparation of environmental impact reports or negative declarations pursuant to the California Environmental Quality Act (CEQA) and regulations promulgated thereunder, and to adopt additional local procedures to implement the State CEQA Guidelines. (§ 2, Ord. 1020, eff. October 17, 1985)

Article 2. Adoption of Regulations

Sec. 10-1.201. Adoption of the State CEQA Guidelines.

For the purpose of adopting objectives, criteria, and procedures for the evaluation of projects and the preparation of environmental impact reports and negative declarations as required by CEQA, the State CEQA Guidelines, together with its appendices, adopted pursuant to Section 21093 of the Public Resources Code of the State and set forth in Sections 15000 et seq. three (3) copies of which are on file in the office of the County Clerk for public record and inspection, hereby are adopted by reference and made a part of this chapter as though set forth in this chapter in full; subject, however, to the amendments, additions, and deletions set forth in this chapter, and said Guidelines shall be known as the "County EIR Guidelines".

It is the intent and purpose of this section that the State EIR Guidelines, as they are amended from time to time shall be the County EIR Guidelines without further amendment to this chapter, and that said amendments shall be effective for all purposes relevant to this chapter upon the date said amendments become effective. (§ 2, Ord. 1020, eff. October 17, 1985)

Sec. 10-1.202. Appeals.

Decisions of the Environmental Officer under this chapter shall take effect, and appeals thereof made and considered, in the manner provided in Article 33 of chapter 2 of this Title. (§ 18, Ord. 1178, eff. April 27, 1995)

Article 3. Procedures

Sec. 10-1.301. Delegation of authority to the Environmental Officer.

The Director of the Community Development Agency is hereby appointed as the Environmental Officer to perform such duties and exercise such authority as set forth in this article.

The Director is hereby authorized to delegate to such appropriate members of the staff of the Community Development Agency the powers and duties of the Environmental Officer as set forth in this article, including the following:

(a) The determination of whether a project is exempt;

(b) Consultations with responsible and trustee agencies in determining whether a Negative Declaration or EIR should be prepared;

(c) The preparation of a Negative Declaration or EIR;

(d) The filing of required notices;

(e) Administering contracts with EIR consultants; and

(f) Issuing administrative regulations consistent with and to implement this chapter. (§ 2, Ord. 1020, eff. October 17, 1985)

Sec. 10-1.302. Application process.

The applicant shall submit the project application to the Community Development Agency and pay all the fees necessary for environmental processing. The Community Development Agency shall enter the application for a permit in a logbook kept by the Environmental Officer for the purposes of assigning a control number to the project. Pursuant to the State CEQA Guidelines, the Environmental Officer shall determine whether the project qualifies for a categorical exemption from the preparation of additional environmental documents or is exempt from the CEQA. If a project application is received which will be subject to approval by one or more responsible agencies, the Environmental Officer shall consult with such agency or agencies prior to determining whether a Negative Declaration or Environmental Impact Report is required for the project. (§ 2, Ord. 1020, eff. October 17, 1985)

Sec. 10-1.303. Preparation of initial studies.
(§ 2, Ord. 1020, eff. October 17, 1985; repealed by § 19, Ord. 1178 eff. April 27, 1995)

Sec. 10-1.304. Categorical exemptions.
(§ 2, Ord. 1020, eff. October 17, 1985; repealed by § 19, Ord. 1178 eff. April 27, 1995)

Sec. 10-1.305. Preparation of EIRs or negative declarations.
(§ 2, Ord. 1020, eff. October 17, 1985; repealed by § 19, Ord. 1178 eff. April 27, 1995)

Sec. 10-1.306. NDs and EIRs: Consultations.

(§ 2, Ord. 1020, eff. October 17, 1985; repealed by § 19, Ord. 1178 eff. April 27, 1995)

Sec. 10-1.307. Availability of draft environmental documents.
(§ 2, Ord. 1020, eff. October 17, 1985; repealed by § 19, Ord. 1178 eff. April 27, 1995)

Sec. 10-1.308. Public hearings.
(§ 2, Ord. 1020, eff. October 17, 1985; repealed by § 19, Ord. 1178 eff. April 27, 1995)

Sec. 10-1.309. Notice of determination.
(§ 2, Ord. 1020, eff. October 17, 1985; repealed by § 19, Ord. 1178 eff. April 27, 1995)

Sec. 10-1.310. Delegation of authority of the Community Development Agency.
(§ 2, Ord. 1020, eff. October 17, 1985; repealed by § 19, Ord. 1178 eff. April 27, 1995)

Article 4. Appeals

(Sections 10-1.401 through 10-1.460, codified from Ordinance No. 1020, repealed by Ordinance No. 1178, effective April 27, 1995)

Article 5. Validity

(Sections 10-1.501 through 10-1.502, codified from Ordinance No. 1020, repealed by Ordinance No. 1178, effective April 27, 1995)

Chapter 2

ELM TREES

Sections:

- 10-2.01 Prohibitions.**
- 10-2.02 Violations: Penalties**

Sec. 10-2.01. Prohibition.

No person shall import into or export from the County any plants, or parts thereof, of the genus *Ulmus*, including firewood, logs, cuttings, bark, branches, or mature trees. (§ 1, Ord. 737, eff. October 13, 1975)

Sec. 10-2.02. Violations: Penalties.

Any person who violates the provisions of this chapter shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished as set forth in Chapter 2 of Title 1 of this Code. (§ 1, Ord. 737, eff. October 13, 1975)

Chapter 3

CACHE CREEK AREA PLAN IN-CHANNEL MAINTENANCE MINING ORDINANCE*

*Title 10, Chapter 3 of the Yolo County Code shall be entitled "Cache Creek Area Plan In-Channel Maintenance Mining Ordinance," and shall read in full as follows: (§3, Ord. 1376, eff. Aug. 14, 2008):

Sections:

Article 1. Title, Authority, and Purpose

- 10-3.101 Title.
- 10-3.102 Authority.
- 10-3.103 Purpose.

Article 2. Definitions

- 10-3.201 Scope.
- 10-3.202 Act.
- 10-3.203 Commercial Mining.
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- 10-3.210 Technical Advisory Committee.

Article 3. Scope and Exemptions

- 10-3.301 Scope of regulations.
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- 10-3.303 Exemptions: Defined.
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Article 4. In-Channel Maintenance Mining Standards

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- 10-3.417 Setbacks.
- 10-3.418 Slopes.
- 10-3.419 Surveys.

Article 5. In-Channel Maintenance Mining Approval Process

- 10-3.501 Applications: Contents.

- 10-3.502 Applications: Waiver of Information.
- 10-3.503 Applications: Filing.
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- 10-3.506 Decision.
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Article 6. Amendments and Minor Modifications to Approved Flood Hazard Development Permits

- 10-3.601 Amendments and Minor Modifications: Purpose.
- 10-3.602 Amendments: Applications.
- 10-3.603 Amendments: Exceptions.
- 10-3.604 Minor Modifications.
- 10-3.605 Amendments and Modifications.

Article 7. Annual Reports

- 10-3.701 Cache Creek Monitoring Program.
- 10-3.702 Channel Improvement Projects.

Article 8. Fees

- 10-3.801 Fees: Applications.

Article 9. Confidentiality of Records

- 10-3.901 Confidentiality of Records.

Article 10. Inspections: Notices of Violations

- 10-3.1001 Inspections: Purpose.
- 10-3.1002 Inspections.
- 10-3.1003 Inspections: Notification.
- 10-3.1004 Inspections: Designee.
- 10-3.1005 Violations: Notice.
- 10-3.1006 Violations: Order to Comply.
- 10-3.1007 Violations: Hearing.
- 10-3.1008 Violations: Revocation.
- 10-3.1009 Violations: Administrative Penalties.
- 10-3.1010 Violations: Public Nuisance.

Article 1. Title, Authority, and Purpose

Sec. 10-3.101. Title.

This chapter shall be known as the "Cache Creek Area Plan In-Channel Maintenance Mining Ordinance of Yolo County". It replaces the "Interim In-Channel Surface Mining Regulations of Yolo County".

Sec. 10-3.102. Authority.

This chapter is enacted pursuant to the authority granted by the California Surface Mining and Reclamation Act (SMARA) of 1975, Chapter 9

of Division 2 of the Public Resources Code of the State, commencing with Section 2710; and pursuant to the powers of the County to protect the public health, safety, and welfare pursuant to Section 7 of Article XI of the Constitution of the State.

Sec. 10-3.103. Purpose.

(a) The purpose of this chapter is to implement the provisions of the Cache Creek Area Plan (CCAP) as related to allowed in-channel activities. Limited excavation activities related to stream stabilization, flood protection, and riparian restoration (referred to as "maintenance mining") may be performed pursuant to the Cache Creek Resources Management Plan (CCRMP) and the Cache Creek Improvement Program (CCIP). This maintenance mining is necessary and required in order to protect structures, infrastructure and land uses along the creek and downstream, from damage from natural creek forces (flooding, erosion, deposition, washout, etc.). This chapter establishes the regulations applicable to all maintenance mining allowed to occur within Cache Creek, within the boundaries of the CCAP.

(b) Stabilizing the channel banks and profiles pursuant to the CCRMP/CCIP will result in reduced erosion, increased in-channel recharge, and additional riparian habitat opportunities.

Article 2. Definitions

Sec. 10-3.201. Scope.

The definitions set forth in Article 2 of Chapters 4 and 5 of Title 10 of the County Code shall apply throughout this chapter.

Sec.10-3.202. Act.

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

Sec. 10-3.203. Commercial Mining.

"Commercial mining" shall mean mining undertaken for the sole and/or primary purpose of commercial gain. Pursuant to the CCAP, commercial in-channel mining is precluded within Cache Creek.

Sec. 10-3.204. Director

As used within this Chapter, "Director" shall refer to the Director of the Parks and Resources Department or his/her designee as provided in Section 10-3.1104 unless otherwise specified.

Sec. 10-3.205. Excavation.

As used within this Chapter, "excavation" shall be synonymous with "maintenance mining" as defined below.

Sec. 10-3.206. In-Channel.

"In-Channel" shall mean that portion of Cache Creek (approximately 2,324 acres in total) depicted in Figure 2 of the CCRMP as falling within the creek channel boundary.

Sec. 10-3.207. Maintenance Mining.

"Maintenance mining" shall mean mining undertaken for the sole and/or primary purpose of stream stabilization, flood protection, and riparian restoration as described in the CCIP. This includes erosion control, flood control, bank protection, riparian restoration, and other in-channel activities and/or in-channel modifications consistent with the CCRMP/CCIP.

Sec. 10-3.208. Off-Channel.

"Off-Channel" shall mean that portion of the lower Cache Creek basin depicted in Figure 2 of the CCRMP as falling outside of the creek channel boundary.

Sec. 10-3.209. Site Specific Plan.

"Site specific plan" shall mean an individual project plan for which a Flood Hazard Development Permit (FHDP) (also known as a Floodplain Development Permit) is approved by the Director that is consistent with the CCRMP (Public Res. Code Section 2715.5(d)). Site specific plans shall, at a minimum, include the information required by Section 2715.5(d) of the Act and such additional information as may be required pursuant to this chapter.

Sec. 10-3.210. Technical Advisory Committee.

"Technical Advisory Committee" shall be as defined in the CCRMP/CCIP and shall also be known as the "TAC". The TAC is established to provide scientific and technical review for all projects conducted under the CCIP. Members of the TAC are contracted by the Parks and Resources department. The TAC is comprised of members with technical expertise in river systems, including hydraulic engineering, fluvial geomorphology, biology, and riparian restoration.

Article 3. Scope and Exemptions

Sec. 10-3.301. Scope of regulations.

Unless otherwise provided in this article, no person or entity shall conduct in-channel maintenance mining operations unless a FHDP has been approved in accordance with Chapter 3 of Title 8 of the County Code (commencing with Section 8-3.404) and a Site Specific Plan and financial assurances as described in the Act (Public Res. Code Section 2715.5) have been approved in accordance with this chapter.

Sec. 10-3.302. Scope: Area defined.

This chapter shall apply only to maintenance mining activities that occur within the area located within the boundary of Cache Creek as defined in the Cache Creek Area Plan of the Yolo County General Plan. The conduct of mining outside of the channel of Cache Creek is regulated by Chapter 4 of this title and shall not be subject to the provisions of this chapter.

Sec. 10-3.303. Exemptions: Defined.

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

Sec. 10-3.304. Exemptions: Applications.

Applications for exemptions shall be submitted to the Director for review and determination as to completeness. If the application is determined incomplete, the Director shall notify the applicant in writing within thirty (30) days, specifically describing the information necessary to complete the application. Upon receipt of a completed application, the Director shall determine whether the operation is exempt or is subject to the provisions of this chapter. Any person with standing may appeal the Director's decision to the Planning Commission pursuant to Article 10 of Chapter 4 or Title 10.

Article 4. In-Channel Maintenance Mining Standards

Sec. 10-3.401. Access Roads.

(a) All unpaved roads used during in-channel maintenance mining operations shall be adequately watered to keep soil moist at all times, in order to control fugitive dust.

(b) Upon cessation of use, operational areas and haul roads that are not required for future use

of the site shall be ripped and prepared to prevent compaction and allow for revegetation.

(c) In-channel haul roads shall be located along the toe of the streambank, in order to provide additional bank stabilization and to minimize disturbance of the low-flow channel. Each operation may have no more than two (2) haul roads at one time that cross the low-flow channel. Construction of the haul roads shall not result in excavation of the toe of the streambank, and shall be designed to avoid existing or restored riparian habitat.

(d) No new haul roads shall be constructed through significant riparian vegetation. Haul roads shall be realigned or redesigned to avoid established habitat.

(e) Haul roads shall comply with all applicable requirements and conditions of approval.

Sec. 10-3.402. Adherence to CCRMP/CCIP.

The general standard for excavation within the creek shall be to ensure that CCRMP and CCIP are strictly followed. This article sets forth minimum acceptable in-channel maintenance mining standards to implement this general standard.

Sec. 10-3.403. Agency approvals.

All work within the channel shall comply with the requirements of all agencies of jurisdiction, including but not limited to: Yolo County Building Division (engineered plans for dams or sills), Yolo County CCRMP and CCIP (all applicable standards), the State Department of Conservation (SMARA compliance), the State Department of Fish and Game (Section 1601 Streambed Alteration Agreement), the State Regional Water Quality Control Board (Section 401 and stormwater discharge), Caltrans (protection of bridges and highways), the U.S. Army Corps of Engineers (Section 404), the U.S. Fish and Wildlife Services (Endangered Species Act), and the Federal Emergency Management Agency (Flood Hazard Development Permit). These requirements may take the form of programmatic ("general") permits issued for the entire CCRMP/CCIP for a multi-year period if proposed activities are deemed consistent with the provisions of those permits by the Director.

Sec. 10-3.404. Cultural Resources.

(a) If human skeletal remains are encountered during excavation, all work within seventy-five (75) feet shall immediately stop, and the County Coroner shall be notified within twenty-four (24) hours. If the remains are of Native American origin, the appropriate Native American community identified by the Native American Heritage Commission shall be contacted, and an agreement for treating or

disposing, with appropriate dignity, of the remains and associated grave goods shall be developed. If any cultural resources, such as chipped or ground stone, historic debris, building foundations, or paleontological materials are encountered during excavation, then all work within seventy-five feet shall immediately stop and the Director shall be notified at once. A qualified archaeologist shall then examine any cultural resources found on the site and the information shall be submitted to the County.

(b) Damaging effects to cultural resources shall be avoided whenever possible. If avoidance is not feasible, the importance of the site shall be evaluated by a qualified archeologist prior to the commencement of excavation operations. If a cultural resource is determined not to be important, both the resource and the effect on it shall be reported to the County, and the resource need not be considered further. If avoidance of an important cultural resource is not feasible, a mitigation plan shall be prepared and implemented. The mitigation plan shall explain the importance of the resource, describe the proposed approach to mitigate destruction or damage to the site, and demonstrate how the proposed mitigation would serve the public interest.

Sec. 10-3-405. Design Guidelines.

All in-channel activities shall be consistent with and fully implement the design guidelines for channel stabilization and maintenance contained in Chapter 5.0 of the CCIP.

Sec. 10-3.406. Excavation Limitations.

(a) Where gravel bars are to be excavated, aggregate removal shall be limited to the downstream portion of the deposit and may not exceed seventy-five (75) percent of the length of the bar. At least twenty-five (25) percent of the upstream portion of the gravel bar shall be retained, in order to allow for the establishment of riparian vegetation. Complete removal of gravel bars may be recommended by the TAC and approved by the Director only if hydraulic conditions related to the bar are recognized to threaten structures and property.

(b) Aggregate material to be removed from the streambed or stream bank under approved in-channel projects shall be excavated as soon as is practicable after deposition, prior to the establishment of vegetation. No stockpiles shall be left within the channel after excavation has been completed.

(c) The amount of aggregate removed from the channel shall be limited to the amount of sand and gravel deposited during the previous year as estimated by the TAC based on channel

morphology data (approximately 200,000 tons annually on average), except where bank excavation is necessary to widen the channel as a part of implementing the Test 3 Run Boundary, or where potential erosion and flooding problems exist. The amount and location of in-channel aggregate removal shall be carried out according to the ongoing recommendations of the TAC and any related County approvals, with the voluntary cooperation of the landowners.

(d) Aggregate material removed pursuant to this ordinance may be sold (CCRMP, Section 6.1, para. 5). This material is excluded from the tonnage allocation assigned to each off-channel operator pursuant to an approved FHDP (CCRMP, Section 6.1, para. 7).

(e) The volume of aggregate material removed pursuant to this ordinance shall be reported to the County on an annual and total-per-permit basis.

Sec. 10-3-407. Exceptions.

Where an applicant demonstrates to the lead agency that an exception to the standards specified in this article is necessary, the TAC may recommend an alternative standard for inclusion in the FHDP. Exceptions will be considered by the Director only where necessary due to special circumstances associated with the subject site, including size, shape, topography, location, or surroundings. Although the TAC may recommend alternative standards, in all cases the alternative standard must meet or exceed the policy objectives, technical requirements, and/or environmental thresholds set forth in the OCMP, as determined by the Director (see Article 5).

Sec. 10-3.408. Hazards and Hazardous Materials.

(a) All heavy equipment used for channel improvement projects shall be kept in good working order to reduce emissions and preclude the leakage of oils, fuels, and other substances that may adversely affect property, the environment, or human health and safety. Fueling and maintenance activities shall not occur within one-hundred (100) feet of the active channel. All procedures for handling, storage, and disposal of hazardous materials shall be described in a Storm Water Pollution Prevention Plan if required for the projects. Any long-term project (e.g., extensive erosion control, gravel removal) shall have a chemical spill prevention and emergency plan filed and approved by the appropriate local agency. The plan must include training of the equipment operator and workers in

spill reporting and how to minimize environmental damage.

(b) Firms or individuals performing work within the channel shall immediately notify the Director and/or the Yolo County Office of Emergency Services of any events such as fires, explosions, spills, land or slope failures, or other conditions at the site which could pose a risk to property, the environment, or human health and safety outside the permitted area. Upon request by any County agency, the firm or individual shall provide a written report of any such event, within thirty (30) days, which shall include, but not be limited to, a description of the facts of the event, the corrective measures used, and the steps taken to prevent a recurrence of the incident. This condition does not supersede nor replace any requirement of any other government agency for reporting incidents.

(c) A copy of the approved Business Emergency Response Plans and the approved Spill Prevention Control and Countermeasure Plans, if required, shall be filed with the Yolo County Health Department, prior to the commencement of work within the channel.

(d) Wastewater from in-channel projects shall not be directly discharged to Cache Creek. Measures such as berms, silt fences, sediment ponds, hay bales, and/or revegetation shall be used to control erosion. Agricultural tailwater shall be diverted to catchment basins prior to release to the creek.

(e) Sediment fines generated by aggregate processing of in-channel sand and gravel shall be used for agricultural soil enhancement or -stream revegetation projects. In-channel sediment fines shall not be used as backfill material in off-channel habitat restoration, due to potential high mercury content.

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

Sec. 10-3.409. Hours of Operation.

All in-channel operations shall be limited to the hours of 8:00 a.m. to 5:00 p.m., Monday through Friday, unless emergency conditions require otherwise as determined by the Director.

Sec. 10-3.410. Location.

Removal of in-channel aggregate materials shall only occur pursuant to this chapter and pursuant to the requirements of the CCRMP/CCIP. Removal of in-channel aggregate materials shall be restricted to locations within the Cache Creek channel that fall within the boundaries of the CCAP.

Sec. 10-3.411. Noise.

Noise levels shall not exceed an average noise level equivalent (Leq) of eighty (80) decibels (dBA) measured at the outermost boundaries of the parcel being excavated. However, noise levels may not exceed an average noise level equivalent (Leq) of sixty (60) decibels (dBA) at any nearby residences or other noise-sensitive land uses, unless emergency conditions require otherwise as determined by the Director.

Sec. 10-3.412. Permit Life.

FHDPs shall be approved for the period of time identified by the Director as necessary to complete the proposed in-channel activity, up to a maximum period of two years. A permit may be extended for an additional two years, subject to further review and approval by the Director. All FHDPs shall be subject to annual adjustment by the Director to address the amount of materials that can be extracted from the site based on data obtained through the annual monitoring program.

Sec. 10-3.413. Processing Prohibition.

Processing of in-channel excavated material shall occur only at approved off-channel plant facilities. No new plant facilities shall be established for the purposes of processing in-channel materials.

Sec. 10-3.414. Regrading.

Streambed regrading after excavation shall leave behind an undulating surface outside of the low-flow channel, so that the resulting surface depressions expose the shallow water table and encourage the colonization of riparian trees. Features such as channels and pools maximize the diversity of environmental conditions for the establishment of riparian habitat, and are therefore encouraged.

Sec. 10-3.415. Revegetation.

(a) Approved projects requiring excavation of channel banks and removal of riparian vegetation shall be revegetated consistent with Performance Standards 4.5-1 through 4.5-23 of the CCRMP, and with the CCAP, upon the completion of excavation activities.

(b) Vegetated buffers should be placed between restored habitat areas and adjoining farmland, in order to minimize the potential for riparian areas to serve as reservoirs for agricultural pests. Said buffers will also reduce the effects of noise, dust, and spraying generated by agricultural operations on wildlife and riparian vegetation.

(c) Species and water features included in habitat areas should be designed to discourage the proliferation of agricultural pests and weeds that would impair local crops.

(d) Species shall be selected to encourage the biological control of agricultural and native habitat pests and weeds.

(e) Trees that are suitable for wildlife perching near agricultural fields dedicated to row crop production should be incorporated into habitat design, in order to provide foraging habitat for Swainson's Hawks and other birds of prey.

(f) As an alternative to on-site revegetation where such cannot be feasibly and successfully implemented, habitat restoration or creation at a suitable off-site location and/or non-native removal and other habitat enhancement at a suitable off-site location will be required.

(b) In-channel excavations shall generally conform to the cross-section profiles shown in Figures 12 through 16 of the CCRMP. When recommended by the TAC, alternate grading plans may be approved by the Director.

Sec. 10-3.416. Seasonal Restrictions.

Pursuant to the CCIP, the deadline for submittal of applications for an FHDP in the Cache Creek channel is May 31st. The deadline for completion of approved in-channel work is November 1st, unless an extended period for completion is recommended by the TAC, consistent with applicable general permit conditions imposed by other agencies of jurisdiction (see Section 10-3.403), and approved by the Director.

Sec. 10-3.417. Setbacks.

(a) No excavation shall take place within one-hundred and fifty (150) feet of the centerline of the low-flow channel, where the creek is contained within a single channel. Where the creek is braided or contains multiple channels, no excavation shall take place within one-hundred and twenty-five (125) feet of each channel.

(b) No excavation shall take place within twenty-five (25) feet of any mature trees to be retained within the channel.

(c) For the purposes of this Section and CCRMP Performance Standard 6.5-8, channel stabilization and/or restoration activities that are otherwise consistent with the CCRMP and CCIP, but would encroach within these setbacks, are allowed subject to the review of the TAC and approval by the Director.

Sec. 10-3.418. Slopes.

(a) Final slopes for in-channel excavations shall conform to the channel slope and sinuosity guidelines shown in Figure 11 of the CCRMP. Excavations shall be sloped in a downstream direction, towards the low-flow channel. When recommended by the TAC, alternate grading plans may be approved by the Director.

Sec. 10-3-419. Surveys.

The applicant shall ensure that completed projects are surveyed to provide a record of as-built conditions. This survey shall be completed in a form acceptable to the TAC, and shall be submitted to the TAC within thirty days of completion of the project as determined by the Director.

Article 5. In-Channel Maintenance Mining Approval Process

Sec. 10-3.501. Applications: Contents.

Except as provided for in Section 10-3.502 of this article, all project application documentation shall be submitted to the Director at one time. Three (3) complete copies of the application shall be provided to the County. Applications for proposed in-channel activities shall include, but shall not be limited to, the following:

- (a) Completed Flood Hazard Development Permit (FHDP) application forms;
- (b) A detailed narrative description of the proposed activity;
- (c) Appropriate site-specific technical reports (if not already on file) such as a biological resources analysis and revegetation program; a hydrology analysis; a geotechnical analysis; an engineered excavation plan.
- (d) A site plan showing property lines, assessor's parcel numbers, on-site and adjoining land uses, topography, access, and vegetation.
- (e) A description of the potential effects of the proposed project on hydraulic conditions upstream and downstream of the proposed project site.
- (f) A chemical spill prevention and emergency plan (or its equivalent) files and approved by the appropriate lead agency for all long-term projects that involve the use of heavy equipment.
- (g) Major stabilization projects, as opposed to annual channel maintenance activities, may be required to submit refined hydraulic and sediment transport models for specific creek reaches to develop design parameters. The County will make available flow and sediment discharge data, current versions of hydraulic and sediment transport models, and information on channel stability trends in the vicinity of the proposed project. This information shall be used to prepare the application.
- (h) In addition to the foregoing, the Director may require such other and further information relevant to the project as needed to determine whether the proposal may affect the public health

and safety, to evaluate the potential environmental effects of the proposal, or for such other good cause as determined by the Director in his sole discretion.

Sec. 10-3.502. Applications: Waiver of Information.

The Director may waive any of the items of information required in Section 10-3.501 of this Article, if the following conditions apply:

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

Sec. 10-3.503. Applications: Filing.

Applications shall be submitted to the Director no later than May 31st. TAC review and comment, review by the Director, and final action of the FHDP shall occur no later than June 30th. However, the application shall not be processed until the Director has determined it to be complete and the appropriate fees have been paid, as required under Article 8 of this chapter.

Sec. 10-3.504. Applications: Review.

The application shall be reviewed by the TAC and Director for consistency with the CCRMP, CCIP, and all applicable terms of the permits issued by other agencies of jurisdiction (see Section 10-3.403).

Once the application has been accepted, the Director shall submit the application package to the TAC for review and recommendation as soon as possible. Pursuant to the CCIP the role of the TAC is provide scientific and technical review and recommendations.

Sec. 10-3.505. Findings for Permit Approval.

The Director may approve a FHDP pursuant to this chapter (and Section 8-3.404 of the County Code) only if all of the following findings are made:

(a) The proposed in-channel activity is consistent with any County-administered general permits from other agencies of jurisdiction (see Section 10-3.403); or alternatively, that all other state and federal permits have been obtained.

(b) Any sand and gravel removed from the channel is a result of the proposed in-channel activity is necessary for one or more of the following reasons:

- (i) to provide flood control
- (ii) to protect existing structures
- (iii) to minimize bank erosion
- (iv) to implement the Test 3 boundary

(c) The proposed in-channel activity will protect sensitive biological resources.

(d) The proposed in-channel activity is consistent with the requirements of both the CCRMP and the CCIP.

(e) Existing flooding problems are not exacerbated by the proposed in-channel activity.

Sec. 10-3.506. Decision.

After considering the application materials and the recommendations of the TAC, Director shall approve, conditionally approve, or deny the application by a written decision setting forth the findings supporting the action. Approval may be granted subject to any relevant condition which the Director may deem necessary to effectuate the purposes of the Act and this chapter. Such conditions may address any or all of the findings required by Section 10-4.504 of this article. If the application is conditionally approved, the conditions shall be specified in writing. Conditions of the permit will require that completed projects be surveyed to provide a record of as-built conditions.

Sec. 10-3.507. Appeals.

The decision of the Director shall become final within fifteen (15) days, unless appealed. The decision of the Director may be appealed pursuant to Section 8-3.405 of the County Code, upon submittal of a properly filed appeal form and appeal fee.

Article 6. Amendments and Minor Modifications to Approved Flood Hazard Development Permits

Sec. 10-3.601. Amendments and Minor Modifications: Purpose.

The purpose of this article is to provide procedures for changing the conditions of approval or project description (as described in the application and accompanying analyses) to account for unanticipated changes in the proposed activity, site characteristics, regulations, or other aspects of the approved FHDP. Such changes may constitute either an amendment or minor modification of a permit, as described further below.

Sec. 10-3.602. Amendments: Applications.

Applications for amendments to previously approved FHDPs shall be submitted to the Director, on forms provided by the County, and shall be accompanied by the appropriate fees, as determined in Article 8 of this chapter. Such applications shall be processed pursuant to the procedures set forth in Article 5 of this chapter.

Sec. 10-3.603. Amendments: Exceptions.

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

Sec. 10-3.604. Minor Modifications.

The Director may approve minor modifications of FHDPs pursuant to this chapter. A minor modification may only be approved if the Findings for Permit Approval in Section 10-3.504 can be made. If these criteria are not satisfied, an amendment must be pursued instead. Such modifications shall be noted on the approved plans and shall be initialed by the Director.

Sec. 10-3.605. Amendments and Modifications.

Amendments shall be acted upon by the County pursuant to the procedures identified in Article 5 of this chapter, as supplemented by this article.

Article 7. Annual Reports

Sec. 10-3.701. Cache Creek Monitoring Program.

The TAC shall implement a creek monitoring program pursuant to Chapter 6.0 of the CCIP, consisting of periodic collection of stream discharge and sediment transport data and annual analysis of changes in channel morphology and riparian vegetation. All data and analysis shall be summarized in an annual report submitted to the Board of Supervisors.

Sec. 10-3.702. Channel Improvement Projects.

Pursuant to Performance Standards 2.5-1 through 2.5-9 of the CCRMP, the TAC will annually identify priority channel improvement projects on the basis of the results of the Cache Creek Monitoring Program. The annual report will describe the need for and purpose of identified priority projects. The report will describe the specific location of the projects and the general aspects of the improvements. Pursuant to the CCIP, the Director will coordinate with property owners to implement the projects.

Article 8. Fees

Sec. 10-3.801. Fees: Applications.

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

Article 9. Confidentiality of Records

Sec. 10-3.901. Confidentiality of Records.

Any proprietary information submitted in a permit application, a report, or other document required by this chapter, which is considered by the applicant to be confidential shall be submitted under separate cover and shall be so marked by the applicant. Proprietary information shall include, but may not be limited to, the following: annual production figures, reserves, or rates of depletion of the aggregate resource being mined, pursuant to Section 2778(a) of the Act; well log information; and the location and extent of sensitive archaeological sites.

The proposed confidential information shall be accompanied by a statement citing the legal authority supporting the applicant's claim of confidentiality. The request for confidentiality shall be reviewed by the Director, in consultation with the Office of the County Counsel if necessary, and shall either be approved or denied. The information at issue shall be maintained in a

confidential manner by the County until the Director reaches a decision.

The decision to approve or deny the claim of confidentiality by the Director shall be made in writing. If the claim of confidentiality is denied, the applicant may request the return of the information at issue. The Director's action on a claim of confidentiality is final, and may not be appealed to the Planning Commission or the Board of Supervisors. In any subsequent judicial action or proceeding where the proprietary, confidential nature of the information is contested, the applicant shall reimburse the County for any legal fees and other costs reasonably incurred in defending against the disclosure of such information, regardless of whether the County prevails.

If the request is approved, then the confidential information shall be maintained under separate cover and shall be marked "confidential," "trade secret," or otherwise stamped to indicate its confidential status. The contents of the confidential file shall be made available only to the Director and those persons authorized in writing by the applicant and by the property owner. If the request is denied, the applicant may withdraw the information and include it with the application or report as a public document. Failure to submit any necessary information, or the applicant's decision to withdraw such information if a claim of confidentiality is denied, may result in an incomplete application or report.

Article 10. Inspections: Notices of Violations

Sec. 10-3.1001. Inspections: Purpose.

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

(a) To determine compliance with this chapter and the Act;

(b) To determine compliance with the conditions of any permit approved pursuant to this chapter;

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

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

Sec. 10-3.1002. Inspections.

During the life of the permit and any required monitoring, the Director shall conduct an inspection

or inspections not less than once in any calendar year (consistent with the requirements of Pub. Resources Code Section 2774) of each in-channel maintenance mining operation to determine whether the applicant is in compliance with the Act, this chapter, and any permits or other approvals, and/or whether all authorized work has been properly completed.

Sec. 10-3.1003. Inspections: Notification.

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

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

(b) The completed inspection forms;

(c) A description of any pending reviews or appeals of permits, financial assurances, amendments or modifications thereto; and

(d) Any supporting documentation.

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

Sec. 10-3.1004. Inspections; Designee.

Inspections shall be conducted by a state-registered geologist, state-registered civil engineer, state-licensed landscape architect, state-registered forester, County staff, or other designee as determined by the Director, who is familiar with land reclamation issues (as described in the Act and related regulations) and experienced in activities governed by the Act, and who has not been employed by the applicant in any capacity during the previous twelve (12) months.

Sec. 10-3.1005. Violations: Notice.

Whenever the Director has reasonable cause to believe that an in-channel maintenance mining operation is in violation of the Act, this chapter, or any terms or conditions of a permit issued pursuant to this chapter, a written notice of violation shall be served to the applicant. The notice shall specifically describe both the violation(s) and the remedial steps required for compliance. Said notice shall be served by certified mail and a copy shall be sent to the State Department of Conservation. In the event that the notice is returned undeliverable, a copy of the notice shall

be posted in a conspicuous place within the project site.

Sec. 10-3.1006. Violations: Order to comply.

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

The order shall also state the date, time, and place set for a hearing before the Planning Commission regarding the notice of violation. The hearing shall be conducted no sooner than thirty (30) days and no later than sixty (60) days after the service of the order upon the applicant. Public notice of such hearing shall be given as set forth in Section 10-4.507 of this chapter. The Director may cancel the hearing if, in his judgment, the violation is fully resolved prior to the date of the hearing.

Sec. 10-3.1007. Violations: Hearing.

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

(a) Approve the order of the Director;

(b) Remove any of the violations and approve the order as modified; or

(c) Decline to approve the order of the Director.

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

Sec. 10-3.1008. Violations: Revocation.

If an applicant fails to observe an order of compliance following the final decision of the Planning Commission pursuant to Section 10-3.1107, above, then the FHDP shall be considered revoked and the Director shall initiate procedures to forfeit the financial assurances in accordance with Article 9 of Chapter 5 of this title.

Sec. 10-3.1009. Violations: Administrative penalties.

If the applicant fails to comply with an order of compliance following the final decision of the Planning Commission, issued pursuant to this article, the Director may, either as an alternative or in addition to revoking the permit in accordance with section 10-3.1008, above, issue an order imposing administrative penalties of not more than five thousand dollars (\$5,000) per day, retroactive to the original date of noncompliance. When determining the amount of the penalty, the Director shall consider, but may not be limited to, the following factors:

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

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

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

Payment of the administrative penalties shall be made by the applicant to the County within thirty (30) days of receipt of the order or a final decision on any subsequent appeals, whichever occurs later. Penalties collected by the Director shall only be used to cover the reasonable costs incurred by the County in administering either the Act or Chapters 3, 4, and 5 of Title 10 of this Code.

Sec. 10-3.1010. Violations: Public nuisance.

Any in-channel activity in violation of this title, or in violation of any permit or effective order of compliance approved pursuant to this chapter, shall be considered a public nuisance. If the applicant fails to comply with an effective order of

compliance, issued pursuant to this article, the Director may refer the violation to the District Attorney for further civil or criminal action. (§ 1, Ord. 820, eff. February 22, 1979, as amended by §3, Ord. 1376, eff. August 14, 2008)

Chapter 4

OFF-CHANNEL SURFACE MINING

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Article 1. Title, Authority and Purpose

Sec. 10-4.101. Title.

This chapter shall be known as "The Off-Channel Surface Mining Ordinance of Yolo County." (§ 1, Ord. 1190, eff. September 5, 1996)

Sec. 10-4.102. Authority.

This chapter is enacted pursuant to the authority granted by the California Surface Mining and Reclamation Act of 1975, Chapter 9 of Division 2 of the Public Resources Code of the State, commencing with Section 2710, and pursuant to the powers of the County to protect the public health, safety, and welfare pursuant to Section 7 of Article XI of the Constitution of the State. (§ 1, Ord. 1190, eff. September 5, 1996)

Sec. 10-4.103. Purposes.

The purposes of this chapter are as follows:

(a) The extraction of sand and gravel is essential to the continued economic well-being of the State and to the needs of society. Although

the County encourages the production of sand and gravel, consideration must also be balanced by other societal values, including but not limited to recreation, water resources, wildlife, agriculture, and aesthetics;

(b) The potential environmental impacts, operational methods, and reclaimed end uses of in-channel surface excavation are significantly different from those associated with off-channel surface mining. Thus, it is appropriate to provide separate performance standards and findings for both in-channel and off-channel activities, so that regulations contained within this title are sensitive to the specific issues involved in each of the two (2) types of operations;

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

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

(e) Off-channel surface mining takes place in diverse areas, where the geologic, climatic, biological, and social conditions are significantly different. Surface mining permits must be specifically adapted to the requirements of the particular land being mined. Therefore, this chapter imposes general performance standards, by which off-channel surface mining operations shall be measured in order to ensure that resources and infrastructure are managed in a consistent manner to maximize their overall benefit. (§ 1, Ord. 1190, eff. September 5, 1996)

Article 2. Definitions

Sec. 10-4.201. Scope.

The definitions set forth in Article 2 of Chapter 5 of this title shall apply throughout this chapter. (§ 1, Ord. 1190, eff. September 5, 1996)

Sec. 10-4.202. Abandon: Abandonment.

"Abandon" or "abandonment" shall mean to cease surface mining or reclamation with the intention of not resuming or reclamation. Operations that have an approved interim management plan shall not be considered abandoned, unless the operator is financially incapable of performing reclamation or has failed to observe an order to comply. However, any surface mining operation that is idle for twelve (12) consecutive months or longer shall be considered abandoned. (§ 1, Ord. 1190, eff. September 5, 1996)

Sec. 10-4.203. Act.

"Act" shall mean the Surface Mining and Reclamation Act of 1975, specifically referring to Chapter 9 of Division 2 of the State Public Resources Code, Sections 2710 et seq. (§ 1, Ord. 1190, eff. September 5, 1996)

Sec. 10-4.204. Agency.

"Agency" shall mean the Community Development Agency of the County. (§ 1, Ord. 1190, eff. September 5, 1996)

Sec. 10-4.205. Board.

"Board" shall mean the Board of Supervisors of the County. (§ 1, Ord. 1190, eff. September 5, 1996)

Sec. 10-4.206. CEQA.

"CEQA" shall mean the California Environmental Quality Act set forth in Sections 21000 et seq. of Division 13 of the Public Resources Code of California. (§ 1, Ord. 1190, eff. September 5, 1996)

Sec. 10-4.207. Commission.

"Commission" shall mean the Planning Commission of the County, or its successor in function. (§ 1, Ord. 1190, eff. September 5, 1996)

Sec. 10-4.208. County.

"County" shall mean the County of Yolo. (§ 1, Ord. 1190, eff. September 5, 1996)

Sec. 10-4.209. Department.

"Department" shall mean the State Department of Conservation, or its successor in function with regards to surface mining and reclamation regulation. (§ 1, Ord. 1190, eff. September 5, 1996)

Sec. 10-4.210. Director.

"Director" shall mean the Director of the County Community Development Agency, a designee chosen by the Director, or the Director's successor in function. (§ 1, Ord. 1190, eff. September 5, 1996)

Sec. 10-4.211. Financial assurances.

"Financial assurances" shall mean monetary funds, securities, or other instruments provided by the operator to ensure that surface mining operations are reclaimed according to the approved reclamation plan, should the operator abandon the mine site. (§ 1, Ord. 1190, eff. September 5, 1996)

Sec. 10-4.212. Haul road.

"Haul road" shall mean a road along which material is transported from the area of excavation to the processing plant or stockpile area of the surface mining operation. (§ 1, Ord. 1190, eff. September 5, 1996).

Sec. 10-4.213. Idle.

"Idle" shall mean those surface mining operations where production has been reduced by more than ninety (90%) percent of the operation's previous maximum annual mineral production, for a period of one year or more, with the intent to resume operations at a later date. (§ 1, Ord. 1190, eff. September 5, 1996)

Sec. 10-4.214. Interim management plan.

"Interim management plan" shall mean an amendment to the approved reclamation plan to provide measures for maintaining an idle mine site until operations are resumed. (§ 1, Ord. 1190, eff. September 5, 1996)

Sec. 10-4.215. Mined lands.

"Mined lands" shall mean the surface, subsurface, and groundwater of an area in which surface mining operations will be, are being, or have been conducted, including private ways and roads appurtenant to any such area, land excavations, workings, mining waste, and areas in which structures, facilities, equipment, machines, tools, or other materials or property which result from, or are used in, surface mining operations are located. (§ 1, Ord. 1190, eff. September 5, 1996)

Sec. 10-4.216. Mining waste.

"Mining waste" shall mean the residual of soil, rock, mineral, liquid, vegetation, equipment, machines, tools, or other materials or property directly resulting from, or displaced by, surface mining operations. (§ 1, Ord. 1190, eff. September 5, 1996)

Sec. 10-4.217. Minor modification.

"Minor modification" shall mean a change in the approved reclamation plan that does not substantially alter the intent or the conditions of the reclamation plan. (§ 1 Ord. 1190, eff. September 5, 1996)

Sec. 10-4.218. Operator.

"Operator" shall mean any person who is engaged in surface mining operations, or who contracts with others to conduct operations on their behalf, except a person who is engaged in surface mining operations as an employee with wages as their sole compensation. (§ 1, Ord. 1190, eff. September 5, 1996)

Sec. 10-4.219. Overburden.

"Overburden" shall mean soil, rock, or other materials that lie above a natural mineral deposit or in between mineral deposits, before or after their removal by surface mining operations. (§ 1, Ord. 1190, eff. September 5, 1996)

Sec. 10-4.220. Prime agricultural land.

"Prime agricultural land" shall mean all land zoned Agricultural Preserve (A-P) and all land which meets the definition of prime agricultural land set forth in Section 51201 of the Government Code of the State as administered by the County in the administration of its agricultural preserve program. (§ 1, Ord. 1190, eff. September 5, 1996)

Sec. 10-4.221. Reclamation.

"Reclamation" shall mean the process of land treatment that minimizes water degradation, air pollution, damage to aquatic or wildlife habitat, flooding, erosion, threats to public health or safety, and other adverse effects from surface mining operations, including adverse surface effects incidental to underground mines, so that mined lands are reclaimed to a usable condition which is readily adaptable for alternate land uses. The process may extend to affected lands surrounding mined lands, and may require backfilling, grading, resoiling, revegetation, soil compaction, stabilization, or other measures. (§ 1, Ord. 1190, eff. September 5, 1996)

Sec. 10-4.222. Reclamation plan.

"Reclamation plan" shall mean the operator's completed and approved plan for reclaiming lands affected by any surface mining operations conducted after January 1, 1976, as required by Section 2772 of the Public Resources Code of the State. (§ 1, Ord. 1190, eff. September 5, 1996)

Sec. 10-4.223. Regulations.

"Regulations" shall mean the State Mining and Geology Board Reclamation Regulations, specifically referring to Subchapter 1 of Chapter 8 of Division 2 of Title 14 of the California Code of Regulations. (§ 1, Ord. 1190, eff. September 5, 1996)

Sec. 10-4.224. Responsible agency.

"Responsible agency" shall mean all public agencies other than the County which have discretionary approval power over the project. (§ 1, Ord. 1190, eff. September 5, 1996)

Sec. 10-4.225. Slope.

"Slope" shall mean the angle of the ground surface, expressed as a ratio of the horizontal distance to the vertical distance. (§ 1, Ord. 1190, eff. September 5, 1996)

Sec. 10-4.226. State CEQA guidelines.

"State CEQA guidelines" shall mean those regulations set forth in Sections 15000 et seq. of Chapter 3 of Title 14 of the California Code of Regulations. (§ 1, Ord. 1190, eff. September 5, 1996)

Sec. 10-4.227. Surface mining operations.

"Surface mining operations" shall mean all, or any part of, the process involved in the mining of minerals on mined lands by removing overburden and mining directly from the mineral deposits, open-pit mining of minerals naturally exposed, mining by the auger method, dredging and quarrying, or surface work incidental to an underground mine. Surface mining operations shall include, but are not limited to: in-place distillation or retorting or leaching; the production and disposal of mining waste; and prospecting and exploratory activities. (§ 1, Ord. 1190, eff. September 5, 1996)

Sec. 10-4.228. Trustee agency.

"Trustee agency" shall mean a state agency having jurisdiction by law over natural resources affected by a project which are held in trust for the people of the State. (§ 1, Ord. 1190, eff. September 5, 1996)

Article 3. Scope and Exemptions

Sec. 10-4.301. Incorporation by reference.

The provisions of the Act and the Regulations, as those provisions and regulations may be amended from time to time, are made a part of this chapter by reference with the same force and effect as if the provisions therein were specifically and fully set out herein, excepting that when the provisions of this chapter are more restrictive than corresponding state provisions, this chapter shall prevail. (§ 1, Ord. 1190, eff. September 5, 1996)

Sec. 10-4.302. Scope of regulations.

Unless otherwise provided in this article, no person shall conduct off-channel surface mining operations unless a surface mining permit has been approved in accordance with this chapter. Nothing in this chapter shall be interpreted as requiring the filing of a surface mining permit application for lands where surface mining operations were completed prior to January 1, 1976. (§ 1, Ord. 1190, eff. September 5, 1996)

Sec. 10-4.303. Scope: Area defined.

This chapter shall apply only to the area located within the boundary of the Off-Channel Mining Plan of the Yolo County General plan. The conduct of excavation within the channel of Cache Creek is regulated by Chapter 3 of this title and shall not be the subject to the provisions of this chapter (§ 1, Ord. 1190, eff. September 5, 1996)

Sec. 10-4.304 Exemptions: Defined.

The provisions of this chapter shall not apply to those activities and operations which are exempted by sections 2714 and 2776 of the Act. Any exemption granted from the provisions of this chapter shall not, in and of itself, exempt a

project or activity from the application of other applicable regulations and requirements. (§ 1, Ord. 1190, eff. September 5, 1996)

Sec. 10-4.305. Exemptions: Applications.

Applications for exemptions shall be submitted to the Director for review and determination as to completeness. If the application is determined incomplete, the Director shall notify the operator in writing within thirty (30) days, specifically describing the information necessary to complete the application. Upon receipt of a completed application, the Director shall determine whether the operation is exempt or is subject to the provisions of this chapter. Any person with standing may appeal the Director's decision to the Commission, pursuant to Article 11 of this chapter. (§ 1, Ord. 1190, eff. September 5, 1996)

Article 4. Off-Channel Mining Standards

Sec. 10-4.401. Scope.

The general standard for the operation of surface mines is to ensure that the public health and safety and environment are protected. This article sets forth minimum acceptable off-channel mining standards to implement this general standard. These minimum acceptable standards shall be considered and discussed in every surface mining permit approved pursuant to this chapter. In addition, the minimum practices and standards set forth in the Act shall also be considered and discussed in every surface mining permit approved pursuant to this chapter. These standards shall be followed in addition to any other conditions of approval or regulations imposed on the surface mining permit. (§ 1, Ord. 1190, eff. September 5, 1996)

Sec. 10-4.402. Access roads.

The first 100 feet of access road intersecting a County-maintained road shall be surfaced in a manner approved by the Public Works Department, with an approach constructed to County standards. Traffic control and warning signs shall be installed as required by the Public Works Department. (§ 1, Ord. 1190, eff. September 5, 1996)

Sec. 10-4.403. Accident reporting.

The operator shall immediately notify the Director of any events such as fires, explosions, spills, land or slope failures, or other conditions at the site which could pose a hazard to life or property. Action shall be immediately undertaken to alleviate the hazard. Upon request by any County agency, the operator shall provide a written report of any such event, within thirty (30) days, which shall include, but not be limited to, a description of the facts of the event, the corrective measures used, and the steps taken to

prevent a recurrence of the incident. This condition does not supersede nor replace any requirement of any other governmental entity for reporting incidents.

A copy of the operators' approved Business Emergency Response Plans and the approved Spill Prevention Control and Countermeasure Plans shall be submitted to the Yolo County Health Department, prior to the commencement of mining. (§ 1, Ord. 1190, eff. September 5, 1996)

Sec. 10-4.404. Aesthetics.

The visibility of mining operations, facilities, and landform alterations from public and viewpoints and nearby residences shall be minimized, based on an assessment of site-specific visual characteristics and viewing conditions. The use of berms, vegetative screens, seeding, special plant materials and contouring the sides and top surfaces of modified landforms, or other measures, shall be incorporated into the individual mine and reclamation plans as appropriate. (§ 1, Ord. 1190, eff. September 5, 1996)

Sec. 10-4.405. Annual production limits.

Each surface mine shall operate within the limits of the annual production level established in the use permit. Annual aggregate production may not exceed the established annual level, except to meet temporary market demand. Individual producers may exceed their maximum annual allocation by up to twenty (20%) percent in any one calendar year, so long as their running ten (10) year average does not exceed the maximum level. Aggregate sold in excess of the established annual level shall be subject to a ten (10¢) cents/ton surcharge. Monies generated by the surcharge shall be divided evenly between the CCIP fund and the Maintenance and Remediation Fund. The maximum cumulative amount of aggregate sold annually shall not exceed 5.97 million tons, plus the twenty (20%) percent market demand exception allowed for permits issued under the OCMP. Waste concrete and asphalt that is processed as recycled materials for use in construction shall not be counted as part of an operation's maximum annual production. (§ 1, Ord. 1190, eff. September 5, 1996)

Sec. 10-4.406. Benches.

During mining operations, a series of benches may be excavated in a slope provided that the excavations are made in compliance with the requirements of the State Mine Safety Orders (California Code of Regulations, Title 8, Subchapter 17). The vertical height and slope of the benches constructed for permanent reclaimed slopes shall not exceed maximum standards for the specific soil types presented in

the California Code of Regulations, Title 8, Article 6. In general, vertical cutslopes between benches shall not exceed four (4') feet in height in topsoil and overburden sediments. Benching shall be allowed in cohesive soil (clay, sandy or silty clay, clayey silt) only. Slopes above the elevation of groundwater (determined at the time of the excavation by the level of exposed water in the excavation) that exceed the maximum vertical height shall be excavated and maintained at slopes not greater than 2:1 (horizontal:vertical). Slopes located five (5') feet or less below the average summer low ground-water level shall not be steeper than 2:1 (horizontal:vertical). Slopes located more than five (5') feet below the average summer low groundwater level shall not be steeper than 1: 1 (horizontal to vertical).

Vertical cutslopes in excess of four (4') feet in height may be approved for the development of special habitat (e.g., bank swallows) if a site-specific slope stability analysis, performed by a licensed engineer, indicates that the slope does not exceed critical height for the on-site soil conditions. Projects proposing such slopes shall submit a long-term maintenance plan to ensure that the function of the slopes as habitat is met. (§ 1, Ord. 1190, eff. September 5, 1996)

Sec. 10-4.407. Conveyor systems.

Wherever practical and economically feasible, portable or movable conveyor systems shall be used to transport raw materials and overburden. (§ 1, Ord. 1190, eff. September 5, 1996)

Sec. 10-4.408. County road improvements.

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

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

declines the option, the County shall utilize the competitive bid process. (§ 1, Ord. 1190, eff. September 5, 1996)

Sec. 10-4.409. County road maintenance.

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

If a subsequent mining operation utilizes a road previously required to be improved pursuant to this subsection, then the subsequent operator shall be responsible for compliance with the agreements and requirements of the previous operator. (§ 1, Ord. 1190, eff. September 5, 1996)

Sec. 10-4.410. Cultural resources.

(a) All resource records shall be checked for the presence of and the potential for prehistoric and historic sites. Damaging effects on cultural resources shall be avoided whenever possible. If avoidance is not feasible, the importance of the site shall be evaluated by a qualified professional prior to the commencement of mining operations. If a cultural resource is determined not to be important, both the resource and the effect on it shall be reported to the Agency, and the resource need not be considered further. If avoidance of an important cultural resource is not feasible, a mitigation plan shall be prepared and implemented. The mitigation plan shall explain the importance of the resource, describe the proposed approach to mitigate destruction or damage to the site, and demonstrate how the proposed mitigation would serve the public interest.

(b) If human skeletal remains are encountered during excavation, all work within seventy-five (75') feet shall immediately stop, and the County Coroner shall be notified within twenty-four (24) hours. If the remains are of Native American origin, the appropriate Native American community identified by the Native American Heritage Commission shall be contacted, and an agreement for treating or disposing of, with appropriate dignity, the remains and associated grave goods shall be developed. If any cultural resources, such as chipped or ground stone, historic debris, building foundations, or paleontological materials are encountered during excavation, then all work within seventy-five (75') feet shall immediately stop and the Director shall be notified at once. Any cultural resources found on the site shall be recorded by a qualified archaeologist and the information shall be submitted to the Agency. (§ 1, Ord. 1190, eff. September 5, 1996)

Sec. 10-4.411. Dam requirements.

An application for construction shall be filed with the California Division of Safety for Dams and approved prior to the start of construction for any new dam that falls under the State jurisdiction for safety. (§ 1, Ord. 1190, eff. September 5, 1996)

Sec. 10-4.412. Dewatering prohibition.

Under no circumstances, shall any off-channel excavation use dewatering as a part of their surface mining operations. (§ 1, Ord. 1190, eff. September 5, 1996)

Sec. 10-4.413. Drainage.

Surface water shall be prevented from entering mined areas, through either perimeter berms or ditches and grading. Appropriate erosion control measures shall be incorporated into all surface water drainage systems. Natural and stormwater drainage systems shall be designed so as to prevent flooding on surrounding properties and County rights-of-way. Storm water runoff from mining areas shall be conveyed to lowered areas (detention basins) to provide detention of runoff generated during a twenty (20) year, one-hour storm event. All drainage conveyance channels or pipes (including spillways for detention areas) shall be designed to ensure positive drainage and minimize erosion. The drainage conveyance system and storm water detention areas shall be designed and maintained in accordance with Best Management Practices for the reduction of pollutants associated with runoff from mined areas. The design and maintenance procedures shall be documented in the Storm Water Pollution Prevention Plan required for mining operations. The drainage system shall be inspected annually by a Registered Civil Engineer, Registered

Geologist, or Certified Erosion and Sediment Control Specialist to ensure that the drainage system is functioning effectively and that adverse erosion and sedimentation are not occurring. The annual inspection shall be documented in the Annual Mining and Reclamation Report. (§ 1, Ord. 1190, eff. September 5, 1996)

Sec. 10-4.414. Dust control.

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

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

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

(c) All disturbed but inactive portions of the site shall either be seeded or watered until vegetation is grown or shall be stabilized using methods such as chemical soil binders, jute netting, or other Yolo-Solano Air Quality Management District approved methods. (§ 1, Ord. 1190, eff. September 5, 1996)

Sec. 10-4.415. Equipment maintenance.

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

Fueling and maintenance activities of heavy equipment (except draglines and floating suction dredges) are prohibited within 100 feet of open bodies of water during mining and reclamation. All Storm Water Pollution Prevention Plans shall include provisions for releases of fuels during fueling activities for draglines and floating suction dredges. (§ 1, Ord. 1190, eff. September 5, 1996)

Sec. 10-4.416. Flood protection.

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

The flood protection upgrades shall be designed and constructed to provide the necessary 100-year protection without creating a net increase of downstream flooding elevations. Downstream flooding could be increased if floodplain storage areas were removed from the drainage system by constructing levees in areas

where they did not exist before (or raising levees that are overtopped in floods up to the 100-year event). Alternative flood management design systems (potentially using detention basins, infiltration galleries, and/or floodplain storage in noncritical areas) shall be required as a condition of project approval. New development (such as buildings, levees, or dikes) located within the floodplain shall conform to all applicable requirements of the Yolo County Flood Ordinance, the Federal Emergency Management Agency (FEMA), and the State Reclamation Board. (§ 1, Ord. 1190, eff. September 5, 1996)

Sec. 10-4.417. Groundwater monitoring programs.

All surface mining operations that propose off-channel excavations extending below the groundwater level shall develop and maintain a groundwater monitoring program consisting of two (2) components: water level measurements and water quality testing. A groundwater level monitoring program shall be initiated at least six (6) months prior to the removal of overburden. At a minimum, the groundwater level monitoring program shall consist of three (3) monitoring wells, with at least one well upgradient of the wet pit and one well downgradient of the wet pit. Monitoring programs for proposed mining areas exceeding 100 acres (total proposed mining area over the life of the project) shall include one additional well for each 100 acres of wet pit mining. Therefore, wet pit mining areas of one to ninety-nine (99) acres would require three (3) wells, 100 to 199 acres would require four (4) wells, 200 to 299 acres would require five (5) wells, and so on. These wells shall be distributed through the vicinity of the wet pit mining area and used for groundwater level measurements. Groundwater levels shall be collected from the monitoring wells on a quarterly basis for six (6) months prior to mining and for the duration of the mining period. All wellheads shall be surveyed with horizontal and vertical control to allow calculation of groundwater elevations and development of groundwater contour maps. Groundwater levels shall be measured with an accuracy of plus or minus 0.01 foot, at minimum.

Water quality in the vicinity of each active wet pit mining location shall be evaluated by analyzing samples from selected monitoring wells (one upgradient and one downgradient) and wet pit surface water sampling locations. Since mining may be conducted in phases over a relatively long period of time, pit boundaries may change with time. Selection, and installation if necessary, of downgradient monitoring wells, which would be critical to adequately characterize the groundwater quality in the vicinity of the wet pits, shall be submitted by the operator for review and approval by the County. The selected monitoring wells shall be installed and sampled at

least six (6) months prior to the removal of overburden. The downgradient wells shall be located as near to the active wet pit mining areas as is practical. The upgradient wells shall be located an adequate distance from the proposed mining area to ensure that the effect of the wet pit on water quality in the well would be negligible. The water samples from the wet pit shall be collected in a manner so as to ensure that they are representative of water quality within the wet pit. The minimum sampling schedule and required analyses are described below.

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

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

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

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

One upgradient and one downgradient well shall be analyzed, at minimum, for general minerals; inorganics; nitrates; TPH as diesel and motor oil, BTEX; pesticides (EPA 8140 and 8150); and coliform (with *E. coli* confirmation). The wells shall be sampled according to the following schedule: semiannually for the first two (2) years, and annually every year thereafter.

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

A report to the Agency and Department of Environmental Health shall be submitted within

thirty (30) days of the required groundwater testing.

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

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

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

The County may retain appropriate staff or a contract consultant to provide third party critical review of all hydrologic reports related to monitoring. (§ 1, Ord. 1190, eff. September 5, 1996)

Sec. 10-4.418. Habitat management plan compliance.

All surface mining operations shall complement the preservation and enhancement measures in the Yolo County Habitat Conservation Plan (HCP). Mining operators with lands designated as having a moderate to high potential for use as mitigation areas in the HCP shall be encouraged to participate in the Developer HCP Participation Options, including use of lands as mitigation sites. (§ 1, Ord. 1190, eff. September 5, 1996)

Sec. 10-4.419. Haul roads.

Those portions of designated truck haul routes that include County-maintained roads shall be posted as such, in accordance with the Public Works Department, to facilitate law enforcement and public safety. Private truck haul routes or conveyors shall be used to transport material within the mining site, in order to reduce impacts to public roads. (§ 1, Ord. 1190, eff. September 5, 1996)

Sec. 10-4.420. Lighting.

All lighting shall be arranged and controlled so as not to illuminate public rights-of-way or adjacent properties. (§ 1, Ord. 1190, eff. September 5, 1996)

Sec. 10-4.421. Noise: General standard.

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

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

At no time shall noise levels exceed a community noise equivalent (CNEL) of sixty (60) decibels (dBA) for any existing residence or other noise-sensitive land use. An existing residence shall be considered the property line of any residentially zoned area or, in the case of agricultural land, any occupied offsite residential structures. Achieving the noise standards may involve setbacks, the use of quieter equipment adjacent to residences, the construction of landscaped berms between mining activities and residences, or other appropriate measures. (§ 1, Ord. 1190, eff. September 5, 1996)

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

If mining occurs within 1500 feet of residences, equipment used during nighttime activities shall be equipped with nonsonic warning devices consistent with the California Office of Safety Hazard Administration (Cal OSHA) regulations, which may include fencing of the area to avoid pedestrian traffic, adequate lighting of the area, and placing an observer in clear view of the equipment operator to direct backing operations. Prior to commencement of operations without sonic warning devices, operators shall file a variance request with the California OSHA Standards Board showing that the proposed operation would provide equivalent safety to adopted safety procedures, including sonic devices. (§ 1, Ord. 1190, eff. September 5, 1996)

Sec. 10-4.423. Noise: Traffic.

Operators shall provide acoustical analysis for future truck and traffic noise associated with the individual operations along County roadways identified as experiencing significant impacts due to increased traffic noise. The study shall identify noise levels at adjacent noise-sensitive receptors and ways to control the noise to the "normally acceptable" goal of a CNEL of sixty (60) dB and reduce the increase over existing conditions to five (5) dB or less. Typical measures that can be employed include the construction of noise barriers (wood or masonry), earthen berms, or re-routing of truck traffic. (§ 1, Ord. 1190, eff. September 5, 1996)

Sec. 10-4.424. Other agency approvals.

Operators shall obtain any and all permits and approvals required by other agencies having jurisdiction over the proposed mining operations and shall provide copies to the County. (§ 1, Ord. 1190, eff. September 5, 1996)

Sec. 10-4.425. Parking.

All operations shall provide sufficient off-street parking to accommodate customers, employees, and all mining equipment. (§ 1, Ord. 1190, eff. September 5, 1996)

Sec. 10-4.426. Permit life.

Surface mining permits and permits for aggregate processing facilities shall be approved for a maximum of thirty (30) years. Extensions of the permits, for up to twenty (20) years, may be granted, subject to further environmental review and discretionary approval by the County. All surface mining permits shall be subject to annual reporting requirements, as well as review by the County every ten (10) years, to account for changing regulatory requirements. (§ 1, Ord. 1190, eff. September 5, 1996)

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

If any off-channel excavation proposes to extend below the level of seasonal high groundwater, then six (6) months prior to the commencement of excavation below the average high groundwater level, the operator shall identify and locate all off-site municipal wells within 1,000 feet and all domestic wells within 500 feet of the proposed wet pit mining boundary. If active wells are identified, well characteristics (pumping rate, depth, and locations of screens) shall be determined. If wells are not located within 1,000 feet, the pre-mining impact evaluation shall be considered complete.

If wet pit mining is proposed within 1,000 feet of a municipal water supply or within 500 feet of a domestic water supply well, a capture zone analysis shall be conducted using the U.S. Environmental Protection Agency model WHPA

(or a similar model of equal capability and proven reliability, as approved by the Director). The simulation shall assume thirty (30) days of continuous pumping of the water supply well (at its maximum probable yield) under analysis. A mining setback shall be established so that the capture zone and the pit do not coincide. Alternatively, the operator shall submit a written agreement that the well owner has agreed to relocate or redesign the well, or accept the potential impact (at no expense to the County). The analysis shall be prepared and signed by a Registered Civil Engineer or Certified Hydrogeologist and submitted to the County for review and approved at least six (6) months prior to the commencement of excavation below the seasonal high groundwater level.

Any new drinking water wells proposed for installation within 1,000 feet of an approved wet pit mining area shall be subject to review by the Yolo County Environmental Health Department. The County shall determine, based on site-specific hydrogeology and available water quality data, whether to approve the proposed well installation. Analysis of environmental impact for projects in the vicinity of the wet pits shall include consideration of potential water quality impacts on the open water bodies.

The County may retain appropriate staff or a contract consultant to provide third party critical review of all hydrogeologic reports related to mining applications. (§ 1, Ord. 1190, eff. September 5, 1996)

Sec. 10-4.428. Sanitary facilities.

At least one toilet shall be provided for each off-channel mining operation. Chemical toilets shall be properly maintained and serviced regularly. Permanent toilets shall be properly engineered and the design approved by the Yolo County Building Official and the Environmental Health Department prior to installation. All on-site water storage facilities shall be labeled "potable" or "nonpotable." (§ 1, Ord. 1190, eff. September 5, 1996)

Sec. 10-4.429. Setbacks.

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

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

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

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

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

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

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

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

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

(5) Analytical slope stability analysis in conformance with Sections 10-4.426 and 10-5.517 of this title. The analysis of the slopes separating the mining area from the creek

channel shall include evaluation of stability conditions during 100-year flood flows in the channel.

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

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

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

(g) No mining activities shall occur within 2,000 feet of the community boundaries of Capay, Esparto, Madison, Woodland, and/or Yolo. This setback may be reduced by up to 500 feet when existing mature vegetation, proposed landscape buffers of a sufficient height and density to create a visual buffer (consisting of native species and fence-row habitat appropriate to the area), or other site-specific characteristics reduce potential incompatibilities between urban land uses and mining. Commercial mining shall not take place east of County Road 96. (§ 1, Ord. 1190, eff. September 5, 1996)

Sec. 10-4.430. Site maintenance.

During operations, the site shall be kept free of debris and maintained in a neat and orderly manner so as not to create any hazardous or unsightly conditions. All overburden shall be stockpiled and all stumps, brush, or other debris resulting from excavation and/or processing shall be properly disposed. (§ 1, Ord. 1190, eff. September 5, 1996)

Sec. 10-4.431. Slopes.

Except where benches are used, all banks above groundwater level shall be sloped no steeper than 2:1 (horizontal:vertical). Proposed steeper slopes shall be evaluated by a slope stability study, prepared by a Registered Civil engineer. Slopes below the groundwater level shall be no steeper than 1:1 (horizontal:vertical). Slopes located five (5') feet or less below the summer low groundwater level shall not be steeper than 2:1 (horizontal:vertical). (§ 1, Ord. 1190, eff. September 5, 1996)

Sec. 10-4.432. Soil removal.

Soil shall be cut in maximum depths in order to minimize traffic and limit compaction. The handling and transportation of soil shall be minimized. All handling of topsoil shall be accomplished when the soil is dry in order to avoid undue compaction. (§ 1, Ord. 1190, eff. September 5, 1996)

Sec. 10-4.433. Soil stockpiles.

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

Slopes on stockpiled soils shall be graded to a 2:1 (horizontal:vertical) slope for long-term storage to prevent use by bank swallows. At no time during the active breeding season (May 1 through July 31) shall slopes on stockpiles exceed a slope of 1:1, even on a temporary basis. Stockpiles shall be graded to a minimum 1:1 slope at the end of each workday where stockpiles have been disturbed during the active breeding season. (§ 1, Ord. 1190, eff. September 5, 1996)

Sec. 10-4.434. Technical report recommendations.

The recommendations contained within each technical report submitted with a surface mining permit application shall be consistent with the OCMP and with all other technical reports submitted. The recommendations of all technical reports shall be implemented. (§ 1, Ord. 1190, eff. September 5, 1996)

Sec. 10-4.435. Transfer of allocation.

If a property is sold or transferred, the allocation attributed to the property transfers as well. If the transferred tonnage is still processed at the original plant site pursuant to the original permit approval, no additional environmental assessment or permits are required. If that transferred tonnage is processed elsewhere, additional analysis and approval shall be required. The new operator shall submit a signed statement of responsibility for reclamation of the site and post financial assurances with the Agency prior to commencement. (§ 1, Ord. 1190, eff. September 5, 1996)

Sec. 10-4.436. Vegetation protection.

Existing vegetation and habitat to be retained shall be enclosed by temporary fencing to restrict access, protect against damage and/or provide buffers to reduce the impact of dust. Temporary fencing shall be a minimum of four (4') feet high. The disturbance of riparian or oak woodland vegetation, including identified off-channel vegetation. Replacement habitat and plantings shall be established where complete avoidance is not possible, according to a habitat restoration plan prepared by a qualified biologist, consistent with the goals of this plan. (§ 1, Ord. 1190, eff. September 5, 1996)

Sec. 10-4.437. Wastewater discharge.

No wastewater shall be directly discharged to Cache Creek. Sediment fines generated by aggregate processing shall either be used for agricultural soil enhancement, habitat restoration sites, or shall be placed in settling ponds, designed and operated in accordance with all applicable regulations, and used for backfill materials in off-channel excavations. Agricultural tailwater shall be diverted to catchment basins prior to its release to the creek. (§ 1, Ord. 1190, eff. September 5, 1996)

Sec. 10-4.438. Watercraft.

Only motorized dredges and draglines shall be allowed on the wet pit lakes. All other fuel-powered (gasoline or diesel) watercraft shall not be used on the wet pit lakes. Electric-powered or nonmotorized boats shall be permissible. (§ 1, Ord. 1190, eff. September 5, 1996)

Sec. 10-4.439. Wetlands.

Existing jurisdictional wetlands shall be retained to the extent possible. Replacement wetlands shall be provided where complete avoidance is not possible according to a habitat restoration plan prepared by a qualified wetland specialist and approved by jurisdictional agencies, ensuring no net loss of wetland acreage or habitat value. (§ 1, Ord. 1190, eff. September 5, 1996)

Sec. 10-4.440. Wildlife habitat.

Avoid disturbance to important wildlife habitat features such as nest trees, colonial breeding locations, elderberry host plants for Valley Elderberry Longhorn Beetle, and essential cover associated with riparian forest and oak woodland habitat. This shall include sensitive siting of haul roads, trails, and recreational facilities away from these features. Essential habitat for special-status species shall be protected and enhanced, or replaced as a part of mitigation plans prepared by a qualified biologist. (§ 1, Ord. 1190, eff. September 5, 1996)

Sec. 10-4.441. Exceptions.

Where an operator demonstrates to the lead agency that an exception to the standards specified in this article is necessary, the Commission may approve an alternative standard for inclusion in the approved surface mining permit. Exceptions shall only be approved where the strict application of the off-channel mining standards would deprive the operator of privileges enjoyed by other mining operators in the vicinity, due to special circumstances associated with the subject site, including size, shape, topography, location, or surroundings. Although the Commission may set alternative standards, in no case may the Commission set

any standard which does not meet or exceed the policy objectives set forth in the OCMF. (§ 1, Ord. 1190, eff. September 5, 1996)

Article 5. Surface Mining Permit Approval Process

Sec. 10-4.501. Zoning requirements.

Off-channel surface mining operations shall only be permitted within the Special Sand and Gravel Combining (S-G) Zone defined in Article 23.1 of Chapter 2 of Title 8 of this Code. (§ 1, Ord. 1190, eff. September 5, 1996)

Sec. 10-4.502. Applications: Contents.

Except as provided for in Section 10-4.503 of this article, all documentation for the surface mining permit shall be submitted to the Director at one time. Ten (10) complete copies of the application shall be provided to the County. An executive summary and a table of contents shall be submitted with each application. Applications for proposed surface mining permit shall include, but shall not be limited to, the following:

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

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

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

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

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

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

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

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

(b) Site-specific technical reports, performed by qualified professionals in the appropriate area of expertise, shall provide specific proposals for

inclusion in the surface mining permit to address the following potential environmental impacts:

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

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

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

(4) A traffic analysis to evaluate the impacts of proposed haul routes on the Levels of Service for County roads and State highways. The analysis shall evaluate specific designated truck routes and shall include an evaluation of existing road conditions for those routes to be used. The analysis shall also specify the projected number of average truck trips per year, average truck trips per day, estimated maximum truck trips on peak days, estimated number of peak days per

year, and estimated months in which peak days will occur. The analysis shall include appropriate measures to reduce any significant adverse impacts to traffic flow and/or safety; and

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

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

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

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

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

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

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

(3) The location and condition of any previously mined areas within the site, specifically designating those portions of the site, if any, where mining was completed prior to

January 1, 1976, and which is claimed to be exempt from the requirements of the Act;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) Reclamation to multiple or conjunctive uses;

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

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

"Net gain" may include participation in an established program whose goals are consistent with the above criteria. Benefits included in the technical studies submitted with each application which serve as mitigation measures for potentially adverse environmental impacts

created by the project may not be included as a "net gain;" and,

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

In addition to the foregoing, the Director may require such other and further information relevant to the project as needed to determine whether the proposal may affect the public health and safety. (§ 1, Ord. 1190, eff. September 5, 1996)

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

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

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

(b) The operator has provided a statement describing the reasons for the delay, including the date by which the information required in the application will be submitted. If granted, the Director shall notify the operator in writing, specifically describing the information which is being waived and specifying the date by which the operator shall provide the necessary information. If all other information required pursuant to this chapter has been submitted and the appropriate fees have been paid, then the Director shall receive the application for filing. (§ 1, Ord. 1190, eff. September 5, 1996)

Sec. 10-4.504. Applications: Filing.

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

Once the application has been determined to be complete and the appropriate fees have been paid, the application shall be processed by the Director, who shall set it for a hearing pursuant to Section 10-4.506 of this article. (§ 1, Ord. 1190, eff. September 5, 1996)

Sec. 10-4.505. Applications: Review.

The Director shall notify the Department in writing of any application for a surface mining permit within thirty (30) days of its being filed. The application shall also be circulated to all other agencies of jurisdiction for their review and comments in accordance with CEQA, or other

applicable regulatory requirements. In addition, a notice of the filing of a reclamation plan shall be mailed to any other person with an interest in the application, who has deposited a self-addressed, stamped envelope with the Agency for the purpose of receiving a notice of the filing. (§ 1, Ord. 1190, eff. September 5, 1996)

Sec. 10-4.506. Applications: Public hearing.

Once the application has been processed, the Director shall set a public hearing before the Commission to consider the proposed surface mining permit. Said hearing shall be held within six (6) months after the completion of the final EIR or within three (3) months after the completion of the negative declaration. (§ 1, Ord. 1190, eff. September 5, 1996)

Sec. 10-4.507. Public hearing: Notice.

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

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

Failure to mail or to receive such notice, as a result of mistake or inadvertence, shall not affect the validity of the hearing or the decision rendered. (§ 1, Ord. 1190, eff. September 5, 1996)

Sec. 10-4.508. Public hearing: Review.

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

(a) A copy of the proposed surface mining permit;

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

(c) Other related documentation, as appropriate.

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

If proposed surface mining operations are located within the 100-year flood plain of any stream, as shown in Zone A of the Flood Insurance Rate Maps issued by the Federal Emergency Management Agency, and within one mile of any County or State maintained bridge, then the Director shall mail a copy of the proposed surface mining permit to the State Department of Transportation for a forty-five (45) day review period. No surface mining permit may be approved until the Department of Transportation has completed its review or the forty-five (45) day period has expired. (§ 1, Ord. 1190, eff. September 5, 1996)

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

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

- (a) That the proposed surface mining permit complies with the Act and this chapter;
- (b) That surface mining shall be conducted pursuant to a reclamation plan approved in accordance with Chapter 5 of this title;
- (c) That surface mining will not be detrimental to the public health and safety;
- (d) That the surface mining permit is consistent with the General Plan, any applicable specific plans, and the zoning of the site;
- (e) That surface mining is compatible with the existing uses of surrounding lands;
- (f) That the site is physically suitable for surface mining, giving consideration, but not limited to such factors as local groundwater conditions, flood protection, drainage, habitat, and aesthetics;
- (g) That the surface mining operation includes provisions for a "net gain" to the County;
- (h) That the environmental document for the proposed surface mining permit was prepared in accordance with the provisions of CEQA and the State CEQA Guidelines; and,
- (i) That a written response to the State Department of Conservation has been prepared and considered, describing the disposition of major issues raised by the Department. (§ 1, Ord. 1190, eff. September 5, 1996)

Sec. 10-4.510. Public hearing: Decision.

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

Within ten (10) days after the decision of the Commission or Board, the Director shall mail a copy of the decision to the operator. Copies of the decision shall also be mailed to any other person with an interest in the application, who has deposited a self-addressed, stamped envelope with the Agency for the purpose of receiving a copy of the decision. (§ 1, Ord. 1190, eff. September 5, 1996)

Article 6. Amendments and Modifications to Approved Surface Mining Permits

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

The purpose of this article is to provide procedures for changing the conditions of approval or project description (as described in the application and accompanying analyses) to account for unanticipated changes in the surface mining operation, site characteristics, regulations, or other aspects of the approved surface mining permit. (§ 1, Ord. 1190, eff. September 5, 1996)

Sec. 10-4.602. Amendments: Applications.

Applications for amendments to previously approved surface mining permits shall be submitted to the Director, on forms provided by the Agency, and shall be accompanied by the appropriate fees, as determined in Article 8 of this chapter. Such applications shall be processed pursuant to the procedures set forth in Article 5 of this chapter. (§ 1, Ord. 1190, eff. September 5, 1996)

Sec. 10-4.603. Amendments: Exceptions.

Proposed exceptions to the off-channel mining standards may not be included as part of any application for a minor modification. Any changes in the conditions of approval or the amount of surface area and/or depth to be disturbed shall also be treated as a substantial deviation from the approved plan. Such changes and exceptions shall be processed as an amendment to the surface mining permit. (§ 1, Ord. 1190, eff. September 5, 1996)

Sec. 10-4.604. Minor modifications.

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

The decision of the Director shall be mailed and posted in accordance with Section 10-5.507 of this chapter. Any minor modification approved by the Director shall become final within fifteen (15) days, unless appealed to the Commission, as provided in Article 10 of this chapter. (§ 1, Ord. 1190, eff. September 5, 1996)

Sec. 10-4.605. Interim permit review.

Every ten (10) years after a surface mining permit has been approved, the Commission shall hold a public hearing in accordance with Article 5 of this chapter, for the purpose of amending the permit to bring it into conformance with applicable future environmental regulations and statutory changes. An additional public hearing may be held fifteen (15) years after a surface mining permit has been approved, at the discretion of the Commission. The Commission shall evaluate the permit to determine if there have been any subsequently adopted environmental regulations or statutory provisions which should be made applicable to the mining operation, even if such laws themselves are not made retroactive to affect the permit. For the purposes of this article, an environmental regulation or statutory provision is one that is promulgated by a responsible or trustee agency that has authority for a particular natural resource (e.g., Yolo-Solano Air Quality Management District, California Department of Fish and Game, California Department of Conservation, Regional Water Quality Control Board, State Lands Commission, State Reclamation Board, etc.), including the County of Yolo.

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

Should the Commission decide to incorporate into the permit new regulatory or statutory provisions that were not available at the time of project approval, said provisions shall be applied as an amendment to the permit and processed in accordance with Article 6 of this chapter. The decision of the Commission may be appealed, in accordance with Article 10 of this chapter. (§ 1, Ord. 1190, eff. September 5, 1996)

Article 7. Annual Reports

Sec. 10-4.701. Annual reports: Contents.

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

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

(1) Property boundaries and the boundaries of permitted mining areas, including the depiction of separate mining phases;

(2) The existing contours;

(3) Contours which show the areas and depth of mining which have occurred since the previous annual report;

(4) Identification of any significant changes in the topography, such as bank failures, levee breaches, extensive erosion, etc. which have occurred since the previous annual report;

(5) Identification of erosion control structures, levees, berms, stockpiles, haul roads, settling ponds, habitat avoidance areas, and processing facilities;

(6) The extent of areas reclaimed since the previous annual report;

(7) The extent of any borrow areas, where topsoil and overburden are excavated for use in the reclamation of mined lands; and

(8) Updated graphic depictions of the control cross-sections approved in the surface mining permit application.

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

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

(c) A statement of the total amount of concrete and asphalt materials recycled since the date of the preceding annual report, and a statement of the total amount of aggregate

removed from Cache Creek as a result of channel maintenance and reshaping activities in accordance with the CCRMP;

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

(e) A report describing the previous year's crop yields on any land in the process of being reclaimed to agriculture in accordance with the approved reclamation plan. The report shall include a soil analysis and appropriate remedial measures prepared by a qualified agronomist if crop yields do not meet the production standards set forth in the approved reclamation plan;

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

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

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

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

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

(k) A statement describing the status of any permits or approval issued by other agencies of jurisdiction (§ 1, Ord. 1190, eff. September 5, 1996)

Sec. 10-4.702. Annual reports: Filing.

Annual reports shall be submitted to the Director for review and determination as to completeness. If the annual report is determined to be incomplete, the Director shall notify the operator in writing within thirty (30) days of

receipt of the annual report. The written notice shall specifically describe the information necessary to complete the annual report. The annual report shall not be processed until the Director has determined it to be complete and the appropriate fees have been paid, as required under Article 8 of this chapter.

Once the annual report has been determined to be complete and the appropriate fees have been paid, the annual report shall be filed by the Director and made available for public review. (§ 1, Ord. 1190, eff. September 5, 1996)

Sec. 10-4.703. Annual reports: Hearing.

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

Within ten (10) days after the decision of the Commission, the Director shall mail a copy of the decision to the operator. Copies of the decision shall also be mailed to any other person with an interest in the application, who has deposited a self-addressed, stamped envelope with the Agency for the purpose of receiving a copy of the decision. The decision of the commission may be appealed in accordance with Article 10 of this chapter. (§1, Ord. 1190, eff. September 5, 1996)

Article 8. Fees

Sec. 10-4.801. Fees: Application.

Each application for a surface mining permit or any amendments and modifications thereto shall be accompanied by the appropriate fee as determined in the Master Fee Resolution adopted by the Board. (§ 1, Ord. 1190, eff. September 5, 1996)

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

The operator shall be responsible for the payment of fees to cover the costs incurred by the County in annually inspecting each mine site, pursuant to Section 10-3.1103 of this chapter, as determined by the Master Fee Resolution adopted by the Board. Said fee shall be due within thirty (30) days of written notification by the Director. This fee shall also cover the costs of the annual compliance review required under Section 10-4.703 of this chapter.

In addition, each operator shall participate in a funding mechanism to reimburse the County for

any costs associated with administering the Act and this chapter, not otherwise covered by the fees listed above. Administrative fees shall be placed in a separate account of the General Fund that is used solely for the purpose of administering the Act and this chapter. (§ 1, Ord. 1190, eff. September 5, 1996)

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

Each operator shall pay an annual surcharge of two (2¢) cents per ton (sold) to be placed into a maintenance and remediation fund to be used solely for purposes directly related to the protection and restoration of the lower Cache Creek watershed. This surcharge shall be imposed in addition to the surcharge required for the CCRMP and CCIP. The maintenance and remediation fund shall be held by the County in a separate trust account, segregated from any other revenues.

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

Any disbursement of money from the maintenance and remediation fund shall require approval by the Board of Supervisors. Use of this fund for any purposes other than those specified above is prohibited. (§ 1, Ord. 1190, eff. September 5, 1996)

Sec. 10-4.804. Fees: Delinquent payment.

Failure to pay the above fees in a timely manner shall be considered a violation and may be enforced under the provisions of Article 12 of this chapter. (§ 1, Ord. 1190, eff. September 5, 1996)

Article 9. Confidentiality of Records

Sec. 10-4.901. Confidentiality of records.

Any proprietary information submitted in a surface mining permit application, a report, or other document required by this chapter, which is considered by the operator to be confidential shall be submitted under separate cover and

shall be so marked by the Director. Proprietary information shall include, but may not be limited to, the following:

(a) Annual production figures, reserves, or rates of depletion of the aggregate resource being mined, pursuant to Section 2778(a) of the Act;

(b) Well log information; and

(c) The location and extent of sensitive archaeological sites.

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

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

If the request is approved, then the confidential information shall be filed under separate cover. The contents of the confidential file shall be made available only to the Director and those persons authorized in writing by the operator and by the property owner. If the request is denied, the operator may withdraw the information and include it with the application or report as a public document. Failure to submit any necessary information may result in an incomplete application or report. (§ 1, Ord. 1190, eff. September 5, 1996)

Article 10. Appeals

Sec. 10-4.1001. Appeals: Planning Commission.

The action of the Director on any decision made pursuant to this chapter shall be final unless, within fifteen (15) days after such action, any person with appropriate standing files a written appeal, and pays the appropriate fee, to the Clerk of the Commission. The timely filing of an appeal shall stay the Director's decision, which shall serve as a recommendation to the Commission. All such appeals shall reference the decision of the Director and shall specifically describe the grounds for the appeal. (§ 1, Ord. 1190, eff. September 5, 1996)

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

The hearing on an appeal of a decision by the Director shall be scheduled within sixty (60) days from when the appeal was filed. The Director shall provide notice of the appeal

hearing, pursuant to Section 10-4.507 of this chapter. Upon hearing the appeal, the Commission shall either affirm, reverse, or modify the appealed decision, or refer the matter back to the Director for further action.

A decision of the Commission may be appealed to the Board, pursuant to this article. The appeal rights under this section shall be exercised prior to filing an appeal pursuant to Section 10-3.1007 of this chapter. (§ 1, Ord. 1190, eff. September 5, 1996)

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

The action of the Commission on any decision made pursuant to this chapter shall be final unless, within fifteen (15) days after such action, any person with appropriate legal standing files a written appeal, and pays the appropriate fee, to the Clerk of the Board. The timely filing of an appeal shall stay the Commission's decision, which shall serve as a recommendation to the Board. All such appeals shall reference the decision of the Commission and specifically describe the grounds for the appeal. (§ 1, Ord. 1190, eff. September 5, 1996)

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

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

If the Board fails to take one of the above actions, the appeal shall be considered denied without prejudice. Appeals that are denied without prejudice may be reconsidered at a new public hearing, noticed in accordance with Section 10-4.505 of this chapter. (§ 1, Ord. 1190, eff. September 5, 1996)

Sec. 10-4.1005. Appeals: Scope.

Any appeal of a decision or action shall serve only as an appeal of the specific action or issue identified, based on the grounds and issues described in the appeal. The appellate body shall consider the record of the decision being appealed. New evidence not previously introduced in the record of the decision may not be presented at the hearing regarding the appeal. (§ 1, Ord. 1190, eff. September 5, 1996)

Sec. 10-4.1006. Appeals: Withdrawal.

Appeals to either the Commission or the Board may be withdrawn at any time. (§ 1, Ord. 1190, eff. September 5, 1996)

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

An appeal of a decision by the Board may be filed with the State Mining and Geology Board, if the appellant can substantiate, based on the record, that the County has failed to act within a reasonable time after receiving a completed application. If the State Mining and Geology Board remands a decision pursuant to this section, then the Board shall reconsider their decision in accordance with the procedures described in this article. (§ 1, Ord. 1190, eff. September 5, 1996)

Article 11. Inspections: Notices of Violations

Sec. 10-4.1101. Inspections: Purpose.

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

- (a) To determine compliance with this chapter and the Act;
- (b) To determine compliance with the conditions of any surface mining permit approved pursuant to this chapter;
- (c) To investigate the environmental effects which the surface mining operations may be causing to the surrounding area; and
- (d) To verify the information submitted in any application or any annual report submitted pursuant to this chapter. (§ 1, Ord. 1190, eff. September 5, 1996)

Sec. 10-4.1102. Inspections: Annual.

At least once every year, the Director shall conduct an inspection of each surface mining operation to determine whether the operator is in compliance with the Act and this chapter. Each inspection shall be conducted within six (6) months after receipt by the County of the operation's annual report, submitted pursuant to Section 2207 of the Public Resources Code, and may be combined with other site inspections, as appropriate. (§ 1, Ord. 1190, eff. September 5, 1996)

Sec. 10-4.1103. Annual inspections: Notification.

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

- (a) A statement regarding whether the operation is in compliance with the Act and this

chapter. Any violations of either the Act or this chapter shall be specifically described;

(b) The completed inspection forms;

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

d) Any supporting documentation.

Copies of the notice shall also be provided to the operator. (§ 1, Ord. 1190, eff. September 5, 1996)

Sec. 10-4.1104. Inspections: Designee.

Inspections shall be conducted by a State-registered geologist, State-registered civil engineer, State-licensed landscape architect, State-registered forester, County staff, or other designee as determined by the Director, who is experienced in mined land reclamation and who has not been employed by the mining operation in any capacity during the previous twelve (12) months. (§ 1, Ord. 1190, eff. September 5, 1996)

Sec. 10-4.1105. Violations: Notice.

Whenever the Director has reasonable cause to believe that a surface mining operation is in violation of the Act, this chapter, or any terms or conditions of a surface mining permit issued pursuant to this chapter, a written notice of violation shall be served to the operator. The notice shall specifically describe both the violation(s) and the remedial steps required for compliance. Said notice shall be served by certified mail and a copy shall be sent to the Department. In the event that the notice is returned unreturned, a copy of the notice shall be posted in a conspicuous place within the surface mining site. (§ 1, Ord. 1190, eff. September 5, 1996)

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

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

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

in Section 10-4.507 of this chapter. (§ 1, Ord. 1190, eff. September 5, 1996)

Sec. 10-4.1107. Violations: Hearing.

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

(a) Approve the order of the Director;

(b) Remove any of the violations and approve the order as modified; or

(c) Decline to approve the order of the Director.

If the order of the Director is approved, the Commission's decision shall become final and the approved order will take effect fifteen (15) days after the decision, unless an appeal is filed with the Board, pursuant to Article 11 of this chapter. (§ 1, Ord. 1190, eff. September 5, 1996)

Sec. 10-4.1108. Violations: Revocation.

If an operator fails to observe an order of compliance, then the surface mining permit shall be considered revoked and the Director shall initiate procedures to forfeit the operator's financial assurances in accordance with Article 9 of Chapter 5 of this title. (§ 1, Ord. 1190, eff. September 5, 1996)

Sec. 10-4.1109. Violations: Administrative penalties.

If the operator fails to comply with an effective order of compliance, issued pursuant to this article, the Commission may issue an order imposing administrative penalties of not more than Five Thousand and no/100ths (\$5,000) Dollars per day, retroactive to the original date of noncompliance. When determining the amount of the penalty, the Commission shall consider, but may not be limited to, the following factors:

(a) The nature, circumstances, extent, and gravity of the violation(s);

(b) Any prior history of violations; and,

(c) The degree of culpability by the operator.

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

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

be subject to review by any court or agency. The order establishing administrative penalties shall be served by certified mail to the operator.

Payment of the administrative penalties shall be made by the operator to the County within thirty (30) days of receipt of the order. However, if a petition for review has been filed, the payment shall be held in an interest bearing impound account until the matter has been resolved. Penalties collected by the Director shall only be used to cover the reasonable costs incurred by the County in administering either the Act or Chapters 3, 4, and 5 of Title 10 of this Code. (§ 1, Ord. 1190, eff. September 5, 1996)

Sec. 10-4.1110. Violations: Public nuisance.

Any surface mining operation in violation of this title, or in violation of any surface mining permit or effective order of compliance approved pursuant to this chapter, shall be considered a public nuisance. If the operator fails to comply with an effective order of compliance, issued pursuant to this article, the Director may refer the violation to the District Attorney for criminal remedies. (§ 1, Ord. 1190, eff. September 5, 1996)

Chapter 5

SURFACE MINING RECLAMATION*

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* Sections 10-5.101 through 10-5.1305, codified from Ordinance No. 821, effective February 22, 1979, as amended by Ordinance No. 945, effective February 24, 1983, amended in their entirety by Ordinance 1191, effective September 5, 1996.

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10-5.901	Abandonment: Hearing.		Sec. 10-5.101. Title.
10-5.902	Abandonment: Notice.		This chapter shall be known as the "The Surface Mining Reclamation Ordinance of Yolo County." (§ 1, Ord. 1191, eff. September 5, 1996)
10-5.903	Abandonment: Forfeit of financial assurances.		Sec. 10-5.102. Authority.
10-5.904	Abandonment: Reclamation.		This chapter is enacted pursuant to the authority granted by the California Surface Mining and Reclamation Act of 1975, Chapter 9 of Division 2 of the Public Resources Code of the state, commencing with Section 2710; the State Mining and Geology Board Reclamation Regulations, Chapter 8 of Division 2 of Title 14 of the California Code of Regulations, commencing with Section 3500; and pursuant to the powers of the County to protect the public health, safety, and welfare pursuant to Section 7 of Article XI of the Constitution of the State. (§ 1, Ord. 1191, eff. September 5, 1996)

Article 2. Definitions

Sec. 10-5.103. Purposes.

The purposes of this chapter are as follows:

(a) The reclamation of mined lands is necessary to prevent or minimize the adverse effects of mining on the environment and to protect the public health and safety;

(b) The reclamation of mined lands shall provide for the protection and subsequent beneficial use of mined lands. However, mining takes place in diverse areas, with significantly different geologic, topographic, climatic, biological, and social conditions, so that the methods and operations of reclamation plans may vary accordingly to provide for the most beneficial reclamation of mined lands;

(c) In order to provide for reclamation plans that are specifically adapted to the requirements of particular mined lands; and to ensure that mined land is reclaimed to end uses such as agriculture, habitat, groundwater recharge, flood control, and channel stabilization in a consistent manner to maximize their overall management; this chapter imposes performance standards by which reclamation methods and operations shall be measured;

(d) The continued protection of agriculture and open-space uses is essential. As such, all off-channel, prime agricultural land and/or off-channel lands zoned Agricultural Preserve (A-P) and within a Williamson Act contract at the time that mining commences shall be reclaimed to an agriculturally productive state equal to or greater than that which existed before mining commenced. Prime agricultural land that is within the A-P Zone and is not within a Williamson Act contract shall be reclaimed to those uses which are declared by the County to be compatible with agricultural activities. Such uses include, but are not limited to, the following:

- (1) Agriculture and range land;
 - (2) Groundwater storage and recharge areas;
 - (3) Fish, wildlife, and plant habitat;
 - (4) Watercourses and flood control basins;
- and,
- (5) Recreational or open space lands;

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

(f) Reclamation plans shall be designed to integrate with the long-term goals of encouraging agriculture, habitat, recreation, and the riparian corridor. Provisions shall be made to continue monitoring and maintenance activities after reclamation is completed, where appropriate, in order to ensure that reclaimed uses remain compatible with and enhance local resource management. (§ 1, Ord. 1191, eff. September 5, 1996)

Sec. 10-5.201. Scope.

The definitions set forth in section 2725 et seq. of the Act and 3500 et seq. of the Regulations shall apply throughout this chapter. In addition, the definitions set forth in this article shall also govern the interpretation of this chapter. (§ 1, Ord. 1191, eff. September 5, 1996)

Sec. 10-5.202. Abandon: Abandonment.

"Abandon" or "abandonment" shall mean to cease surface mining or reclamation with the intention of not resuming or reclaiming. Operations that have an approved interim management plan shall not be considered abandoned, unless the operator is financially incapable of performing reclamation or has failed to observe an order to comply. However, any surface mining operation that is idle for twelve (12) consecutive months or longer shall be considered abandoned. (§ 1, Ord. 1191, eff. September 5, 1996)

Sec. 10-5.203. Act.

"Act" shall mean the Surface Mining and Reclamation Act of 1975, specifically referring to Chapter 9 of Division 2 of the State Public Resources Code, Sections 2710 et seq. (§ 1, Ord. 1191, eff. September 5, 1996)

Sec. 10-5.204. Agency.

"Agency" shall mean the Community Development Agency of the County. (§ 1, Ord. 1191, eff. September 5, 1996)

Sec. 10-5.205. Board.

"Board" shall mean the Board of Supervisors of the County. (§ 1, Ord. 1191, eff. September 5, 1996)

Sec. 10-5.206. CEQA.

"CEQA" shall mean the California Environmental Quality Act set forth in Sections 21000 et seq. of Division 13 of the Public Resources Code of California. (§ 1, Ord. 1191, eff. September 5, 1996)

Sec. 10-5.207. Commission.

"Commission" shall mean the Planning Commission of the County, or its successor in function. (§ 1, Ord. 1191, eff. September 5, 1996)

Sec. 10-5.208. County.

"County" shall mean the County of Yolo. "Director" shall mean the Director of the County Community Development Agency, a designee chosen by the Director, or the Director's successor in function. (§ 1, Ord. 1191, eff. September 5, 1996)

Sec. 10-5.209. Department.

“Department” shall mean the State Department of Conservation, or its successor in function with regards to surface mining and reclamation regulation. (§ 1, Ord. 1191, eff. September 5, 1996)

Sec. 10-5.210. Director.

“Director” shall mean the Director of the County Community Development Agency, a designee chosen by the Director, or the Director’s successor in function. (§ 1, Ord. 1191, eff. September 5, 1996)

Sec. 10-5.211. Financial assurances.

“Financial assurances” shall mean monetary funds, securities, or other instruments provided by the operator to ensure that surface mining operations are reclaimed according to the approved reclamation plan, should the operator abandon the mine site. (§ 1, Ord. 1191, eff. September 5, 1996)

Sec. 10-5.212. Haul road.

“Haul road” shall mean a road along which material is transported from the area of excavation to the processing plant or stockpile area of the surface mining operation. (§ 1, Ord. 1191, eff. September 5, 1996)

Sec. 10-5.213. Idle.

“Idle” shall mean those surface mining operations where production has been reduced by more than ninety (90%) percent of the operation’s previous maximum annual mineral production, for a period of one year or more, with the intent to resume operations at a later date. (§ 1, Ord. 1191, eff. September 5, 1996)

Sec. 10-5.214. Interim management plan.

“Interim management plan” shall mean an amendment to the approved reclamation plan to provide measures for maintaining an idle mine site until operations are resumed. (§ 1, Ord. 1191, eff. September 5, 1996)

Sec. 10-5.215. Irrevocable letter of credit.

“Irrevocable letter of credit” shall mean a form of financial assurance whereby a bank authorized to do business in the State submits a letter granting credit on behalf of the mine operator. (§ 1, Ord. 1191, eff. September 5, 1996)

Sec. 10-5.216. Mined lands.

“Mined lands” shall mean the surface, subsurface, and groundwater of an area in which surface mining operations will be, are being, or have been conducted, including private ways and roads appurtenant to any such area, land excavations, workings, mining waste, and areas in which structures, facilities, equipment, machines, tools, or other materials or property

which result from, or are used in, surface mining operations are located. (§ 1, Ord. 1191, eff. September 5, 1996)

Sec. 10-5.217. Mining waste.

“Mining waste” shall mean the residual of soil, rock, mineral, liquid, vegetation, equipment, machines, tools, or other materials or property directly resulting from, or displaced by, surface mining operations. (§ 1, Ord. 1191, eff. September 5, 1996)

Sec. 10-5.218. Minor modification.

“Minor modification” shall mean a change in the approved reclamation plan that does not substantially alter the intent or the conditions of the reclamation plan. (§ 1, Ord. 1191, eff. September 5, 1996)

Sec. 10-5.219. Operator.

“Operator” shall mean any person who is engaged in surface mining operations, or who contracts with others to conduct operations on their behalf, except a person who is engaged in surface mining operations as an employee with wages as their sole compensation. (§ 1, Ord. 1191, eff. September 5, 1996)

Sec. 10-5.220. Overburden.

“Overburden” shall mean soil, rock, or other materials that lie above a natural mineral deposit or in between mineral deposits, before or after their removal by surface mining operations. (§ 1, Ord. 1191, eff. September 5, 1996)

Sec. 10-5.221. Prime agricultural land.

“Prime agricultural land” shall mean all land zoned Agricultural Preserve (A-P) and all land which meets the definition of prime agricultural land set forth in Section 51201 of the Government Code of the State as administered by the County in the administration of its agricultural preserve program. (§ 1, Ord. 1191, eff. September 5, 1996)

Sec. 10-5.222. Reclamation.

“Reclamation” shall mean the process of land treatment that minimizes water degradation, air pollution, damage to aquatic or wildlife habitat, flooding, erosion, threats to public health or safety, and other adverse effects from surface mining operations, including adverse surface effects incidental to underground mines, so that mined lands are reclaimed to a usable condition which is readily adaptable for alternate land uses. The process may extend to affected lands surrounding mined lands, and may require backfilling, grading, resoiling, revegetation, soil compaction, stabilization, or other measures. (§ 1, Ord. 1191, eff. September 5, 1996)

Sec. 10-5.223. Reclamation plan.

"Reclamation plan" shall mean the operator's completed and approved plan for reclaiming lands affected by any surface mining operations conducted after January 1, 1976, as required by Section 2772 of the Public Resources Code of the State. (§ 1, Ord. 1191, eff. September 5, 1996)

Sec. 10-5.224. Regulations.

"Regulations" shall mean the State Mining and Geology Board Reclamation Regulations, specifically referring to Subchapter 1 of Chapter 8 of Division 2 of Title 14 of the California Code of Regulations. (§ 1, Ord. 1191, eff. September 5, 1996)

Sec. 10-5.225. Responsible agency.

"Responsible agency" shall mean all public agencies other than the County which have discretionary approval power over the project. (§ 1, Ord. 1191, eff. September 5, 1996)

Sec. 10-5.226. Slope.

"Slope" shall mean the angle of the ground surface, expressed as a ratio of the horizontal distance to the vertical distance. (§ 1, Ord. 1191, eff. September 5, 1996)

Sec. 10-5.227. State CEQA guidelines.

"State CEQA guidelines" shall mean those regulations set forth in Sections 15000 et seq. of Chapter 3 of Title 14 of the California Code of Regulations. (§ 1, Ord. 1191, eff. September 5, 1996)

Sec. 10-5.228. Surety bond.

"Surety bond" shall mean a form of financial assurance whereby an indemnity agreement is executed in a certain amount, either by the mine operator as principal and surety, or by a surety firm authorized to do business in the State. (§ 1, Ord. 1191, eff. September 5, 1996)

Sec. 10-5.229. Surface mining operations.

"Surface mining operations" shall mean all, or any part of, the process involved in the mining of minerals on mined lands by removing overburden and mining directly from the mineral deposits, open-pit mining of minerals naturally exposed, mining by the auger method, dredging and quarrying, or surface work incidental to an underground mine. Surface mining operations shall include, but are not limited to: in-place distillation or retorting or leaching; the production and disposal of mining waste; and prospecting and exploratory activities. (§ 1, Ord. 1191, eff. September 5, 1996)

Sec. 10-5.230. Trustee agency.

"Trustee agency" shall mean a State agency having jurisdiction by law over natural resources affected by a project which are held in trust for

the people of the State. (§ 1, Ord. 1191, eff. September 5, 1996)

Sec. 10-5.231. Trust fund.

"Trust fund" shall mean a form of financial assurance, including: cash deposited in a federally insured account; negotiable bonds "held in escrow" by a political subdivision and endorsed by the operator, and rated "A" or better by a nationally recognized bond rating organization; or negotiable certificates of deposit in a federally insured depository. (§ 1, Ord. 1191, eff. September 5, 1996)

Article 3. Scope and Exemptions

Sec. 10-5.301. Incorporation by reference.

The provisions of the Act and the Regulations, as those provisions and regulations may be amended from time to time, are made a part of this chapter by reference with the same force and effect as if the provisions therein were specifically and fully set out herein, excepting that when the provisions of this chapter are more restrictive than corresponding State provisions, this chapter shall prevail. (§ 1, Ord. 1191, eff. September 5, 1996)

Sec. 10-5.302. Scope of regulations.

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

Sec. 10-5.303. Scope: Area defined.

This chapter shall apply only to the area located within the boundaries of the Cache Creek Area Plan of the Yolo County General Plan. (§ 1, Ord. 1191, eff. September 5, 1996)

Sec. 10-5.304. Exemptions: Defined.

The provisions of this chapter shall not apply to those activities and operations which are exempted by Sections 2714 and 2776 of the Act. Any exemption granted from the provisions of this chapter shall not, in and of itself, exempt a project or activity from the application of other applicable regulations and requirements. (§ 1, Ord. 1191, eff. September 5, 1996)

Sec. 10-5.305. Exemptions: Applications.

Applications for exemptions shall be submitted to the Director for review and determination as to completeness. If the application is determined incomplete, the Director

shall notify the applicant in writing within thirty (30) days, specifically describing the information necessary to complete the application. Upon receipt of a completed application, the Director shall determine whether the operation is exempt or is subject to the provisions of this chapter. Any person with standing may appeal the Director's decision to the Commission, pursuant to Article 11 of this chapter. (§ 1, Ord. 1191, eff. September 5, 1996)

**Article 4. Minimum Reclamation Standards:
In-Channel Operations.**

(Not Used)

**Article 5. Minimum, Reclamation Performance
Standards: Off-Channel Operations**

**Sec. 10-5.501. Reclamation standards:
Scope.**

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

This article sets forth minimum acceptable practices to be followed in reclamation operations to implement this general standard. These minimum acceptable standards shall be considered and discussed in every reclamation plan approved pursuant to this chapter. In addition, the minimum statewide reclamation practices and standards set forth in the Regulations shall also be considered and discussed in every reclamation plan approved pursuant to this chapter. These standards shall be followed in addition to any other conditions of approval or regulations imposed on the surface mining permit. (§ 1, Ord. 1191, eff. September 5, 1996)

Sec. 10-5.502. Aesthetics.

Means of improving the appearance of the landscape after mining has been completed shall be assessed based on site-specific visual characteristics, site lines, and view corridors. The use and placement of berms, vegetative screens, special plant materials, grading, slopes, and contouring the sides and top surfaces of modified landforms to mimic surrounding landforms, or other measures, shall be incorporated into the mine reclamation plan as appropriate. (§ 1, Ord. 1191, eff. September 5, 1996)

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

The area of backfilled off-channel excavations extending below the groundwater table shall be minimized in order to reduce

changes to groundwater levels and flow. Backfilled pits shall be oriented with regard to the direction of groundwater flow to prevent localized obstructions. If a backfilled off-channel excavation is proposed to penetrate either fifty (50') feet or one-half (1/2) into the saturated thickness of the shallow aquifer, then at least six (6) months prior to the commencement of excavation below the average high groundwater level, the applicant shall demonstrate in a manner consistent with the Technical Studies that the pit design will not adversely affect active off-site wells within 1,000 feet of the proposed pit boundary. If the application includes a series of backfilled pits, then the applicant shall also demonstrate that the cumulative effects of the multiple backfilled pits will not adversely affect groundwater flow, if there are any active off-site wells within 1,000 feet of the pit boundaries.

The applicant shall demonstrate, using MODFLOW (or a similar model of equal capability and proven reliability, as approved by the Yolo County Community Development Director), that the proposed pit design would not adversely impact active off-site wells within 1,000 feet of the proposed pit boundary or result in well failure.

Average, historic low groundwater levels, which represent the condition of maximum threat to water levels in the subject well, shall be used for this simulation. If an adverse impact is identified by the MODFLOW (or other approved model) simulation, the mining and reclamation plan shall be modified or the applicant shall submit a written agreement that the well owner has agreed to relocate or redesign the well, or accept the potential impact (at no expense to the County).

Site-specific aquifer testing shall be conducted, if needed, to determine aquifer properties for the required modeling. (§ 1, Ord. 1191, eff. September 5, 1996)

**Sec. 10-5.504. Backfilled excavations:
Improvements.**

Improvements, including the construction of buildings, roadways, or other public facilities proposed for construction in reclaimed mining pits shall require a geotechnical investigation of the stability of fills conducted by a Licensed Geotechnical Engineer or a Registered Civil Engineer. A report on the results and recommendations of the investigation shall be submitted to the Yolo County Community Development Agency prior to the issuance of building permits. The recommendations of the geotechnical investigations shall be fully implemented by the applicant. (§ 1, Ord. 1191, eff. September 5, 1996)

**Sec. 10-5.505. Backfilled excavations:
Inspections.**

Backfilled mining areas and slopes shall be inspected by the Yolo County Community Development Agency following strong seismic shaking events. Observable damage shall be reported to the landowner. If the YCCDA determines that the damage requires repair to meet the intended use of the reclaimed land, the landowner shall perform the required repairs. (§ 1, Ord. 1191, eff. September 5, 1996)

Sec. 10-5.506. Bank stabilization maintenance.

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

The condition of flood protection structures and the integrity of the land within the approved setback zone separating the mining areas and the stream channel shall be inspected annually by a Registered Civil Engineer and reported to the Yolo County Community Development Agency. The annual report shall include recommendations for remedial action for identified erosion problems. Following reclamation, the YCCDA shall inspect the land separating the mining areas and creek channel every five (5) years. Observable damage shall be reported to the property owner. If the YCCDA determines that damage requires repair to meet the intended performance of the separator, the property owner shall perform the required repairs. (§ 1, Ord. 1191, eff. September 5, 1996)

Sec. 10-5.507. Drainage.

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

Drainage and detention facilities within the proposed mining areas and vicinity shall be designed to prevent discharges to the wet pits and surface water conveyances (i.e., creeks and sloughs) from the twenty (20) year/one-hour storm or less. For events greater than the twenty (20) year/one-hour storm, runoff from around the perimeter of the mining areas shall be directed into surface water conveyances. Runoff from within the lowered mining area shall be directed away from wet pits to detention/infiltration areas.

Drainage plans shall not rely solely on ditches and berms to direct runoff away from the wet pit. Without proper maintenance, berms and ditches may deteriorate with time and become ineffective. Drainage plans shall emphasize the grading of disturbed areas that results in broad gently slopes that drain away from the pits. Grading plans shall be reviewed by the County to evaluate compliance with drainage plan objectives prior to project approval.

In addition, a restriction shall be recorded on the deed that requires berms and ditches to be permanently maintained in a condition consistent with the final approval. The deed restriction shall require an inspection easement which allows County staff or other authorized personnel access for the inspection of berms and ditches. If the County determines that evidence of damage to those facilities exist, the County shall require that the owner have an inspection report for the property prepared by a Registered Geologist or Registered Civil Engineer. The inspection report including recommendations for corrective action, if needed, shall be submitted to the Yolo County Community Development Agency. The property owner shall be required to implement recommended corrective action, if any. (§ 1, Ord. 1191, eff. September 5, 1996)

Sec. 10-5.508. Erosion control.

The grading of final slopes, the replacement of soil, and associated erosion control measures shall take place prior to November 1 in areas where mining has been completed. To minimize erosion, the finish grading of mining pit slopes above the average seasonal high groundwater level, with the exception of the location of designated haul roads, shall be performed as soon as practical after the mining of overburden and unsaturated aggregate resources has been completed. A drought-tolerant, weed-free mix of native and nonnative grass species shall be established on slopes prior to November 1 or alternate erosion control (mulch or netting) shall be placed on exposed soil on the slopes prior to this date. Phasing of mining to minimize the length of exposed mining slopes during the rainy season is encouraged. (§ 1, Ord. 1191, eff. September 5, 1996)

Sec. 10-5.509. Fence row habitat.

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

planting densities for trees and shrubs, and include provisions for monitoring and maintenance to ensure establishment. (§ 1, Ord. 1191, eff. September 5, 1996)

Sec. 10-5.510. Fencing.

Open wet pits shall be fenced with a forty-two (42") inch minimum, four (4) strand barbed wire fence or the equivalent (e.g., welded square "hog" fencing), prior to the commencement of excavation, during excavation, and during reclamation. Fencing may enclose the property of which mining is a part, the mining site, or both. In addition, signs shall be installed at the project site boundaries and access road, indicating that the excavation area is restricted. Additional security (e.g., gates with protected locks and wing fences to prevent drive-arounds) shall be provided at all vehicular routes. The fencing and gates shall be maintained throughout the mining and reclamation period after completion of reclamation. A requirement shall be recorded on the deed of the property which requires the landowner to maintain fences. (§ 1, Ord. 1191, eff. September 5, 1996)

Sec. 10-5.511. Field drainage.

Reclaimed agricultural surfaces shall be graded to provide adequate field gradients to allow surface/furrow irrigation of crops and allow for adequate storm water drainage. (§ 1, Ord. 1191, eff. September 5, 1996)

Sec. 10-5.512. Field releveling.

The operator shall retain a Licensed Land Surveyor or Registered Civil Engineer to resurvey any areas reclaimed to agricultural usage after the first two (2) crop seasons have been completed. Any areas where settling has occurred shall be relevelled to the field grade specified in the approved reclamation plan. (§ 1, Ord. 1191, eff. September 5, 1996)

Sec. 10-5.513. Floodplain development.

New development proposed within the reclamation plan (such as buildings, levees, or dikes) located within the floodplain shall conform to all applicable requirements of the Yolo County Flood Ordinance, the Federal Emergency Management Agency (FEMA), and the State Reclamation Board. (§ 1, Ord. 1191, eff. September 5, 1996)

Sec. 10-5.514. Habitat management plan compliance.

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

Options, including use of lands as mitigation sites. (§ 1, Ord. 1191, eff. September 5, 1996)

Sec. 10-5.515. Habitat plan referral.

Proposed habitat restoration or mitigation plans for lands within the OCMP plan area shall be sent to the California Department of Fish and Game, U.S. Fish and Wildlife Service, the U.S. Army Corps of Engineers, and other interested parties for review and comment to ensure that the projects do not conflict with other existing habitat enhancement efforts. (§ 1, Ord. 1191, eff. September 5, 1996)

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

The final distance between lowered surfaces reclaimed to agriculture and the average high groundwater shall not be less than five (5') feet. The average high groundwater level shall be established for each proposed mining area. The degree of groundwater level fluctuation varies with location throughout the basin and within relatively small areas (proposed mining sites). The determination of the average high groundwater level shall be conducted by a Registered Civil Engineer or Certified Hydrogeologist and shall be based on wet season water level elevation data collected at the proposed site or adjacent areas with similar hydrogeological conditions. Water level records prior to 1977 shall not be used since they would reflect conditions prior to the installation of the Indian Valley Dam. The dam caused a significant change in hydrology of the basin and data collected before its installation shall not be used in estimating current average high groundwater levels. The wells shall be adequately distributed throughout the proposed mining site to reflect spatial variation in groundwater levels and fluctuations. (§ 1, Ord. 1191, eff. September 5, 1996)

Sec. 10-5.517. Mercury bioaccumulation in wildlife.

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

indicates either of the following conditions, the County shall perform verification sampling:

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

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

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

In the event of approval of reclamation of mined areas to permanent lakes, each mining area to be reclaimed to a permanent lake as part of each approved long-range mining plan shall be evaluated annually by the operator for five (5) years after creation of the lake for conditions that could result in significant methylmercury production. An additional ten (10) years of biennial monitoring shall be performed after reclamation of each lake has been completed. The evaluations shall be conducted by a qualified aquatic biologist or limnologist acceptable to the County and shall include the following analyses:

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

(d) Collection of a representative sample of fish specimens (including a minimum of five (5) predator fish if available) and analysis of the specimens for mercury content. Sampling and analysis shall be conducted using methodologies which are consistent with the California State Water Resources Control Board Toxic Substances Monitoring Program procedures, or more stringent procedures.

(e) The results of the evaluation shall be summarized in a report and submitted to the County. The report shall include a comparison of the site-specific data to available data on the background concentrations of mercury in fish within the Cache Creek watershed. The County shall be responsible for submitting the data on mercury levels in fish to the California

Department of Fish and Game and the Office of Environmental Health Hazard Assessment for a determination of whether a fish advisory should be issued.

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

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

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

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

The reclamation plan shall be modified such that the mitigation approved for methylmercury reduction shall be applied to all mining areas proposed for reclamation to permanent lakes within the reclamation plan. (§ 1, Ord. 1191, eff. September 5, 1996)

Sec. 10-5.518. Mining in reclaimed lands.

Once the reclamation plan or any portion thereof has been completed, no further surface mining operations shall be allowed within reclaimed lands, without approval of an amendment to the surface mining permit and reclamation plan. (§ 1, Ord. 1191, eff. September 5, 1996)

Sec. 10-5.519. Motorized watercraft prohibition.

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

prohibited. (§ 1, Ord. 1191, eff. September 5, 1996)

Sec. 10-5.520. Operational areas.

Operational areas and haul roads that are not required for future use of the site shall be ripped, resoiled, and prepared accordingly, to allow for replanting. (§ 1, Ord. 1191, eff. September 5, 1996)

Sec. 10-5.521. Permanent stockpiles.

There shall be no permanent piles of mine waste and/or overburden. Berms established for visual screening and noise abatement shall be contoured to conform visually with the surrounding topography. (§ 1, Ord. 1191, eff. September 5, 1996)

Sec. 10-5.522. Phasing plans.

All proposed mining and reclamation plans shall present a phasing plan for mining and reclamation activities. The phasing plan shall be structured to minimize the area of disturbed agricultural lands during each mining phase, and encourage the early completion of the reclamation of agricultural land. (§ 1, Ord. 1191, eff. September 5, 1996)

Sec. 10-5.523. Planting plans.

Site-specific planting plans shall be developed by a qualified biologist for proposed habitat reclamation projects. Restoration components of reclamation plans shall include provisions to enhance habitat for special-status species, where feasible. (§ 1, Ord. 1191, eff. September 5, 1996)

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

Monitoring during the mining and reclamation period shall be a condition of the permit. The applicant shall ensure that the groundwater monitoring of wet-pit mining continues for (10) years after the completion of reclamation. (§ 1, Ord. 1191, eff. September 5, 1996)

Sec. 10-5.525. Prime farmland conversion.

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

(a) Identification of improvements by a qualified soil scientist to the agricultural capability

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

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

(c) Demonstration of the ability to provide irrigation to nonprime lands limited only by the lack of an irrigation water supply. The identified water supply cannot be provided at the expense of "prime farmlands" currently using the same water supply. (§ 1, Ord. 1191, eff. September 5, 1996)

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

The cost of implementing recommendations for repair of reclaimed land caused during earthquakes or other natural events shall be met through application of contingency costs provided for by the project's financial assurances as required by SMARA. (§ 1, Ord. 1191, eff. September 5, 1996)

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

If any permanent wet pit is proposed to be reclaimed for recreational uses and/or riparian habitat, the design shall account for fluctuations in the groundwater table. (§ 1, Ord. 1191, eff. September 5, 1996)

Sec. 10-5.528. Sewage storage prohibition.

The use of off-channel wet pits for the storage and treatment of sewage effluent, or for landfill purposes, is prohibited. (§ 1, Ord. 1191, eff. September 5, 1996)

Sec. 10-5.529. Shallow depths.

All permanent wet pits shall be reclaimed to include valuable wildlife habitat as a beneficial use of the water lost from wet pits due to evaporation. (§ 1, Ord. 1191, eff. September 5, 1996)

Sec. 10-5.530. Slopes.

All final reclaimed slopes shall have a minimum safety factor equal to or greater than the critical gradient as determined by an

engineering analysis of the slope stability. Final slopes less than five (5') feet below the average summer low groundwater level shall be designed in accordance with the reclaimed use and shall not be steeper than 2:1 (horizontal:vertical). Reclaimed wet pit slopes located five (5') feet or more below the average summer low groundwater level shall not be steeper than 1:1 (horizontal:vertical), in order to minimize the effects of sedimentation and biological clogging on groundwater flow, to prevent stagnation, and to protect the public health.

The maximum slope angle for all final reclaimed slopes shall be determined by slope stability analysis performed by a Licensed Geotechnical Engineer or Registered Civil Engineer and submitted with any mining and reclamation application for review by the Yolo County Community Development Agency. The slope stability analysis shall conform with industry standard methodologies regarding rotational slope failures under static and pseudostatic (seismic) conditions. The minimum factor of safety for all design reclamation slopes located adjacent to levees or below existing structures shall not be less than 1.5 for static and 1.1 for pseudostatic (seismic) conditions. Other reclamation slopes shall meet a minimum factor of safety that is consistent with the post-reclamation use proposed for the mining area. (§ 1, Ord. 1191, eff. September 5, 1996)

Sec. 10-5.531. Soil ripping.

Where areas are to be reclaimed to agricultural usage, all A and B horizon soil shall be ripped to a depth of three (3') feet after every two (2') foot layer of soil is laid down, in order to minimize compaction. (§ 1, Ord. 1191, eff. September 5, 1996)

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

Sediment fines associated with processed in-channel aggregate deposits (excavated as a result of maintenance activities performed in compliance with the CCIP) shall not be used in the backfill or reclamation of off-channel permanent lakes. Fines that result from the processing of in-channel sand and gravel shall be used for in-channel habitat restoration efforts or as soil amendments in agricultural fields.

Overburden and processing fines shall be used whenever possible to support reclamation activities around reclaimed wet pits. These materials may be used in reclamation activities without testing for agricultural chemicals. If topsoil (A-horizon soil), formerly in agricultural production, is proposed for use within the drainage area of a wet pit, the soils must be sampled prior to placement and analyzed for pesticides and herbicides (EPA 8140 and 8150). Samples shall be collected and analyzed in

accordance with EPA Test Methods for Evaluating Solid Waste Physical/Chemical Methods, SW-846, Third Edition (as updated). Topsoil that contains pesticides or herbicides above the Maximum Contaminant Levels for primary drinking water (California Code of Regulations) shall not be placed in areas that drain to the wet pits. (§ 1, Ord. 1191, eff. September 5, 1996)

Sec. 10-5.533. Wetland habitat.

Off-channel excavations that are proposed to be reclaimed to permanent lakes shall include wetland habitat. The creation of wetland habitat along the perimeter of permanent lakes shall include appropriate features such as: scalloped basin perimeters with extended peninsulas, islands, and stepped benches of various widths at approximately three (3') foot vertical intervals both above and below the groundwater level. Where wetlands are not proposed, either grassland and/or woodland habitat, or agricultural fields separated from the lake by a berm, shall be established in order to provide continuous habitat value around the permanent lakes. (§ 1, Ord. 1191, eff. September 5, 1996)

Sec. 10-5.534. Exceptions.

Where an operator demonstrates to the lead agency that an exception to the standards specified in this article is necessary, the Commission may approve an alternative standard for inclusion in the approved reclamation plan. Exceptions shall only be approved where the strict application of the off-channel reclamation standards would deprive the operator of privileges enjoyed by other mining operators in the vicinity, due to special circumstances associated with the subject site, including size, shape, topography, location, or surroundings. Although the Commission may set alternative standards, in no case may the Commission set any standard which does not meet or exceed the policy objectives set forth in the OCMP. (§ 1, Ord. 1191, eff. September 5, 1996)

Article 6. Reclamation Plan Approval Process

Sec. 10-5.601. Applications: Contents.

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

(a) A narrative description of the proposed use of mined lands after reclamation has been

completed and the manner in which reclamation will be accomplished, including the following information:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(6) The depiction of separate reclamation phases;

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

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

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

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

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

(2) In no event may the interval between the control cross-sections exceed 1200 feet; and

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

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

by or under the direct supervision of the surveyor or engineer;

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

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

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

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

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

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

(i) An initial environmental assessment describing the potential impacts of approving the proposed reclamation plan; and,

(j) A list of all other applicable discretionary permits required by other public agencies.

In addition to the foregoing, the Director may require such other and further information relevant to the project as needed to determine whether the proposal may affect the public health and safety. (§ 1, Ord. 1191, eff. September 5, 1996)

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

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

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

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

Director shall receive the application for filing. (§ 1, Ord. 1191, eff. September 5, 1996)

Sec. 10-5.603. Applications: Confidentiality.

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

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

If the request is approved, then the confidential information shall be filed under separate cover. The contents of the confidential file shall be made available only to the Director and those persons authorized in writing by the operator and by the property owner. If the request is denied, the applicant may withdraw the information and include it with the application as a public document. Failure to submit any necessary information may result in an incomplete application. (§ 1, Ord. 1191, eff. September 5, 1996)

Sec. 10-5.604. Applications: Filing.

Applications for reclamation plans shall be submitted to the Director for review and determination as to completeness. If the application is determined to be incomplete, the Director shall notify the applicant in writing within thirty (30) days of receipt of the application. The written notice shall specifically describe the information necessary to complete the application. The application shall not be processed until the Director has determined it to be complete and the appropriate fees have been paid, as required under Article 10 of this chapter.

Once the application has been determined to be complete and the appropriate fees have been paid, the application shall be processed by the Director, who shall set it for a hearing pursuant to Section 10-5.605 of this article. (§ 1, Ord. 1191, eff. September 5, 1996)

Sec. 10-5.605. Applications: Review.

The Director shall notify the Department in writing of any application for a reclamation plan within thirty (30) days of its being filed. The

application shall also be circulated to all other agencies of jurisdiction for their review and comments in accordance with CEQA, or other applicable regulatory requirements. In addition, a notice of the filing of a reclamation plan shall be mailed to any other person with an interest in the application, who has deposited a self-addressed, stamped envelope with the Agency for the purpose of receiving a notice of the filing. (§ 1, Ord. 1191, eff. September 5, 1996)

Sec. 10-5.606. Applications: Public hearing.

Once the application has been processed, the Director shall set a public hearing before the Commission to consider the proposed reclamation plan. Said hearing shall be held within six (6) months after the completion of the final EIR or within three (3) months after the completion of the negative declaration. (§ 1, Ord. 1191, eff. September 5, 1996)

Sec. 10-5.607. Public hearing: Notice.

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

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

Failure to mail or to receive such notice, as a result of mistake or inadvertence, shall not affect the validity of the hearing or the decision rendered. (§ 1, Ord. 1191, eff. September 5, 1996)

Sec. 10-5.608. Public hearing: Review.

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

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

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

(c) Other related documentation, as appropriate.

No reclamation plan may be approved until the Department has completed its review, or the thirty (30)- day period has expired. The Director shall prepare a written response to any written comments received from the Department regarding the reclamation plan submitted. If applicable, the Director's response shall specifically address, in detail, why any comments or suggestions submitted by the Department were not accepted. The Director shall forward copies of both the Department's comments and the Director's response to the applicant. (§ 1, Ord. 1191, eff. September 5, 1996)

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

If there is a conflict between comments submitted by a trustee or responsible agency and the comments of other reviewing agencies received during circulation of the reclamation plan, as required by CEQA, the Commission or Board shall only consider the comments of the trustee or responsible agency. (§ 1, Ord. 1191, eff. September 5, 1996)

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

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

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

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

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

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

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

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

surrounding habitat areas, and public access to the proposed site;

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

(h) That a written response to the State Department of Conservation has been prepared and considered, describing the disposition of major issues raised by the Department. (§ 1, Ord. 1191, eff. September 5, 1996)

Sec. 10-5.611. Public hearing: Decision.

After considering the evidence in the public hearing, the Commission or Board shall approve, conditionally approve, or deny the application by a written decision setting forth the findings supporting the action. Approval may be granted subject to any relevant condition which the Commission may deem necessary to effectuate the purposes of the Act, the Regulations, and this chapter. Such conditions may address any or all of the findings required by Section 10-5.610 of this article. If the application is conditionally approved, the conditions shall be specified in writing.

Within ten (10) days after the decision of the Commission or Board, the Director shall mail a copy of the decision to the applicant. Copies of the decision shall also be mailed to any other person with an interest in the application, who has deposited a self-addressed, stamped envelope with the Agency for the purpose of receiving a copy of the decision. (§ 1, Ord. 1191, eff. September 5, 1996)

Article 7. Financial Assurances

Sec. 10-5.701. Financial assurances: Scope.

Prior to the commencement of any mining activities, all new and existing surface mining operations conducted within the unincorporated territory of the County shall submit sufficient financial assurances to ensure the faithful performance of the reclamation plan approved pursuant to this chapter. (§ 1, Ord. 1191, eff. September 5, 1996)

Sec. 10-5.702. Financial assurances: Form.

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

(a) Surety bonds;

(b) Trust funds;

(c) Irrevocable letters of credit; and/or,

(d) Such other forms of financial assurances as the State Mining and Geology Board may adopt.

In addition those listed above, governmental agencies undertaking surface mining operations

may provide financial assurances in the following forms:

(e) Pledges of revenue; and/or,
(f) Budget set asides. Financial assurances shall be issued by a corporate surety authorized to do conduct surety business in the State and shall be made payable to the "County of Yolo or the Department of Conservation." Financial assurances that were approved by the County prior to January 1, 1993, and were made payable to the State Geologist shall be considered payable to the Department for the purposes of this chapter.

The form of such financial assurance instruments shall be subject to the approval of the County Counsel who may require such additional provisions as are necessary to ensure the performance of the obligations. (§ 1, Ord. 1191, eff. September 5, 1996)

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

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

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

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

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

If the government agency ceases at any time to retain control of its ability to allocate pledged revenue to complete reclamation, the governing body of the agency shall notify both the lead agency and the Department within sixty (60) days after control lapses. (§ 1, Ord. 1191, eff. September 5, 1996)

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

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

(a) A resolution or other appropriate document establishing the set aside or line item including proof of approval by the governing body or appropriate official of the government agency;
(b) The types and sources of specific funds;
(c) The period of time that each funding source is to be available;
(d) The estimated amount of financial assurances necessary to complete the approved reclamation plan; and,
(e) The authorization for the County or the Department to use the funds to complete reclamation, if the operator is incapable of performing reclamation, as determined in Article 9 of this chapter. (§ 1, Ord. 1191, eff. September 5, 1996)

Sec. 10-5.705. Financial assurances: Term.

Financial assurances shall remain in effect until the County has determined that the reclamation plan has been completed as approved. Financial assurances may be made renewable for periods of at least one year. However, the failure of an operator to renew any financial assurance before its expiration date shall be considered a violation of this chapter. New or renewed financial assurances shall be submitted to the County prior to the expiration date of the existing financial assurances. (§ 1, Ord. 1191, eff. September 5, 1996)

**Sec. 10-5.706. Financial assurances:
Calculations.**

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

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

(d) An amount to cover contingency costs, not to exceed ten (10%) percent of the reclamation costs estimated above.

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

The salvage value of buildings and equipment left on-site as a result of abandonment by the operator may be included to offset the costs of reclamation in the calculation of financial assurances. (§ 1, Ord. 1191, eff. September 5, 1996)

**Sec. 10-5.707. Financial assurances:
Phasing.**

If a phased reclamation plan is approved, the initial amount of the financial assurances shall be no less than one-hundred (100%) percent of the total cost of all reclamation work to be done in the first approved phase. Before mining commences in the subsequent phase, additional financial assurances shall be submitted in an amount equal to one-hundred (100%) percent of the total cost of reclamation for that phase. (§ 1, Ord. 1191, eff. September 5, 1996)

**Sec. 10-5.708. Financial assurances:
Annual adjustments.**

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

(a) The addition of new permitted lands to be mined in the following year;

(b) Previously mined lands which have been completely reclaimed in accordance with the approved reclamation plan; and,

(c) The increased labor and/or material costs of reclamation. Any decision to either increase or decrease financial assurances shall become final within fifteen (15) days, unless appealed to the Board of Supervisors within that fifteen (15)- day period, as provided in Article 11 of this chapter.

The review of existing financial assurances shall not be considered a project within the meaning of CEQA, pursuant to the exemption granted under Section 2770(c) of the Act. (§ 1, Ord. 1191, eff. September 5, 1996)

**Sec. 10-5.709. Financial assurances:
Review.**

The Director shall submit a copy of all new and revised financial assurance estimates and any supporting documentation to the Department for a forty-five (45)-day review period. No financial assurances may be approved until the Department has completed its review. The Director shall prepare a written response to any written comments received from the Department regarding the financial assurances submitted. If

applicable, the Director's response shall specifically address, in detail, why any comments or suggestions submitted by the Department were not accepted. The Director shall forward copies of both the Department's comments and the Director's response to the operator. (§ 1, Ord. 1191, eff. September 5, 1996)

**Sec. 10-5.710. Financial assurances:
Transfer.**

If a surface mining operation is sold or ownership is transferred to another person, the existing financial assurances shall remain in full force and effect and shall not be released until new financial assurances are secured by the new owner and approved by the County. (§ 1, Ord. 1191, eff. September 5, 1996)

**Sec. 10-5.711. Financial assurances:
Release.**

The mining operator shall notify the Director in writing when all or any portion of the required reclamation work is completed. Within sixty (60) days after notification to the County by the operator, the Director shall inspect the site in order to determine whether the site or the portion thereof complies with the approved reclamation plan. If it is determined that reclamation has not been completed pursuant to the approved reclamation plan, then the Director shall notify the operator in writing, specifically describing the remedial steps required for compliance. If it is determined that reclamation has been completed as approved, then the Director shall place the matter on the agenda of the Planning Commission for action within thirty (30) days. The Planning Commission may release all or a portion of the financial assurances, as appropriate. The Director shall send written notification of the proposed release of financial assurances to both the operator and the Department prior to the Planning Commission action. (§ 1, Ord. 1191, eff. September 5, 1996)

**Sec. 10-5.712. Financial assurances:
Disasters.**

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

(a) The extent to which the operator had completed reclamation prior to the natural occurrence;

(b) The extent to which the reclamation work has been destroyed by the natural occurrence;

(c) The effect of the natural occurrence on the public health and safety;

(d) The degree to which the site can be reclaimed naturally without human intervention;

(e) The specific reasons a particular monitoring period was established for reclamation; and,

(f) The site characteristics, reclamation program, and the proposed end use.

The operator may not be held responsible for the adverse impacts caused by a natural occurrence if the reclamation has been approved and the financial assurances released by the County. (§ 1, Ord. 1191, eff. September 5, 1996)

Article 8. Amendments and Modifications to Approved Reclamation Plans

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

The purpose of this article is to provide procedures for changing the conditions of approval or project description (as described in the application and accompanying analyses) to account for unanticipated changes in the reclamation, site characteristics, regulations, or other aspects of the approved reclamation plan. (§ 1, Ord. 1191, eff. September 5, 1996)

Sec. 10-5.802. Amendments: Applications.

Applications for amendments to of previously approved reclamation plans shall be submitted to the Director, on forms provided by the Agency, and shall be accompanied by the appropriate fees, as determined in Article 10 of this chapter. Such applications shall be processed pursuant to the procedures set forth in Article 6 of this chapter. (§ 1, Ord. 1191, eff. September 5, 1996)

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

Proposed exceptions to the reclamation standards may not be included as part of any application for a minor modification. Any changes in the conditions of approval or the amount of surface area and/or depth to be disturbed shall also be treated as a substantial deviation from the approved plan. Such changes and exceptions shall be processed as an amendment to the reclamation plan. (§ 1, Ord. 1191, eff. September 5, 1996)

Sec. 10-5.804. Minor modifications.

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

noted on the approved plans and shall be initialed by the Director.

The decision of the Director shall be mailed and posted in accordance with Section 10-5.607 of this chapter. Any minor modification approved by the Director shall become final within fifteen (15) days, unless appealed to the Board, as provided in Article 11 of this chapter. (§ 1, Ord. 1191, eff. September 5, 1996)

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

Anytime that the annual production of a surface mining operation is reduced by more than ninety (90%) percent for a period of one year or more, then the operator shall submit an interim management plan to provide measures for maintaining the site until normal production is resumed. The interim management plan shall be considered an amendment to the approved reclamation plan, but not just cause to re-examine an approved reclamation plan and/or cause the plan to be subsequently amended. An interim management plan shall not be considered a project within the meaning of CEQA, pursuant to the exemption granted under Section 2770 of the Act. (§ 1, Ord. 1191, eff. September 5, 1996)

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

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

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

(a) A statement describing why the mining operation is idle, including a description of those conditions necessary to reactivate the operation;

(b) The requested duration of the interim management plan (not to exceed five (5) years);

(c) A description of the measures to be taken to maintain site security;

(d) An analysis prepared by a Registered Civil Engineer describing interim slope angles, slope stability, and erosion control measures to be implemented during the interim period;

(e) A description of the equipment to be retained on the site;

(f) A plan prepared by a qualified biologist describing how revegetation efforts would be maintained in the interim period; and

(g) A plan showing the extent of mined areas, areas where reclamation has not yet been completed, internal haul roads and parking areas, stockpile locations, and equipment storage.

In addition to the foregoing, the Director may require such other and further information relevant to the project as needed to determine whether the proposal may affect the public health and safety. (§ 1, Ord. 1191, eff. September 5, 1996)

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

If the application does not comply with the requirements of this article, then the Director shall notify the applicant in writing, describing any deficiencies in the plan. The applicant shall have thirty (30) days to submit a revised plan correcting the deficiencies noted by the Director. If the revised application is complete, then within sixty (60) days of the receipt of the revised application, a public hearing shall be held before the Commission to approve or deny the interim management plan in accordance with the procedures set forth in Article 6 of this chapter. (§ 1, Ord. 1191, eff. September 5, 1996)

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

The Director shall submit a copy of the interim management plan to the Department for a 45-day review period. No interim management plan may be approved until the Department has completed its review. The Director shall prepare a written response to any written comments received from the Department regarding the interim management plan. If applicable, the Director's response shall specifically address, in detail, why any comments or suggestions submitted by the Department were not accepted. The Director shall forward copies of both the Department's comments and the Director's response to the operator. (§ 1, Ord. 1191, eff. September 5, 1996)

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

The decision of the Commission may be appealed to the Board of Supervisors within fifteen (15) days of the date of the decision, pursuant to Article 11 of this chapter. (§ 1, Ord. 1191, eff. September 5, 1996)

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

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

(a) If the operator has fully complied with the terms of the interim management plan, then the

Commission may renew the plan for another period, not to exceed five (5) years; or

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

The operator shall notify the Director in writing prior to the reactivation of the surface mining operation. (§ 1, Ord. 1191, eff. September 5, 1996)

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

Financial assurances shall remain in effect during the term of the interim management plan and any extensions granted thereto. (§ 1, Ord. 1191, eff. September 5, 1996)

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

Unless the operation has a pending or approved interim management plan, or an appeal of the interim management plan is pending before the Board of Supervisors, any surface mining operation which remains idle for more than one year shall be considered abandoned. All abandoned mining operations shall commence and complete reclamation in accordance with the approved reclamation plan, pursuant to Article 9 of this chapter. (§ 1, Ord. 1191, eff. September 5, 1996)

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

All applicable conditions of approval shall remain in effect during the interim period. The Commission may impose additional conditions of approval necessary to safeguard the environment and the public health and safety. (§ 1, Ord. 1191, eff. September 5, 1996)

Sec. 10-5.814. Interim permit review.

Every ten (10) years after a reclamation plan has been approved, the Commission shall hold a public hearing in accordance with Article 5 of this chapter, for the purpose of amending the plan to bring it into conformance with applicable future environmental regulations and statutory changes. An additional public hearing may be held fifteen (15) years after a reclamation plan has been approved, at the discretion of the Commission. The Commission shall evaluate the plan to determine if there have been any subsequently adopted environmental regulations or statutory provisions which should be made applicable to the reclamation plan, even if such laws themselves are not made retroactive to affect the plan. For the purposes of this article, an environmental regulation or statutory provision is one that is promulgated by a responsible or trustee agency that has authority for a particular natural resource (e.g., Yolo-Solano Air Quality

Management District, California Department of Fish and Game, California Department of Conservation, Regional Water Quality Control Board, State Lands Commission, State Reclamation Board, etc.), including the County of Yolo.

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

Should the Commission decide to incorporate into the reclamation plan new regulatory or statutory provisions that were not available at the time of project approval, said provisions shall be applied as an amendment to the plan and processed in accordance with Article 6 of this chapter. The decision of the Commission may be appealed, in accordance with Article 10 of this chapter. (§ 1, Ord. 1191, eff. September 5, 1996)

Article 9. Abandonment

Sec. 10-5.901. Abandonment: Hearing.

If, at any time, the Director determines that the operator is financially incapable of performing the required reclamation, or has abandoned the surface mining operation without completing the approved reclamation plan, or has failed to observe an order to comply, then a public hearing shall be held before the Commission as provided for in Article 6 of this chapter. (§ 1, Ord. 1191, eff. September 5, 1996)

Sec. 10-5.902. Abandonment: Notice.

If the Commission determines that the operator is financially incapable of performing the required reclamation, or has abandoned the surface mining operation without completing the approved reclamation plan, or has failed to observe an order to comply, then the Director shall provide written notification to the operator by personal service or certified mail that the County intends to forfeit the financial assurances. The written notification shall include the specific reasons for the forfeiture. (§ 1, Ord. 1191, eff. September 5, 1996)

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

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

If the operator fails to begin reclamation within the sixty (60) days after notification, or otherwise fails to complete the approved reclamation plan within the time specified, then the Director may demand performance of any

surety company issuing the financial assurances and commence reclamation of the site. (§ 1, Ord. 1191, eff. September 5, 1996)

Sec. 10-5.904. Abandonment: Reclamation.

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

(a) Officers, employees, and agents of the County;

(b) Contractors hired by the County, as well as their subcontractors and agents; and

(c) Surveyors, engineers, and other consultants retained by the County.

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

The County shall follow the approved reclamation plan and all applicable permit conditions of approval in completing reclamation work. (§ 1, Ord. 1191, eff. September 5, 1996)

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

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

If, after the Director has determined that the approved reclamation plan has been completed and all costs incurred by the County in performing such work have been accounted for, then any remaining monies from the financial assurances shall be refunded to the operator or the surety company, as their interests may appear, in accordance with Section 10-5.711 of this chapter. The operator shall be held responsible for all costs incurred by the County in completing the reclamation plan which exceed the amount of the forfeited financial assurances. Costs accrued by the County which exceed the amount of financial assurances shall be paid according to a schedule agreed to by the operator and the Director. (§ 1, Ord. 1191, eff. September 5, 1996)

Article 10. Fees

Sec. 10-5.1001. Fees: Applications.

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

adopted by the Board. (§ 1, Ord. 1191, eff. September 5, 1996)

Sec. 10-5.1002. Annual reviews.

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

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

Failure to pay the above fees in a timely manner shall be considered a violation and may be enforced under the provisions of Article 12 of this chapter. (§ 1, Ord. 1191, eff. September 5, 1996)

Article 11. Appeals

Sec. 10-5.1101. Appeals: Planning Commission.

The action of the Director on any decision made pursuant to this chapter shall be final unless, within fifteen (15) days after such action, any person with appropriate legal standing files a written appeal, and pays the appropriate fee to the clerk of the Commission. The timely filing of an appeal shall stay the Director's decision, which shall serve as a recommendation to the Commission. All such appeals shall reference the decision of the Director and shall specifically describe the grounds for the appeal. (§ 1, Ord. 1191, eff. September 5, 1996)

Sec. 10-5.1102. Planning Commission: Hearings.

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

A decision of the Commission may be appealed to the Board, pursuant to this article. The appeal rights under this section shall be exercised prior to filing an appeal pursuant to Section 10-5.1107 of this chapter. (§ 1, Ord. 1191, eff. September 5, 1996)

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

The action of the Commission on any decision made pursuant to this chapter shall be final unless, within fifteen (15) days after such action, any person with appropriate legal standing files a written appeal, and pays the appropriate fee, to the Clerk of the Board. The timely filing of an appeal shall stay the Commission's decision, which shall serve as a recommendation to the Board. All such appeals shall reference the decision of the Commission and specifically describe the grounds for the appeal. (§ 1, Ord. 1191, eff. September 5, 1996)

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

The hearing on an appeal of a decision by the Commission shall be scheduled within sixty (60) days from when the appeal was filed. The Clerk of the Board shall provide notice of the hearing pursuant to Section 10-5.607 of this chapter. Upon hearing the appeal, the Board may either affirm, reverse, or modify the appealed decision, or refer the matter back to the Commission for further action. The appeal rights under this section shall be exercised prior to filing an appeal pursuant to Section 10-5.1107 of this chapter.

If the Board fails to take one of the above actions, the appeal shall be considered denied without prejudice. Appeals that are denied without prejudice may be reconsidered at a new public hearing, noticed in accordance with Section 10-5.605 of this chapter. (§ 1, Ord. 1191, eff. September 5, 1996)

Sec. 10-5.1105. Appeals: Scope.

Any appeal of a decision or action shall serve only as an appeal of the specific action or issue identified, based on the grounds and issues described in the appeal. The appellate body shall consider the record of the decision being appealed. New evidence not previously introduced in the record of the decision may not be presented at the hearing regarding the appeal. (§ 1, Ord. 1191, eff. September 5, 1996)

Sec. 10-5.1106. Appeals: Withdrawal.

Appeals to either the Commission or the Board may be withdrawn at any time. (§ 1, Ord. 1191, eff. September 5, 1996)

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

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

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

If the State Mining and Geology Board remands a decision pursuant to this section, then the Board shall reconsider their decision in accordance with the procedures described in this article. (§ 1, Ord. 1191, eff. September 5, 1996)

Sec. 10-5.1108. Appeals: Judicial review.

When giving notice to the applicant of its decision to deny, the Board shall notify the applicant that the time within which judicial review must be sought is governed by Section 1094.6 of the State Code of Civil Procedure. (§ 1, Ord. 1191, eff. September 5, 1996)

Article 12. Inspections: Notices of Violations

Sec. 10-5.1201. Inspections: Purpose.

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

- (a) To determine compliance with this chapter and the Act;
- (b) To determine compliance with the conditions of reclamation plan approved pursuant to this chapter;
- (c) To investigate the environmental effects which reclamation work may be causing to the surrounding area; and,
- (d) To verify the information submitted in any application or any annual report submitted pursuant to this title. (§ 1, Ord. 1191, eff. September 5, 1996)

Sec. 10-5.1202. Inspections: Annual.

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

the completion of the inspection, and shall forward a copy of said inspection notice and any supporting documentation to the operator. (§ 1, Ord. 1191, eff. September 5, 1996)

Sec. 10-5.1203. Annual inspections: Notification.

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

- (a) A statement regarding whether the operation is in compliance with the Act and this chapter. Any violations of either the Act or this chapter shall be specifically described;
- (b) The completed inspection forms;
- (c) A description of any pending reviews or appeals of surface mining permits, reclamation plans, financial assurances, amendments or modifications thereto, or interim management plans pertaining to the operation; and,
- (d) Any supporting documentation. Copies of the notice shall also be provided to the operator. (§ 1, Ord. 1191, eff. September 5, 1996)

Sec. 10-5.1204. Inspections: Designee.

Inspections shall be conducted by a State-registered geologist, state-registered civil engineer, State-licensed landscape architect, State-registered forester, County staff, or other designee as determined by the Director, who is experienced in mined land reclamation and who has not been employed by the mining operation in any capacity during the previous twelve (12) months. (§ 1, Ord. 1191, eff. September 5, 1996)

Sec. 10-5.1205. Annual compliance review.

An annual report of reclamation operations shall be filed by each operator and reviewed by the Commission in a public hearing in order to determine compliance with the approved reclamation plan, in accordance with Article 7 of Chapter 4 of this title. (§ 1, Ord. 1191, eff. September 5, 1996)

Sec. 10-5.1206. Violations: Notice.

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

mining site. (§ 1, Ord. 1191, eff. September 5, 1996)

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

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

The order shall also state the date, time, and place set for a hearing before the Commission regarding the notice of violation. The hearing shall be conducted no sooner than thirty (30) days and no later than sixty (60) days after the service of the order upon the operator. Public notice of such hearing shall be given as set forth in Section 10-5.607 of this chapter. (§ 1, Ord. 1191, eff. September 5, 1996)

Sec. 10-5.1208. Violations: Hearing.

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

- (a) Approve the order of the Director;
- (b) Remove any of the violations and approve the order as modified; or,
- (c) Decline to approve the order of the Director. If the order of the Director is approved, the Commission's decision shall become final and the approved order will take effect fifteen (15) days after the decision, unless an appeal is filed with the Board, pursuant to Article 11 of this chapter. (§ 1, Ord. 1191, eff. September 5, 1996)

Sec. 10-5.1209. Violations: Abandonment.

If an operator fails to observe an order of compliance, then the mining reclamation activities shall be considered abandoned and the Director shall initiate procedures to forfeit the operator's financial assurances in accordance with Article 9 of this chapter. (§ 1, Ord. 1191, eff. September 5, 1996)

Sec. 10-5.1210. Violations: Administrative penalties.

If the operator fails to comply with an effective order, issued pursuant to this article, the Commission may issue an order imposing administrative penalties of not more than Five Thousand and no/100ths (\$5,000) Dollars per day, retroactive to the original date of noncompliance. When determining the amount of

the penalty, the Commission shall consider, but may not be limited to, the following factors:

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

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

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

Payment of the administrative penalties shall be made by the operator to the County within thirty (30) days of receipt of the order. However, if a petition for review has been filed, the payment shall be held in an interest bearing impound account until the matter has been resolved. Penalties collected by the Director shall only be used to cover the reasonable costs incurred by the County in administering either the Act or Chapters 3, 4, and 5 of Title 10 of this Code. (§ 1, Ord. 1191, eff. September 5, 1996)

Sec. 10-5.1211. Violations: Public nuisance.

Any mining reclamation activities in violation of this title, or in violation of any reclamation plan and/or financial assurances approved pursuant to this title, shall be considered a public nuisance. If the operator fails to comply with an effective order, issued pursuant to this article, the Director may refer the violation to the District Attorney for criminal remedies. (§ 1, Ord. 1191, eff. September 5, 1996)

Chapter 6
AGRICULTURE

Sections:

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Notice to Purchasers of Nearby Properties**

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**Article 1. Right to Farm: Dispute Resolution:
Notice to Purchasers of Nearby Properties**

Sec. 10-6.101. Definitions.

As used in this article the following terms shall have the following meanings:

(a) "Agricultural Land" means those land areas of the County specifically classed and zoned as Agricultural Preserve (A-P), Agricultural Exclusive (A-E), and Agricultural General (A-1), as those zones are defined in the Yolo County Zoning Ordinances.

(b) "Agricultural activity, operation, or facility or appurtenances thereof" means and includes, but is not limited to, the cultivation and tillage of the soil, dairying, the production, irrigation, frost

protection, cultivation, growing, harvesting, and processing of any commercial agricultural commodity, including timber, viticulture, agriculture or horticulture, the raising of livestock, fur-bearing animals, fish or poultry, and any practices performed by a farmer or on a farm as incident to or in conjunction with such operations, including the application of pesticides, use of farm equipment, storage or preparation for market, delivery to storage or to market, or to carriers for transportation to market. (§ 2, Ord. 1133, eff. January 2, 1992)

Sec. 10-6.102. Property operated farm not a nuisance.

(a) No agricultural activity, operation, or facility, or appurtenances thereof, conducted or maintained on agricultural lands for commercial purposes, and in a manner consistent with proper and accepted customs and standards, as established and followed by similar agricultural operations in the same locality, shall be or become a nuisance, private or public, due to any changed condition in or about the locality, after the same has been in operation for more than three (3) years if it was not a nuisance at the time it began.

(b) Subsection (a) of this section shall not apply if the agricultural activity, operation, or facility, or appurtenances thereof obstructs the free passage or use, in the customary manner, of any navigable lake, river, bay, stream, canal, or basin, or any public park, square, street, or highway.

(c) This section shall not invalidate any provision contained in the Health and Safety Code, Fish and Game Code, Food and Agricultural Code, or Division 7 (commencing with Section 13000) of the Water Code, if the agricultural activity, operation, or facility, or appurtenances thereof, constitute a nuisance, public or private, as specifically defined or described in any such provision.

(d) Notwithstanding any other provision of this Code, no action, alleging that an agricultural operation has interfered with private property or personal well-being, shall be maintained unless the plaintiff has sought and obtained a decision of the agricultural grievance committee provided in Section 10-6.104 of this chapter or a decision has been sought but no decision is rendered within the time limits provided in said section. This subsection shall not prevent a public agency from enforcing the provisions of other applicable laws without first resorting to the grievance procedure. (§ 2, Ord. 1133, eff. January 2, 1992)

Sec. 10-6.103. Construction with other laws.

This chapter shall take precedence over all ordinances or parts of ordinances or resolutions

or parts of resolutions in conflict herewith. (§ 2, Ord. 1133, eff. January 2, 1992)

Sec. 10-6.104. Resolution of disputes.

(a) Should any controversy arise regarding any inconveniences or discomfort occasioned by agricultural operations which cannot be settled by direct negotiation of the parties involved, either party may submit the controversy to a grievance committee as set forth below in an attempt to resolve the matter prior to the filing of any court action.

(b) Any controversy between the parties shall be submitted to the grievance committee within thirty (30) days of the later of the date of the occurrence of the particular activity giving rise to the controversy or the date a party became aware of the occurrence.

(c) The grievance committee shall consist of five (5) members appointed from the community at large by the Board of Supervisors, and serving at the pleasure of the Board of Supervisors, two (2) of whom shall be engaged in the commercial practice of agriculture, two (2) of whom shall have no financial interest in any agricultural property or operation, and one of whom shall have knowledge of and expertise in agricultural production practices. A majority of the members shall constitute a quorum of the grievance committee, and no decision shall be valid or binding unless taken upon a majority vote of the members present. The Yolo County Agricultural Commissioner shall be the Secretary who shall call meetings as the need arises and shall maintain minutes of each meeting. The committee shall adopt rules of procedure governing the conduct of its meetings. Members of the committee shall receive no compensation for carrying out these duties.

(d) The effectiveness of the grievance committee as a forum for resolution of disputes is dependent upon full discussion and complete presentation of all pertinent facts concerning the dispute in order to eliminate any misunderstandings. The parties are encouraged to cooperate in the exchange of pertinent information concerning the controversy.

(e) The controversy shall be presented to the committee by written request of one of the parties within the time limits specified. Thereafter the committee may investigate the facts of the controversy but must, within twenty-five (25) days, hold a meeting to consider the merits of the matter and within five (5) days of the meeting render a written decision to the parties. At the time of the meeting both parties shall have an opportunity to present what each considers to be pertinent facts. No party bringing a complaint to the committee for settlement or resolution may be represented by counsel unless the opposing party is also represented by counsel. The time limits provided in this subsection for action by the

committee may be extended upon the written stipulation of all parties in a dispute.

(f) Any reasonable costs associated with the functioning of the grievance committee process shall be borne by the participants. The Board of Supervisors may, by resolution, prescribe fees to recover those costs. (§ 2, Ord. 1133, eff. January 2, 1992)

Article 2. Agricultural Nuisances.

Section 10-6.201. Purpose and Findings.

(a) Under Section 25842 of the Government Code, the Board of Supervisors may provide for the control or destruction of gophers, squirrels, vermin, other wild animals, noxious weeds, plant diseases, and insects injurious to fruit or fruit trees, vines, vegetables, or plant life. These items are considered to be Agricultural Nuisances. Section 25845 of the Government Code provides that the Board of Supervisors may establish by ordinance a procedure for the abatement of a nuisance.

(b) At present, the enforcement provisions of the Food and Agriculture Code are set forth in Chapters 6 and 7, Part 1, Division 4. These provisions call for a lien to be recorded on the subject property within 120 days in the event of non-payment. If no payment is received within 120 days of recording the district attorney is required to foreclose on the lien or the lien ceases to exist. This enforcement provision is onerous and virtually impossible to implement.

(c) The Board finds that prompt and effective control of Agricultural Nuisances is essential to protect our agricultural operations. An ordinance with reasonable enforcement provisions is essential to accomplish this. This ordinance provides for the collection of unpaid abatement costs by the Treasurer-Tax Collector with the same priority as other County taxes as provided for under Section 25845(d) of the Government Code.

Section 10-6.202. Definitions.

For the purposes of this Chapter, unless otherwise apparent from the context, certain words and phrases are defined as follows:

(a) "Abatement" shall include the eradication, destruction, or control, to the satisfaction of the Agricultural Commissioner, of the Agricultural Nuisance.

(b) "Agricultural Nuisance" include, but are not limited to, gophers, squirrels, vermin, other wild animals, noxious weeds, plant diseases, and insects injurious to fruit or fruit trees, vines, or vegetable or plant life.

(c) "County Code" means the Yolo County Code.

(d) "Person" means any natural person, firm, joint venture, joint stock company, partnership, association, club, company, corporation, business trust, organization, or the manager, lessee, agent, servant, officer or employee of any of them.

(e) "Responsible Person" is the person having control of or acting as an agent for the property. The term "Responsible Person" includes but is not limited to a property owner, tenant, or a person with a legal interest in, or possession of, real property where a nuisance occurs or exists.

Section 10-6.203. Effect on other laws.

The provisions of this chapter are not the exclusive regulation of Agricultural Nuisances within the unincorporated area of the County. The provisions of this chapter shall supplement and be in addition to the other regulatory codes, statutes, and laws heretofore or hereafter enacted by the County, the State, or any other legal entity or agency having jurisdiction.

Section 10-6.204. Administration and enforcement.

Except as otherwise provided in this chapter, the provisions of this chapter shall be administered and enforced by the Agricultural Commissioner. In the enforcement of the provisions of this chapter, the Agricultural Commissioner or his designees may enter upon both private and public property to determine whether an Agricultural Nuisance exists pursuant to the provisions of this chapter.

Section 10-6.205. Nuisance Abatement.

Whenever an Agricultural Nuisance is ascertained to exist by the Agricultural Commissioner, the Agricultural Commissioner shall notify the person having control of or acting as an agent for the property, to abate or remove such nuisance within thirty (30) calendar days. Upon neglect or refusal of such person to comply with such notice, the Agricultural Commissioner may abate such nuisance, and the person having control of such premise or place, shall be liable to the County of Yolo for the cost of such abatement as provided for in Section 10-6.216.

Section 10-6.206. Form of Notice to Abate.

The form of all Notices to Abate given under this Chapter shall be as follows:

- (a) All notices shall be in writing;
- (b) All notices shall include a description of the premises sufficient for identification;

(c) All notices shall include a statement as to what Agricultural Nuisance exists on the property and why the notice is being issued;

(d) All notices shall state that the Responsible Person has thirty (30) calendar days to abate the Agricultural Nuisance;

(e) All notices shall inform the Responsible Person of the right to appeal to the Agricultural Nuisance Appeals Board in writing within fifteen (15) days of receiving the Notice to Abate; and

(f) All notices shall include notification that should the Responsible Person fail to abate the Agriculture Nuisance, the Agricultural Commissioner or his designee shall have the right to abate such nuisance, and that the Responsible Person shall be liable to the County of Yolo for the cost of such abatement as provided for in Section 10-6.216.

Section 10-6.207. Service Procedures.

A Notice to Abate or Remedy shall be served in the following manner:

(a) Personal Service. In any case, where a Notice to Abate is issued:

(1) The Agricultural Commissioner or his designee shall attempt to locate and personally serve the Responsible Person and attempt to obtain the signature of the Responsible Person on the Notice to Abate.

(2) If the Responsible Person served refuses or fails to sign the Notice to Abate, the failure or refusal to sign shall not affect the validity of the Notice to Abate or of subsequent proceedings.

(b) Service of Notice to Abate by Mail and Posting. If the Agricultural Commissioner is unable to locate the Responsible Person after reasonable efforts, the Notice to Abate shall be mailed by certified mail, postage prepaid with return receipt to the owner of the land as shown on the last equalized County assessment roll, to the last registered legal owner of record, and any other address that is reasonably calculated to give the Responsible Person actual notice of the Notice to Abate. The Agricultural Commissioner shall also post the Notice to Abate on the subject real property within the County. Service shall be effective upon mailing or posting, whichever is later.

Section 10-6.208. Appeals: Agricultural Nuisance Appeals Board.

The Agricultural Nuisance Appeals Board shall consist of the same members as the Right To Farm Grievance Committee established in Section 10-6.104(c) of the Yolo County Code.

Section 10-6.209. Appeals.

The Responsible Person may request a hearing in writing with the Agricultural Nuisance Appeals Board within fifteen (15) calendar days of service of notice to abate or remove. A request for a hearing shall temporarily suspend the obligation to abate or remove the Agricultural Nuisance demanded in the Notice until the appeal has been heard. Such hearing shall take place as soon as practicable after the request is made. The right to an appeal shall be deemed waived if the Responsible Person fails to request an appeal within fifteen (15) calendar days of service of the Notice to Abate.

Section 10-6.210. Appeals: Notice.

Notice of a hearing shall be mailed at least ten (10) days before the hearing by certified mail, with return receipt, to the person requesting the hearing. Notice shall also be provided to the owner of the land as shown on the last equalized County assessment roll and to the last registered and legal owner of record. If any of such notices are returned undelivered by the United States Post Office, the hearing shall be continued to a date not less than ten (10) days from the date of such return.

Section 10-6.211. Appeals: Recommendations.

All hearings held pursuant to the provisions of this chapter shall be held before the Agricultural Nuisance Appeals Board, which shall hear all facts and testimony it deems pertinent. Such facts and testimony may include testimony on the condition of the property, or part thereof, and the circumstances concerning the Agricultural Nuisance. The Agricultural Nuisance Appeals Board shall not be limited by the technical rules of evidence. The person requesting the appeal may appear in person at the hearing, or present a written statement in time for consideration at the hearing, and deny responsibility for the Agricultural Nuisance on the land, with his or her reasons for such denial.

The Agricultural Nuisance Appeals Board may recommend to the Board of Supervisors such conditions and other actions as it deems appropriate under the circumstances to carry out the purposes of this chapter, including, but not limited to, a delay in the time for removal of the Agricultural Nuisance, if, in its opinion, the circumstances so justify. At the conclusion of the hearing, the Agricultural Nuisance Appeals Board may determine that the property, or part thereof, is an Agricultural Nuisance, and recommend that the nuisance be removed from the property and disposed of as provided for in this chapter. The Agricultural Nuisance Appeals Board may also

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determine the administrative costs and the cost of removal to be charged against the owner of the parcel of land on which the Agricultural Nuisance is located in accordance with Section 10-6.216. The recommendation of removal shall include a description of the property, or part thereof, the correct assessor's parcel number and the Agricultural Nuisance to be removed from the property. If a written presentation is made to the Agricultural Nuisance Appeals Board, the person providing the written presentation shall be notified in writing of the recommendation.

Section 10-6.212. Appeals: Decision.

The Board of Supervisors may adopt the recommendation of the Agricultural Nuisance Appeals Board without further notice of hearing or may set the matter for hearing at a regular Board meeting.

Should the Board of Supervisors adopt the recommendation of the Agricultural Nuisance Appeals Board, notice of the decision shall be provided to the person who requested the hearing, as well as the owner of the land as shown on the last equalized County assessment roll and to the last registered and legal owner of record.

Should the Board of Supervisors set the matter for hearing at a regular Board meeting, notice of the hearing shall be mailed to the person who requested the hearing. Notice shall also be provided to the owner of the land as shown on the last equalized County assessment roll and to the last registered and legal owner of record. Notice shall be given at least ten (10) days before the hearing by certified mail, with a return receipt. If any of such notices are returned undelivered by the United States Post Office, the hearing shall be continued to a date not less than ten (10) days from the date of such return.

Section 10-6.213. Appeals: Removal.

Unless otherwise provided for at the hearing, within fifteen (15) days after the adoption of the decision declaring the property, or parts thereof, to be an Agricultural Nuisance, the Agricultural Nuisance must be removed or remedied.

Section 10-6.214. Summary Abatement.

Consistent with California Government Code Section 25845(a), nothing in this Section is intended to prohibit the summary abatement of an Agricultural Nuisance by the Agricultural Commissioner, if the Agricultural Commissioner determines that the Agricultural Nuisance constitutes an immediate threat to public health or safety.

Section 10-6.215. Right of entry of certain persons.

When the Agricultural Commissioner has contracted for the removal of an Agricultural Nuisance declared pursuant to the provisions of this chapter, such person shall be authorized to enter upon the property to remove or cause the removal the Agricultural Nuisance.

Section 10-6.216. Abatement costs.

Consistent with California Government Code Section 25845(b), the owner of the property upon which an Agricultural Nuisance is found to exist shall be liable for all costs of abatement incurred by the County, including, but not limited to, administrative costs and any and all costs incurred in the physical abatement of the nuisance. An invoice detailing these costs shall be mailed to the Responsible Person, the owner of the land as shown on the last equalized County assessment roll and to the last registered and legal owner of record.

Section 10-6.217. Collection of costs.

If the costs of abatement which are charged against the owner of a parcel of land pursuant to the provisions of Section 10-6.216 of this chapter are not paid within thirty (30) days from the date payment is requested, pursuant to the provisions of Section 25845(d) of the Government Code, such costs shall be specially assessed against the parcel of land and shall be transmitted to the Treasurer-Tax Collector for collection in the same manner as ordinary County taxes are collected, and shall be subject to the same penalties and the same procedure and sale in case of delinquency as are provided for ordinary County taxes. Such assessment shall have the same priority as other County taxes and all laws applicable to the levy, collection, and enforcement of county taxes are applicable to the special assessment.

Section 10-6.218. Notice of Abatement Lien.

If the cost of the abatement is assessed against the parcel, a Notice of Abatement Lien shall be recorded. The notice shall (1) identify the record owner or possessor of property, (2) state the last known address of the record owner or possessor, (3) state the date upon which abatement of the nuisance was ordered and the date the abatement was completed, and (4) include a description of the real property subject to the lien and the amount of the abatement cost. Recordation of a Notice of Abatement Lien has the same effect as recordation of an abstract of a money judgment. The lien created has the same priority as a judgment lien on real property and continues in effect until released. Upon order of the Agricultural Commissioner, and Notice of

Abatement Lien created under this section may be released or subordinated in the same manner as a properly recorded judgment lien on real property may be released or subordinated. (§1, Ord. 1333, effective May 26, 2005)

Article 3. Organic Certification

Section 10-6.301. Purpose and Findings.

(a) The Board of Supervisors recognizes the importance of agriculture and the promotion of sustainable agricultural practices. The Board finds that local certification of organic products is a unique opportunity to encourage, and enhance, existing agricultural operations, as well as insure the integrity of the existing organic program. A local certification program will assist in verifying compliance with organic standards, providing verification of organic products for consumers, and facilitating and encouraging the implementation of organic practices that contribute to a more sustainable management of our agricultural system.

(b) Therefore, for the reasons set forth in subsection (a), the Board of Supervisors of the County of Yolo makes the following findings:

(1) Consumer demand for certified organic products, as defined below, is increasing, with an annual growth rate of more than 20 percent per year. There is an expectation by consumers that certified organic products are verifiable. With this in mind, the County's Agricultural Commissioner developed an organic certification program to certify local products as organic with the help of the agricultural community.

(2) Local certification of organic products will accomplish a number of desirable aims, including: verifying the authenticity of agricultural products marketed as organically grown; enhancing the credibility of organic agriculture, as defined below, as a sustainable system; enhancing the preservation of our environment to optimize the health of microorganisms, plants, animals, and people; assuring consumers that certified organic products adhere to established laws and standards; facilitating commerce in fresh and processed food that is organically produced; and encouraging organic agriculture in the County of Yolo.

Section 10-6.302. Definitions.

For the purposes of this Article, unless otherwise apparent from the context, certain words and phrases are defined as follows:

(a) "Accreditation" means a determination made by the Secretary that authorizes a private, foreign, or State entity to conduct certification

activities as a certifying agent under the National Organic Program.

(b) "Act" means the Organic Foods Production Act of 1990, as amended (7 U.S.C. section 6501, et seq.).

(c) "Administrator" means the Administrator for the Agricultural Marketing Service, United States Department of Agriculture, or the representative to whom authority has been delegated to act in the stead of the Administrator.

(d) "Agricultural Commissioner" means the Yolo County Agricultural Commissioner or the Commissioner's designated representative.

(e) "Agriculture" means the science, art and business of cultivating the soil, producing crops and/or raising livestock.

(f) "Agricultural commodities" means commodities or products of agriculture, raw or processed, including any commodity or product derived from livestock that is marketed for human or livestock use or consumption.

(g) "Area" means the physical space surrounding food where there is more than a negligible chance of a prohibited material being absorbed by, incorporated into, or adhered to the food, soil, or growing medium. The area may differ significantly depending on the circumstances. Except in the case of the production of food, area shall not include any physical space surrounding food if an intervening event, such as the use of a cleaning method for processing equipment, or the passage of time, has made the chance of a prohibited material being absorbed by, incorporated into, or adhered to the food, negligible.

(h) "Certify," "certification," or "certified" means a determination made by a certifying agent that a production or handling operation is in compliance with the Act and its regulations, applicable provisions of California law, and this ordinance, which shall be documented by a certificate of organic operation.

(i) "Certified organic products" refers to Agricultural Commodities that are certified in accordance with the Act and its regulations, applicable provisions of California law, and this ordinance.

(j) "Certified operation" or "certified organic operation" means a crop or livestock production, wild-crop harvesting or handling operation that is certified by an accredited certifying agent as utilizing a system of organic production or handling as described by the Act and its corresponding regulations.

(k) "Certifying agent" means any entity accredited by the federal Secretary of Agriculture as a certifying agent for the purpose of certifying a production or handling operation as a certified organic operation.

(l) "Change in Ownership" means any change in the names, ownership interest, or status of the business ownership, other than a

change among sole proprietorship and solely owned corporation.

(m) "Enforcement Action" means an action taken to enforce the provisions of this ordinance. Examples of enforcement actions are civil penalties, suspension or termination of organic certification, or formal referral to the District Attorney for civil or criminal adjudication. Reference California Food and Ag Code Section 46009, et seq.

(n) "Enforcement authority" means the Agricultural Commissioner, County of Yolo, or the District Attorney.

(o) "Field" means a contiguous area of land for agricultural production that is managed with a consistent set of production methods.

(p) "Growing medium" means a substance that provides nutrients for plants or fungi but which is separate from the land surface of the world.

(q) "Handled" means shipped, packed, repacked, sold for resale, warehoused, wholesaled, imported into the state, or stored by other than a grower, producer, processor, or retailer of that food.

(r) "Inspector" means a person who performs inspections on behalf of a certification agent.

(s) "Inspection" means the act of examining and evaluating the production or handling operation of an applicant for certification or certified operation to determine compliance with the Act and the regulations in this part.

(t) "Label" means the information affixed to the product container that designates the identity, quantity and responsibility for the product

(u) "Livestock" means any cattle, sheep, goats, swine, poultry, equine animals, domesticated game or other cultivated animals raised for food, fiber, or the production of food and fiber.

(v) "National List" means a list of allowed and prohibited substances as provided in the Act.

(w) "National Organic Program" means the program authorized by the Act for the purpose of implementing its provisions.

(x) "Organic agriculture" means a holistic production management system which promotes and enhances agro-ecosystem health, including biodiversity, biological cycles, and soil activity; emphasizes the use of management practices over the use of off-farm inputs; and utilizes cultural, biological and mechanical methods as opposed to synthetic materials.

(y) "Organic certification program" refers to the certification process established pursuant to this ordinance.

(z) "Organic Integrity" means the qualities of an organic product which are obtained through adherence to organic standards at the production level, which must be maintained through handling to the point of final sale, in order for the final

product to be labeled and/or marketed as organic.

(aa) "Organic production" means a production system that is managed in accordance with the Act and regulations in this part to respond to site-specific conditions by integrating cultural, biological, and mechanical practices that foster cycling of resources, promote ecological balance, and conserve biodiversity.

(bb) "Processed" means cooking, baking, heating, drying, mixing, grinding, crushing, pressing, churning, separating, extracting juices or other materials, peeling, fermenting, eviscerating, preserving, dehydrating, freezing, or manufacturing that materially alters the flavor, keeping quality, or any other property, or the making of any substantial change of form. "Processed" does not include refrigeration at temperatures that are above the freezing point nor any other treatment that merely retards or accelerates the natural processes of ripening or decomposition.

(cc) "Produced" means grown, raised, harvested, handled, or stored under the control of the grower or producer.

(dd) "Producer" means a person who engages in the business of growing or production of food, fiber, feed, and other agricultural-based consumer products.

(ee) "Raw Agricultural Commodities" means unprocessed agricultural commodities.

(ff) "Reciprocity" means a mutual recognition between organic certification agents based on equivalent standards and verified competency assessment.

(gg) "Retailer" means a person engaged in the sale to consumers of food sold as organic and not engaged in the production, handling or processing of food sold as organic.

(hh) "Secretary" means the federal Secretary of Agriculture or a representative to whom authority has been delegated to act in the Secretary's stead.

Section 10-6.303. Program Authority and Fees.

(a) A local program to certify producers and handlers of organic products is hereby established within Yolo County under the supervision of the Agricultural Commissioner pursuant to California Food and Agriculture Code section 46000, et seq. A fee program is also hereby established pursuant to California Food and Agriculture Code section 46014(c) to cover the costs of the organic certification program. The fees established and collected pursuant to this ordinance do not exceed the County's reasonable costs of the organic certification program established hereunder. Such fees shall be paid directly to the Agricultural Commissioner.

(b) The following fees are hereby adopted to cover the County's reasonable costs of the program established by this ordinance:

(see following page)

Fee Structure		Handler/Processor (Gross Sales)		
	<u>Amount</u>			<u>Amount</u>
New Application Fee	\$165	0 to 50,000	150	
Site Inspection Fee	\$ 55/Hour	50,001 to 100,000	215	
		100,001 to 250,000	330	
		250,001 to 500,000	500	
		500,001 to 1,000,000	1015	
		1,000,001 to 2,500,000	1635	
		Over 2,500,001	2415	
<u>Annual Membership Fees for Certification Categories</u>				
Producer/Grower (Acres)				
0 to 1	55			
1.1 to 5.0	100			
5.1 to 15	115			
15.1 to 50	200			
50.1 and up	300			
		Document Fees	25	
		Change of Ownership/Management	100	
		Additional Acreage or Operation	150	
Specific Production Category for Hay, Silage and Pasture (Acres)				
0 to 50	75			
51 to 200	115			
Over 200	175			
Livestock Producers, Except Dairy (Number of Animals)				
0 to 50	200			
51 to 150	250			
151 to 300	300			
301 to 450	370			
450 and Up	430			
Livestock Producers, Dairy (Number of Animals)				
0 to 50	390			
51 to 150	585			
151 to 300	750			
301 and Up	1,000			
Poultry, Egg Production Only (Number of Animals)				
0 to 50	75			
51 to 200	150			
Over 200	270			
Handler (Gross Sales)				
0 to 50,000	75			
50,001 to 100,000	150			
100,001 to 250,000	300			
250,001 to 500,000	390			
500,001 to 1,000,000	660			
1,000,001 to 2,500,000	1170			
Over 2,500,001	2000			

Section 10-6.304. Eligibility.

A prerequisite to applying for certification under this program is prior registration with the State of California as an organic producer and/or handler. The County organic certification program shall apply the requirements of the California Organic Products Act of 2003, set forth in California Food and Agriculture Code section 46000, *et seq.*, as well as the requirements of the Act and the National Organic Program, as defined above.

Section 10-6.305. Certification Criteria.

The requirements of the County organic certification program are set forth in the National Organic Program, which the County adopts as its official organic standards. The Agricultural Commissioner shall use the requirements of the National Organic Program to determine eligibility for initial and continued certification. Additional detail regarding the application and implementation of these criteria is set forth in Title 7 of the Code of Federal Regulations at Part 205 (National Organic Program), Subparts A through G. A copy of 7 Code Fed. Regs. 205 (National Organic Program Final Rule) shall be kept at the office of the Agricultural Commissioner, and shall be available for reference by any person during regular business hours.

Consistent with the National Organic Program, certification in accordance with this ordinance shall require compliance the requirements and criteria set forth the Act and in 7 Code Fed. Regs. 205, including:

- Subpart A – Definitions
- Subpart B – Applicability
- Subpart C – Organic Production and Handling Requirements
- Subpart D – Labels, Labeling, and Market Information
- Subpart E – Certification
- Subpart F – Administration

The denial of a request for certification may be appealed in the same manner as a notice of proposed civil penalty, as detailed in Section 10-6.306(e), below, except that in no event shall the denial of a request for certification following an administrative appeal be subject to judicial review unless otherwise authorized by California law.

Section 10-6.306. Enforcement.

(a) Failure to comply with the terms and provisions of certification as set forth above may result in the initiation of an enforcement action (including civil penalties, suspension and/or

termination of certification), as determined by the Agricultural Commissioner in his, or her, sole discretion, which may include the actions set forth below.

(b) If the Agricultural Commissioner determines the terms and provisions of this ordinance have been violated by a person who has been certified as an organic producer and/or handler under these provisions, the Agricultural Commissioner shall notify the responsible party concerning the alleged violation in writing. The responsible party shall have 15 days from the date the notice is mailed to respond in writing. The Agricultural Commissioner shall review the response and make a determination as to the appropriate enforcement action, if any, and advise the responsible party in writing.

(c) For a first offense, in lieu of an enforcement action as prescribed in subdivision (a) or (b), the Agricultural Commissioner may issue a notice of non-compliance if he or she finds that the violation is of a minor nature.

(d) The Agricultural Commissioner may levy a civil penalty against any person under the enforcement jurisdiction of the County, in an amount not more five thousand dollars (\$5,000) for each violation. The amount of the penalty assessed for each violation shall be based upon: the nature of the violation, the seriousness of the effect of the violation, and the impact of the penalty on the violator, including the deterrent effect on future violations.

(e) After receiving a notice of proposed civil penalty, a person shall be afforded an opportunity for a hearing before the Agricultural Commissioner, upon request made within 30 days after the issuance of the notice. At the hearing, the person shall be given the right to review the Commissioner's evidence of the violation and to present evidence on his or her own behalf. If no hearing is requested, the Commissioner shall issue a notice of final civil penalty, which shall constitute a final and non-reviewable order. If a hearing is requested and held, the Commissioner shall issue his or her final order within 30 days after the end of hearing, and that notice of final action and order may be appealed in the manner described in California Food and Agricultural Code section 46017(d), as may be amended from time to time.

(f) Notwithstanding the penalties prescribed in subdivision (d), if the Agricultural Commissioner finds that a violation was not intentional, the Agricultural Commissioner may levy a civil penalty of not more than two thousand five hundred dollars (\$2,500) for each violation.

(g) A civil penalty levied by the Agricultural Commissioner pursuant to this section may be recovered in a civil action brought in the name of the County.

(h) The County shall maintain in a central location, and make publicly available for inspection and copying upon request, a list of all civil penalties levied by the Agricultural Commissioner within the past five years, including the amount of each penalty, the person against whom the penalty was levied, and the nature of the violation. Copies of this list shall also be available by mail, upon written request and payment of a reasonable fee, for providing the service as set by the county.

(i) The above civil sanctions shall be in addition to and do not otherwise impair or restrict the imposition of any other sanctions provided by law (§1, Ord. 1344, eff. April 20, 2006)

Chapter 7

GROUNDWATER

Sections:

Article 1. Declaration of Findings and Purpose

10-7.101 Regulation of the extraction and exportation of groundwater from Yolo County.

Article 2. Definitions

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10-7.303 Procedures for processing.

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10-7.305 Granting of permit.

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Article 4. Inspection

10-7.401 Inspection.

Article 5. Effective Date

10-7.501 Effective date.

Article 6. Violations.

10-7.601 Civil penalty.

Article 1. Declaration of Findings and Purpose

Sec. 10-7.101. Regulation of the extraction and exportation of groundwater from Yolo County.

The Board hereby finds and declares:

(a) The groundwater underlying Yolo County has historically provided the people and lands of Yolo County with water for agricultural, domestic, municipal and other purposes.

(b) The Board recognizes that the principle developed in the case law of California that water may be appropriated from a groundwater basin if the groundwater supply is surplus and exceeds the reasonable and beneficial needs of overlying users.

(c) It is essential for the protection of the health, welfare, and safety of the residents of the County, and the public benefit of the State, that groundwater resource of Yolo County be protected from harm resulting from the extraction of groundwater for use on lands outside the County, until such time as needed additional surface water supplies are obtained for use on lands of the County, or overdrafting is alleviated, to the satisfaction of the Board.

(d) Much of the farm production of the County depends upon the use of groundwater to produce grapes, nut, fruit, field and vegetable crops which significantly contribute to the gross value of all agricultural crops produced in the County, estimated at nearly Three Hundred Million and no/100ths (\$300,000,000.00) Dollars for 1994.

(e) The groundwater of Yolo County also provides water to several communities in the County, particularly to the cities of Davis, Winters and Woodland.

(f) The groundwater of Yolo County will be a vital part of future water use in the County. The present population of the County is nearly 150,000 and is conservatively projected to increase by the year 2020 to 315,000. Groundwater resources will serve as an important source of water supply to this increased population. As the water needs per acre of agriculture and urban areas are approximately equivalent for this region, and virtually all of the area to become urbanized is in irrigated agriculture, the consumptive demands of the groundwater lying beneath the County will remain essentially the same.

(g) Surface water supplies obtained in the future will be used conjunctively with groundwater. That is, surface water will be diverted in times of relatively high flows and groundwater will be used during dry periods when surface water is not readily available. In this regard, the greatest readily and economically available asset the County has in dealing with its water needs is its groundwater. Loss of the use of the groundwater would result in additional surface water needs. It is vital that the groundwater be preserved so that its capacity will be available for future conjunctive use.

(h) The Yolo County Water Plan Update 1992 identifies areas in the Yolo-Zamora Water District and lands along the east side of the Yolo

County Flood Control and Water Conservation District from Cache Creek to Putah Creek, encompassing the Cities of Davis and Woodland as the areas where groundwater is most important. These areas have experienced up to four (4') feet of subsidence that has aggravated flooding from the Colusa Basin Drain. Where the levees along Cache Creek are up to four (4') feet lower than their design elevation, the risk of flooding, especially to the City of Woodland, is substantially increased. Similarly, the levees along the Willow Slough Bypass are up to two (2') feet lower than their design elevation, thereby posing a risk of flooding lands near the City of Davis.

(i) The Yolo County Water Plan update 1992 concludes that an additional 120,000 acres feet of supplemental surface water per year is needed by the year 2020 to achieve a balanced use of both surface and groundwater for the County. The County and other public agencies in the County have worked with Federal, State, and other agencies to attempt to secure this needed supplemental surface water in order to relieve or alleviate the burden placed on the groundwater lying beneath the eastern portion of the County.

(j) The County seeks to foster prudent water management practices to avoid significant adverse overdraft-related environmental, social, and economic impacts. It is therefore essential for the protection of the County's important groundwater resources that the County require a permit to extract groundwater for use outside the County. This chapter requires a permit for the export of groundwater outside the County and is not intended to regulate groundwater in any other way.

(k) In adopting this chapter, the County in no way intends to limit either the County or other public entities in managing groundwater under the Groundwater Management Act and any other applicable laws in a manner consistent with Yolo County Water Plan. (§ 1, Ord. 1195, eff. December 26, 1996)

Article 2. Definitions

Sec. 10-7.201. Definitions.

(a) "Groundwater Management Act" means Water Code Sections 10750 et seq.

(b) "Aquifer" means a geologic formation that stores, transmits and yields significant quantities of water to wells and springs.

(c) "Board" means the Board of Supervisors of Yolo County.

(d) "Commission" means the Planning Commission of the County of Yolo and the WRA meeting jointly.

(e) "County" means the County of Yolo.

(f) "Director" means the Director of Community Development or his designee.

(g) "District" means a district wholly or in part

located within the boundaries of the county, which is a purveyor of waters for agricultural, domestic or municipal use.

(h) "Groundwater" means all water beneath the surface of the earth within the zone below the water table in which the soil is completely saturated with water, but does not include water which flows in known and definite channels.

(i) "Hydraulic gradient" means the slope of the water table.

(j) "Hydrology" means the origin, distribution, and circulation of water through precipitation, stream flow, infiltration, groundwater storage and evaporation.

(k) "Overdraft" means the condition of a groundwater supply in which the amount of water withdrawn by pumping exceeds the amount of water replenishing the supply over a period of time and also the point at which extractions from the supply exceed its safe yield plus any temporary surplus.

(l) "Percolation" means the movement of water through the soil to the groundwater table.

(m) "Permeability" means the capability of the soil or another geologic formation to transmit water.

(n) "Piezometric surface" means the surface to which the water in a confined aquifer will rise.

(o) "Porosity" means voids or open spaces in alluvium and rocks that can be filled with water.

(p) "Recharge" means flow to groundwater storage from precipitation, irrigation, infiltration from streams, spreading basins and other sources of water.

(q) "Safe yield" means the maximum quantity of water which can be withdrawn annual from a groundwater supply under a given set of conditions without causing overdraft or adverse water quality conditions. Specifically safe yields is the amount of water which can be withdrawn without:

(1) Exceeding in any calendar year the long-term mean annual water supply of the basin (considering all sources of recharge and withdrawal);

(2) Lowering water levels so as to make further drilling of water wells uneconomical;

(3) Causing water pumped from the basin to deteriorate below drinking water standards;

(4) Violating water rights or restrictions in pumpage in the groundwater basin as established by court adjudication or application State or Federal law;

(5) Other observable environmental damage.

(r) "Specific capacity" means the volume of water pumped from a well in gallons per minute per foot of drawdown.

(s) "Spreading water" means discharging native or imported water to a permeable area for the purpose of allowing it to percolate to the zone of saturation. Spreading, artificial recharge and

replenishment all refer to operations used to place water in a groundwater table.

(t) "Transmissivity" means the rate of flow of water through an aquifer.

(u) "Usable storage capacity" means the quantity of groundwater of acceptable quality that can be economically withdrawn from storage.

(v) "Water table" means the surface or level where groundwater is encountered in a well in an unconfined aquifer.

(w) "Water year" means the year beginning March 1 and ending the last day of the following February.

(x) "WRA" means the Water Resources Association of Yolo County.

(y) "Zone of saturation" means the area below the water table in which the soil is completely saturated with groundwater. (§ 1, Ord. 1195, eff. December 26, 1996)

Article 3. Permit Process

Sec. 10-7.301. Permit required for export for use outside County.

It shall be unlawful to extract groundwater underlying County, directly or indirectly, for use of that groundwater so extracted, outside County boundaries, without first obtaining a Permit as provided in this Chapter. The extraction of groundwater to replace a surface water supply to be transferred for use outside County boundaries shall be considered an indirect extraction of groundwater for purposes of this section, which shall require a Permit. This Chapter shall not apply for the extraction of groundwater (1) to prevent the flood of lands or (2) to prevent the saturation of the root zone of farmland, or (3) for use within the District boundaries of a District which is in part located within County and in part in another County(s) where such extraction quantities and use are consistent with historical practices of the District, or (4) for extractions to boost heads for portions of District facilities, consistent with historical practices of the District, or (5) for use on lands outside the County which are contiguous and in the same ownership to lands within the County from which the groundwater is extracted, where such extraction quantities and the use are consistent with historical practices of the landowners. The applicant shall have the burden of supporting an assertion of an historical practice with competent evidence. (§ 1, Ord. 1195, eff. December 26, 1996, as amended by § 1, Ord. 1210, eff. October 23, 1997)

Sec. 10-7.302. Application for a permit.

An application for a permit shall be filed with the Director and shall contain all information required by the Director. Concurrently, a request for environmental review shall be filed as required by applicable County guidelines. The

application for a permit and request for environmental review shall be accompanied by the fees which shall be established from time to time by the Board. (§ 1, Ord. 1195, eff. December 26, 1996)

Sec. 10-7.303. Procedures for processing.

(a) Within ten (10) calendar days of filing of the permit application, the Director shall post a notice on the departmental public bulletin board that an application has been filed, shall send a copy of the notice to the Districts and Cities within the County which have lands overlying or adjacent to the location of the extraction and to any interested party who has made a written request to the Director for such notice within the last twelve (12) calendar months. The Director shall review the application to determine whether it is complete for purposes of proceeding under the County guidelines adopted pursuant to the California Environmental Quality Act requirements.

(b) The Director may review the matter of the application with the affected County departments, with the staff of the State Department of Water Resources, with the staff of the Regional Water Quality Board-Central Valley Region, and with any interested local water agency within whose boundary the proposed activity will occur. If the applicant is applying to pump groundwater from a District, City, or the unincorporated territory in which a groundwater management plan has been adopted pursuant to the Groundwater Management Act, the Director shall consider a groundwater management plan or any other relevant information provided by the District, City, or other local agency. Any interested person or agency may provide comments relevant to the matter of the extraction of groundwater. Comments shall be submitted within thirty (30) days of the date of mailing the notice of filing the permit application.

(c) The environmental review shall be undertaken in accordance with the California Environmental Quality Act and County guidelines. All costs of the environmental review shall be the responsibility of applicant.

(d) Upon completion of the environmental review, the Director shall forward the application together with any written comments received, environmental documentations, and the Director's recommendations, to the Commission. Upon receipt of the Director's recommendation, the Commission shall immediately set a public review on the issuance of the permit which shall be noticed pursuant to Government Code Section 6061 and may not be held within fifteen (15) days of the time that the Commission receives the recommendation from the Director.

(e) The Commission shall hear the application in accordance with the provisions for public review and shall make recommendations

to the Board. The scope of the recommendations extends to any relevant matter that may be considered by the Board, including but not limited to, the effects that granting the permit application would have on the affected aquifer, each of the findings required of the Board, any appropriate conditions to be imposed, and any mitigation offsetting any adverse effect.

(f) Upon receipt of the Commission's recommendation, the Clerk of the Board shall immediately set a public review on issuance of the permit which shall be noticed pursuant to Government Code Section 6061. The Board shall hear the application in accordance with the provisions for public review and shall consider matters required to be considered during public review, including but not limited to, the effects that granting the permit application would have on the affected aquifer, make each of the findings on matters required for granting a permit, any appropriate conditions to be imposed, and any mitigation offsetting any adverse effect. (§ 1, Ord. 1195, eff. December 26, 1996)

Sec. 10-7.304. Public review concerning issuance of permit.

The hearing bodies, whether Commission or Board, shall conduct the public review in accordance with this section.

(a) The bodies forming the Commission shall meet jointly, but all actions shall be taken by a separate vote of each body. Action may be taken only if there is a majority of the membership of each body comprising the Commission present at the public review and if a majority of the total membership of each body concurs in the action. If the bodies are unable to concur on a single recommendation, each body shall make a separate recommendation.

(b) Formal rules of evidence shall not apply to the public review of the application, but the hearing body may establish such rules as will enable the expeditious presentation of the matter and relevant information thereto. At the public review, the applicant shall be entitled to present any oral or documentary evidence relevant to the application, and the applicant shall have the burden of proof of establishing the facts necessary for the required findings. The hearing body may request any additional information it deems necessary for its decision, the cost of which, if any, shall be borne by the applicant. The hearing body shall also hear relevant evidence presented by other interested persons and entities, the Director, other County staff, and the public. The hearing body shall consider all effects that the granting of the permit application would have on the affected aquifer including, but not limited to, the hydraulic gradient, hydrology, percolation, permeability, piezometric surface, porosity, recharge, safe yield, specific capacity, spreading water, transmissivity, usable storage

capacity, water table and zone of saturation. (§ 1, Ord. 1195, eff. December 26, 1996)

Sec. 10-7.305. Granting of permit.

The permit may only be granted if the Board finds and determines that the extraction will not cause or increase an overdraft of the groundwater underlying the County, will not adversely affect the long term ability for storage or transmission of groundwaters within the aquifer, will not (together with other extractions) exceed the safe yield of the groundwater underlying the County unless the safe yield is exceeded only by extractions in connection with a conjunctive use program approved by the Board and will not otherwise operate to the injury of the reasonable and beneficial uses of overlying groundwater users, is otherwise in compliance with Water Code Section 1220, or will not result in an injury to a water replenishment, storage, or restoration project operating in accordance with statutory authorization. If the permit is to be granted, the Board shall impose appropriate conditions upon the permit so as to prohibit overdraft or other adverse conditions, and may impose other conditions that it deems necessary for the health, safety and welfare of the people of the County. Other conditions in the permit may include, but are not limited to, requirements for observation and/or monitoring wells. Notwithstanding the foregoing, the Board may issue the permit if the Board finds that the applicant has provided for mitigation which will offset any adverse effect that is determined to exist. (§ 1, Ord. 1195, eff. December 26, 1996)

Sec. 10-7.306. Reapplication after denial.

Reapplication for a permit which has been denied by the Board may not be filed with the Director until the following Water Year and must be accompanied with information that demonstrates a significant change in conditions in the groundwater and/or change in the proposed extraction. (§ 1, Ord. 1195, eff. December 26, 1996)

Sec. 10-7.307. Summary permit proceedings.

(a) Notwithstanding the provisions of Section 10-7.303, the Director may grant a permit in summary proceedings upon an application accompanied by a demonstration satisfactory to the Director showing that:

- (1) The extraction is for use in compliance with the provisions of Water Code Section 1220,
- (2) The extraction will not exceed 250 acre feet,
- (3) The term of the extraction will not exceed one year
- (4) The extraction is in accordance with a conjunctive use program adopted under the

Groundwater Management Act or other applicable laws and approved by the Board.

(b) Upon receipt of an application for summary proceedings, the Director shall give notice of filing to the Commission and the Board. If the Board shall so order within twenty-one (21) days of receiving notice of the filing, proceedings shall be conducted in accordance with Section 10-7.303; in the absence of such an order the Director shall determine the accuracy of the assertions of the application. The Director may grant a permit for one year only upon a favorable determination and may impose such appropriate conditions so as to make such a determination. (§ 1, Ord. 1195, eff. December 26, 1996)

Sec. 10-7.308. Challenge to approved permit.

(a) Any interested party or public entity may challenge the continuation of an approved permit during the term of the permit when information exists that:

(1) There is a violation of the conditions of the permit, or

(2) The permit was not issued in accordance with the procedure requirements of this chapter, or

(3) Extraction of groundwater pursuant to the permit:

(i) Causes or increases an overdraft in the basin, or

(ii) Brings about or increases salt water intrusion, or

(iii) Adversely affects the long-term ability for storage or transmission of groundwaters, or

(iv) Exceeds the safe yield of the groundwaters, or

(v) Operates to the injury of the reasonable and beneficial uses of overlying groundwater users, or

(vi) Is in violation of Water Code Section 1220, or

(vii) Results in an injury to a water replenishment, storage, or restoration project operating in accordance with statutory authorization.

(b) A challenge pursuant to this section is commenced by filing a written request with the Director which alleges any of the above situations and in general describes the supporting facts for such allegation. In such event, the Director shall within ten (10) days of receipt of such challenge, give notice of the challenge to the Commission, the Permittee, Appellant, to any interested party who filed a written request for such notice within the past twelve (12) months, and also the Districts and Cities, within the County, which have boundaries overlying or immediately adjacent to the location of the permitted extraction. Commission and Board reviews shall be held on the matter following the procedures set out in Sections 10-7.304 and 10-7.305. The

recommendations and decision may be to deny the challenge, grant the challenge and terminate the permit, or to establish modified conditions to the permit.

(c) The standard for review shall be substantial evidence. The burden of proof is upon the person or entity filing the challenge. (§ 1, Ord. 1195, eff. December 26, 1996)

Sec. 10-7.309. Duration of permit.

All permits shall be valid for a term set by the Board, not to exceed three (3) water years from the date of the issuance of the permit, or, if the permit is for extraction as part of a conjunctive use program that has been approved by the Board, the permit shall not exceed the length of the term of the program. For purpose of calculation, the water year in which the permit is granted shall not be counted in determining the three (3) year time period if less than four (4) months remain in the then water year. Provided, however, nothing contained in this chapter nor in the conditions of the permit shall be construed as to give exclusive right to groundwater to permittee nor establish a compensable right in the event that the permit is subsequently discontinued or modified by the Board after a hearing on a challenge to the permit. (§ 1, Ord. 1195, eff. December 26, 1996)

Sec. 10-7.310. Limitation of permit.

The permit process of this chapter is not to be construed as a grant of any right or entitlement but rather the permit evidences that the health, welfare, and safety of the residents of the County will not be harmed by the extraction and exportation of groundwater outside the County boundaries. The permit in no way exempts, supersedes, or replaces any other provisions of Federal, State, and (with approval of the Board) District or local laws and regulations including but not limited to Water Code Section 1220, the Groundwater Management Act, and any actions provided for in California groundwater law, well drilling and maintenance or building permit requirements. (§ 1, Ord. 1195, eff. December 26, 1996)

Article 4. Inspection

Sec. 10-7.401. Inspection.

The Director, with good cause, may at any and all reasonable times enter any and all places, property, enclosures and structures, for the purposes of making examinations and investigations to determine whether any provision of this chapter is violated. (§ 1, Ord. 1195, eff. December 26, 1996)

Article 5. Effective Date

Sec. 10-7.501. Effective date.

These provisions of this chapter shall be effective as to the unincorporated portions of the County within thirty (30) days of its passage. The provisions of this chapter shall become effective in the incorporated portions of the cities within Yolo County upon adoption of each city by an Ordinance which makes the provisions of this chapter applicable to the incorporated area or which independently establishes an Ordinance incorporating compatible provisions. (§ 1, Ord. 1195, eff. December 26, 1996)

Article 6. Violations.

Sec. 10-7.601. Civil penalty.

The County may elect to proceed with a civil action against a violator, including injunctive relief. Any person or entity who violates this chapter shall be subject to fines of up to Five Thousand and no/100ths (\$5,000.00) Dollars per separate violation. A person shall be deemed to have committed separate violations for each and every day or portion thereof during which any such violation is committed, continued, or permitted as well as for and each and every separate groundwater well with which any such violation is committed, continued, or permitted. (§ 1, Ord. 1195, eff. December 26, 1996)

CHAPTER 8

AGRICULTURAL SURFACE MINING AND
RECLAMATION ORDINANCE

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Article 1. Title, Authority, and Purpose

Sec. 10-8.101. Title.

This chapter shall be known as "The Agricultural Surface Mining and Reclamation Ordinance of Yolo County." (§ 2, Ord. 1276, eff. December 6, 2001)

Sec. 10-8.102. Authority.

This chapter is enacted pursuant to the authority granted by the California Surface Mining and Reclamation Act of 1975, Chapter 9 of Division 2 of the Public Resources Code of the State, commencing with Section 2710; and pursuant to the powers of the County to protect the public health, safety, and welfare pursuant to Section 7 of Article XI of the Constitution of the State. (§ 2, Ord. 1276, eff. December 6, 2001)

Sec. 10-8.103. Purposes.

The purposes of this chapter are as follows:

(a) The preservation of agriculture is essential to the continued economic and social well-being of the County. In certain limited circumstances, however, it is necessary to mine soil from an agricultural property in order to protect, maintain, and/or enhance its existing productivity. Although the County recognizes the need for agricultural surface mining, consideration must also be balanced by other societal values, including but not limited to soil conservation, public health and safety, and wildlife habitat;

(b) Due to concerns about the impacts of surface mining on crop and livestock productivity, mining will be minimized and will only be permitted where it is wholly integral and necessary to the conduct of agricultural activities, including but not limited to the following circumstances: to improve soil quality, as a by-product of land leveling, to develop aquaculture facilities, to create or enhance wildlife habitat, or to maintain or improve drainage and flood control facilities;

(c) The potential environmental impacts, operational methods, and reclaimed end uses of surface mining necessary for agricultural operations are significantly different from those associated with commercial surface mining. Thus, it is appropriate to provide performance standards, procedures, and findings for agricultural surface mining and reclamation activities in addition to those already included within the County Code, the Act, and the Regulations. These additional measures will ensure that the impacts created by agricultural mining and reclamation activities are addressed

and that the unique interests of the farm community are protected;

(d) Agricultural surface mining and reclamation takes place in diverse areas, where the geologic, hydrologic, biological, and social conditions are significantly different. While agricultural mining permits and reclamation plans may vary to account for site-specific circumstances, they must also achieve the common goals of minimizing impacts on surrounding properties and providing for the long-term viability of on-site farming. Therefore, this chapter imposes general performance standards, by which agricultural surface mining and reclamation activities shall be regulated in order to limit their effects on surrounding properties and to safeguard productive farmland;

(e) Agricultural surface mining and reclamation must be carefully monitored, in order to reduce hazards to the public health and safety, minimize adverse effects on the environment, and to ensure the continued strength of the County's farm economy. (§ 2, Ord. 1276, eff. December 6, 2001)

Article 2. Definitions

Sec. 10-8.201. Scope.

Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application. (§ 2, Ord. 1276, eff. December 6, 2001)

Sec. 10-8.202. Abandon: Abandonment.

"Abandon" or "abandonment" shall mean to cease surface mining or reclamation with the intention of not resuming or reclaiming. Unless an Interim Management Plan is currently pending before the County, any surface mining operation that is idle for twelve (12) consecutive months or longer shall be considered abandoned. (§ 2, Ord. 1276, eff. December 6, 2001)

Sec. 10-8.203. Act.

"Act" shall mean the Surface Mining and Reclamation Act of 1975, specifically referring to Chapter 9 of Division 2 of the State Public Resources Code, Sections 2710 et seq. (§ 2, Ord. 1276, eff. December 6, 2001)

Sec. 10-8.204. Agency.

"Agency" shall mean the Planning and Public Works Department of the County, or its successor in function. (§ 2, Ord. 1276, eff. December 6, 2001)

Sec. 10-8.205. Backfill.

"Backfill" shall mean earth, overburden, mine waste, or imported material used to replace

material removed during mining. (§ 2, Ord. 1276, eff. December 6, 2001)

Sec. 10-8.206. Board.

“Board” shall mean the Board of Supervisors of the County. (§ 2, Ord. 1276, eff. December 6, 2001)

Sec. 10-8.207 CEQA.

“CEQA” shall mean the California Environmental Quality Act set forth in Sections 21000 et seq. of Division 13 of the Public Resources Code of California. (§ 2, Ord. 1276, eff. December 6, 2001)

Sec. 10-8.208. Commission.

“Commission” shall mean the Planning Commission of the County, or its successor in function. (§ 2, Ord. 1276, eff. December 6, 2001)

Sec. 10-8.209 County.

“County” shall mean the County of Yolo. (§ 2, Ord. 1276, eff. December 6, 2001)

Sec. 10-8.210. Department.

“Department” shall mean the State Department of Conservation, or its successor in function with regards to surface mining and reclamation regulation. (§ 2, Ord. 1276, eff. December 6, 2001)

Sec. 10-8.211. Director.

“Director” shall mean the Director of the County Planning and Public Works Department, a designee chosen by the Director, or the Director’s successor in function. (§ 2, Ord. 1276, eff. December 6, 2001)

Sec. 10-8.212. Financial Assurances.

“Financial assurances” shall mean monetary funds, securities, or other instruments, approved by the State Mines and Geology Board in regulation, provided by the operator to ensure that surface mining operations are reclaimed according to the approved reclamation plan, should the operator abandon the mine site. (§ 2, Ord. 1276, eff. December 6, 2001)

Sec. 10-8.213. Haul Road.

“Haul road” shall mean a road along which material is transported from the area of excavation to the processing plant or stock pile area of the surface mining operation. (§ 2, Ord. 1276, eff. December 6, 2001)

Sec. 10-8.214. Idle.

“Idle” shall mean those surface mining operations where production has been reduced by more than 90 percent of the operation’s previous maximum annual mineral production, for a period of one year or more, with the intent to resume operations at a later date. (§ 2, Ord. 1276, eff. December 6, 2001)

Sec. 10-8.215. Interim Management Plan.

“Interim Management Plan” shall mean an amendment to the approved reclamation plan to provide measures for maintaining an idle mine site until operations are resumed. (§ 2, Ord. 1276, eff. December 6, 2001)

Sec. 10-8.216. Lead Agency.

“Lead Agency” shall mean the County, which has the principal responsibility for approving a surface mining operation or reclamation plan pursuant to this chapter. (§ 2, Ord. 1276, eff. December 6, 2001)

Sec. 10-8.217. Mined Lands.

“Mined lands” shall mean the surface, subsurface, and groundwater of an area in which surface mining operations will be, are being, or have been conducted, including private ways and roads appurtenant to any such area, land excavations, workings, mining waste, and areas in which structures, facilities, equipment, machines, tools, or other materials or property which result from, or are used in, surface mining operations are located. (§ 2, Ord. 1276, eff. December 6, 2001)

Sec. 10-8.218. Minerals.

“Minerals” shall mean 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. (§ 2, Ord. 1276, eff. December 6, 2001)

Sec. 10-8.219 Mining Waste.

“Mining waste” shall mean the residual of soil, rock, mineral, liquid, vegetation, equipment, machines, tools, or other materials or property directly resulting from, or displaced by, surface mining operations. (§ 2, Ord. 1276, eff. December 6, 2001)

Sec. 10-8.220. Operator.

“Operator” shall mean any person who is engaged in surface mining operations, or who contracts with others to conduct operations on their behalf, except a person who is engaged in surface mining operations as an employee with wages as their sole compensation. (§ 2, Ord. 1276, eff. December 6, 2001)

Sec. 10-8.221. Overburden.

“Overburden” shall mean soil, rock, or other materials that lie above a natural mineral deposit or in between mineral deposits, before or after their removal by surface mining operations. (§ 2, Ord. 1276, eff. December 6, 2001)

Sec. 10-8.222 Prime Agricultural Land.

"Prime agricultural land" shall mean all land which meets the definition of prime agricultural land set forth in Section 51201 of the Government Code of the State and administered by the County in the administration of its agricultural preserve program. (§ 2, Ord. 1276, eff. December 6, 2001)

Sec. 10-8.223 Reclamation.

"Reclamation" shall mean the process of land treatment that minimizes water degradation, air pollution, damage to aquatic or wildlife habitat, flooding, erosion, threats to public health or safety, and other adverse effects from surface mining operations, including adverse surface effects incidental to underground mines, so that mined lands are reclaimed to a usable condition which is readily adaptable for alternate land uses. The process may extend to affected lands surrounding mined lands, and may require backfilling, grading, resoiling, revegetation, soil compaction, stabilization, or other measures. (§ 2, Ord. 1276, eff. December 6, 2001)

Sec. 10-8.224 Reclamation Plan.

"Reclamation Plan" shall mean the operator's completed and approved plan for reclaiming lands affected by any surface mining operations conducted after January 1, 1976, as required by Section 2772 of the Public Resources Code of the State. (§ 2, Ord. 1276, eff. December 6, 2001)

Sec. 10-8.225 Regulations.

"Regulations" shall mean the State Mining and Geology Board Reclamation Regulations, specifically referring to Subchapter 1 of Chapter 8 of Division 2 of Title 14 of the California Code of Regulations, Articles 1, 4, 5, 6, 7, 8, 9, and 12. (§ 2, Ord. 1276, eff. December 6, 2001)

Sec. 10-8.226 Resoiling.

"Resoiling" shall mean the process of artificially building or reconstructing a soil profile. (§ 2, Ord. 1276, eff. December 6, 2001)

Sec. 10-8.227 Slope.

"Slope" shall mean the angle of the ground surface, expressed as a ratio of the horizontal distance to the vertical distance. (§ 2, Ord. 1276, eff. December 6, 2001)

Sec. 10-8.228 State CEQA Guidelines.

"State CEQA Guidelines" shall mean those regulations set forth in Sections 15000 et seq. of Chapter 3 of Title 14 of the California Code of Regulations. (§ 2, Ord. 1276, eff. December 6, 2001)

Sec. 10-8.229 Surface Mining Operations.

"Surface mining operations" shall mean all, or any part of, the process involved in the mining of minerals on mined lands by removing overburden and mining directly from the mineral deposits, open-pit mining of minerals naturally exposed, mining by the auger method, dredging and quarrying, or surface work incidental to an underground mine. Surface mining operations shall include, but are not limited to: in-place distillation or retorting or leaching; the production and disposal of mining waste; and prospecting and exploratory activities. (§ 2, Ord. 1276, eff. December 6, 2001)

Sec. 10-8.230 Topsoil.

"Topsoil" shall mean the upper part of the soil profile that is relatively rich in humus, which is technically known as the A-horizon of the soil profile. (§ 2, Ord. 1276, eff. December 6, 2001)

Article 3. Scope and Exemptions

Sec. 10-8.301 Incorporation By Reference.

The provisions of the Act and the Regulations, as those provisions and regulations may be amended from time to time, are made a part of this chapter by reference with the same force and effect as if the provisions therein were specifically and fully set out herein, excepting that where the provisions of this chapter are more restrictive than corresponding state provisions, this chapter shall prevail. (§ 2, Ord. 1276, eff. December 6, 2001)

Sec. 10-8.302 Scope of Regulations.

Unless otherwise provided in this article, no person shall conduct surface mining operations within an agriculturally zoned property, unless a surface mining permit, reclamation plan, and financial assurances have been approved in accordance with this chapter, except where the subject property has an existing Sand and Gravel (SG) overlay zone and a mining permit, reclamation plan, and financial assurances approved pursuant to Chapter 4 of Title 10 of this Code. Nothing in this chapter shall be interpreted as requiring the filing of a surface mining permit and/or reclamation plan application for lands where surface mining operations were completed prior to January 1, 1976. (§ 2, Ord. 1276, eff. December 6, 2001)

Sec. 10-8.303 Scope: Area defined.

This chapter shall apply only to those areas designated as agricultural lands within the Yolo County General Plan. Specifically, agricultural surface mining operations shall only be permitted within the Agricultural General (A-1), Agricultural Exclusive (A-E), Agricultural Preserve (A-P), and/or Agricultural Industrial (AGI) Zones, as defined in Articles 4, 5, 6, and 6.1 of Chapter 2 of Title 8 of this Code. The conduct of mining within

the channel of Cache Creek is regulated by Chapter 3 of this title and shall not be subject to the provisions of this chapter. The conduct of commercial aggregate surface mining within the Cache Creek Area Plan, but outside the channel of Cache Creek, is regulated by Chapters 4 and 5 of this title and shall not be subject to the provisions of this chapter. (§ 2, Ord. 1276, eff. December 6, 2001)

Sec. 10-8.304. Exemptions: Defined.

The provisions of this chapter shall not apply to any operation where mined materials do not leave the property being excavated. This chapter shall also not apply to any operation where mined materials are transferred between parcels, if the mined materials are used for agricultural purposes (e.g., land leveling, road building, levee repair, etc.) and there is no exchange of goods and/or services for the mined materials. In addition, the provisions of this chapter shall not apply to those activities and operations that are exempted by Section 2714 of the Act and/or Section 3505.a of the Regulations.

Specifically, this chapter shall not apply to those operations conducted within the Cache Creek Settling Basin, Fremont Weir, and/or the Sacramento Weir for the purpose of cleaning out sediment materials to restore those flood control facilities to their engineered design capacity, as provided for under Section 3505.(a).(2) of the Regulations. In order to qualify for this exemption, operations may only occur where the final grade of the excavated area does not exceed the as-built approved design specifications contained in the approved documents for the Cache Creek Settling Basin, Fremont Weir, and/or Sacramento Weir.

Any exemption granted from the provisions of this chapter shall not, in and of itself, exempt a project or activity from the application of other applicable regulations and requirements. (§ 2, Ord. 1276, eff. December 6, 2001)

Sec. 10-8.305. Exemptions: Applications.

Applications for exemptions shall be submitted to the Director for review and determination as to completeness. If the application is determined incomplete, the Director shall notify the operator in writing within thirty (30) days, specially describing the information necessary to complete the application. Upon receipt of a completed application, the Director shall determine whether the operation is exempt or is subject to the provisions of this chapter and shall submit the decision in writing to the applicant. Any person with standing may appeal the Director's decision to the Commission, pursuant to the provisions of Article 10 of Chapter 4 of Title 10.

If the County determines that a proposed operation is subject to the provisions of this

chapter, an exemption may only be granted by the State Mines and Geology Board under Section 2714 of the Act. (§ 2, Ord. 1276, eff. December 6, 2001)

Article 4. Agricultural Mining and Reclamation Standards

Sec. 10-8.401. Scope.

The general standard for the operation of agricultural surface mines is to ensure the protection of the public health and safety, of the natural environment, and of the productivity of surrounding farm operations. The general standard for agricultural reclamation is to ensure that the agricultural productivity of reclaimed lands either meets or exceeds farm production levels established prior to mining. This article sets forth minimum acceptable mining and reclamation standards to implement these general standards. These minimum acceptable standards shall be considered and discussed in every surface mining permit and reclamation plan approved pursuant to this chapter. In addition, the minimum practices and standards set forth in the Act shall also be considered and discussed in every surface mining permit and reclamation plan approved pursuant to this chapter. These standards shall be followed in addition to any other conditions of approval or regulations imposed on the agricultural surface mining permit or reclamation plan. (§ 2, Ord. 1276, eff. December 6, 2001)

Sec. 10-8.402. Access roads.

Where an access road is used by trucks to haul mined material away from the permit mine site, the first one-hundred(100) feet intersecting a County-maintained road shall be surfaced in a manner approved by the Public Works Department, with an approach constructed to County standards. Traffic control and warning signs shall be installed as required by the Public Works Department. (§ 2, Ord. 1276, eff. December 6, 2001)

Sec. 10-8.403. Accident reporting.

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

If required, a copy of the operators' approved Business Emergency Response Plans and the approved Spill Prevention Control and Countermeasure Plans shall be submitted to the Yolo County Health Department, prior to the commencement of mining. (§ 2, Ord. 1276, eff. December 6, 2001)

Sec. 10-8.404. Annual production limits.

Each surface mine shall operate within the limits of the annual production level established in the mining and reclamation plan. Annual production may not exceed the established annual level. (§ 2, Ord. 1276, eff. December 6, 2001)

Sec. 10-8.405. County road improvements.

Each operator shall pay its fair share toward improvements required to maintain Level of Service (LOS) "C" operations on County roads designated as part of the haul route for the mine site. Fair share costs shall also be required to improve existing operational deficiencies of the transportation system. Where necessary, each operator shall participate in a funding program operated by the County designed to ensure that all improvements are made in a timely manner and that a reimbursement mechanism is in place to ensure repayment of any costs contribution in excess of fair share amounts. (§ 2, Ord. 1276, eff. December 6, 2001)

Sec. 10-8.406. Cultural resources.

Damaging effects on cultural resources shall be avoided whenever possible. If avoidance is not feasible, the importance of the site shall be evaluated by a qualified professional prior to the commencement of mining operations. If a cultural resource is determined not to be important, both the resource and the effect on it shall be reported to the Agency, and the resource need not be considered further. If avoidance on an important cultural resource is not feasible, a mitigation plan shall be prepared and implemented. The mitigation plan shall explain the importance of the resource, describe the proposed approach to mitigate destruction or damage to the site, and demonstrate how the proposed mitigation would serve the public interest.

If human skeletal remains are encountered during mining, all work within seventy-five (75) feet shall immediately stop, and the County Coroner shall be notified within twenty-four (24) hours. If the remains are of Native American origin, the appropriate Native American community identified by the Native American Heritage Commission shall be contacted, an agreement for treating or disposing of, with appropriate dignity, the remains and associated grave goods shall be developed. If any cultural resources, such as chipped or ground stone,

historic debris, building foundations, or paleontological materials are encountered during mining, then all work within seventy-five (75) feet shall immediately stop and the Director shall be notified at once. Any cultural resources found on the site shall be recorded by a qualified archaeologist and the information shall be submitted to the Agency. (§ 2, Ord. 1276, eff. December 6, 2001)

Sec. 10-8.407. Drainage.

During mining and reclamation operations, grading and revegetation shall minimize erosion and convey storm water runoff from reclaimed mining areas to natural outlets or interior basins. The condition of the land shall allow sufficient drainage to prevent water pockets or undue erosion. Natural and stormwater drainage shall be designed so as to prevent flooding on surrounding properties and County rights-of-way. Appropriate erosion control measures shall be incorporated into all surface water drainage systems. Grading plans shall be reviewed by the County to evaluate compliance with drainage plan objectives prior to project approval. (§ 2, Ord. 1276, eff. December 6, 2001)

Sec. 10-8.408. Dust control.

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

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

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

(c) All disturbed but inactive portions of the site shall either be seeded or watered until vegetation is grown or shall be stabilized using methods such as chemical soil binders, jute netting, or other Yolo-Solano Air Quality Management District approved methods. (§ 2, Ord. 1276, eff. December 6, 2001)

Sec. 10-8.409. Equipment maintenance.

All internal combustion engine driven equipment and vehicles shall be kept tuned according to the manufacturer's specifications and properly maintained to minimize the leakage of oils and fuel. No vehicles or equipment shall be left idling for a period of longer than ten (10) minutes. Fueling and maintenance activities of heavy equipment are prohibited within one-hundred (100) feet of open bodies of water during mining and reclamation. (§ 2, Ord. 1276, eff. December 6, 2001)

Sec. 10-8.410. Erosion control.

The grading of final slopes, the placement of soil, and associated erosion control measures

shall take place prior to November 1 in areas where mining has been completed. To minimize erosion, the finish grading of disturbed slopes shall be performed as soon as practical after mining has been completed. A drought-tolerant, weed-free mix of native and non-native grass species shall be established on slopes prior to November 1 or alternate erosion control (mulch or netting) shall be placed on exposed soil on the slopes prior to this date. Phasing of mining to minimize the length of exposed mining slopes during the rainy season is encouraged. An extension to the November 1 deadline may be granted in writing at the discretion of the Director, weather conditions permitting. (§ 2, Ord. 1276, eff. December 6, 2001)

Sec. 10-8.411. Fence row habitat.

Where fence row or field margin habitat previously existed, similar habitat shall be reestablished as part of reclamation to replace and improve the wildlife habitat value of agricultural lands. Reestablished fence row habitat shall include, but not be limited to scattered native trees, shrubs, and ground covers along the margins of reclaimed fields. Reestablished habitat can be located in areas other than where it occurred originally. Restoration plans shall specify ultimate fence row or field margin locations, identify planting densities for trees and shrubs, and include provisions for monitoring and maintenance to ensure establishment. (§ 2, Ord. 1276, eff. December 6, 2001)

Sec. 10-8.412. Field drainage.

Reclaimed agricultural surfaces shall be graded to provide adequate field gradients to allow surface/furrow irrigation of crops and allow for adequate storm water drainage. (§ 2, Ord. 1276, eff. December 6, 2001)

Sec. 10-8.413. Field releveling.

The operator shall retain a Licensed Land Surveyor or Registered Civil Engineer to survey any areas reclaimed to agricultural usage after the first two (2) crop seasons have been completed. Any areas where settling has occurred shall be relevelled to the field grade specified in the appropriated reclamation plan. (§ 2, Ord. 1276, eff. December 6, 2001)

Sec. 10-8.414. Lighting.

All lighting shall be arranged and controlled so as not to illuminate public rights-of-way or adjacent properties. (§ 2, Ord. 1276, eff. December 6, 2001)

Sec. 10-8.415. Mining in reclaimed lands.

Once the reclamation plan or any portion thereof has been completed, no further surface mining operations shall be allowed within

reclaimed lands, without approval of an amendment to the surface mining permit and reclamation plan. (§ 2, Ord. 1276, eff. December 6, 2001)

Sec. 10-8.416. Noise: General standard.

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

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

At no time shall noise levels exceed a community noise equivalent (CNEL) of sixty (60) decibels (dBA) for any existing residence or other noise-sensitive land use. An existing residence shall be considered the property line of any residentially zoned area or, in the case of agricultural land, any occupied off-site residential structures. Achieving the noise standards may involve setbacks, the use of quieter equipment adjacent to residences, the construction of landscaped berms between mining activities and residences, or other appropriate measures. (§ 2, Ord. 1276, eff. December 6, 2001)

Sec. 10-8.417. Noise: Sonic safety devices.

If mining occurs within fifteen-hundred (1500) feet of residences, equipment used during nighttime activities shall be equipped with non-sonic warning devices consistent with the California Office of Safety Hazard Administration (Cal OSHA) regulations, which may include fencing of the area to avoid pedestrian traffic, adequate lighting of the area, and placing an observer in clear view of the equipment operator to direct backing operations. Prior to commencement of operations without sonic warning devices, operators shall file a variance request with the California OSHA Standards Board showing that the proposed operation would provide equivalent safety to adopted safety procedures, including sonic devices. (§ 2, Ord. 1276, eff. December 6, 2001)

Sec. 10-8.418. Operational areas.

Operational areas and haul roads that are not required for future use of the site shall be ripped, resoiled, and prepared accordingly, to allow for future agricultural usage. (§ 2, Ord. 1276, eff. December 6, 2001)

Sec. 10-8.419. Other agency approvals.

Operators shall obtain any and all permits and approvals required by other agencies having jurisdiction over the agricultural mining and

reclamation operations and shall provide copies to the County prior to commencement of operations. (§ 2, Ord. 1276, eff. December 6, 2001)

Sec. 10-8.420. Parking.

All operations shall provide sufficient off-street parking to accommodate customers, employees, and all mining equipment. (§ 2, Ord. 1276, eff. December 6, 2001)

Sec. 10-8.421. Permanent stockpiles.

There shall be no permanent piles of mine waste, soil stockpiles, and/or overburden once reclamation has been completed. (§ 2, Ord. 1276, eff. December 6, 2001)

Sec. 10-8.422. Phasing plans.

All proposed mining and reclamation plans shall present a phasing plan for mining and reclamation activities. The phasing plan shall be structured to minimize the area of disturbed agricultural lands during each mining phase, and encourage the early completion of the reclamation of agricultural land. (§ 2, Ord. 1276, eff. December 6, 2001)

Sec. 10-8.423. Planting plans.

Site-specific planting plans shall be developed by a qualified biologist where habitat reclamation is proposed. Restoration components of reclamation plans shall include provisions to enhance habitat for special-status species, where feasible. (§ 2, Ord. 1276, eff. December 6, 2001)

Sec. 10-8.424. Repair of damage due to Natural Disaster.

The cost of implementing recommendations for repair of land damaged during earthquakes or other natural events while in the process of reclamation shall be met through application of contingency costs provided for by the project's financial assurances as required by the Act. (§ 2, Ord. 1276, eff. December 6, 2001)

Sec. 10-8.425. Sanitary facilities.

At least one toilet shall be provided for each off-channel mining operation. Chemical toilets shall be properly maintained and serviced regularly. Permanent toilets shall be properly engineered and the design approval by the Yolo County Building Official and the Environmental Health Department prior to installation. All on-site water storage facilities shall be labeled "potable" or "non-potable." (§ 2, Ord. 1276, eff. December 6, 2001)

Sec. 10-8.426. Setbacks.

All agricultural surface mining operations shall comply with the following setbacks:

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

(b) If appropriate, mining located within one-thousand (1,000) feet of either public rights-of-way or off-site residences shall be effectively screened from public view by a fence row buffer or constructed berm. Fence row landscaping plans shall identify planting densities for trees and shrubs, and include provisions for monitoring and maintenance to ensure establishment; and

(c) All agricultural mines shall be set back a minimum of twenty-five (25) feet from riparian vegetation. (§ 2, Ord. 1276, eff. December 6, 2001)

Sec. 10-8.427. Site maintenance.

During operations, the site shall be kept free of debris and maintained in a neat and orderly manner so as not to create any hazardous or unsightly conditions. All overburden shall be stockpiled and all stumps, brush, or other debris resulting from mining and/or processing shall be properly disposed. (§ 2, Ord. 1276, eff. December 6, 2001)

Sec. 10-8.428. Slopes.

All banks shall be sloped no steeper than 2:1 (horizontal:vertical). Proposed steeper slopes shall be evaluated by a slope stability study, prepared by a Registered Civil Engineer, registered in the State of California. (§ 2, Ord. 1276, eff. December 6, 2001)

Sec. 10-8.429. Soil removal.

Soil shall be cut in maximum depths in order to minimize traffic and limit compaction. The handling and transportation of soil shall be minimized. All handling of topsoil shall be accomplished when the soil is dry in order to avoid undue compaction. (§ 2, Ord. 1276, eff. December 6, 2001)

Sec. 10-8.430. Soil ripping.

Areas reclaimed to agricultural usage shall have all A and B horizon soil ripped to a depth of three (3) feet after every two (2) foot layer of soil is laid down, in order to minimize compaction. (§ 2, Ord. 1276, eff. December 6, 2001)

Sec. 10-8.431. Soil stockpiles.

Topsoil, subsoil, and subgrade materials in stockpiles shall not exceed forty (40) feet in height, with slopes no steeper than 2:1 (horizontal:vertical). Soil stockpiles shall be seeded with a vegetative cover to prevent erosion and leaching. The use of topsoil for

purposes other than reclamation shall not be allowed. (§ 2, Ord. 1276, eff. December 6, 2001)

Sec. 10-8.432. Soil use.

Topsoils classified as prime agricultural land shall be reserved for on-site crop reclamation. If mined areas are not proposed to be reclaimed to crop uses, then such topsoils shall be used to supplement and/or enhance the productivity of other agriculture lands. Topsoils removed from prime agricultural land shall not be used for backfill or other non-agricultural uses. (§ 2, Ord. 1276, eff. December 6, 2001)

Sec. 10-8.433. Vegetation protection.

Existing vegetation and habitat to be retained shall be enclosed by temporary fencing to restrict access, protect against damage and/or provide buffers to reduce the impact of dust. Temporary fencing shall be a minimum of four (4) feet high. Replacement habitat and plantings shall be established where complete avoidance is not possible, according to a habitat restoration plan prepared by a qualified biologist, consistent with the goals of this plan. (§ 2, Ord. 1276, eff. December 6, 2001)

Sec. 10-8.434. Wetlands.

Existing jurisdictional wetlands shall be retained to the extent possible. Replacement wetlands shall be provided where complete avoidance is not possible according to a habitat restoration plan prepared by a qualified wetland specialist and approved by jurisdictional agencies, ensuring no net loss of wetland acreage or habitat value. (§ 2, Ord. 1276, eff. December 6, 2001)

Sec. 10-8.435. Wildlife habitat.

Disturbance to important wildlife habitat features such as nest areas and essential cover associated with riparian and/or hedgerow areas shall be avoided. This shall include the sensitive siting of activities associated with the mining and reclamation operations away from important wildlife habitat. Such activities may include but shall not be limited to haul roads, soil stockpiles, and equipment storage/operational areas. Essential habitat for special-status species shall be protected and enhanced, or replaced in accordance with a habitat restoration plan prepared by a qualified biologist. (§ 2, Ord. 1276, eff. December 6, 2001)

Sec. 10-8.436. Exceptions.

Where an operator demonstrates to the lead agency that an exception to the standards specified in this Article is necessary, the Commission may approve an alternative standards for inclusion in the approved surface mining permit. Exceptions shall only be approved where the strict application of the

agricultural mining and reclamation standards would deprive the operator of privileges enjoyed by other agricultural mining operators in the vicinity, due to special circumstances associated with the subject site, including size, shape, topography, location, or surroundings. Although the Commission may set alternative standards, in no case may the Commission set a standard that does not meet or exceed the policy objectives set forth in this chapter and the standards contained in the Act. (§ 2, Ord. 1276, eff. December 6, 2001)

Article 5. Surface Mining Permit and Reclamation Plan Approval Process

Sec. 10-8.501. Scope.

The procedures set forth in Article 5 of Chapter 4 and Article 6 of Chapter 5 of Title 10 shall apply throughout this chapter, unless specified otherwise herein. (§ 2, Ord. 1276, eff. December 6, 2001)

Sec. 10-8.502. Applications: Contents.

Except as provided for in Section 10-4.503 of the County Code, all documentation for the surface mining permit shall be submitted to the Director at one time. One (1) complete copy of the application shall be provided to the County. Applications for proposed surface mining permits and reclamation plans shall include, but shall not be limited to, the following:

(a) A description of the proposed agricultural surface mining and reclamation operations, including the following information;

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

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

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

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

(5) The anticipated quantity and type of minerals for which the proposed surface mining operation will be conducted, including the estimated maximum annual production;

(6) The length of time for mining and reclamation. If phasing is proposed, beginning and completion dates shall be provided for each phase. Total acreage proposed for mining and for reclaimed agricultural uses shall also be provided.

(7) The maximum anticipated depth of the proposed surface mining operation.

(8) An assessment of the effect of implementation of the reclamation plan on future mining in the area;

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

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

(11) A description of the manner in which affected streambed channels and streambanks will be rehabilitated to a condition minimizing erosion and sedimentation;

(12) A description of any lands within the project site that are currently under a Land Conservation (Williamson) Act Contract and/or in an Agricultural Preserve, including any lands for which a Notice of Nonrenewal has been filed and the date of expiration. Proposed mined lands that meet the definition of "prime agricultural land" shall also be identified;

(13) A description of how the proposed project complies with the compatibility findings provided in Section 51238 et seq. of the California Government Code (the Williamson Act), if applicable;

(14) The methods to be used for on-site and off-site surface water drainage and erosion control during surface mining and reclamation operations;

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

(16) The projected number of average truck trips per year, average truck trips per day, estimated maximum truck trips on peak days, estimated number of peak days per year, and estimated months in which peak days will occur. The information shall also specify a designated truck route;

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

(18) If the proposed reclaimed agricultural use is for aquaculture, livestock, dairy, or other

alternative non-crop production, the applicant shall provide information regarding projected yields and sales for a three-year period after mining has been completed, as well as comparisons between the estimated price of the alternative agricultural production and historic on-site price and yield data; and

(19) A description of all lands within the subject site under conservation easement and a copy of the easement agreement.

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

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

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

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

(4) The existing and proposed topography of all mined and reclaimed lands;

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

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

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

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

(c) A legal description for all parcels included in the application with a basis of bearing in the California Coordinate System (NAD 27 or NAD 83);

(d) An estimate of the financial assurances necessary to implement the proposed reclamation plan, or phases thereof, prepared in accordance with Article 12 of this chapter.

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

(f) In addition to the foregoing, The Director may require such other and further information relevant to the project as needed to determine whether the proposal may affect the public health and safety. (§ 2, Ord. 1276, eff. December 6, 2001)

Sec. 10-8.503. Public Hearing: Findings for Approval

The Commission or, on appeal, the Board may approve an agricultural surface mining permit and/or reclamation plan at a public hearing pursuant to this chapter only if all of the following findings are made:

(a) That the proposed agricultural surface mining permit, reclamation plan, and financial assurances comply with the Act and this chapter;

(b) That the proposed agricultural mining and reclamation shall be conducted pursuant to a surface mining permit and reclamation plan granted in accordance with this chapter, or that the operator has vested rights to conduct surface mining pursuant to the Act;

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

(d) That the agricultural surface mining permit and reclamation plan and consistent with the General Plan, any applicable specific plans, and the zoning of the site;

(e) That agricultural surface mining and reclamation are compatible with the existing and probable future uses of surrounding lands, as designated in the General Plan;

(f) That the site is physically suitable for agricultural surface mining and reclamation, giving consideration, but not limited to such factors as on-site soil conditions, local groundwater conditions, flood protection, drainage, wildlife habitat, public access, and aesthetics;

(g) That the environmental document for the proposed surface mining permit was prepared, in accordance with the provisions of CEQA and the State CEQA Guidelines;

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

(i) That the estimated financial assurances reasonably approximate the probably costs of carrying out the agricultural reclamation plan;

(j) That the proposed mine is consistent with all of the applicable findings included within Section 51238 et seq. of the California Government Code (the Williamson Act), for any

lands located within a Land Conservation (Williamson) Act Contract. (§ 2, Ord. 1276, eff. December 6, 2001)

Article 6. Amendments and Modifications to Approved Surface Mining Permits and Reclamation Plans

Sec. 10-8.601. Scope.

The procedures set forth in Article 6 of Chapter 4 and Article 8 of Chapter 5 of Title 10 shall apply throughout this chapter. (§ 2, Ord. 1276, eff. December 6, 2001)

Article 7. Annual Reports

Sec. 10-8.701. Scope.

The procedures set forth in Article 7 of Chapter 4 of Title 10 shall apply throughout this chapter, unless specified otherwise herein. (§ 2, Ord. 1276, eff. December 6, 2001)

Sec. 10-8.702. Annual Reports: Contents.

In addition to the annual mine report required by Public Resources Code Section 2207, every surface mining operator shall submit to the County an annual report of surface mining and reclamation operations no later than November 1 of each year, describing the activities of the previous twelve (12) months. Annual reports shall no longer be required, once final reclamation has been completed and financial assurances have been released. Such reports shall include, but may not be limited to, the following information.

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

(1) property boundaries and the boundaries of permitted mining areas, including the depiction of separate mining phases;

(2) Existing contours, including the areas and depth of mining which have occurred since the previous annual report;

(3) Identification of soil stockpiles, haul roads, settling ponds, habitat avoidance areas, and processing facilities; and

(4) The extent of areas reclaimed since the previous annual report;

(b) A statement of the total amount of minerals produced since the date of the initial permit approval and since the date of the preceding annual report. Such information shall be consistent with the data submitted to the Department, as required in the Act. Production information shall be considered confidential under Article 9 of this chapter. Such reports shall

be submitted as a declaration under penalty of perjury;

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

(d) A report describing the previous year's crop yields on any land in the process of being reclaimed to agriculture in accordance with the approved reclamation plan. The report shall include appropriate remedial measures prepared by a qualified agronomist if crop and/or livestock yields do not meet the production standards set forth in the approved reclamation plan;

(e) A statement describing the compliance of the agricultural surface mining and reclamation operation with the approval conditions of approval;

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

(g) A report describing any slope failures or other erosion-related problems located within the permitted mine area, occurring during the prior twelve months, and the measures proposed to remediate erosion problems;

(h) A report describing the density, coverage, and survival of landscaping or habitat for any on-site areas that are being revegetated with plans other than agricultural crops in accordance with the approval reclamation plan. The report shall compare the observed data with the performance standards set forth in the approval reclamation plan and shall describe the remedial measures proposed if the previous year's revegetation efforts were not successful. (§ 2, Ord. 1276, eff. December 6, 2001)

Article 8. Fees

Sec. 10-8.801. Fees: Applications.

Each application for an agricultural surface mining permit, reclamation plan, financial assurance, and/or any amendments and modifications thereto shall be accompanied by the appropriate fee as determined by the Master Fee Resolution adopted by the Board. (§ 2, Ord. 1276, eff. December 6, 2001)

Sec. 10-8.802. Annual reviews and inspections.

The operator shall be responsible for the payment of fees to cover the costs incurred by the County in annually inspecting each mine site, as required under the Act. Inspection fees shall be as determined by the Master Fee Resolution adopted by the Board. This fee shall also cover the costs of the annual review required under Article 7 of this chapter. Said fee shall be due

within thirty (30) days of written notification by the Director. Failure to pay the above fees in a timely manner shall be considered a violation and may be enforced under the provisions of Article 3 11 of this chapter. (§ 2, Ord. 1276, eff. December 6, 2001)

Article 9. Confidentiality of Records

Sec 10-8.901. Scope.

The procedures set forth in Article 9 of Chapter 4 of Title 10 shall apply throughout this chapter. (§ 2, Ord. 1276, eff. December 6, 2001)

Article 10. Appeals

Sec. 10-8.1001. Scope.

The procedures set forth in Article 10 of Chapter 4 and Article 11 of Chapter 5 of Title 10 shall apply throughout this chapter. (§ 2, Ord. 1276, eff. December 6, 2001)

Article 11. Inspections: Notices of Violations

Sec. 10-8.1101. Scope.

The procedures set forth in Article 11 of Chapter 4 and Article 12 of Chapter 5 of Title 10 shall apply throughout this chapter. (§ 2, Ord. 1276, eff. December 6, 2001)

Article 12. Financial Assurances

Sec. 10-8.1201. Scope.

The procedures set forth in Article 7 of Chapter 5 of Title 10 shall apply throughout this chapter. (§ 2, Ord. 1276, eff. December 6, 2001)

Article 13. Abandonment

Sec. 10-8.1301. Scope.

The procedures set forth in Article 9 of Chapter 5 of Title 10 shall apply throughout this chapter. (§ 2, Ord. 1276, eff. December 6, 2001)

CHAPTER 9
STORMWATER MANAGEMENT AND
DISCHARGE CONTROL

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Article 1. General Provisions

Sec. 10-9.101 Title

This Chapter shall be known as the "STORMWATER ORDINANCE" of Yolo County, and may be so cited.

Sec. 10-9.102 Findings

- (a) The Federal Clean Water Act, 33 U.S.C. § 1251 et seq., provides for the regulation and reduction of pollutants discharged into the waters of the United States by extending National Pollutant Discharge Elimination System (NPDES) requirements to stormwater and urban runoff discharge into the County storm drain system.
- (b) The State Water Resources Control Board ("State Board") is the state water pollution control agency for all purposes of the Clean Water Act pursuant to Section 13160 of the California Water Code. The State Board is authorized by the United States Environmental Protection Agency (USEPA) to administer the NPDES program within the State. The Porter-Cologne Water Quality Control Act (Water Code Section 13000 et seq.) provides authority for the State NPDES program, including provisions to issue NPDES Permits and waste discharge requirements to regulate discharges of stormwater to waters of the State.
- (c) Due to amendments to the Clean Water Act, the USEPA developed a Phase I and a Phase II program requiring municipalities to develop and implement stormwater pollution management programs. Smaller municipalities and contiguous areas with small, but still urban, communities come under the Phase II regulations of the State Board's General Permit for Discharges of Storm Water from Small Municipal Separate Storm Sewer Systems (hereafter called the "Small MS4 General Permit" where MS4 stands for Municipal Separate Storm Sewer System). Yolo County falls under the Phase II regulations, which requires the submittal of a Notice of Intent (NOI) to seek coverage under the "Small MS4 General Permit."
- (d) The County's Stormwater Management Program, adopted by the County on December 7,

2004, requires the County to effectively prohibit non-stormwater discharges from the unincorporated area of the County into the County storm drain system except as otherwise permitted by law.

(e) The Board finds in this regard that the provisions of this Chapter are necessary to provide the County with the legal authority necessary to implement and otherwise comply with the requirements of the Stormwater Management Program and to protect the waters of the State for the benefit of its people and the environment.

Sec. 10-9.103 Purpose and Intent

(a) This Chapter is adopted pursuant to Article XI, Section 7 of the California Constitution, which authorizes the County to exercise the police power of the State by adopting regulations promoting the public health, public safety, and the general welfare of its citizens. The purpose and intent of this Chapter is to protect and enhance the water quality of watercourses and water bodies within the unincorporated areas of the County in a manner consistent with the Clean Water Act, the Porter-Cologne Water Quality Control Act, and the County Stormwater Management Program, by reducing pollutants in stormwater discharges to the maximum extent practicable and by prohibiting non-stormwater discharges from entering the storm drain system.

(b) It is the intent of the Board in adopting this Chapter to provide the County with the legal authority to accomplish the following goals:

(1) to benefit the people and environment of the County by protecting water quality in waters of the State;

(2) to reduce the discharge of pollutants in stormwater to the maximum extent practicable, whether those discharges are made to the County storm drain system, or directly to natural surface waters;

(3) to effectively prohibit non-stormwater discharges into the County storm drain system or to natural surface waters;

(4) to establish requirements for stormwater management, including source controls and best management practices, for development, redevelopment, construction, post-construction, industrial, and municipal activities;

(5) to comply with the requirements of the Federal Clean Water Act, the Porter-Cologne Water Quality Control Act, and the Small MS4

General Permit as they apply to the discharge of pollutants into and from the County storm drain system;

(6) to fully implement and enforce the County's Stormwater Management Program;

(7) to provide for the recovery of regulatory costs incurred by the County in the implementation of this Chapter or its Stormwater Management Program, including, but not limited to, enforcement activities, compliance assistance, inspections, investigations, sampling and monitoring; and

(8) to establish appropriate enforcement procedures and penalties for violations of the provisions of this Chapter.

Sec. 10-9.104 Definitions

Any term(s) defined in the Clean Water Act, as amended, and/or defined in the regulations for the stormwater discharge permitting program issued by the Environmental Protection Agency, as amended, and which are not specifically defined in this Chapter shall, when used in this Chapter, have the same meaning as set forth in said act or regulation.

Certain words and phrases defined in the preceding sections of this Chapter shall have the meanings set forth above. Additional defined terms used in this Chapter shall have the meanings set forth below unless the context clearly indicates otherwise.

(a) Administrator shall mean the Assistant Director of the County of Yolo's Planning, Resources and Public Works Department and his or her designees.

(b) Best Management Practices or BMPs shall mean schedules of activities, prohibition of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce to the maximum extent practicable the discharge of pollutants directly or indirectly into stormwater conveyance systems, receiving waters or to natural surface waters. BMPs shall also include structural controls, treatment practices, source controls, training requirements, operating procedures, and practices to control site runoff, spillage or leaks, sludge or waste disposal, and drainage from raw materials storage.

(c) Board shall mean the Board of Supervisors of the County of Yolo.

(d) County shall mean the County of Yolo.

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(e) County Storm Drain System shall mean those public man-made facilities within the unincorporated area of the County that are owned, operated, maintained or controlled by the County by which stormwater may be conveyed to natural surface waters, including, but not limited to, any roads with drainage systems, municipal streets, curbs, gutters, catch basins, water quality basins, detention basins, constructed wetlands, artificial channels, aqueducts, ditches, altered drainage channels, reservoirs, sumps, pumping stations, storm drain inlets, and storm drains.

(f) Development shall mean any activity that moves soils or substantially alters the preexisting vegetated or man-made cover of any land. This includes any activity that may be considered new development or redevelopment consisting of, but not limited to, grading, digging, cutting, scraping, stockpiling or excavating soil, placement of fill materials, paving, pavement removal, exterior construction, substantial removal of vegetation where soils are disturbed or any activity which bares soil or rock or involves streambed alterations or the diversion or piping of any watercourse. Development does not include routine maintenance to maintain original line and grade, hydraulic capacity, or the original purpose of the facility, nor does it include emergency construction activities (i.e. land disturbances) required to protect public health and safety.

(g) Discharge shall mean the release, threatened release, or placement of any material into the County storm drain system or natural surface waters, including, but not limited to, stormwater, wastewater, pollutants, solid materials, liquids, hazardous waste, raw materials, debris, litter or any other substance.

(h) Discharger shall mean any person who discharges, or causes to discharge, either directly or indirectly, stormwater or any other material into the County storm drain system or to natural surface waters.

(i) Illicit Connection shall mean any physical connection, including but not limited to any drain or conveyance, to the County storm drain system or natural surface waters, which is not expressly authorized by the County.

(j) Illicit Discharge shall mean any direct or indirect non-permitted or non-exempt discharge to the County storm drain system or to the natural surface waters that violates this Chapter, or a discharge prohibited by federal, state, or local laws, which tend to degrade the quality of natural surface waters.

(k) Industry or Industrial Activity shall mean any service, business, enterprise, or any other activity conducted by any person for the purpose of monetary or other compensation, or in support of or promotion of such activity. This term shall also mean any similar activity conducted by a non-profit corporation as defined by the State of California.

(l) Hazardous Materials shall mean any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

(m) Material shall mean any substance, including, but not limited to, raw materials, finished products, garbage and debris, lawn clippings, leaves and other vegetation, biological and fecal waste, sediment and sludge, oil and grease, gasoline, paints, solvents, cleaners and any fluid or solid containing chemicals.

(n) Maximum Extent Practicable shall mean a technology-based standard established by Congress in the Clean Water Act § 402(p)(3)(B)(iii) that applies to municipalities regulated by the Small MS4 General Permit. The major focus is on technology-based pollution prevention and source control BMPs as the first line of defense with feasibility, cost, effectiveness, and public acceptance as relevant considerations. As knowledge about controlling pollution of urban runoff continues to evolve, so will what constitutes the Maximum Extent Practicable.

(o) National Pollution Discharge Elimination System Permit or NPDES Permit shall mean general, group, and individual storm water discharge permits which regulate facilities defined in federal NPDES regulations promulgated pursuant to the federal Clean Water Act. The Regional Board, as defined below, and the State Board, as defined above, have adopted general storm water discharge permits, including but not limited to the General Construction Activity and General Industrial Activity permits.

(p) Natural Surface Waters shall mean creeks, natural ponds or lakes, wetlands, the Sacramento River, Cache Creek, Putah Creek, the Yolo Bypass and shall include any waters of the State and any waters of the United States contained within the boundaries of the State. Natural Surface Waters shall not mean any wet or dry detention basin, constructed wetland, stormwater

treatment facility, artificial lake or pond or other man-made body of water.

(q) Non-Stormwater Discharge shall mean any discharge to the County storm drain system or directly to natural surface waters that is not composed entirely of storm water, including discharges that do not originate as surface runoff and drainage from rainstorm events and snow melt, but essentially result partly or entirely from human activities, or materials or processes under a person's control. Non-stormwater discharges include, but are not limited to, discharges of: (1) water that has been used by a person for any purpose such as cleaning, rinsing, cooling, irrigating, aquaculture, recreation, cooking, and industrial purposes; (2) water or wastewater that originates or flows from equipment, valves, piping, hoses, containers, tanks, or other man-made apparatus; or (3) any discharge of materials or wastes other than water.

(r) Person shall mean any natural person as well as any corporation, partnership, public agency, trust, estate, cooperative association, joint venture, business entity or other similar entity, or the agent, employee or representative of any of the above.

(s) Pollutant shall mean any substance that causes or contributes to pollution, as defined herein. Pollutants may include, but are not limited to: solid, medical, or industrial waste; wrecked or discarded equipment or machinery; hazardous substances or radioactive material; dredged soil, rock or sand; volatile organic carbons; oil, grease, or other petroleum hydrocarbon; pesticides, herbicides or fertilizers; animal or human wastes or sewage; dissolved and particulate metals; wastes resulting from construction activities (including, but not limited to, sediments, slurries and concrete rinsates); and noxious or offensive matter of any kind.

(t) Pollution shall mean the human-made or human-induced alteration of the quality of waters by pollutants to a degree which unreasonably affects, or that has the potential to unreasonably affect, either the waters for beneficial uses or the facilities, which serve these beneficial uses. Pollution includes, but is not limited to, the alteration of the quality of waters by pollutants to a degree that that causes or contributes to an exceedance of water quality standards contained in the Statewide Water Quality Control Plan, the California Toxics Rule, or in the applicable Regional Water Quality Control Board Basin Plan.

(u) Regional Board shall mean the California Regional Water Quality Control Board, Central Valley Region.

(v) Stormwater shall mean any surface flow, runoff, and drainage consisting entirely of water resulting from rainstorm events and snow melt, which has not been polluted as a result of contact with man-made or natural sources of pollutants.

(w) Subject Activities shall mean any activities, operations, or facilities which discharge or have the potential to discharge pollutants into the County storm drain system, natural surface waters, or watercourses. A subject activity may be stationary or mobile, but that generate quantities or concentrations that may cause pollution.

(x) Threatened Prohibited Discharge shall mean any condition or activity that does not currently result in a prohibited discharge but is nevertheless determined by the Administrator to be a condition which results in a substantial likelihood of a future prohibited discharge.

y), Watercourses shall mean any channel or depression in which a flow of water occurs, either continuously or intermittently, including above ground portions of the storm drain system.

(z) Waters of the State shall mean all surface watercourses and water bodies as defined at 40 Code of Federal Regulations §122.2, including all natural waterways and definite channels and depressions in the earth that may carry water, even though such waterways may only carry water during rains and storms and may not carry stormwater at or during all times and seasons.

(aa) Waters of the United States shall have the same meaning as set forth in Part 122.2 of Title 40 of the Code of Federal Regulations or any successor provisions.

Sec. 10-9.105 Construction

The provisions of this Chapter shall be construed to assure consistency with the requirements of the Clean Water Act and the Porter-Cologne Act and any acts amendatory thereof or supplementary thereto, applicable implementing regulations, and Small MS4 General Permit and any amendment, revision or re-issuance thereof. In the event of a conflict between this Chapter and any Federal or State law, regulation, order or permit, the requirement that establishes the higher standard for public health and safety shall govern.

Sec. 10-9.106 Applicability

The provisions of this Chapter shall be applicable to all dischargers and potential dischargers located within or without the unincorporated area of the County that discharge either directly or indirectly into the County storm drain system. This Chapter shall also apply to stormwater and non-stormwater discharges made directly to natural surface waters within the unincorporated area of the County.

This Chapter shall apply to facilities subject to the State Construction General Permit issued by the State Board; the pollutant control provisions of a County-issued Building Permit; or any other instrument of the County that establishes pollutant control provisions for construction sites.

Sec. 10-9.107 Regulatory Consistency

The provisions of this Chapter shall take precedence over and are controlling with respect to any conflicting or inconsistent provisions in this Code. This Chapter shall also be construed to assure consistency with the requirements of the Clean Water Act and the Porter-Cologne Act and acts amendatory thereof or supplementary thereto, any applicable implementing regulations, and the Small MS4 General Permit, and any amendment, revision or re-issuance thereof.

Sec. 10-9.108 Compliance Disclaimer

Compliance by any person with the provisions of this Chapter shall not preclude the need to comply with other local, state or federal statutory or regulatory requirements relating to the control of pollutant discharges or protection of stormwater quality, or both.

Sec. 10-9.109 Severability

If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Chapter is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases of this Chapter. The Board hereby declares that it would have adopted this Chapter and each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof without regard to whether any other section, subsection, subdivision, paragraph, sentence, clause or phrase of this Chapter would subsequently be declared to be invalid or unconstitutional.

Sec. 10-9.110 Administration

Except as otherwise provided herein, the authority to implement this Chapter is vested in the Administrator who shall be responsible for the administration, implementation and enforcement of the provisions of this Chapter. Unless otherwise specified herein, any powers granted to or duties imposed upon the Administrator may be delegated by the Administrator to other County employees or, upon the approval of the Board, to employees of other public agencies.

Sec. 10-9.111 Disclaimer of Liability

The standards set forth herein and promulgated pursuant to this Chapter are minimum standards; therefore this Chapter does not imply that compliance will ensure that there will be protection from liability including civil penalties or that there will be no contamination, pollution, nor unauthorized discharge of pollutants into natural surface waters or the waters of the United States. This Chapter shall not create liability on the part of the County, or any officer or employee thereof for any damages that result from any discharger's reliance on this Chapter or any administrative decision lawfully made thereunder.

Article 2. Prohibited Discharges.

Sec. 10-9.201 Prohibited Discharges

Except as provided in Section 10-9.202, it shall be unlawful for any person to make or cause to be made an illicit discharge of any materials, including but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than stormwater into the County storm drain system, natural surface waters, or watercourses.

Sec. 10-9.202 Exceptions to Prohibited Discharges

The following non-stormwater discharges to the County storm drain system or natural surface waters are exempt from otherwise applicable discharge prohibition set forth in Section 10-9.201:

- (a) Any discharge regulated under a NPDES permit, waiver, or waste discharge order issued to the discharger and administered by the State of California under the authority of the Federal Environmental Protection Agency or under State authority, provided the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written

approval has been granted by the County of Yolo for any discharge to the storm drain system.

(b) The discharge of stormwater containing pollutants that has been reduced to the maximum extent practicable by the application of best management practices or other management measures set forth in the County's Stormwater Management Program

(c) Any discharge from any of the following activities, unless the Administrator determines any otherwise exempt discharge causes or significantly contributes to violations of the Clean Water Act, Porter-Cologne Act, or this Chapter, or conveys significant quantities or concentrations of pollutants to the County storm drain system, natural surface waters, or watercourses:

- (1) water line flushing;
- (2) landscape irrigation;
- (3) diverted stream flows;
- (4) rising groundwater;
- (5) uncontaminated ground water infiltration [as defined in 40 CFR 35.2005 (20)];
- (6) uncontaminated pumped ground water;
- (7) discharges from potable water sources;
- (8) foundation drains;
- (9) air conditioning condensate;
- (10) irrigation water;
- (11) water from natural springs;
- (12) water from crawl space pumps;
- (13) footing drains;
- (14) lawn watering;
- (15) individual residential car washing;
- (16) flows from riparian habitats and wetlands;
- (17) dechlorinated swimming pool discharges; or
- (18) discharges of flows from emergency fire fighting activities.

(d) Any discharges that the Administrator, the County Health Officer or the Regional Board determines in writing are necessary for the protection of public health and safety.

(e) With written concurrence of the Regional Board, the Administrator may exempt in writing additional categories of non-stormwater discharges determined not to be sources of pollutants to the County of Yolo storm drain system or natural surface waters.

Sec. 10-9.203 Exception to Otherwise Applicable Exemptions

Notwithstanding the exemptions provided for in Section 10-9.202 above, if the Regional Board or the Administrator determines that a discharge which is otherwise exempt from the prohibition on discharges causes or significantly contributes to the violation of any Receiving Water Limitation or results in the conveyance of significant quantities or concentrations of pollutants into the County storm drain system or to natural surface waters, or is otherwise a danger to public health or safety, the Administrator may give written notice to the discharger that the exception shall not apply to the discharge at issue following expiration of the thirty (30) day period commencing upon delivery of the notice. Upon expiration of such thirty (30) day period, any such discharge shall be unlawful. Upon finding that any discharge poses an immediate significant threat to the environment or to public health and safety, the Administrator may waive the thirty (30) day waiting period and require immediate cessation of the discharge.

Sec. 10-9.204 Threatened Prohibited Discharge

It shall be unlawful for any person to maintain, or cause to be maintained, a threatened prohibited discharge after having received notice of the Administrator's determination as to the existence of a threatened prohibited discharge.

Sec. 10-9.205 Illicit Connections Prohibited

(a) It shall be unlawful for any person to establish, use or maintain, or cause to establish, use or maintain, any illicit connection. Illicit connections shall be subject to removal or abatement by the County pursuant to Article 5 of this Chapter.

(b) The prohibition set forth in subsection (a) above shall apply to illicit connections in existence at the time this Chapter becomes effective. Upon the effective date of this Chapter, any person who maintains an illicit connection shall have thirty (30) days to disconnect and discontinue use of such connection or secure approval of such connection. Notwithstanding the provisions of this Section, any person who maintains an illicit connection, as defined in Section 10-9.104, may apply to the County for a permit to continue the connection subject to applicable County Standards. The submission of a permit application is not a substitute for compliance with the provisions of this Chapter and any applicable requirements of state or federal law, and the County, irrespective of

whether a permit application has been submitted, may enforce this Chapter. No permit shall be issued for any connection or any physical facility or apparatus that is installed, intended, serves, or is known to convey a prohibited illicit discharge to the County storm drain system, natural surface waters, or watercourses in violation of this Chapter or any provision of state or federal law.

Sec. 10-9.206 Negligence or Intent Not Required

A violation of the provisions of this Chapter shall occur irrespective of the negligence or intent of the violator to construct, maintain, operate or utilize an illicit connection or to cause, allow or facilitate any prohibited discharge.

Sec. 10-9.207 Waste Disposal Prohibitions

No person shall throw, deposit, leave, maintain, keep, or permit to be thrown, deposited, left, or maintained, in or upon any public or private property, driveway, parking area, street, alley, sidewalk, component of the County storm drain system, natural surface waters, or water of the U.S., any refuse, rubbish, garbage, litter, or other discarded or abandoned objects, articles, and accumulations, so that the same may cause or contribute to pollution. Wastes deposited in streets in proper waste receptacles for purposes of municipal waste collection are exempted from this prohibition.

Sec. 10-9.208 Discharges in Violation of Industrial or Construction Activity NPDES Storm Water Discharge Permit.

Any person subject to an industrial or construction activity NPDES storm water discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the Public Works Director prior to or as a condition of a subdivision map, site plan, building permit, or development or improvement plan; upon inspection of the facility; during any enforcement proceeding or action; or for any other reasonable cause.

Article 3. Reduction of Pollutants in Stormwater

Sec. 10-9.301 General Requirements

(a) The Administrator is authorized to designate as subject activities any activities, operations, or facilities identified as sources or potential sources of pollutant discharges to the County storm drain system, natural surface

waters, or watercourses. A subject activity may occur at a stationary facility or it may occur as a mobile activity that takes place at various job sites.

(b) All persons engaged in subject activities that may result in pollutants entering the County storm drain system, natural surface waters, or watercourses shall implement Best Management Practices (BMPs), to the maximum extent practicable, to prevent and/or reduce such pollutants from entering non-stormwater discharges and/or stormwater discharges in accordance with Section 10-9.303, Best Management Practices, below.

(c) All BMPs shall be protected, inspected, and maintained to ensure continuous and fully effective performance as designed. A maintenance and inspection schedule for both dry and wet season BMPs shall be in writing and a record shall be kept with dates, BMP inspected or maintained, a description of any maintenance activity, and the name of the inspector or maintenance foreman. This record shall be made available to the Administrator upon request.

(d) Every person owning or occupying property adjacent to or through which a watercourse passes, shall keep and maintain that part of the watercourse within said property reasonably free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly obstruct the flow of water through the watercourse. The property owner or occupant shall be responsible for obtaining and complying with any and all required permits necessary for conducting such activities.

(e) Whenever the Administrator finds that a discharge of pollutants is taking place or has occurred that results in or resulted in pollutants entering the County storm drain system or natural surface waters, the Administrator shall require by written notice to the owner or occupant of the property that the pollution be remediated and the affected property restored within a specified time pursuant to the provisions of Article 5, "Enforcement" below.

(f) The Administrator shall by written notice require that persons engaged in subject activities and/or owning or operating designated facilities, which may cause or contribute to stormwater pollution, illicit discharges, and/or non-stormwater discharges into the County storm drain system, natural surface waters, or watercourses, to undertake at said person's

expense such monitoring and analyses and furnish such reports to the Administrator as deemed necessary to determine compliance with this Chapter.

Sec. 10-9.302 Containment and Notification of Spills

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or person conducting any subject activity that has information of any spill, release or suspected release of pollutants or prohibited materials which result or may result in an illegal discharge into the County storm drain system or natural surface waters shall immediately take all reasonable action to ensure the discovery, containment, cleanup, and to otherwise minimize any such spill or release.

In the event such a spill or release is of a hazardous material, said responsible person shall immediately notify emergency response officials of the incidence by means of emergency dispatch services (911). Said responsible person shall notify the County Communication line at (530) 666-8920 for assistance.

For a non-hazardous prohibited material spill or release that has been contained and cleaned up, said responsible person shall notify the County Department of Planning, Resources and Public Works in person, by telephone, or facsimile no later than 5:00 p.m. the next business day. Notifications made in person or by telephone shall be confirmed by written notice within three business days of the personal or telephoned notice.

For any discharge subject to the reporting requirements of the State of California Water Code Sections 13271 and 13272, notification in compliance therewith shall constitute sufficient notification for the purposes of this Section.

Sec. 10-9.303 Best Management Practices

(a) Any person performing construction activities for which a building permit has been issued shall implement appropriate Best Management Practices (BMPs) to prevent the discharge of pollutants, to the maximum extent practicable, from the site into the County storm drain system or natural surface waters. These pollutants may include, but are not limited to, soils, construction wastes or debris, contaminants from construction materials, tools, and equipment.

(b) New development and redevelopment projects shall be required to implement post-construction BMPs to control the volume, rate, and potential pollutant load of stormwater runoff, including, but not limited to, requirements to minimize the generation, transport and discharge of pollutants. The owners or operators of facilities required to implement post-construction BMPs shall enter into a maintenance agreement with the County for maintenance of such features.

(c) Notwithstanding the presence or absence of requirements promulgated pursuant to subsections (a) and (b), any person engaged in activities or operations, or owning or operating facilities or property which will or may result in pollutants entering the County storm drain system, or natural surface waters shall implement BMPs to the maximum extent practicable to prevent and reduce such pollutants. The owner or operator of a commercial or industrial establishment shall provide at the owner or operator's expense all reasonable protection from accidental discharge of prohibited materials or other pollutants into the County storm drain system or natural surface waters.

(d) Any facility which demonstrates to the satisfaction of the Administrator that it is in compliance with a State or Federal NPDES permit waste discharge requirements or waiver from waste discharge requirements for stormwater discharges shall be deemed to have met the requirements of the Chapter.

Sec. 10-9.304 Administrative Rules and Regulations

(a) The Administrator shall have the authority to implement all provisions of this Chapter by promulgation of rules and regulations that are consistent with this Chapter.

(b) Any rules and regulations promulgated by the Administrator, or amendments thereof, shall be filed with the Clerk of the Board of Supervisors. The Clerk shall cause announcement of said rules or regulations to be published in a newspaper of general circulation within ten calendar days. Such announcements shall provide a reasonable summary of the content of the rule. In addition, the Administrator shall make a reasonable effort to identify, notify, and provide copies to any industries that are specifically designated by the Administrator as subject to a rule or regulation. However, neither the failure of the Administrator to provide such notice nor the failure to receive individual notice shall exempt an industry from

that rule or regulation. No regulations promulgated by the Administrator, or amendments thereof, shall be enforced or become effective until thirty (30) calendar days following the date on which notification of the regulations are published.

(c) Any person who asserts that he or she is aggrieved by the terms or application of a regulation issued pursuant to this Section may appeal the issuance of such regulation by filing a written notice of appeal with the Clerk of the Board pursuant to Yolo County Code Chapter 4, Appeals, of Title 1.

(d) Any regulation from which an appeal is filed prior to its effective date shall not become effective until the date of a final determination by the Board on the merits of the appeal. Any regulation from which an appeal is filed on or subsequent to the effective date thereof shall remain in full force and effect during the pendency of the appeal, and any decision that rescinds or modifies the regulation shall apply prospectively.

Article 4. Inspection and Monitoring

Sec. 10-9.401 Authority to Enter and Inspect

(a) The Administrator, or the Administrator's representative, has authority to conduct inspections related to purposes of implementing this Chapter on private or public property. Inspections shall be based upon such reasonable selection processes as may be deemed necessary to carry out the objectives of the Chapter, including, but not limited to, visual evidence of an actual or potential violation of any provision of this Chapter, complaints received, knowledge or physical evidence of subject activities or other pollutant sources, random sampling, sampling in areas with evidence of stormwater contamination, illicit connections, discharge of non-stormwater to the County storm drain system or natural surface waters, or similar factors.

(b) In the event the owner, occupant or operator refuses the Administrator, or the Administrator's representative, entry to said property for purposes of conducting an inspection to determine compliance with this Chapter, the Administrator is hereby empowered to seek assistance from any court of competent jurisdiction to obtain such entry by the use of an administrative inspection warrant or a criminal search warrant.

(c) Whenever necessary to make an inspection to enforce any provision of this Chapter, or whenever the Administrator has cause to believe that there exists, or potentially exists, in or upon any premises any condition which constitutes a violation of this Chapter, the Administrator or his or her designee may enter such premises at all reasonable times to inspect the same and to inspect and copy records relating to compliance with the provisions of this Chapter. In the event the owner or occupant refuses entry a request to enter and inspect has been made, the Administrator is hereby authorized to seek assistance from any court of competent jurisdiction to obtain such entry.

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Sec. 10-9.402 Authority to Sample, Establish Sampling Devices, and Test

Authorization is hereby given the Administrator to enter private property and to take any samples and perform any testing deemed necessary to aid in the pursuit of an investigation and to record site activities. Notwithstanding Section 10-9.301 (f) above, which requires the person owning, occupying, or operating the premises at his expense to supply the Administrator samples and testing results upon written notice, this Section gives the Administrator the authority to enter private property and take such samples and perform such tests deemed necessary in a stormwater violation investigation.

Sec. 10-9.403 County Inspection of Stormwater Conveyance System

County staff will inspect and monitor the stormwater conveyance system to determine if illicit connections are present and if illegal discharges are entering the stormwater conveyance system, County storm drain system, or natural surface waters. If illegal discharges are detected, County staff will inspect the system to determine the source of the illegal discharge. County staff will notify the Administrator upon the detection of illicit connections and illegal discharges so that the provisions of this Chapter can be implemented. Regular inspection of the stormwater conveyance system will also include periodic sampling of the stormwater to monitor its quality. The County will impose a fee (based upon a fee schedule) for inspections of private stormwater collection system discharges to the County system.

Sec. 10-9.404 Fee Structure Authorized

The Administrator shall collect such fees as authorized by the Board of Supervisors to provide

for the recovery of regulatory costs, including, but not limited to, routine inspections and other regulatory functions associated with implementation of this Chapter. Any such fees shall be established by resolution of the Board of Supervisors.

Article 5. Violations, Enforcement and Abatement

Sec. 10-9.501 Violations

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this Chapter. A violation or failure to comply with any of the requirements of this Chapter shall constitute a misdemeanor and shall be punished as set forth in Title 1, Chapter 2 of this Code.

Sec. 10-9.502 Violations Deemed a Public Nuisance

In addition to the enforcement processes and penalties hereinbefore provided, any condition caused or permitted to exist in violation of any of the provisions of this Chapter is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored by the County at the violator's expense, and/or civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken by the County.

Sec. 10-9.503 Violation of an Existing NPDES Permit

Any person subject to an industrial or construction activity NPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the Administrator prior to or as a condition of a subdivision map, site plan, building permit, or development or improvement plan; upon inspection of the facility; during any enforcement proceeding or action; or for any other reasonable cause.

Sec. 10-9.504 Potential Violation of the Federal and/or State Stormwater Acts

Any person who violates any provision of this Chapter or any provision of any requirement issued pursuant to this Chapter, may also be in violation of the Clean Water Act and/or the Porter-Cologne Water Quality Control Act and may be subject to sanctions of those acts including civil and criminal penalties. Any enforcement action authorized under this Chapter

shall also include written notice to the violator of such potential liability.

Sec. 10-9.505 Enforcement Authority

- (a) Any person who violates a provision of this Chapter is subject to either administrative, civil, or criminal liability as provided in this Chapter.
- (b) The Administrator is granted the authority to use any of the provisions of Sections 10-9.506 through 10-9.511, where appropriate, to correct violations of and to secure compliance with the provisions of this Chapter.

Sec. 10-9.506 Notice of Violation

- (a) Whenever the Administrator determines that a person in responsible position has violated this Chapter, or that a violation may occur, the Administrator may provide a warning to the person responsible for the condition giving rise to such violation or potential violation. At the Administrator's discretion such warning may include the distribution of educational materials to assist in future compliance with this Chapter. Issuance of a warning shall not be a requirement prior to using any enforcement provisions of this Chapter
- (b) Whenever the Administrator determines that a violation has occurred, or may occur, the Administrator may serve a Notice of Noncompliance to any person responsible for the violation or potential violation. Each Notice of Noncompliance shall contain the following information:
 - (1) The date of the violation;
 - (2) The address or a definite description of the location where the violation occurred;
 - (3) The Chapter Section violated and a description of the violation;
 - (4) A description of how the violation can be corrected;
 - (5) A time limit by which the noncompliance shall be corrected;
 - (6) A description of further enforcement and/or corrective actions to be taken by the County if noncompliance is not fully corrected by the time limit.

(7) The name and signature of the individual preparing the Notice of Noncompliance; and

(8) Notice of potential liability under the Clean Water Act or Porter-Cologne Water Quality Act.

(c) In lieu of or following the procedures set forth in subsections (a) and (b), above, if the Administrator finds that a person has violated a prohibition or failed to meet a requirement of this Chapter, the Administrator may order compliance by issuing a written notice of violation to the responsible person. Such notice may require without limitation the following:

- (1) The performance of monitoring, analyses, and reporting;
- (2) The elimination of illicit connections or discharges;
- (3) The violating discharges, practices, or operations shall cease and desist;
- (4) The abatement or remediation of stormwater pollution or contamination and the restoration of any affected property;
- (5) Payment of a fine to cover administrative and remediation costs; and
- (6) The implementation or maintenance of source control facilities or treatment BMP's.
- (7) Notice of potential liability under the Clean Water Act or the Porter-Cologne Water Quality Act.

(d) If abatement for a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remedy or restore within the established deadline, the work will be done by the County or a contractor designated by the Administrator and the expense thereof shall be changed to the violator pursuant to Section 10-9.509 below.

Sec. 10-9.507 Appeal

Notwithstanding the provisions in Section 10-9.509 below, any person receiving a written

notice of violation under Section 10-9.506 above may appeal the determination of the Administrator pursuant to the provisions of Title 1, Chapter 4 of this Code.

Sec. 10-9.508 Abatement by County

If the violation has not been corrected pursuant to the requirements set forth in Section 10-9.506 above, or in the event of an appeal under Section 10-9.507, within 10 days of the decision of the Board of Supervisors upholding the decision of the Administrator, then the County or a contractor designated by the Administrator shall enter upon the subject private property and is authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the Administrator or designated contractor to enter upon the premises for the purposes set forth above.

Sec. 10.9-509 Charging Cost of Abatement/Liens

Within 30 days after abatement of the nuisance by the County, the Administrator shall notify the property owner of the cost of abatement, including administrative costs. The property owner may file a written protest objecting to the amount of the assessment with the County Clerk within 14 days. The County Clerk shall set the matter for public hearing by the Board of Supervisors. The decision of the Board of Supervisors shall be set forth by resolution and shall be final.

If the amount due is not paid within 10 days of the decision of the Board of Supervisors or the expiration of the time in which to file an appeal under this article, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment. A copy of the resolution shall be turned over to the County Auditor so that the auditor may enter the amounts of the assessment against the parcel as it appears on the current assessment roll, and the tax collector shall include the amount of the assessment on the bill for taxes levied against the parcel of land.

Sec. 10-9.510 Compensatory Action

In lieu of enforcement proceedings, penalties, and remedies authorized by this Chapter, the Administrator may impose upon a violator alternative compensatory actions, including but not limited to storm drain stenciling,

attendance at compliance workshops, creek cleanup, etc.

Sec. 10-9.511 Urgency Abatement

The Administrator is authorized to require immediate abatement of any violation of this Chapter that constitutes an immediate threat to the health, safety or well being of the public. If any such violation is not abated immediately as directed by the Administrator, the County is authorized to enter onto private property and to take any and all measures required to remedy the violation. Any expense related to such remediation undertaken by the County shall be fully reimbursed by the property owner and/or responsible party. (§1, Ord. 1352, eff. August 24, 2006).