

COUNTY OF RIVERSIDE, CALIFORNIA
BOARD OF SUPERVISORS POLICY

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GUIDELINES FOR PROCESSING SURFACE MINING PERMITS FOR NEW AND SIGNIFICANTLY EXPANDED SURFACE MINING OPERATIONS	B-35	1 of 5

Purpose:

The Surface Mining and Reclamation Act (“SMARA”) of 1975 and Ordinance No. 555, on a state-wide and county-wide level, respectively, address the need for a continuing supply of mineral resources and the importance of promoting the development of such resources. At the same time, SMARA and Ordinance No. 555 also seek to minimize or prevent the negative impacts of surface mining and ensure mined lands are reclaimed to a usable condition. The Board of Supervisors (“Board”) therefore recognizes and supports the need for a continuing supply of mineral resources, in an environmentally responsible manner. However, depending on the location of the facility, surface mining may result in impacts to the surrounding area, including but not limited to the heavy trucks associated with surface mining that can negatively impact the conditions of roadways.

The fundamental values of the County expressed in its General Plan remain important, including “sustainability,” pursuant to which the County has an expectation that its future residents will inherit communities offering them a reasonable range of choices (General Plan p. V-7) and the “natural environment” (General Plan p. V-6). New and significantly expanded surface mining projects need to be approved and operated with these and other fundamental values in mind.

Other General Plan policies that could be affected by surface mining operations include the following:

- Land Use Element Policy LU 2.1.c – the County shall provide a broad range of land uses, including a range of residential, commercial, business, industry, open space, recreation and public facility uses (General Plan p. LU-19).
- Land Use Element Policy LU 5.1 – the County shall ensure that development does not exceed the ability to adequately provide supporting infrastructure and services (General Plan p. LU-24).
- Land Use Element Policy LU 7.1 – the County shall accommodate the development of a balance of land uses that maintain and enhance the County’s fiscal viability, economic diversity and environmental integrity (General Plan p. LU-26).
- Land Use Element Policy LU 26.3 – the County shall ensure that development does not adversely impact the open space and rural character of the surrounding area (General Plan p. LU-56).

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The purposes of this Board policy are: (1) to ensure that new and significantly expanded surface mining projects support the foregoing policies and other fundamental values; (2) ensure that these and other fundamental values, including those set forth in the County Vision, continue to be implemented; (3) maximize efficient utilization of resources at the least economic cost to the public; (4) give operators and owners of surface mining operations certainty as to, and options for complying with, the County's requirements; and (5) ensure that County roadways utilized by new and significantly expanded surface mining facilities are properly maintained. These goals will be accomplished, in part, by providing funding for future roadway expansion, repair, and/or maintenance activities that will be deposited with the County for use within the supervisorial districts where new and significantly expanded surface mining facilities are located, through either (1) the payment of a Road Impact Assessment, or (2) the negotiation of a Development Agreement, as set forth below.

Policy:

To secure public health, safety, and welfare, all new surface mining operations and significantly expanded surface mining operations shall be subject to this policy as well as the requirements of any applicable ordinance, state law, and federal law. For the purposes of this policy, a "Significantly Expanded Surface Mining Operation" shall mean the physical expansion of a legally existing surface mining operation, operating under a valid surface mining permit ("Permit"), that cumulatively increases the size of the area under the Permit by more than ten (10) percent of square footage of the existing surface mining operation or total volume of the mineral reserves. (Ordinance No. 555 Section 4.1.) Subsequent applications will be considered with the previous ones to calculate cumulative increase.

New Permits or Revised Permits for Significantly Expanded Surface Mining Operations. In accordance with Ordinance No. 555 Section 7, applicants for a new Permit, or a Revised Permit that qualifies as a Significantly Expanded Surface Mining Operation, shall select one of the following and: (1) Submit an application for a development agreement, which would then be processed in accordance with all applicable ordinances, provisions, procedures, policies, and state and federal laws relating to development agreements and which must be approved and fully executed prior to or concurrently with final approval of such new Permit or Revised Permit; or (2) Agree to a condition of approval requiring compliance with the Road Impact Assessment as set forth in this policy and Ordinance No. 555. The selection between these two options is at the discretion of the applicant, and an applicant's decision to select one option rather than the other shall not be the basis for denial of the project.

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Applicants shall have the discretion to determine which of these two options to undertake. Accordingly, an applicant's decision to undertake one option as opposed to the other shall not constitute a basis for (i) the County to deny a new Permit, or a Revised Permit that qualifies as a Significantly Expanded Surface Mining Operation; or (ii) the County to impose conditions or mitigations that would not have otherwise been imposed of the applicant had selected the other option.

Road Impact Assessment. Applicants for a new Permit, or a revised Permit for a Significantly Expanded Surface Mining Operation, that elect to be subject to a Road Impact Assessment shall comply with the following payment program:

PCC Material: Applicants shall pay to the County a Road Impact Assessment of \$0.05 per ton of Portland cement concrete-grade aggregate material ("PCC Material") extracted from the subject mining site associated with the new Permit, or revised Permit for a Significantly Expanded Surface Mining Operation, and either (i) sold as a finished product and transported off the site, or (ii) transported off the site for further processing and sale off the site.

Non-PCC Material: Applicants shall pay to the County a Road Impact Assessment of \$0.03 per ton of material not suitable for Portland cement concrete use ("Non-PCC Material"), including, without limitation overburden, other waste rock, or topsoil, extracted from the subject mining site associated with the new Permit, or revised Permit for a Significantly Expanded Surface Mining Operation, and either (i) sold as a finished product and transported off the site, or (ii) transported off the site for further processing and sale off the site.

If the Road Impact Assessment payment amount would be less than \$25,000, applicants for a new Permit, or a revised Permit for a Significantly Expanded Surface Mining Operation, shall be required to pay a minimum Road Impact Assessment amount of \$25,000 ("Minimum Payment") per year.

CPI Adjustments. The Road Impact Assessment shall be adjusted annually in accordance with the Consumer Price Index for "All Urban Consumers, All Items Less Food and Energy Riverside-San Bernardino-Ontario, CA Area," published by the U.S. Department of Labor Statistics, or, if no longer available, a similarly applicable index. The annual CPI adjustment shall not exceed 4 percent. The \$25,000 minimum annual Road Impact Assessment shall be subject to a 10% adjustment every five years.

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Local District Use of Road Impact Assessments. In order to ensure that Road Impact Assessments are used to expand, maintain, repair the network of roadways being used in conjunction with the specific mining sites responsible for payment of the Road Impact Assessments, the County's use of Road Impact Assessments shall be limited to new paving, repair and maintenance activities within the supervisorial district within which the specific mining site paying the Road Impact Assessment is located.

Payment Schedule. Applicants electing to be subject to a Road Impact Assessment shall submit payments to the County on an annual basis on October 1 of each year, based on the annual Operator's report required to be submitted on July 1. The first payment for a new Permit shall be paid the first October 1 after approval of the Permit or revised Permit. The first payment for a Significantly Expanded Surface Mining Operation shall be paid the first October 1 after extraction has begun. For both a new Permit and a Significantly Expanded Surface Mining Operation, the Minimum Payment, if applicable, shall be prorated on a daily basis for the first year. Consistent with sections 2207(g) and 2778 of SMARA, the disclosure of the amount of a Road Impact Assessment paid by a party subject to this Board Policy shall be considered proprietary information. However, the total amount of all Road Impact Assessments collectively paid by all parties subject to this Board Policy shall be considered public information, unless the disclosure of such information would result in either the direct or indirect disclosure of information identified as proprietary pursuant to this section, which will be assessed by the County on a case-by-case basis.

Annual Minimum Road Impact Assessment. Applicants for a new Permit, or a revised Permit for a Significantly Expanded Surface Mining Operation, shall be required to pay a minimum Road Impact Assessment amount of \$25,000, notwithstanding the Road Impact Assessment payment program discussed above.

Development Agreement.

As an alternative to the Road Impact Assessment program, applicants for a new Permit, or a revised Permit for a Significantly Expanded Surface Mining Operation, may instead apply for, negotiate, and agree to be bound by a development agreement. Applicants who select this option shall not be subject to the procedures and requirements, including payments, associated with Road Impact Assessments, as set forth above. If a development agreement is desirable and mutually beneficial, one shall be prepared that sets forth the terms and conditions under which the surface mining operation will operate and complies with County procedures and requirements for the consideration of development agreements, and all other applicable local ordinances and regulations, state law, and federal law.

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Term of Development Agreement. If a development agreement is prepared for a Permit, it is generally appropriate that the development agreement and associated Permit have a term of up to 40 years. It is also generally appropriate that such term may be extended for an additional 10 years pursuant to the provisions of the development agreement and the conditions of approval for the Permit and in accordance with the County General Plan and any applicable County ordinance and provided that there has been substantial compliance with the terms of the Permit and any previous development agreement.

Exemption

This policy shall not apply to County owned or operated surface mining operations. This policy shall not apply to changes to a Reclamation Plan alone or to changes to a vested mining operation within the area for which a vested right has been established. This policy shall not apply to applications for a Revised Permit that propose a cumulative expansion smaller than ten percent, although such applicants may elect to comply with this policy by either submitting an application for a development agreement or agreeing to be subject to Road Impact Assessments and thereby receive the benefits of this policy, including a potentially longer term.

REFERENCE:

Minute Order 3.27 of 2/11/20