

Mono County Community Development Department

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May 4, 2021

Ms. Colleen Garcia
Inyo National Forest
Minerals Program Manager
351 Pacu Lane, Suite 200
Bishop, CA 93514

Submitted via project website comment form and email.

RE: LONG VALLEY EXPLORATION DRILLING PROJECT PROPOSED BY KORE USA LTD. (KORE MINING).

Dear Ms. Garcia,

The Mono County Board of Supervisors (“Board”) appreciates the opportunity to comment on the Long Valley Exploration Drilling Project proposed by Kore USA Ltd. (“Kore Mining”). Mono County (the “County”) is home to both significant mineral resources as well as a pristine natural environment with diverse flora, fauna, and ecosystems. The County is obligated by its General Plan and the Mono County Code to ensure these resources are adequately protected from significant environmental impacts. Approximately 65% of lands in the County are managed by the Inyo National Forest (“INF”), thus the well-being of the County and its residents are inextricably connected to and directly affected by projects on the INF. As explained in more detail below, the Board opposes the use of a Categorical Exclusion for Kore Mining’s proposed project and finds that the information included in the proposal is insufficient.

While the Federal Mining Act of 1872 confers certain rights to explore public lands for valuable mineral deposits, it does not abrogate local authority to regulate mining activities for purposes of protecting the environment and public health. Under the local authority retained by the County and as defined in *California Coastal Comm’n v. Granite Rock Co.*, 480 U.S. 572 (1987), the County enacted a Mining Ordinance (Mono County Code Chapter 7.10, attached as Exhibit A) in 1998 to establish a purely environmental (non-land use) permit process and legally permissible regulatory requirements to protect the environment of the County.

Mono County submits the following comments for consideration during this scoping phase. However, these comments are submitted regarding the April 8 Scoping Letter. The County has not had sufficient time to review and provide comments on the Kore Mining proposed Plan of Operations, which was only uploaded to the public project site on April 28, 2021, six days prior to the close of the initial comment period. To have full public participation during this initial scoping phase, the Board will provide updated comments within 30 days of the

release of the Plan of Operations and requests that the Inyo National Forest accept them as having the same status as comments received by the deadline.

A. More detailed data, maps, and proposal information are required to evaluate the laws and regulations appropriately applicable to the project.

The Kore Mining proposal does not qualify for a Categorical Exclusion under 36 C.F.R. 2206(e)(8) because there is insufficient detail to determine that the proposal falls within its scope. The current proposal as outlined in the April 8 Scoping Letter is too indeterminate to allow for the application of a Categorical Exclusion pursuant to 36 C.F.R. 2206(e)(8). There are two primary reasons a Categorical Exclusion is inappropriate for this proposal: first, that the indeterminate details may implicate State and County regulatory authority, and second, that the current details leave too many unanswered questions that may have significant environmental implications that would be bypassed for proper analysis.

- a. Further detail will clarify the scope of the State and County regulatory authority over the proposal.*

First, the exact size and scope of the proposed exploration is critical for determining whether the Surface Mining and Reclamation Act (SMARA) (Section 2710 et seq. of the California Public Resources Code), and, consequently, Mono County's Mining Ordinance, will apply to the Kore Mining proposal. Without detailed GIS and other data regarding the proposal, it cannot be determined whether SMARA, and therefore by extension, the County's Mining Ordinance and the County's General Plan, Land Use Element, Chapter 15, Resource Development Standards, and Chapter 35, Reclamation Plans (attached as Exhibit B & C) will apply to the proposal. Proceeding without making a fully informed evaluation of the true scope of the proposal would deprive the County of its rights to regulate aspects of mining projects on federal lands within the County pursuant to *Granite Rock*.

The notice of proposal also fails to provide adequate details about the type of equipment that will be used in the exploration project. This omission does not allow the INF to adequately analyze potential impacts caused by certain equipment or to determine conflicts between proposed equipment and County regulations, such as weight-limits on County-maintained roads.

- b. Significant open questions remain about the proposal that warrant further analysis.*

Second, the use of Categorical Exclusion at this stage for the proposal will fail to answer and address questions that would have potentially significant impacts on potentially required environmental analyses.

For example, with respect to water resources, will any local water sources, such as Hot Creek or wells, be used? How will any discharge or waste be contained, treated, and transported? What is the source for any water used for drilling or dust mitigation? How much water will be needed or used? What is the quality of that water prior to use and after use? Are any plans in to address water quality of the water resources used?

Without more detail regarding the location and scope of temporary or formerly closed roads, including associated vegetation clearance and/or grading, that will be reopened for the exploratory project, it is impossible to determine the impacts. If some of the roads planned for reopening had previously been closed for the protection of habitat, the proposal demands an environmental analysis.

Similarly, there are significant unaddressed questions regarding the method of the activities undertaken pursuant to the proposal and what measures may be taken to protect public health and natural resources. What will be the method of drilling, hours of operation, and drilling activities? Will any other drilling fluids or chemicals be used in drilling? If so, which ones, how will they be applied and stored, and are any considered hazardous materials? Chemical specification sheets are necessary to determine proper handling for any chemicals proposed for use.

Related to questions regarding equipment, questions about access may change the scope of the project and cause varied impacts depending on the answers. What access points/roads will be used for primary access? Will there be any secondary or other access points? Which closed roads will be reopened, why were those roads closed, and what is the current quality of the roadbed? Will roads be recovered/revegetated after use? How will crews operating the rigs access the site? How many vehicles will be used, staged, and parked? How many daily vehicle trips will be associated with operations and will they create impacts to air quality (PM10 and fugitive dust emissions), vehicle miles traveled, and/or greenhouse gas emissions? In addition to vehicles, what other equipment will be used and where will it be stored? How will refueling of any vehicles or equipment be conducted and managed to minimize potential impacts on natural resources at the proposal site? Further, there are questions about what may be required in addition to just the drilling operation equipment, such as other required infrastructure to support the drilling operation and personnel, such as portable restrooms, storage containers or sheds.

Details about waste storage, containment, and transportation are not addressed by the Kore Mining proposal and April 8 Scoping Letter. A Categorical Exclusion will bypass critical questions regarding the nature of any Reclamation Plan and the timing of that reclamation and restoration efforts that may have significant and seasonally linked impacts on sensitive species like the Greater Sage Grouse (discussed further below in Section B).

Finally, and most critically, to the extent this proposal is one of others planned for the area, or to the extent there are existing plans for exploration or drilling, the analysis of this project should not be forgone through a Categorical Exclusion, which would improperly segment the projects for the purpose of NEPA.

B. Extraordinary circumstances, as defined in 36 CFR 220.6(b), in the Hot Creek area warrant further impact analysis.

- a. The Bi-State sage grouse, a USFS designated sensitive species, are present in the proposal area and may be negatively impacted by the exploration.*

The Bi-State sage grouse (“BSSG”) is a distinct population segment of the Greater Sage Grouse found only in Nevada and California, and is designated a sensitive species on USFS lands across the range of the species, including the project site which is in the South Mono Population Management Unit (“PMU”).¹ The INF Land Management Plan states “The greater sage-grouse Bi-State distinct population segment (*Centrocercus urophasianus*) is currently a proposed threatened species under the Endangered Species Act but a final determination has not yet been made. With this status, it is not on the current SCC list. We retained the persistence analysis here in case the species is not listed and is put back on the SCC list.”² Given the BSSG was not listed under the protection of the Endangered Species Act, the species must therefore be back on the Species of Conservation Concern (SCC) list. Sensitive species designations require analysis for any activity that could have an adverse impact to the species, including analysis of the significance of any adverse impacts on the species, its habitat and overall population viability, and an evaluation under the Persistence Analysis should be conducted.

In California and Nevada, 95% of all sage grouse nests were located within approximately 3.1 miles of a lek, indicating a buffer area of about three miles around leks as important BSSG habitat.³ According to the lek location data available to the County from the Bureau of Land Management (BLM, Bishop Field Office), the proposed project area is entirely or partially within the three-mile buffer of seven primary and six satellite sage grouse leks (see map attached as Exhibit D). The closest primary lek is located 0.4 miles from the project area boundary and its satellite lek is located within the project site itself. Please note precise lek locations are not disclosed on the map at the request of the BLM to prevent disturbance of the leks. Further, the 2012 BSAP contains an action item related to three leks within three miles of the project site: **Action HIR1-1-SM:** *Continue to implement and enforce seasonal road closures designed to reduce human disturbance on public lands in the vicinity of Lek 1, Lek 5 and Lek 8 in the Long Valley portion of the South Mono PMU.*⁴ The number of leks, three of which are specifically identified within the BSAP as warranting special consideration to reduce human disturbance, in habitat within three miles of the project site constitutes extraordinary circumstances.

The Final Environmental Impact Statement (FEIS) for the revised 2018 Inyo National Forest Service Management Plan-Vol. 1 states “the Inyo National Forest would continue to

¹ See Endangered and Threatened Wildlife and Plants; 12-Month Findings for Petitions to List the Greater Sage Grouse (*Centrocercus urophasianus*) as Threatened or Endangered, 75 Fed. Reg. 13979 (Mar. 23, 2010); see also 2012 Bi-State Action Plan (“BSAP”)

<https://www.bistatesagegrouse.com/sites/default/files/fileattachments/general/page/301/bi-stateactionplan2012.pdf>.

² Inyo National Forest, 2019 Inyo National Forest Land Management Plan, Persistence Analysis for Species of Conservation Concern (2019)

https://www.fs.usda.gov/Internet/FSE_DOCUMENTS/fseprd662709.pdf

³ Manier, Daniel J., et al., Conservation Buffer Distance Estimates for Greater-Sage Grouse—A Review. USGS (2014) <https://pubs.usgs.gov/of/2014/1239/pdf/ofr2014-1239.pdf>.

⁴ Bi-State Action Plan, Bi-State Technical Advisory Committee of Nevada and California, p. 95 (March 12, 2012) <https://www.bistatesagegrouse.com/sites/default/files/fileattachments/general/page/301/bi-stateactionplan2012.pdf>.

follow the ‘Inyo National Forests Sage-Grouse Interim Management Policy’ (USDA Forest Service 20212c) pending a forest plan amendment to better address the bi-state greater sage-grouse. In any plan amendment developed for sage-grouse, the Inyo National Forest would consider management direction that addresses current threats and, where feasible and applicable, would amend the plan to be consistent with the ‘Humboldt-Toiyabe National Forest Greater Sage-Grouse Bi-State Distinct Population Segment Forest Plan Amendment’ to achieve consistency across national forest boundaries. The Inyo National Forest would also continue to consider management direction and emphasize management actions that are consistent with the ‘Bi-State Action Plan: Past, Present, and Future Actions for the Conservation of the Greater Sage-Grouse, Bi-State Distinct Population Segment.’”⁵ Regarding management by the Humboldt-Toiyabe National Forest, this Forest has imposed seasonal restrictions on other proposed exploratory drilling projects (i.e. OceanaGold) due to the proximity of drilling near sage grouse leks by Spring Peak, NV. Regarding the Bi-State Action Plan, management direction specific to leks within disturbance proximity of the project area is cited above. In addition, the INF is a signatory to the Memorandum of Understanding between approximately 11 different federal, state, and local agencies and other parties “united [in] conservation efforts for sage-grouse populations and habitats within the Bi-State DPS [Distinct Population Segment]” under the guidance of the 2012 BSAP. This exploratory drilling proposal is not consistent with the management direction in the BSAP.

In addition, the County General Plan establishes as policy “the protection and restoration of sensitive plants, wildlife and their habitat,” such as the BSSG. *See* Policy 2.A.3 in attached Exhibit E. Consistent with that policy, the County’s General Plan lays out potential mitigation measures required before permitting projects within BSSG habitat, such as “to protect nesting and brood-rearing habitat, agricultural cultivation shall not disturb or remove sagebrush habitat within three miles of an active lek, or as determined through an informal consultation process with applicable Bi-State Conservation partners.” *See* Action 2.A.3.e. in attached Exhibit E. This mitigation measure concerns a far less intensive use (agricultural cultivation) than exploratory drilling operations. Permitting pursuant to the County’s General Plan would likely require at least as protective of a mitigation measure for the proposed higher-intensity use to act in accordance with the General Plan policy. Approval of the Kore Mining proposal without adequate analysis of impacts on the sage grouse and consultation with the appropriate conservation entities, including the County, the California Department of Fish and Wildlife, and potentially the U.S. Fish and Wildlife Service, is not suitable under the Categorical Exclusion framework.

The INF must obtain the appropriate level of detail regarding the Kore Mining proposal in order to analyze the impacts to the BSSG and must evaluate the project within the context of the Persistence Analysis to determine any impacts to survivability.

⁵ Final Environmental Impact Statement, Inyo National Forest Land Management Plan, p. 23 (2018) https://www.fs.usda.gov/Internet/FSE_DOCUMENTS/fseprd589660.pdf.

- b. *The proposed exploration will have potential impacts on a designation-eligible waterway in potential conflict with INF's Land Management Plan.*

In the final 2019 INF Land Management Plan, segments of Hot Creek and Little Hot Creek, near the proposed project site, were designated as having the characteristics required to be eligible for designation as wild and scenic rivers. The INF Land Management Plan also identified that the desired condition for such eligible wild and scenic rivers is for them to “retain their free-flowing condition, water quality, and specific outstandingly remarkable values,” and for the eligible waterways to retain their classification “until further study is conducted or until designation by Congress” takes place.⁶ Without detail regarding the full scope of the proposal impacts and an environmental analysis, the INF cannot determine the possible impacts on this eligible waterway and whether the proposal conflicts with the desired conditions specified under the plan.

C. Appropriate tribal consultation should take place before the Kore Mining proposal is permitted to move forward.

The April 8 Scoping Letter also does not address whether and to what extent tribes have been consulted in connection with the proposed exploration project. To date, no known comprehensive inventory of cultural resources has been performed. Without proper consultation with all tribes in the County, there will be risks to cultural sites not currently identified in INF documents.

D. There are significant concerns about any project arising out of the exploratory proposal.

The INF should take into consideration that any full-scale resource extraction project proposed for this same area will require significant review and permitting. While the County recognizes that it has very limited land use authority over federal lands within its boundaries, if proposed further operations trigger SMARA and the County's environmental authority under *Granite Rock* to impose the requirements of the County's mining ordinance, the County would require mitigation to protect sensitive habitat and resources.

The County's land use designations and regulations are designed to protect the public health and character of the lands within the County, and therefore warrants the INF's consideration, even though not directly applicable. Under the County's General Plan, proposals for higher intensity uses outside community areas, including mining operations, may be approved only if certain findings can be made, such as that the project is “compatible with the surrounding natural environment and rural character of the area.” See Policy 1.A.4 in attached Exhibit E. The full-scale extraction operation would create visual and environmental impacts potentially inconsistent with this policy and the policies specified in the Mammoth Vicinity Area Plan (Attached as Exhibit E). Further, the land use designation for the project parcel is Resource Management (RM) (attached as Exhibit F) under the General Plan, and any project proposing

⁶ Land Management Plan for the Inyo National Forest, p. 95 (2019)
https://www.fs.usda.gov/Internet/FSE_DOCUMENTS/fseprd664404.pdf.

full-scale extraction, as opposed to exploratory activities, would require approval of a General Plan Amendment to change the designation to Resource Extraction (RE) (attached as Exhibit G), if it were located on private land.

* * *

Finally, the Board re-iterates that these comments are submitted regarding the April 8 Scoping Letter. The County has not had sufficient time to review and provide comments on the Kore Mining proposed Plan of Operations, which was only uploaded to the public project site on April 28, 2021, six days prior to the close of the initial comment period. To have full public participation during this initial scoping phase, the Board will provide updated comments within 30 days of the release of the Plan of Operations and requests that the Inyo National Forest accept them as having the same status as comments received by the deadline.

Thank you for your time and consideration of the Board's comments. Should you have any question regarding our comments or wish to discuss our concerns further, please contact Mono County Community Development Director Wendy Sugimura at (760) 924-1814 or wsugimura@mono.ca.gov.

Sincerely,


Jennifer Kreitz (May 5, 2021 17:28 CDT)

Supervisor Jennifer Kreitz, Chair
Mono County Board of Supervisors

Attachments:

- A. Mono County Mining Ordinance
- B. MCGP, Land Use Element, Chapter 15, Resource Development Standards
- C. MCGP, Land Use Element, Chapter 35, Reclamation Plans
- D. Sage-Grouse Habitat Map
- E. Mono County General Plan Excerpts Regarding Mining (April 26, 2021)
- F. MCGP, Land Use Element, Resource Management
- G. MCGP, Land Use Element, Resource Extraction

cc: Town of Mammoth Lakes
Bureau of Land Management
U.S. Geological Survey
U.S. Fish & Wildlife Service
California Department of Fish & Wildlife
Los Angeles Department of Water & Power
Lahontan Regional Water Quality Control Board
Lesley Yen, Inyo National Forest Supervisor
Gordon Martin, District Ranger Mammoth Ranger District

Chapter 7.10 - MINING OPERATIONS

Sections:

7.10.010 - Declarations and findings.

The board of supervisors finds and declares as follows:

- A. Mono County is endowed with a variety of valuable natural resources, including but not limited to pumice, gravel, gold and clay, which have periodically been the subject to mining throughout Mono County's history.
- B. Mono County is also endowed with a pristine and beautiful natural environment, whose many forests, lakes, streams and mountains are home to diverse flora, fauna and ecosystems, and the site of numerous recreational and scenic attractions.
- C. Mono County is obligated and committed by its own general plan, county code, and state laws such as the California Environmental Quality Act (CEQA) to ensuring that the environment is adequately protected, to the extent the County possesses the legal authority to do so.
- D. The county has land-use and zoning authority over private lands within the county and over certain lands owned by the state and local government agencies and, with respect to such lands, only allows mining activities on land zoned "RE—resource extraction" in accordance with a use permit issued in conformity with the county general plan, county code, and applicable state laws such as CEQA. The vast majority of real property in Mono County, however, is "public land" owned by the federal government and administered by federal agencies such as the U.S. Department of Agriculture, acting through the U.S. Forest Service, and the Secretary of the Interior, acting through the Bureau of Land Management.
- E. The Federal Mining Act of 1872 (30 U.S.C. §§ 21 et seq.) confers certain rights to explore public lands for valuable mineral deposits and provides that the "locators" of such deposits shall have the exclusive right to extract those minerals if they comply with federal law and state and local laws that do not conflict with federal law. (See 30 U.S.C. § 26.)
- F. The United States Supreme Court and other courts have held, in cases such as California Coastal Commission v. Granite Rock Co., 480 U.S. 572 (1987), that state and local laws that impose and require compliance with reasonable regulatory requirements designed to protect the environment are not preempted by the Mining Act as long as they do not act as a de facto ban on mining or otherwise act as a "clear obstacle" to the accomplishment of the congressional purposes and objectives embodied in the Mining Act.
- G. Accordingly, this chapter is intended to establish, through a purely environmental (non-land use) permit process, legally permissible regulatory requirements designed to protect the environment of Mono County, and not to create a de facto ban on mining or create a "clear obstacle" to accomplishing the objectives of the Mining Act.
- H. The county is a lead agency for purposes of the Surface Mining and Reclamation Act (Section 2710 et seq. of the California Public Resources Code) and has previously adopted an ordinance implementing the Act (Ordinance No. 94-02), which was duly certified by the State Mining and Geology Board. Mining operations on all land in the county, including public land, are already subject to the county's certified reclamation ordinance. This chapter does not amend that certified ordinance, nor does it impose reclamation requirements. It is intended solely as an exercise of the county's constitutional authority to make and enforce within its limits all ordinances not in conflict with general laws. (California Constitution, Article XI, Sec. 7.)
- I. Methods of processing that use hazardous chemicals, such as mercury, cyanide and cyanide compounds, breakdown products of cyanide, and sulfuric acid, are of especially grave concern to the residents and the board of supervisors of Mono County due to their potential to cause damage to the environment, including but not limited to streams, lakes, groundwater, air, flora and fauna. Anecdotal and scientific evidence of such potential harm is detailed in various sources, including

but not limited to publications, staff reports, and testimony that have been brought to the board of supervisors' attention.

- J. The board is unwilling to risk such damage to Mono County's environment, and thus, by way of a rebuttable presumption established in this chapter, declines to allow certain known hazardous chemicals to be used in connection with any processing activity in Mono County unless the use of the chemical in a given project can be shown by the project proponent, by substantial evidence, to have no significant adverse impact on the environment.
- K. The enactment of this chapter is exempt from the California Environmental Quality Act (CEQA) as either a nonproject or as a class 7 or class 8 categorical exemption.

(Ord. 98-13 § 1 (part), 1998.)

7.10.020 - Definitions.

Terms used in this chapter have the following meanings.

- A. "Acid mine drainage" means the natural process through which sulfuric acid is created by the exposure of iron sulfide minerals in mined metal ores to oxygen in the air.
- B. "Average case scenario" means typical project operations under average conditions, with reasonably foreseeable environmental impacts.
- C. "Artificial" means occurring as a result of human design or activity, as opposed to natural activities and processes that occur regardless of any human involvement.
- D. "Beneficiation" means the process of liberating and concentrating a mineral from ore.
- E. "Best case scenario" means atypical project operations under better than average conditions, causing the least possible environmental impact.
- F. "Environmental contamination" means degradation of any aspect of the natural environment in and around a proposed extraction project, including but not limited to pollution of the air, soil, or surface or ground water, and any associated harm caused to flora, fauna or humans.
- G. "Exploratory extraction" means extraction conducted for the purpose of searching for or investigating a mineral deposit. It includes but is not limited to geophysical, geochemical or geological surveying and sampling, drilling or rotary drilling of core and bore holes, and digging pits, trenches or cuts and other works for the purpose of extracting samples prior to commencement of mine development or extraction operations, and the building of roads, access ways and other facilities related to such work.
- H. "Exposed" means uncovered through extraction and put in direct physical contact with air, precipitation and other atmospheric elements.
- I. "Extraction" means the artificial removal of solid (not liquid or gaseous), nonliving, and naturally-occurring substances from the surface or subsurface of the earth, including but not limited to rocks, sand, gravel, pumice, clay, salt, gold, silver, diamonds or other minerals or gems.
- J. "Feasible" means achievable based on known scientific or engineering data and technology. Feasible does not mean the least expensive method nor the method necessary for an extraction or processing project to yield a profit in light of prevailing market prices for mined substances, except in the event that all other things are equal with respect to protecting the environment, in which case the most cost-effective means may be deemed the most feasible.
- K. "Financial assurance" means, to the extent permitted by applicable state and federal law, bonds, escrowed funds, letters of credit, insurance, or other form of security provided to the county by a project proponent in an amount set by the planning commission (or board of supervisors in the event of an appeal) and in a form approved by the county counsel that will ensure sufficient

funding for the cleanup, restoration, or other remediation of any environmental damage caused by the project.

- L. "Groundwater" means all water beneath the surface of the earth within the zone at or below the water table in which the soil is completely saturated with water.
- M. "Hydrology" means the scientific study of the origin, distribution and circulation of water through, among other things, precipitation, stream flow, infiltration, groundwater storage and evaporation.
- N. "In-situ mining" means a method of processing in which chemical reagents are injected directly into the ground before extraction occurs.
- O. "Kinetic testing" refers to a method of testing in which a sample of mine waste is placed in a cylindrical chamber or other closed container and factors such as air, water and bacteria are introduced into the chamber, allowing the impact of these factors on acid generation to be measured over time.
- P. "Mining" and "mining operations" mean extraction or processing or both, and all activities integral to such extraction or processing occurring in the county, including but not limited to the movement, transportation, loading, unloading and other activity of vehicles, offices, buildings, facilities, equipment, structures, mined substances, materials or personnel associated with extraction or processing.
- Q. "Processing" means the artificial refinement, purification, beneficiation, adulteration, or other special treatment of rock ore and other extracted substances to separate valuable metals or other substances from non- valuable materials such as soils and other impurities, examples of which include but are not limited to washing, flotation, aeration, electrification, gravity concentration, solvent extraction/electrowinning (SX/EW), magnetic separation, crushing, heating, smelting, soaking, leaching, spraying, grinding, sorting or sifting. For purposes of this chapter, in-situ mining shall be considered a form of processing rather than extraction.
- R. "Project" means a proposal, embodied in a permit application, to engage in extraction, processing, or other mining operations, as well as any resulting extraction, processing, or other mining activity.
- S. "Project proponent" means a party submitting a permit application under this chapter and assuming responsibility for that application, as well as that party's agents, representatives, successors, or assigns (if any).
- T. "Scientific" means performed by an individual with expertise in a particular field of human knowledge, using generally-accepted standards and methodologies for observing, identifying, objectifying, explaining, studying and describing phenomena in that field of knowledge.
- U. "Significant adverse environmental impact" has the meaning attributed to that term under the California Environmental Quality Act (CEQA), as the same may be amended from time to time, and/or under any applicable CEQA guidelines, regulations or case law.
- V. "Static testing" means the measuring of bulk amounts of acid-generating and acid-neutralizing material in samples of mined waste, expressed as numerical values, which are then compared to predict the likelihood that the waste will generate acid mine drainage.
- W. "Substantial evidence" has the meaning attributed to that term under the California Environmental Quality Act (CEQA), as the same may be amended from time to time, and/or under any applicable CEQA guidelines, regulations, or case law.
- X. "Surface waters" refers to rivers, streams, creeks, lakes, ponds and other bodies of water existing on a constant or seasonal basis on the surface of the land.
- Y. "Immediate vicinity" means the geographic area surrounding a project site whose environment could foreseeably be impacted by a project.

- Z. "Worst case scenario" means atypical project operations under worse than average conditions, where virtually everything that conceivably could go wrong does go wrong, causing the most adverse environmental impacts possible.

(Ord. 98-13 § 1 (part), 1998.)

7.10.030 - Permits required.

It shall be unlawful for any person to engage in extraction, processing or other mining operations within the territorial boundaries of Mono County without possessing at the time of such activity both of the following: (1) a reclamation plan (including financial assurance requirements) approved by the county in accordance with the Surface Mining and Reclamation Act (Section 2710 et seq. of the California Public Resources Code), the Mono County general plan, and any applicable chapters of this code, and (2) either a Mining Operations Permit issued in accordance with this chapter in the case of mining operations on land over which the county lacks full land use and zoning authority or a use permit issued in accordance with Chapter 19.59 of this code (entitled "RE—resource extraction district") in the case of mining operations on land over which the county possesses full land use and zoning authority. Violations of this section constitute a misdemeanor and a public nuisance which may, in addition to any other legal or equitable remedies available to the county, be prosecuted and/or enjoined.

(Ord. 98-13 § 1 (part), 1998.)

7.10.040 - Processing with certain chemicals—Rebuttable presumption.

It shall be and is hereby rebuttably presumed that any proposed processing operation located above or adjacent to surface or ground waters, or which could potentially impact such waters regardless of their location, that would use one or more of the following chemicals as a processing agent poses an unreasonable risk of environmental harm due to the toxicity of such chemicals and their demonstrated potential to cause damage to the environment: mercury, cyanide or cyanide compounds, breakdown products of cyanide, or sulfuric acid. Use of such chemicals shall not be permitted as part of any processing operation unless the project applicant can demonstrate, by substantial evidence, based on reliable scientific or engineering data, that the proposed use of such chemicals in a given project will not, under any reasonably foreseeable scenario, cause significant adverse environmental impacts. Scenarios considered shall include but not be limited to "best case," "average case," and "worse case" scenarios, taking into account any environmental contamination reasonably foreseeable over time from both natural and artificial causes, including but not limited to spills, leaks, and other releases or discharges resulting from potential design or construction flaws or miscalculations (if any), foreseeable errors or negligence (if any) of processing operators, as well as rainfall, snowfall, snow melt, floods, fires, earthquakes and other potential natural forces and events.

(Ord. 98-13 § 1 (part), 1998.)

7.10.050 - Mining operations permit procedure.

- A. The Mono County planning commission shall possess the authority to issue mining operations permits in accordance with the provisions of this chapter and to adopt such reasonable administrative regulations as it deems necessary and proper to implement this chapter, including but not limited to regulations establishing advisory committees to examine project applications and to provide reports and recommendations to the commission. Applications for mining operations permits shall be submitted to the Mono County planning department on forms developed by that department. Such application forms shall, at a minimum, solicit detailed plans, specifications, studies, maps and other information from applicants addressing the following: (a) the nature, estimated location, and physical and chemical characteristics of the substance(s) proposed to be extracted, exposed or processed; (b)

the location, duration, manner, and method of proposed extraction or processing activities; (c) the quantity of substances proposed to be mined or processed; (d) the estimated facilities, personnel, equipment, and vehicles that will be brought into or constructed within the county to conduct or provide services related to the proposed extraction or processing; (e) the days of the week and times of the day when the proposed extraction or processing will foreseeably occur; (f) the manner or method by which personnel, equipment, mined substances or any materials associated with the proposed extraction or processing will be moved, transported or otherwise conveyed to, from, at, or around the extraction or processing site; (g) the quantity and source of any water proposed to be used in conjunction with the proposed extraction or processing; (h) the nature and source(s) of power, electrical or otherwise, that will be used at the site of the proposed extraction or processing; (i) the quantity, nature and proposed means of disposing of any solid or liquid waste, including all mining waste, generated by the project; (j) the type and nature of any chemical reagents that will be used in processing and the manner and method by which such processing will be conducted; and (k) a description of any foreseeable extensions, continuations or modifications of the proposed project. Submission of any of the foregoing information to the county as part of an application for a reclamation plan or amendment thereto with respect to a proposed extraction or processing project may, with the prior approval of the planning director, be incorporated by reference into an application for a mining operations permit under this chapter with respect to the same proposed project.

- B. Upon receipt of a completed application, the county and its consultant(s) shall analyze and assess, at the applicant's cost, the potential adverse environmental impacts of the proposed extraction or processing operations in accordance with the California Environmental Quality Act (CEQA) and this chapter. Among other things, such analysis and assessment shall include, to the extent deemed relevant and appropriate by the planning director after performing an initial study under CEQA, in order to gather baseline data and to effectuate the intent of this chapter or CEQA:
1. Hydrological studies of any surface waters on the project property or within the runoff or drainage path of the project;
 2. Biological studies regarding the nature and quantity of any species of fish, birds, reptiles, mammals and other flora and fauna living in or dependent on such surface waters;
 3. Studies regarding the potential impacts of the project on any natural habitats or ecosystems in the county;
 4. Studies regarding the potential impacts of the project on human health in the county;
 5. A hydrological determination of whether or not groundwater exists directly below or in the immediate vicinity of the site of the proposed extraction or processing;
 6. To the extent groundwater is present, a detailed scientific analysis of the nature, quantity, locations and properties of such water and a detailed analysis of soil, percolation and drainage characteristics of the land on which the proposed extraction or processing will occur;
 7. Hydrological studies of the sources of water that will be used by the project itself and the impacts of the project on such sources and documentation of the use of such water by other parties, including analysis of the degree and duration of the project's anticipated impact on such other water users for the life of the project and until reclamation is completed;
 8. Hydrological studies regarding any erosion and sedimentation impacts likely to be associated with or caused by the project;
 9. A geological determination of whether or not any notable sources of actual or potential seismic or volcanic activity exist below or in the immediate vicinity of the site of the proposed extraction or processing;
 10. To the extent any notable sources of actual or potential seismic or volcanic activity are present, a detailed scientific analysis of the nature and characteristics of such sources and their foreseeable relationship to and effects, if any, upon the proposed project, including but not limited to any groundwater used by or otherwise impacted by the project;

11. Studies to determine the impacts of all project transport and vehicle movements on air quality, noise, road systems and traffic;
 12. Scientific studies regarding the potential for the project to cause or be subject to land subsidence and collapse, and the hydrological impacts of any such potential on the environment;
 13. Hydrological studies examining the flooding and drainage potential and characteristics of the proposed project and site of extraction or processing and the foreseeable environmental effects such flooding and drainage may have on the site and on adjacent properties;
 14. Scientific studies regarding the nature, quantity and characteristics of any dust, gas or other airborne substances likely to be generated or dispersed by the proposed project;
 15. Studies regarding the nature, quantity and characteristics of any nighttime lighting proposed to be used on the project;
 16. Scientific studies regarding the nature, decibel level and other pertinent characteristics of any noise or sound likely to be generated by the proposed project;
 17. Scientific studies examining the probability, nature and extent of environmental contamination, if any, that could foreseeably result from the project in "best case," "average case," and "worst case" scenarios, taking into account both natural and artificial causes of such contamination, including but not limited to spills, leaks and other discharges resulting from design flaws, negligent design or construction, negligence of extraction or processing operators, as well as rainfall, snowfall, snow melt, floods, fires, earthquakes and other potential natural forces and events;
 18. Scientific studies determining whether or not items of archeological or cultural significance are present at the site and, if so, the degree to which they would be disturbed or otherwise impacted by the proposed project;
 19. Scientific studies determining whether or not rare, threatened or endangered species of plants or animals are present at the site and, if so, the degree to which they would be disturbed or otherwise impacted by the proposed project;
 20. Feasible project alternatives and mitigation measures, which may include components of any reclamation plan proposed or approved for the project.
- C. Mining operations permits shall be granted only after a duly noticed public hearing and only if the planning commission (or the board of supervisors in the event of an appeal) makes all of the following findings based on the evidence before it:
1. The application and any documentation submitted with it for purposes of complying with or facilitating CEQA review are complete and adequate.
 2. The proposed project is consistent and compliant with this chapter, this code, and any applicable environmental policies, regulations, or standards set forth in the Mono County general plan, as the same may be amended from time to time, as well as any applicable state or federal laws, orders of state or federal agencies having jurisdiction, and applicable court orders, except to the extent that such consistency or compliance is impossible to achieve through any feasible modification or mitigation of the proposed project without violating or conflicting with the Federal Mining Act of 1872 (30 U.S.C. §§ 21 et seq.), as the same may be amended from time to time, or with other applicable federal or state laws.
 3. The proposed project, as mitigated, will not cause any significant adverse environmental impacts, except to the extent that such impacts are impossible to avoid through any feasible mitigation measures without violating or conflicting with the Federal Mining Act of 1872 (30 U.S.C. §§ 21 et seq.), as the same may be amended from time to time, or with other applicable federal or state laws, unless a statement of overriding considerations is made through the CEQA process.
- D. Conditions of approval imposed on mining operations permits by the planning commission shall, among other things, to the extent deemed relevant and appropriate by the planning commission or the board of supervisors in order to effectuate the intent of this chapter or CEQA:

1. Require that all mining operations, before and during mining, characterize the potential of their ore and waste rock to generate acid mine drainage. Operators may be required to use both static and kinetic testing to make this determination;
 2. Require pollution prevention and pollution containment techniques in all phases of mine operation;
 3. Require mining operations to use the best available technology and practices in order to protect the environment, including but not limited to preventing or minimizing acid mine drainage;
 4. Impose specific contamination standards for water, air and other environmental components that the project may not exceed;
 5. Require post-mining water quality monitoring to ensure that acid mine drainage does not develop (or worsen, to the extent it is present before the proposed mining or processing occurs) over time;
 6. Require inspections of mining operations, especially water-related facilities, by county staff or consultants at frequent intervals;
 7. Require adequate financial assurances in order to cover the estimated costs of cleaning up or otherwise remediating any reasonably foreseeable environmental contamination that could result from the project despite any imposed mitigation measures, including but not limited to natural and artificial causes of such potential contamination, including but not limited to spills, leaks and other releases or discharges resulting from negligent design or construction, negligence of extraction or processing operators, as well as rainfall, snowfall, snow melt, floods, fires, earthquakes and other potential natural forces and events;
 8. Require any other appropriate mitigation measures and associated monitoring programs. Significant adverse environmental impacts associated with mining operations shall be mitigated to a level of nonsignificance to the extent feasible without violating or conflicting with the Federal Mining Act of 1872 (30 U.S.C. §§ 21 et seq.), as the same may be amended from time to time, or with other applicable federal or state laws, unless a statement of overriding considerations is made through the CEQA process.
- E. All permit applications shall be accompanied by a processing fee in an amount set by resolution of the board of supervisors, not to exceed the county's direct and indirect costs of administering this chapter, including any funds periodically required to be paid or placed on deposit with the county to fund its associated costs of staff time and/or consultants necessary to implement and comply with CEQA and this chapter.
- F. The decision of the planning commission is final unless timely appealed to the board of supervisors in compliance with Chapter 19.42 of this code.

(Ord. 98-13 § 1 (part), 1998.)

17.10.060 - Permit noncompliance—Penalties—Suspension or revocation.

Noncompliance with any term or condition of a mining operations permit issued under this chapter, including but not limited to any mitigation measures, monitoring requirements, or financial assurance requirements, shall constitute a misdemeanor and a public nuisance, and shall be grounds for suspension or revocation of the permit by the planning commission. Before the commission shall consider revocation or suspension of any permit, the commission shall hold a public hearing thereon after giving written notice thereof to the permittee at least ten days in advance of such hearing. The decision of the commission may be appealed to the board of supervisors in accordance with Chapter 19.42 of this code.

(Ord. 98-13 § 1 (part), 1998.)

7.10.070 - Exemptions.

This chapter shall not apply to the following activities:

- A. Mining that would be exempt from any reclamation requirements under the Surface Mining and Reclamation Act (Section 2710 et seq. of the California Public Resources Code), the Mono County general plan, and any other chapter of this code, as the same may be amended from time to time.
- B. Any mining operations, other than exploratory extraction, that were actually in existence and functioning as of the date this chapter took effect and which were otherwise compliant at that time with applicable laws, and also proposed expansions of such mining operations with respect to which complete applications for reclamation plans or amendments thereto had already been filed with the county as of the date this chapter took effect.

(Ord. 98-13 § 1 (part), 1998.)

DEVELOPMENT STANDARDS

CHAPTER 15 – RESOURCE DEVELOPMENT STANDARDS (RDS)

Sections:

15.010	Purpose and Intent.
15.020	Applicability.
15.030	Criteria for Applying RDS.
15.040	Use Permit Requirements.
15.050	Phasing Requirements.
15.060	Amendments.
15.070	Development Standards.
15.080	Reclamation Requirements.
15.090	Financial Assurances.
15.100	Inspections.
15.110	Administration.
15.120	Enforcement.

15.010 Purpose and Intent.

The intent of the Resource Development Standards (RDS) are to evaluate and, if appropriate, permit resource development projects in a manner that is consistent with the provisions of this General Plan, applicable area plans, and applicable state and federal laws, such as the Surface Mining and Reclamation Act of 1975 (SMARA). The RDS have been established to protect the environment and allow for the conditional development of on-site resources, including but not limited to, mineral resources, geothermal resources, wind and solar energy resources, hydropower resources, and timber resources.

15.020 Applicability.

The Resource Development Standards (RDS) may be applied only to areas with existing or proposed resource development activities. The establishment of RDS is also intended to encourage and facilitate public awareness concerning the potential for resource and energy-related activities in areas where significant resource deposits or energy-related resources have been identified.

In compliance with General Plan policies, commercial facilities such as mining operations, geothermal operations, small-scale hydroelectric generation facilities, wind and solar energy generation facilities and similar resource development activities may be permitted only in areas designated Resource Extraction (RE) and Public and Quasi-Public Facilities (PF). The Agriculture (AG), Resource Management (RM), Industrial (I), and Open Space (OS) designations may allow limited exploration activities subject to a use permit.

15.030 Criteria for Applying the RDS.

In applying the RDS to a specific site, one or more of the following criteria must be demonstrated to the satisfaction of the County:

- A. An active resource development project currently exists on the subject lands.
- B. The project qualifies under the "vesting" provisions as specified in the California Surface Mining and Reclamation Act (SMARA).

- C. It has been reasonably determined to the satisfaction of the County that potentially significant resources exist on the lands under consideration. This determination may be based on reports filed by a registered professional acceptable to the County, and funded by the applicant. In the case of surface mining operations, a mineral land classification report may be acceptable if filed in conjunction with a SMARA Reclamation Plan.
- D. In areas with conflicting resource values, it has been reasonably determined to the satisfaction of the County that the proposed resource development activity is the highest and best use of the land and is in full compliance with the General Plan.

15.040 Use Permit Requirements.

A. Filing:

- 1. Submittal: An application for a use permit shall be accompanied by the appropriate filing fee and shall be submitted to the Planning Division on forms provided by the department. Applications must be complete.
- 2. Acceptance: An application for a use permit shall not be deemed complete or accepted for filing and the processing time limits shall not begin to run until the Planning Division accepts the application as complete.

B. Procedure:

- 1. Use Permit Processing: Within 30 days after receipt of a resource use permit application, the Planning Division shall review the application and shall notify the applicant or his designated representative, in writing, concerning any application deficiencies.
 - a. Applications shall be deemed complete unless the applicant or his designated representative has been notified in writing that the application is incomplete prior to the expiration of the 30-day review period. Acceptance of the application as complete shall not constitute an indication of project approval.
 - b. Complete applications shall be processed in accordance with the provisions of Chapter 19.38, Use Permits, and for surface mining operations, with the applicable provisions of SMARA.
- 2. Non-Use of Permit: In conformance to Chapter 19.38, Use Permits, failure to commence diligent resource development activities within one year subsequent to permit issuance, or within the period determined by the Planning Commission, shall render the use permit null and void. Documentation that the operator has made every attempt to secure required permits at the state or federal level but that, despite due diligence, the permits have not yet been issued may serve to stay this requirement.

C. Environmental Compliance:

Permits shall be processed in accordance with CEQA, the Mono County Environmental Handbook and General Plan policies. Common environmental documentation may be used for the exploratory and development permit stages of a project when consistent with CEQA. Permits shall contain conditions that assure compliance with CEQA and with applicable laws and regulations of Mono County and other agencies with jurisdiction.

D. Monitoring:

In accordance with General Plan policies and CEQA requirements, when applicable, permits shall contain conditions for ongoing monitoring of operations. The Conservation/Open Space Element

contains monitoring requirements for geothermal, mineral, biomass, solar, wind, and other renewable resource development.

15.050 Project Development–Phasing Requirements.

In compliance with General Plan policies, geothermal projects shall be developed in a phased manner. In addition to the phasing requirements listed below, energy resource projects shall comply with all phasing requirements in this General Plan (Conservation/Open Space Element, Energy Resource Policies).

A. Phasing of Geothermal Projects.

Geothermal development shall be subject to the following phased permitting process:

1. The "Geothermal Exploration Permit" shall regulate geothermal exploration and reservoir characterization activities. The primary purpose of the exploratory phase is to determine hydrologic, geologic and other relevant characteristics of the geothermal resource being considered for development. During the exploratory phase, the permittee shall develop sufficient data, to the satisfaction of the County, to determine whether there is a geothermal resource adequate to sustain the proposed development project.
2. The "Geothermal Development Permit" shall regulate geothermal development, operations, termination of operations, site reclamation, and reserve monitoring. The purpose of the development phase is to regulate all geothermal development, including the siting and construction of facilities, conditions of operation, maintenance of roads and equipment, and to assure the protection of the environment.

B. Phasing of Other Resource Development Activities.

Other resource development activities may be subject to a phased permitting process, depending on the nature of the resource and its development.

15.060 Amendments.

A. Minor Amendments to an Approved Resource Development Permit.

1. Minor amendment: Minor changes to an approved resource development permit may be approved by the Planning Division director in accordance with the following provisions.
2. Processing: Requests for approval of a minor amendment shall be submitted on forms provided by the Planning Division along with the applicable fees. Within 30 days of receipt of such a request, the Director shall determine whether or not the application should be considered a minor amendment. The Director shall approve or deny the request and notify the applicant in writing within 10 days of his decision. The decision of the Director as to whether or not the request should be approved or denied shall be final, unless an appeal is filed. If it is determined that the request is not a minor amendment, the request may be processed as a major amendment.
3. Requests for a minor amendment may be approved only if the Director is able to make all of the following findings:
 - a. That the proposed change involves only minor changes in the siting or operations of the project and will not affect the basic character or implementation of the permit;
 - b. No substantial adverse environmental damage, either on-site or off-site, will result from the proposed change and the proposed change is consistent with adopted environmental determinations; and

- c. That the proposed change will not be detrimental to the public health, safety and welfare and is compatible with the objectives and policies of this General Plan and applicable specific plans.

B. Major Amendments to an Approved Resource Development Use Permit.

1. Major amendment: Major amendments to approved resource development use permits may be approved by the Planning Commission subject to the following provisions.
2. Processing: Applications for proposed amendments shall be submitted on forms provided by the Planning Division and shall include such data as may be required to complete an environmental assessment. Applications shall include the required filing fee, and shall be noticed and scheduled for public hearing before the Planning Commission in the same manner as the original permit submittal.
3. Amendments may be approved by the Planning Commission only if all of the following findings can be made:
 - a. The proposed amendments are necessary or desirable to assure a more practical recovery of the resource or to avoid multiple future disturbances of surface land or waters;
 - b. No substantial adverse environmental damage, either on site or off site, will result from the proposed change and that the proposed change is consistent with adopted environmental determinations;
 - c. The security required to be filed by the applicant with the County is adequate or additional security has been filed to guarantee compliance with the revised permit;
 - d. The permit, as amended, will continue to meet the requirements of this chapter and will be conducted in conformity to all applicable laws, ordinances, and regulations of all agencies with jurisdiction over the resource development project; and
 - e. The approval of the amendment will not be detrimental to the public health, safety, or welfare and is compatible with the objectives and policies of this General Plan, and applicable specific plans, the land use designation and approved end use of the site.

15.070 Development Standards.

The following minimum development standards shall apply to all projects unless amended through the Specific Plan process or a Variance is approved to deviate from these standards. Other standards or conditions identified during the use permit process may also apply.

A. Lot Size and District Area.

The minimum lot size and district area shall be 40 acres or a quarter, quarter section, with the exception of patent and/or historical mining claims and "vested operations" that shall be considered on a case-by-case basis.

B. Setbacks.

1. No processing equipment or facilities shall be located, and no resource development shall occur within the following minimum horizontal setbacks:
 - a. One hundred (100) feet from any interior public street or highway unless the Public Works director determines that a lesser distance would be acceptable;
 - b. One hundred (100) feet from any exterior property line or lease area boundary;

- c. Five hundred (500) feet from any adjacent private dwelling, institution, school, or other building or location used for public assemblage; and
- d. No geothermal development located within the Hot Creek Buffer Zone shall occur within 500 feet on either side of a surface watercourse (as indicated by a solid or broken blue line on US Geological Survey 7.5- or 15-minute series topographic maps).

2. No residential uses shall be located with the following minimum horizontal setbacks:

- a. Fifty (50) feet from any interior public street or highway unless the Public Works director determines that a lesser distance would be acceptable.
- b. Fifty (50) feet from any exterior property line.

C. Visual Impacts.

1. Siting.

All resource development projects shall be sited, designed and operated to minimize impacts to the surrounding visual environment, in conformance to applicable provisions of this General Plan and the Mono County Code. The Conservation/Open Space Element contains policies relating to the siting of various types of energy resource projects.

2. Screening.

Screening shall be required for uses that are contiguous to any residential or commercial district or use, for uses in scenic highway corridors or important visual areas, and for uses with an identified significant visual impact. Screening may be achieved through the use of siting, landscaping, fencing, painting, contour grading, constructed berms and/or other appropriate measures. If landscaping is chosen as a method of screening, a landscape plan shall be submitted as part of the use permit application (see 15.59, Landscape Plan Requirements).

3. Lighting.

Exterior lighting shall be shielded and indirect and shall be minimized to that necessary for security and safety.

4. Materials and Colors.

Materials for structures, fences, etc. should harmonize with the natural surroundings, whenever possible. Materials should be non-reflective or should be painted with a matte finish. Colors for structures, fences, etc. should blend into the natural surroundings, and darker colors are preferred.

D. Erosion and Sediment Control.

1. Siting.

All resource development projects shall be sited, designed and operated to minimize erosion and sediment transport, in conformance to applicable provisions of this General Plan, the Mono County Code, and applicable state and federal regulations. The Conservation/Open Space Element, Energy Resource section, contains policies relating to the siting of various types of energy resource projects.

Siting should minimize impacts to the natural landscape. Project design should encourage the joint use of facilities whenever possible in order to minimize disturbance to the natural environment. Access and construction roads should be located so that natural features are preserved and erosion is minimized.

2. Site Disturbance.

Earthwork, grading, and vegetative removal shall be minimized. Existing access roads shall be used whenever possible. Construction of new access roads, frontage roads, or driveways shall be avoided except where essential for health and safety. Earthwork and grading shall be performed in accordance with the county Grading Ordinance.

3. Revegetation.

Site disturbances shall be revegetated in conformance to the Reclamation Plan developed pursuant to the county Reclamation Ordinance.

4. Drainage.

Drainage facilities shall be constructed and maintained in accordance with the county Grading Ordinance and with any applicable requirements of the Lahontan Regional Water Quality Control Board pertaining to waste discharge.

E. Cultural Resources.

The applicant shall stop work and notify appropriate agencies and officials if archaeological evidence is encountered during construction or operations. No disturbance of an archaeological site shall be permitted until such time as the applicant hires a qualified consultant and an appropriate report is filed with the county Planning Division that identifies acceptable site mitigation measures, that shall then become conditions of the use permit and the reclamation plan (if applicable).

F. Noise.

All resource development projects shall be sited, designed and operated to minimize noise impacts to the surrounding environment, in conformance to the applicable provisions of this General Plan (Noise Element) and the Mono County Code (Noise Ordinance).

G. Air Quality.

All resource development projects shall be designed and operated in compliance with all requirements of the Great Basin Unified Air Pollution Control District and applicable provisions of this General Plan.

H. Safety, including Hazardous Materials and Hazardous Waste.

All projects shall comply with applicable safety standards. Hazardous waste shall be maintained in conformance to the Mono County Integrated Waste Management Plan.

I. Infrastructure Removal.

The reclamation of a resource development project may include removal of plants, outbuildings, roadways, pipelines, towers, and other related infrastructure constructed as part of the development project. Infrastructure removal may require bonding in order to guarantee the site is returned to predevelopment conditions and/or the approved end land use as contained in the project's reclamation plan as required in section 15.080.

15.080 Reclamation Requirements.

Standards and procedures for the reclamation of resource development activities in Mono County are contained in the county Reclamation Ordinance (Ch. 35 of the land development regulations). All resource development projects must comply with the Reclamation Ordinance. Reclamation plans must be submitted as part of the use permit application.

15.090 Financial Assurances.

Financial assurance requirements for the reclamation of resource development activities in Mono County are contained in the county Reclamation Ordinance (Ch. 35 of the land development regulations). All resource development projects must comply with the financial assurance requirement.

15.100 Inspections.**A. Requirements.**

The use permit shall establish an inspection schedule for compliance with use permit conditions. Inspections shall occur at least once a year, but may occur more often depending on the nature of the project. The inspection schedule may change over the lifetime of the project. The annual inspection for mining operations shall coincide with the annual inspection required by SMARA.

The county Reclamation Ordinance establishes an inspection schedule for reclamation plans. The required inspections for compliance with use permit conditions and reclamation plan requirements should coincide.

B. Procedure.

The operator shall file a request for annual inspection with the county Compliance Officer at least once in each calendar year. Requests for annual inspections shall be accompanied by the appropriate filing fee.

The Compliance Officer shall inspect or cause to be inspected the site within 30 working days of receipt of the application for inspection and the filing fee. Unless otherwise agreed, failure to inspect within 30 working days shall be deemed a finding that the resource development operation is in compliance with its use permit.

15.110 Administration.**A. Appeals.**

Appeals of any decision resulting from the requirements of this chapter may be made in conformance to the provisions of Chapter 19.42, Appeals.

B. Fees.

Fees required in conjunction with the provisions of this chapter shall be established from time to time by the Board of Supervisors.

15.120 Enforcement.**A. Enforcement.**

The provisions of this chapter shall be enforced by the Planning Division, county Compliance Officer, or such other persons as may be designated by the Board of Supervisors. Enforcement of the provisions contained in this chapter shall be in accordance with applicable provisions of the Mono County Code.

B. Right of Entry.

Whenever it becomes necessary to inspect resource development activities as provided in this chapter or to investigate complaints associated with resource development activities or to monitor conditions of approval as may be imposed on resource development activities, reasonable access to the project site shall be afforded by the operator in conformance to Chapter 1.08 of the Mono County Code. Authorized representatives of the County, upon presentation of appropriate credentials, shall have access to the site without advance notice.

PROCESSING

CHAPTER 35 – RECLAMATION PLANS

Sections:

35.010	Purpose and Intent.
35.020	Definitions.
35.030	Reclamation Plan Requirements.
35.040	Amendments.
35.050	Reclamation Standards.
35.060	Vested Surface Mining Operations.
35.070	Idle Mine Status.
35.080	Annual Inspections.
35.090	Administration.
35.100	Surety Requirements.
35.110	Enforcement.

35.010 Purpose and Intent.

It is the purpose of this chapter to provide standards and procedures for reclamation of resource development activities in Mono County. Specifically, it is the purpose of this chapter to implement the policies of this General Plan pertaining to reclamation of energy-related projects, mining projects, and other resource development activities and to fulfill the legislative mandate contained in the Surface Mining and Reclamation Act (SMARA) and the corresponding sections of the California Code of Regulations. It is the intent of the Board of Supervisors to provide for the reclamation of disturbed lands, and to eliminate hazards to public health, safety, and welfare.

35.020 Definitions.

Definitions and applicable provisions contained in SMARA and in the corresponding sections of the California Code of Regulations are incorporated herein by reference. The following definitions are also applicable to the provisions of this chapter:

“Abandoned or Abandonment” means the cessation of resource development activities prior to completion of required reclamation or to cease resource development activities whether or not actual reclamation has commenced, or both. Mere non-use shall not in and of itself constitute abandonment; provided, however, non-use for more than 12 consecutive months without filing an interim management plan shall create a rebuttable presumption of intent to abandon. Regarding geothermal well abandonment, it is the discontinued, non-operative condition of a well as determined and defined by the California Division of Oil and Gas on non-federal lands and by the Bureau of Land Management on federal lands.

“Expansion of resource development activities” means any substantial increase in the size or scope of a resource development activity. Expansion includes, without limitation, any resource development activities beyond the boundaries defined in an approved reclamation plan.

“Idle” means to curtail for a period of one year or more, surface mining operations by more than 90% of the operation's previous maximum annual mineral production, with the written intent to resume those surface mining operations at a future date.

“Mined lands” means the surface, subsurface, and groundwater of an area in which resource development activities will be, are being, or have been conducted, including those 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 that result from, or are used in, resource development activities are situated.

"Minerals" means any naturally occurring chemical element or compound, or groups of elements and compounds, formed from inorganic processes and organic substances, including, but not limited to, coal, peat, and bituminous rock, but excluding geothermal resources, natural gas, and petroleum.

"Operator" means any person who is engaged in resource development activities himself, or who contracts with others to conduct operations on his behalf, except a person who is engaged in surface resource development activities as an employee, with wages as his sole compensation.

"Reclamation" means the combined processes of land treatment that minimize water degradation, air pollution, damage to aquatic or wildlife habitat, flooding, erosion, and other adverse effects from resource development activities, including surface effects incidental to underground mines, so that disturbed lands are reclaimed to a usable condition that is readily adaptable for alternate land uses and creates no danger to public health and safety. The process may extend to affected lands surrounding disturbed lands, and may require grading, resoiling, revegetation, soil compaction, stabilization, or other measures.

"Reclamation Plan" means the plan approved by the County for reclaiming the lands disturbed by resource development or exploration activities.

"Resource Development Activities" means projects that propose to utilize or develop natural resources. Resource development activities include, but are not limited to, the following: a) geothermal exploration and development projects; b) surface mining operations; c) hydroelectric, wind or solar power facilities; d) oil and gas exploration and development projects; and e) timber production.

"SMARA" means the Surface Mining and Reclamation Act of 1975 as amended (Section 2710 et seq. of the Public Resources Code) and the corresponding sections of the California Code of Regulations, Title 14.

"State Geologist" means the individual holding that office created by Sec. 667, Article 3, Chapter 2 of Division 1 of the Public Resources Code, or his designee.

"Surface Mining Operations": All, or any part of, the process involved in the mining of minerals on mined lands by removing overburden and mining directly from the mineral deposits, open pit mining of minerals naturally exposed, mining by the auger method, dredging and quarrying, or surface work incidental to an underground mine. Surface operations shall include, but are not limited to:

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

In addition, borrow pitting, stream bed skimming, segregation and stockpiling of mined materials (and recovery of same) are also deemed to be surface mining operations unless specifically excluded in conformance to other regulatory provisions.

"Vested Surface Mining Operation" means a person shall be deemed to have obtained "vested" rights when sufficient documentation has been submitted to the Community Development director and County Counsel to indicate that prior to January 1, 1976, he or she has, in good faith and in reliance on a permit or other authorization, if a permit or other authorization was required, diligently commenced surface mining operations and incurred substantial liabilities for work and materials therefor. The operator may also be required to submit documentation indicating that no substantial changes have occurred in the operation since January 1, 1976, except for those changes that were in conformance to applicable regulations in effect

at the time of the change. Expenses incurred in obtaining the enactment of an ordinance in relation to a particular operation or the issuance of a permit shall not be deemed liabilities for work and materials.

35.030 Reclamation Plan Requirements.

A. Filing:

1. Submittal: Reclamation plans shall be submitted to Economic Development Department (for energy-related projects) or to the Planning Division, on forms supplied by the applicable department. Reclamation plan submittals must be complete, containing all information required by the applicable department to justify findings for approval or disapproval, and for surface mining operations, all information required in conformance to applicable provisions of SMARA.
2. Acceptance: Reclamation plan submittals shall not be deemed complete or accepted for filing and processing time limits shall not begin to run until the Economic Development or Community Development director or his delegate accepts the submittal as complete.

B. Procedure:

1. Processing: Within 30 days after receipt of a reclamation plan submittal, the Economic Development or Community Development director or his delegate shall review the submittal and shall notify the applicant or his designated representative, in writing, concerning any deficiencies.
 - a. Reclamation plan submittals shall be deemed complete, unless the applicant or his designated representative has been notified in writing that the submittal is incomplete prior to the expiration of the 30-day review period.
 - b. Complete reclamation plan submittals shall be accepted and processed in accordance with applicable provisions of the County Code, CEQA and when applicable SMARA. Acceptance of a reclamation plan submittal by the Economic Development Department or Planning Division shall not constitute an indication of project approval.
2. Simultaneous Processing: In the event that an application for a use permit and a reclamation plan pertaining to the same project are submitted for approval at the same time, review and processing of the reclamation plan may occur simultaneously with that of the resource use permit application. The issuance of a use permit shall be predicated on the approval of a reclamation plan in conformance to this chapter.
3. Approval: The Planning Commission may approve or conditionally approve a reclamation plan only when all of the following findings can be made:
 - a. That the reclamation plan complies with the provisions of CEQA;
 - b. That the reclamation plan is consistent with the objectives and policies set forth in this General Plan and any applicable area or specific plans;
 - c. That appropriate conditions have been imposed to ensure and verify that the site during and after reclamation will not cause a public hazard, nor be detrimental to the public health, safety, or welfare;
 - d. That an approved end use has been identified and that the reclamation of the site shall be finally completed as soon as is feasible, considering the particular circumstances of the site to be

reclaimed, and that the plan provides for concurrent reclamation, where appropriate and feasible;

- e. That the reclamation plan conforms to minimum verifiable performance standards established in this chapter and, in the case of surface mining operations, meets or exceeds the minimum, verifiable statewide reclamation standards adopted by the state Mining and Geology Board, and in the case of geothermal well abandonment, conforms to the requirements and guidelines of the California Division of Oil and Gas on non-federal lands, and the Bureau of Land Management on federal lands;
- f. That the estimated cost of the reclamation reasonably approximates the probable cost of performing the reclamation work as proposed in the plan and that adequate surety (consistent with applicable provisions of SMARA for surface mining operations) will be posted to ensure completion of the required reclamation; and
- g. That the person or entity responsible for reclamation plan compliance has a public liability insurance policy in force for the duration of the reclamation that provides for personal injury and property protection in an amount adequate to compensate all persons injured or for property damaged as a result of the proposed reclamation activities.

35.040 Amendments.

A. Minor Amendments to an Approved Reclamation Plan:

- 1. Minor amendment: Minor changes to an approved reclamation plan may be approved by the Economic Development director or the Community Development director, using the Director Review with Notice process, in accordance with the following provisions.
- 2. Processing: Requests for approval of a minor amendment shall be submitted on forms provided by the Economic Development or Planning Division, along with the applicable fees. Within 30 days of receipt of such a request, the applicable Director shall determine whether or not the application should be considered a minor amendment. The applicable Director shall approve or deny the request and notify the applicant in writing within 10 days of his decision. The decision of the Director as to whether the request should be approved or denied shall be final, unless an appeal is filed. If it is determined that the request is not a minor amendment, the request may be processed as a major amendment.
- 3. Requests for a minor amendment may be approved only if the applicable Director is able to make all of the following findings:
 - a. That the proposed change involves only minor changes in dimensions, volumes or timing of the reclamation plan and will not affect the basic character or implementation of the reclamation plan;
 - b. No substantial adverse environmental damage, either on site or off site, will result from the proposed change and the proposed change is consistent with adopted environmental determinations; and
 - c. That the proposed change will not be detrimental to the public health, safety and welfare and is compatible with the objectives and policies of this General Plan, applicable area or specific plans or approved end land use of the site.

B. Major Amendments to an Approved Reclamation Plan:

1. Major amendment: Major amendments to approved reclamation plans may be approved by the Planning Commission subject to the following provisions.
2. Processing: Applications for proposed amendments shall be submitted on forms provided by the Economic Development or Planning Division and shall include such data as may be required to complete an environmental assessment. Applications shall include the required filing fee, and shall be noticed and scheduled for public hearing before the Planning Commission in the same manner as the original reclamation plan submittal.
3. Amendments may be approved by the Planning Commission only if all of the following findings can be made:
 - a. The proposed amendments are necessary or desirable to assure a more practical recovery of the resource or to avoid multiple future disturbances of surface land or waters; and
 - b. No substantial adverse environmental damage, either on-site or off-site, will result from the proposed change, and the proposed change is consistent with adopted environmental determinations; and
 - c. The security required to be filed by the applicant with the County is adequate or additional security has been filed to guarantee compliance with the revised reclamation plan; and
 - d. The reclamation plan, as amended, will continue to meet the requirements of this chapter and will be conducted in conformity to all applicable laws, ordinances, and regulations of all agencies with jurisdiction over the resource development project; and
 - e. The approval of the amendment will not be detrimental to the public health, safety, or welfare and is compatible with the objectives and policies of this General Plan, applicable area or specific plans or approved end land use of the site.

35.050 Reclamation Standards.

- A. All reclamation plans must conform to all applicable provisions of the following minimum verifiable standards. The standards shall apply to each project to the extent that they are consistent with required mitigation for the project (as identified in the environmental documents for the project), provided that such mitigation is at least as stringent as the standards, and they are consistent with the approved or actual subsequent use or uses of the reclaimed site.
- B. Where an applicant demonstrates to the satisfaction of the County that an exception to the standards specified in this chapter is necessary based upon the approved end use, the Planning Commission may approve a different standard for inclusion in the approved reclamation plan. Where the County allows such an exception, the approved reclamation plan shall specify verifiable, site-specific standards for reclamation.
- C. When substantial amendments are proposed to reclamation plans that were approved prior to January 1, 1992, the standards set forth in this chapter shall be applied by the County in approving or denying the amended reclamation plan.
- D. The standards in this chapter shall not apply to projects:
 1. that completed reclamation prior to January 1, 1992, in conformance to an approved reclamation plan; or

2. for which a reclamation plan has been approved prior to January 1, 1992.

E. The following definitions, in addition to those in Section 35.020 of this chapter, shall govern the interpretation of these standards:

"Arid" means landscapes with an average annual precipitation of five inches or less;

"Indigenous Plants" means plants occurring naturally in an area, not introduced;

"Native Species" means plant species indigenous to California, using pre-European as the historic time reference;

"Vegetative Cover" means the vertical projection of the crown or shoot area of a species to the ground surface expressed as a percentage of the reference area (percentage can be greater than 100%);

"Vegetative Density" means the number of individuals or stems of each species rooted within the given reference area;

"Vegetative Species-Richness" means the number of different plant species within the given reference area; and

"Wetlands" means lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. For purposes of these regulations, wetlands must have one or more of the following attributes: 1) at least periodically, the land supports predominantly hydrophytes; 2) the substrate is predominantly undrained hydric soil; and 3) the substrate is non-soil and is saturated with water or covered by shallow water at some time during the growing season of each year.

Wildlife Habitat.

Wildlife and wildlife habitat shall be protected in accordance with the following standards:

- A. Rare, threatened or endangered species or species of special concern, as defined by the California Department of Fish and Game, US Forest Service (USFS), Bureau of Land Management (BLM), or the US Fish and Wildlife Service, and their respective habitat shall be conserved as prescribed by the federal Endangered Species Act of 1973, 16 U.S.C. section 1531, and the California Endangered Species Act, Fish and Game Code section 1900, et seq. If avoidance cannot be achieved through the available alternatives, mitigation shall be proposed in accordance with the rules and regulations of the California Department of Fish and Game, USFS, BLM, the US Fish and Wildlife Service, the US Army Corps of Engineers and other applicable agencies.
- B. Wildlife habitat shall be established on disturbed lands in a condition similar to or better than that which existed before the lands were disturbed, unless the proposed end use precludes its use as wildlife habitat or the approved reclamation plan establishes a different habitat type than that which existed prior to disturbance.
- C. Wetland habitat shall be avoided. Any wetland habitat impacted as a consequence of resource development activities shall be mitigated at a minimum of a 1:1 ratio for wetland habitat acreage and wetland habitat value.

Backfilling, Regrading, Slope Stability, and Recontouring.

Backfilling, regrading, slope stabilization, and recontouring shall conform to the following standards:

- A. Where backfilling is proposed for urban uses (e.g., roads, building sites, or other improvements sensitive to settlement), the fill material shall be compacted in accordance with the Uniform Building Code, the Mono County Grading Ordinance, or other methods approved by the County as appropriate for the approved end use;
- B. Where backfilling is required for resource conservation purposes (e.g., agriculture, fish and wildlife habitat, and wild land conservation), fill material shall be backfilled to the standards required for the resource conservation use involved;
- C. Piles or dumps of waste material, such as mining waste, shall be stockpiled in such a manner as to facilitate phased reclamation. They shall be segregated from topsoil and topsoil substitutes or growth media salvaged for use in reclamation;
- D. Final reclaimed fill slopes, including permanent piles or dumps of mine waste rock and overburden, shall not exceed 2:1 (horizontal:vertical), except where site-specific geologic and engineering analyses demonstrate that the proposed final slope will have a minimum slope stability factor of safety that is suitable for the approved end use, and when the proposed final slope can be successfully revegetated;
- E. At closure, all fill slopes, including permanent piles or dumps of mine waste and overburden, shall conform to the surrounding topography and/or approved end use;
- F. Cut slopes, including final high walls and quarry faces, shall have a minimum slope stability factor of safety that is suitable for the proposed end use and that conforms to the surrounding topography and/or approved end use; and
- G. Permanent placement of piles or dumps of waste material, such as mining waste and overburden, shall not occur within wetlands unless mitigation accepted by the lead agency has been approved to offset wetland impacts and/or losses.

Revegetation.

Revegetation shall be part of the approved plan, unless it is not consistent with the approved end use.

- A. A vegetative cover suitable for the approved end use and capable of self-regeneration without continued dependence on irrigation, soil amendments or fertilizer shall be established on disturbed lands unless an artificially maintained landscape is consistent with the approved reclamation plan. Vegetative cover-density and species-richness shall be, where appropriate, sufficient to stabilize the surface against effects of long-term erosion and shall be similar to naturally occurring habitats in the surrounding area. The vegetative density, cover and species-richness of naturally occurring habitats shall be documented in baseline studies carried out prior to the initiation of resource development activities.
- B. Test plots conducted simultaneously with resource development activities shall be required to determine the most appropriate planting procedures to be followed to ensure successful implementation of the proposed revegetation plan. The County may waive the requirement to conduct test plots when the success of the proposed revegetation plan can be documented from experience with similar species and conditions or by relying on competent professional advice based on experience with the species to be planted.
- C. Where resource development activities result in compaction of the soil, ripping, disking, or other means shall be used in areas to be revegetated to eliminate compaction and to establish a suitable root zone in preparation for planting.

- D. Prior to closure, all access roads, haul roads, and other traffic routes to be reclaimed shall be stripped of any remaining road base materials, prepared in accordance with section G below, covered with suitable growth media or topsoil, and revegetated.
- E. Soil analysis shall be required to determine the presence or absence of elements essential for plant growth and to determine those soluble elements that may be toxic to plants, if the soil has been chemically altered, or if the growth media consists of other than the native topsoil. If soil analysis suggests that fertility levels or soil constituents are inadequate to successfully implement the revegetation program, fertilizer or other soil amendments may be incorporated into the soil. When native plant materials are used, preference shall be given to slow-release fertilizers, including mineral and organic materials that mimic natural sources, and shall be added in amounts similar to those found in reference soils under natural vegetation of the type being reclaimed.
- F. Temporary access for exploration or other short-term uses on arid lands shall not disrupt the soil surface except where necessary to gain safe access. Barriers shall be installed when necessary to prevent unauthorized vehicular traffic from interfering with the reclamation of temporary access routes.
- G. Indigenous plant species shall be used for revegetation, except when introduced species are necessary to meet the end uses specified in the approved reclamation plan. Areas to be developed for industrial, commercial or residential uses shall be revegetated for the interim period, as necessary, to control erosion. In this circumstance, non-indigenous plant species may be used if they are not noxious weeds and if they are species known not to displace indigenous species in the area.
- H. Planting shall be conducted during the most favorable period of the year for plant establishment.
- I. Soil stabilizing practices shall be used where necessary to control erosion and for successful plant establishment. Irrigation may be used when necessary to establish vegetation.
- J. If irrigation is used, the operator must demonstrate that the vegetation has been self-sustaining without irrigation for up to five years prior to release of the financial assurances by the County, unless an artificially maintained landscape is consistent with the end use.
- K. Weeds, as defined by the Soil Conservation Service, or the county Agricultural Commissioner, or the California Native Plant Society, shall be managed: 1) when they threaten the success of the proposed revegetation; 2) to prevent spreading to nearby areas; and 3) to eliminate fire hazard.
- L. Protection measures, such as fencing of revegetated areas and/or the placement of cages over individual plants, shall be used in areas where grazing, trampling, herbivory, or other causes threaten the success of the proposed revegetation. Fencing shall be maintained until revegetation efforts are successfully completed and the County authorizes removal.
- M. Success of revegetation shall be judged based upon the effectiveness of the vegetation for the approved end use, and by comparing the quantified measures of vegetative cover, density, and species-richness of the reclaimed lands to similar parameters of naturally occurring vegetation in the area. Either baseline data or data from nearby reference areas may be used as the standard for comparison. Quantitative standards for success and the location(s) of the reference area(s) shall be set forth in the approved reclamation plan. Comparisons shall be made until performance standards are met provided that, during the last two years, there has been no human intervention, including for example, irrigation, fertilization, or weeding. Standards for success shall be based on expected local recovery rates. Valid sampling techniques for measuring success shall be specified in the approved reclamation plan. Sample sizes must be sufficient to produce at least an 80% confidence level.

Drainage, Diversion Structures, Waterways, and Erosion Control.

- A. Reclamation activities shall be conducted to protect on-site and downstream beneficial uses of water in accordance with the Porter-Cologne Water Quality Control Act, Water Code Section 13000 et seq., and the Federal Clean Water Act, 33 U.S.C. Section 1251 et seq.
- B. The quality of water, recharge potential, and storage capacity of groundwater aquifers shall not be diminished, except as allowed in the approved reclamation plan.
- C. Erosion and sedimentation shall be controlled during all phases of construction, operation, reclamation, and closure of an operation to minimize siltation of lakes and watercourses, as required by the Lahontan Regional Water Quality Control Board, the State Water Resources Control Board, and the Mono County Grading Ordinance.
- D. Surface runoff and drainage shall be controlled by berms, silt fences, sediment ponds, revegetation, hay bales, or other erosion control measures, to ensure that surrounding land and water resources are protected from erosion, gully, sedimentation, and contamination. Erosion control methods shall be designed to handle runoff from not less than the 20-year/one-hour intensity storm event.
- E. Where natural drainages are covered, restricted, rerouted or otherwise impacted, mitigating alternatives shall be proposed and specifically approved in the reclamation plan to assure that runoff shall not cause increased erosion or sedimentation.
- F. When stream diversions are required, they shall be constructed in accordance with:
 - 1. applicable stream and lake alteration agreements between the operator and the California Department of Fish and Game; and
 - 2. the requirements of the Federal Clean Water Act, Sections 301 (33 U.S.C. Section 1311) and 404 (33 U.S.C. Section 1344) and/or section 10 of the Rivers and Harbors Act.
- G. When no longer needed to achieve the purpose for which they were authorized, all temporary stream channel diversions shall be removed and the affected land reclaimed.

Prime Agricultural Land Reclamation.

In addition to the standards for topsoil salvage, maintenance, and redistribution, the following standards shall apply to operations on prime agricultural lands where the approved end use is agriculture:

- A. Resource development activities that will operate on prime agricultural lands, as defined by the US Soil Conservation Service, shall return all disturbed areas to a fertility level as specified in the approved reclamation plan;
- B. When distinct soil horizons are present, topsoil shall be salvaged and segregated by defined A, B and C soil horizons. Upon reconstruction of the soil, the sequence of horizons shall have the A atop the B, the B atop the C, and the C atop graded overburden;
- C. Reclamation shall be deemed complete when productive capability of the affected land is equivalent to or exceeds, for two consecutive crop years, that of the pre-disturbance condition or similar crop production in the area. Productivity rates, based on reference areas described in the approved reclamation plan, shall be specified in the approved reclamation plan; and
- D. Use of fertilizers or other soil amendments shall not cause contamination of surface or groundwater.

Other Agricultural Land.

The following standards shall apply to agricultural lands, other than prime agricultural lands, when the approved end use is agriculture.

- A. In addition to the standards for topsoil salvage, maintenance, and redistribution, non-prime agricultural lands shall be reclaimed so as to be capable of sustaining economically viable production of crops commonly grown in the surrounding areas.

Building, Structure and Equipment Removal.

- A. All equipment, supplies, and other materials shall be stored in designated areas (as shown in the approved reclamation plan). All waste shall be disposed of in accordance with state and local health and safety ordinances.
- B. All buildings, structures, and equipment shall be dismantled and removed prior to final site closure except those buildings, structures, and equipment approved in the reclamation plan as necessary for the end use.

Stream Protection, Including Surface and Groundwater.

- A. Surface and groundwater shall be protected from siltation and pollutants that may diminish water quality as required by the Federal Clean Water Act, sections 301 et seq. (33 U.S.C. section 1311), 404 et seq. (33 U.S.C. section 1344), the Porter-Cologne Act, section 13000 et seq., the county Grading Ordinance, the Lahontan Regional Quality Control Board or the State Water Resources Control Board.
- B. In-stream surface mining operations shall be conducted in compliance with Section 1603 of the California Fish and Game Code, section 404 of the Clean Water Act, and section 10 of the Rivers and Harbors Act.
- C. Surface mining activities in stream or river channels shall be regulated to control channel degradation in order to prevent undermining of bridge supports, exposure of pipelines or other structures buried within the channel, loss of spawning habitat, lowering of groundwater levels, destruction of riparian vegetation, and increased stream bank erosion (exceptions may be specified in the approved reclamation plan). Changes in channel elevations and bank erosion shall be evaluated annually using records of annual extraction quantities and bench marked annual cross sections and/or sequential aerial photographs to determine appropriate extraction locations and rates.
- D. In accordance with requirements of the California Department of Fish and Wildlife, in-stream mining activities shall not cause fish to become entrapped in pools or in off-channel pits, nor shall they restrict spawning or migratory activities.

Topsoil Salvage, Maintenance and Redistribution.

When the approved reclamation plan calls for revegetation or cultivation of disturbed lands, the following performance standards shall apply to topsoil salvage, maintenance, and redistribution activities:

- A. All salvageable topsoil suitable for revegetation shall be removed as a separate layer from areas to be disturbed. Topsoil and vegetation removal shall not precede development activities by more than one year, unless a longer time period is approved by the County.
- B. Topsoil resources shall be mapped prior to stripping and the location of topsoil stockpiles shall be shown on a map in the reclamation plan. If the amount of topsoil needed to cover all surfaces to be revegetated is not available on site, other suitable material capable of sustaining vegetation (such as subsoil) shall be removed as a separate layer for use as a suitable growth media. Topsoil and suitable growth media

shall be maintained in separate stockpiles. Test plots may be required to determine the suitability of growth media for revegetation purposes.

- C. Soil salvage operations and phases of reclamation shall be carried out in accordance with a schedule that: 1) is set forth in the approved reclamation plan; 2) minimizes the area disturbed; and 3) is designed to achieve maximum revegetation success allowable under the mining plan.
- D. Topsoil and suitable growth media shall be used to phase reclamation as soon as can be accommodated by the operations schedule presented in the approved reclamation plan. Topsoil and suitable growth media that cannot be utilized immediately for reclamation shall be stockpiled in an area where it will not be disturbed until needed for reclamation. Topsoil and suitable growth media stockpiles shall be clearly identified to distinguish them from waste dumps. Topsoil and suitable growth media stockpiles shall be planted with a vegetative cover or shall be protected by other equally effective measures to prevent water and wind erosion and to discourage weeds. Relocation of topsoil or suitable growth media stockpiles for purposes other than reclamation shall require prior written approval from the County.
- D. Topsoil and suitable growth media shall be redistributed in a manner that results in a stable, uniform thickness consistent with the approved end use, site configuration, and drainage patterns.

Tailing and Waste Management.

- A. State Water Resources Control Board mine waste disposal regulations in Article 7 of Chapter 15 of Title 23, California Code of Regulations, shall govern mine waste and tailings, and mine waste disposal units shall be reclaimed in conformance to this article.
- B. Geothermal drilling waste and cuttings shall be disposed of in a manner approved by the Lahontan Regional Water Quality Control Board.

Closure of Surface Openings.

- A. Except those used solely for blasting or those that will be mined through within one year, all drill holes, water wells, and monitoring wells shall be completed or abandoned in accordance with each of the following:
 - 1. Water Code Sections 13700 et seq. and 13800 et seq.;
 - 2. The applicable local ordinance adopted pursuant to Water Code Section 13803;
 - 3. The applicable Department of Water Resources report issued pursuant to Water Code Section 13800; and
 - 4. Subdivisions (1) and (2) of Section 2511 (g) of Chapter 15 of Title 23 regarding discharge of waste to land.
- B. Prior to closure, all portals, shafts, tunnels, or other surface openings to underground workings shall be gated or otherwise protected from public entry in order to eliminate any threat to public safety and to preserve access for wildlife habitat.
- C. All geothermal wells shall be completed or abandoned in accordance with the California Division of Oil and Gas if located on non-federal land or with the Bureau of Land Management if located on federal land.

35.060 Vested Surface Mining Operations.

- A. Reclamation Plan:

1. Reclamation Plan: The reclamation plan required pursuant to this chapter shall apply to "vested" surface mining operations conducted after January 1, 1976.
 - a. Where a person with a "vested" right has continued surface mining operations in the same area subsequent to January 1, 1976, he shall obtain approval of a reclamation plan, in conformance to applicable provisions of this chapter, covering the mined lands disturbed by such subsequent surface mining operations. In those cases where an overlap exists (in the horizontal or vertical sense) between pre and post January 1, 1976, surface mining operations, the reclamation plan shall call for reclamation proportional to that disturbance caused by the surface mining operation after January 1, 1976.

35.070 Idle Mine Status.

A. Interim management plan:

1. Filing: Unless specified in the use permit, within 90 days of a surface mining operation becoming idle, the operator shall submit to the Planning Division for review and approval, an "interim management plan." The interim management plan shall describe, in detail, measures the operator will implement to maintain the site in compliance with conditions specified in the use permit and with standards specified in the approved reclamation plan.
2. Term of plan: The interim management plan may remain in effect for a period not to exceed five years, at which time the County shall do one of the following:
 - a. Renew the interim management plan for an additional period not to exceed five years, provided the County finds that the operator has complied fully with the interim management plan; or,
 - b. Require the operator to commence reclamation in accordance with the approved reclamation plan.
3. Financial assurances: Financial assurances required by this chapter shall remain in effect during the period the operation is idle.
4. Interim management plan approval: The receipt of an interim management plan shall be considered and processed as an amendment to the approved reclamation plan in accordance with applicable provisions of this chapter. As specified in SMARA, the review and approval of an interim management plan for a surface mining operation shall not be considered a project under CEQA.
5. The operator of a resource development activity that has been abandoned for a period of more than 12 months shall be subject to revocation of the approved use permit and be required to commence reclamation in accordance with the approved plan.

35.080 Annual Inspections.

A. Inspections:

1. Inspections Required: Resource development activities shall comply with the following inspection and reporting requirements:
 - a. The operator shall file a request for annual inspection with the county Compliance Officer at least once in each calendar year. Requests for annual inspections shall be accompanied by the appropriate filing fee and, for surface mining operations, shall coincide with the dates for annual SMARA inspections. All such requests shall include a written report prepared by a qualified

registered professional that identifies to what extent the reclamation at the site conforms or deviates from the approved reclamation plan.

- b. The Compliance Officer shall inspect or cause to be inspected the site within 30 working days of receipt of the written report, filing fee, and application for inspection. Unless otherwise agreed, failure to inspect within 30 working days shall be deemed acceptance of the report and a finding that the resource development operation is in compliance with the reclamation plan.

35.090 Administration.

A. Appeals:

Appeals of any decision pertaining to reclamation plans may be made in conformance to the provisions of Chapter 19.42 of the land development regulations.

B. Fees:

Fees required in conjunction with the provisions of this chapter shall be established from time to time by the Board of Supervisors.

C. Public Records and Proprietary Information:

Public record: Reclamation plan submittals, interim management plans and other documents submitted in support of this chapter are public records unless it is demonstrated to the satisfaction of the County that the release of such information, or part thereof, would reveal reserves, production, or rates of depletion entitled to protection as proprietary information. The operator shall identify such proprietary information as a separate part of the application, and such proprietary information shall be made available only to persons authorized in writing by the operator to receive such proprietary information, and for surface mining operations to the State Geologist.

D. Successor in Interest:

Whenever any resource development activity or portion of such an operation is sold, assigned, conveyed, exchanged, or otherwise transferred, whether voluntarily or by operation of law, the original permittee as well as each successor in interest shall be bound by the provisions of any reclamation plan approved pursuant to the provision of this chapter, provided, however, that the original permittee or any successor in interest may be relieved from all liability for completing the reclamation by action of the Board of Supervisors if, after application to the Board, it is determined that the current owner has posted adequate security to ensure completion of all remaining reclamation.

35.100 Surety Requirements.

A. Surety:

1. **Surety Required:** The operator or person responsible for the reclamation plan submittal shall be required to execute an agreement and to provide adequate and acceptable surety, made payable to the County and (for surface mining operations) the State Geologist, guaranteeing compliance with the approved reclamation plan. This requirement shall be satisfied prior to commencing any on-site resource development activity, and liability shall continue until all reclamation work required by the reclamation plan has been concluded and accepted by the County.
2. **Continued liability:** In addition, the operator or person responsible for final reclamation shall have a continued liability to guarantee the continued viability of the reclamation effort not to exceed five growing seasons following the conclusion and acceptance of reclamation by the County. This liability shall begin anew whenever reclamation efforts fail to meet the reclamation plan performance standards and additional reclamation is required. The minimum security to be retained to guarantee the continued viability of the reclamation effort shall be as follows:

- a. If the security guarantees the cost of all reclamation, 10% of the aggregate cost of all reclamation; or
 - b. If the security was posted in conformance to a phased reclamation program any other method acceptable to the County that ensures the continued viability of the reclamation effort.
3. Insurance: The operator shall maintain, to the satisfaction of the County and for the life of the reclamation plan, liability insurance of not less than \$500,000 for one person, \$1 million for all persons, and \$2 million for property damage, or other amounts adopted by the Board of Supervisors. This requirement would not preclude the operator from being self-insured.
4. Form of Surety: The security required in conformance to the provisions of this chapter shall be made payable to the County and, in the case of surface mining operations, the State Geologist; shall be subject to review and approval by the County; and shall be in the form of one the following:
 - a. Surety Bonds;
 - b. Irrevocable Letters of Credit;
 - c. Trust Funds; or
 - d. For surface mining operations, other forms of financial assurance as may be specified by the State Mining & Geology Board.
5. Surety Adjustments: The amount of financial assurances required by this chapter may be adjusted annually by the County in consideration of information provided in the annual report. Adjustments shall take into consideration, but not be limited to, new lands disturbed, inflation, prior compliance, and reclamation accomplished in accordance with the approved plan.
6. Prior surety approvals: If a surface mining operation and/or reclamation plan has received approval of its financial assurances prior to January 1, 1991, from a public/federal agency other than Mono County, the County shall deem those financial assurances adequate for the purposes of this chapter, or shall credit them toward fulfillment of financial assurances required by this chapter.

B. Release of Surety:

1. Acceptance: The operator shall file a request for final inspection with the county Compliance Officer, accompanied by the appropriate filing fee. No reclamation or phase of reclamation shall be deemed accepted until the work has been inspected and approved and a certificate of acceptance has been executed by the county Compliance Officer and filed with the Board of Supervisors and, for surface mining operations, the State Geologist.
2. Inspection: Within 60 days after the county Compliance Officer has received a request for final inspection for completion of reclamation, or any phase of reclamation; the county Compliance Officer shall inspect, or cause to be inspected, the subject area. The county Compliance Officer shall then file the certificate of acceptance or shall notify the operator, in writing, of any items that are found to be inconsistent with the approved reclamation plan.
3. Release of Bond: Thirty days after the county Compliance Officer files the certificate of acceptance with the Board of Supervisors, unless otherwise directed by the Board of Supervisors, the County shall release the surety.

35.110 Enforcement.

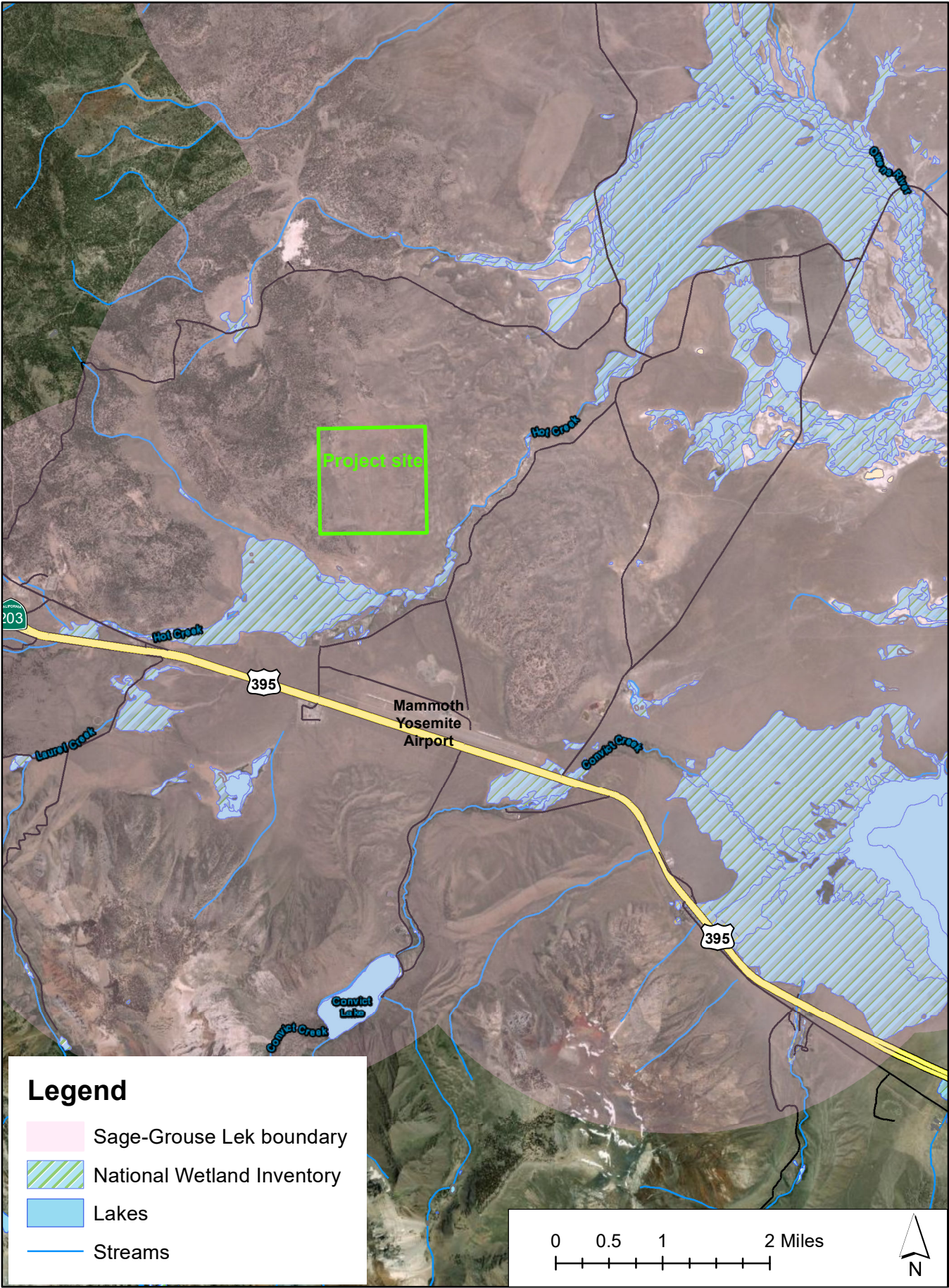
A. Enforcement:

The provisions of this chapter shall be enforced by the Economic Development Department, the county Planning Division, and/or the county Compliance Officer or such other persons as may be designated by the Board of Supervisors. Enforcement of the provisions contained in this chapter shall be in accordance with applicable provisions of the Mono County Code.

B. Right of Entry:

Whenever it becomes necessary to inspect resource development activities as provided in this chapter or to investigate complaints associated with resource development activities or to monitor conditions of approval as may be imposed on resource development activities, reasonable access to the project site shall be afforded by the operator in conformance to Chapter 1.08 of the Mono County Code. Authorized representatives of the County, upon presentation of appropriate credentials, shall have access to the site without advance notice.

Long Valley Exploration Drilling Project



Mono County Community Development Department

PO Box 347
Mammoth Lakes, CA 93546
760.924.1800, fax 924.1801
commdev@mono.ca.gov

PO Box 8
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Mono County General Plan Excerpts Regarding Mining

April 26, 2021

*Many of these regulations may not apply because the County does not have land use authority; however, the County requests that the Inyo National Forest respect the regulations that the County would have imposed in order to maintain public safety and rural character.

LAND USE ELEMENT

Countywide Policies

Policy 1.A.4. Designate most lands outside existing community areas for low intensity uses (e.g., open space, agricultural, resource management). Higher-intensity uses (e.g., industrial, resource extraction, large-scale resort development) may be permitted outside existing community areas if it can be demonstrated that the use cannot be accommodated in existing community areas, that the use is incompatible with existing community uses, or that the use directly relies on the availability of unique on-site resources. Higher-intensity uses shall not adversely impact the area's scenic, recreational, cultural and natural resources.

Action 1.A.4.a. Proposals for higher-intensity uses outside community areas, including mining operations, shall be addressed through the Specific Plan process. Such development may be allowed through a Specific Plan provided that at a minimum, the following findings can be made:

- a. Permanent open space preservation is provided;
- b. The development would not adversely affect existing or potential farming, ranching, or recreational operations;
- c. Development is clustered, concentrated or located to avoid adverse impacts to cultural resources;
- d. Development is clustered, concentrated or located to maintain the visual quality of the area;
- e. Adequate public services and infrastructure for the proposed development are available or will be made available;
- f. The development protects and is compatible with the surrounding natural environment and rural character of the area;
- g. Housing is limited to that necessary to maintain the development; and
- h. The development avoids or mitigates potential significant environmental impacts as required by Mono County General Plan policies and the California Environmental Quality Act (CEQA).

Policy 1.A.9. Regulate resource development projects in a manner that maintains environmental quality.

Action 1.A.9.a. Refer to Chapter 15, Resource Development Standards, for applicable activities and land use designations.

Action 1.A.9.b. In areas where the existing General Plan land use designation is inconsistent with Chapter 15, applications for mining operations, geothermal operations, small-scale hydroelectric generation facilities, wind and solar energy generation facilities, or similar resource extraction activities shall require a General Plan Amendment.

Action 1.A.9.c. Regulate mineral extraction activities in a manner consistent with the Mineral Resource Policies of the Conservation/Open Space Element.

Action 1.A.9.d. Regulate geothermal development and other energy development projects in a manner consistent with the Energy Resources Policies in the Conservation/Open Space Element.

Action 1.A.9.e. Existing mining operations, geothermal operations, and other existing resource-extraction operations, including salable materials operations (e.g., aggregate mining) have been designated Resource Extraction. Once these sites have been exhausted and reclaimed, the land use designation shall be revised to reflect the planned future land use.

Mammoth Vicinity Area Policies

Objective 21.C. Preserve and enhance natural resources in the Mammoth vicinity.

Policy 21.C.1. Maintain or enhance the integrity of key wildlife habitat in the area. Examples of key habitat include, but are not limited to: key winter ranges, holding areas, migration routes, and fawning areas for mule deer; leks, and winter and summer range for sage grouse; and waterfowl habitat at Crowley Lake, Laurel Pond, and along the Owens River.

Action 21.C.1.a. Implement policies in the Conservation/Open Space Element.

Policy 21.C.2. Maintain or enhance the integrity of fisheries in the planning area.

Action 21.C.2.a. Support the trout enhancement by the CDFW for the Mammoth area.

Action 21.C.2.b. Manage riparian areas to maintain high-quality habitat for fish, especially in threatened and endangered species waters, wild trout waters, and the meadow reaches of streams.

Policy 21.C.3. Preserve, maintain and enhance surface and groundwater resources in the planning area.

Action 21.C.3.a. Require projects that could adversely impact water resources, including down-gradient water resources, to avoid or mitigate effects to a point where clearly no significant effects would occur.

Policy 21.C.4. Regulate geothermal and mining and reclamation activities in the Mammoth vicinity in a manner that retains the scenic, recreational, and environmental integrity of the Mammoth vicinity.

Action 21.C.4.a. All geothermal, mining and reclamation activities shall comply with the policies of the county Conservation/Open Space Element and the county Reclamation Ordinance.

Action 21.C.4.b. Geothermal and mineral extraction activities shall be allowed only in areas designated Resource Extraction; exploratory activities shall be allowed only in areas designated Resource Management, Open Space, or Agriculture.

CONSERVATION/OPEN SPACE ELEMENT

Biological Resources

Policy 2.A.3. Protect and restore sensitive plants, wildlife and their habitat, and those species of exceptional scientific, ecological, or scenic value.

Action 2.A.3.a. Enforce maximum site disturbance standards in appropriate land use designations in the Mono County General Plan.

Action 2.A.3.b. Require landscape plans to incorporate the use of native vegetation when feasible. The transplanting of existing vegetation and use of locally collected seed may be required in the landscape plan.

Action 2.A.3.c. When applicable, revegetation and landscape plans should include provisions to retain and re-establish upland vegetation, especially bitterbrush and sagebrush, as important mule deer and sage grouse habitat.

Action 2.A.3.d. In order to protect their special value to plant diversity and wildlife habitat, limit development in edge zones, riparian areas, and wetlands.

Action 2.A.3.e. Projects within key sage grouse habitat shall not be permitted unless a finding is made that potential impacts have been avoided or mitigated to a level of non-significance or a statement of overriding considerations is approved. Potential mitigation measures may include:

- Minimizing site disturbance and limiting it to the poorest quality habitat on the parcel (e.g., near trees, away from leks and water, etc.);
- Siting structures taller than 6 feet or above the sagebrush average height outside the line of sight of a lek;
- Minimizing the installation of fencing and all fencing shall be of a wildlife friendly design, which may include the following specifications: not taller than 42", three strands, bottom strand a minimum of 16" from the ground, top wire marked for visibility, lay down and let-down fencing, and avoidance of posts serving as avian predator perches. Other designs may be warranted depending on the wildlife concerns of the areas, and the BLM, USFWS and/or CDFW should be consulted;
- Installing perch deterrents on structures taller than 6 feet or above the sagebrush average height;
- Controlling domestic animals on the property;
- Designating seasonal use restrictions;
- Restoring native vegetation or otherwise improving vegetative habitat, including removal of invasive trees and annual grasses, and reducing fire risk on nearby public lands;
- Contributing financially to an established program undertaking habitat restoration within Mono County; and
- Including other measures developed in consultation with key Bi-State sage grouse partners (e.g., USFWS, CDFW, BLM, USFS), including considerations to mitigate impacts to reduced connectivity and fragmentation.
- To protect nesting and brood-rearing habitat, agricultural cultivation shall not disturb or remove sagebrush habitat within three miles of an active lek, or as determined through an informal consultation process with applicable Bi-State Conservation partners.

Mineral Resources

Objective 7.C. Manage all mineral resource development activities in a manner that adequately protects the public health, safety, and welfare as well as environmental and socio-economic values.

Policy 7.C.1. Mineral resource development projects shall meet or exceed applicable provisions of CEQA, NEPA, SMARA, Mono County LUE Chapter 35 (reclamation plans) and the Mono County Environmental Handbook.

Action 7.C.1.a. Mineral resource development projects shall strive to avoid or mitigate potentially significant adverse environmental impacts. Significant adverse impacts that cannot be mitigated to a level of non-significance shall require findings of overriding consideration in conformity to CEQA.

Action 7.C.1.b. Require an Environmental Impact Report (EIR), with appropriate mitigation, for all open pit mining operations that are subject to permit requirements as specified in SMARA and that propose to utilize a cyanide heap leaching process.

Action 7.C.1.c. Encourage project proponents to meet with County personnel and responsible/trustee agencies as early as possible, prior to submitting an application, in order to identify the scope and magnitude of issues that may be considered environmentally significant.

Action 7.C.1.d. Encourage the public, through appropriate public notice, to participate in the scoping process for all mineral resource development projects.

Policy 7.C.2. Mineral resource development projects shall comply with all applicable provisions of the county's General and Area Plans, along with requirements set forth in the California Surface Mining and Reclamation Act (SMARA); the California Code of Regulations, Title 14, "Mining and Geology"; and County ordinances.

Action 7.C.2.a. Mineral resource development activities may be permitted only in those areas designated for Resource Management and Resource Extraction. Extraction of saleable materials/aggregates (e.g., sand or gravel) may also be permitted in areas designated Agriculture and Resource Extraction.

Action 7.C.2.b. Recreational mining (the extraction of minerals that does not require a county, state or federal permit of any type, and does not utilize mechanized earth-moving equipment) shall be permitted in all districts.

Action 7.C.2.c. Surface and subsurface mining operations shall obtain a mining use permit, including approval of a reclamation plan (Mono County LUE Chapter 35), prior to commencing surface disturbance activities.

Action 7.C.2.d. Develop appropriate application forms to expedite the application and processing of mineral resource exploration, development, and reclamation projects. Update these forms as necessary to reflect applicable federal, state, and county regulatory changes.

Policy 7.C.3. Surface mining operations located on federal lands shall conform to applicable provisions of SMARA.

Action 7.C.3.a. Administration and coordination of surface mining activities on lands administered through the BLM shall be in conformity to the Memorandum of Understanding (MOU) between the BLM and the County.

Action 7.C.3.b. Pursue methods, such as a MOU or Joint Powers Agreement, to address the administration and coordination of surface mining activities on lands administered through the USFS.

Resource Management (RM)

INTENT: The “RM” designation is intended to recognize and maintain a wide variety of values in the lands outside existing communities. The RM designation indicates the land may be valuable for uses including but not limited to recreation, surface water conservation, groundwater conservation and recharge, wetlands conservation, habitat protection for special-status species, wildlife habitat, visual resources, cultural resources, geothermal or mineral resources. The land may also need special management consideration due to the presence of natural hazards in the area; e.g., avalanche-prone areas, earthquake faults, flood hazards, or landslide or rockfall hazards.

The RM designation provides for low-intensity rural uses in a manner that recognizes and maintains the resource values of the parcel.

Land subject to the land use authority of an agency other than the County may be designated RM with a reference to the appropriate plan as follows:

Humboldt-Toiyabe National Forest Land & Resource Management Plan – RM/TNF
 Inyo National Forest Land & Resource Management Plan – RM/INF
 Mono Basin National Forest Scenic Area Comprehensive Management Plan – RM/MB
 Bureau of Land Management, Bishop Resource Management Plan – RM/BLM
 California Department of Fish and Game Lands – RM/DFG
 Mammoth Yosemite Airport Land Use Plan – RM/ALUP

These designations recognize the planning authority of other agencies on publicly owned lands only; the County has authority over private and LADWP (Los Angeles Department of Water and Power) lands throughout the unincorporated area.

PERMITTED USES

- Single-family dwelling
- Manufactured home used as a single-family dwelling¹
- Accessory buildings and uses²
- Animals and pets (see Animal Standards Section 04.270)
- Home occupations (see Home Occupation regulations, Section 04.290)
- Resource exploratory activities that do not involve excavation, devegetation, or other potentially significant environmental effects
- Agricultural uses, provided that such uses are proposed in conjunction with a bona fide agricultural operation³, except those requiring a use permit
- Small-scale agriculture
- Accessory Dwelling Unit (as prescribed in Chapter 16, Development Standards – Accessory Dwelling Units)
- Non-commercial composting facilities where the operation does not create a nuisance problem and has less than 100 cubic yards of material on site at any given time
- Outdoor cultivation of a maximum of six mature and 12 immature cannabis plants under the Compassionate Use Act.

USES PERMITTED SUBJECT TO DIRECTOR REVIEW (Director Review Processing, Ch. 31)

- Resource exploratory activities that involve excavation, devegetation, or other potentially significant environmental effects

USES PERMITTED SUBJECT TO USE PERMIT (Use Permit Processing, Ch. 32)

- Limited-scale lodging, such as small inns, bed-and-breakfast establishments, and cabins, if found by the Commission to be compatible
- Recreation facilities, such as improved bike trails, cross country ski trails, and pedestrian trails requiring modification of the natural landscape, if found by the Commission to be compatible with the natural habitat of the area
- Construction of an accessory building prior to construction of the main building
- Airports, heliports, taxiways, and landing strips for aircraft
- Mining and geothermal exploration projects
- Commercial composting facilities

DEVELOPMENT STANDARDS

Minimum Parcel Size: 40 acres or 1/4 of 1/4 section

Maximum Site Disturbance: 10% maximum lot coverage is 5%.

Maximum site disturbance may be increased in conformance to the specific plan process.

Minimum Setbacks:

Front: 50' **Rear:** 30' **Side:** 30'

Maximum Building Density: one du/lot and an Accessory Dwelling Unit (see Ch. 16, Development Standards – Accessory Dwelling Units).

Population Density: Maximum population density is 5.02 persons per 40 acres or approximately 0.13 persons per acre.

NOTES

1. Provided that the unit is fewer than 10 years old and meets the criteria set forth in Section 04.280. When there are two mobile homes on the same parcel, they must 1) comply with the Accessory Dwelling Unit requirements (see Ch. 16), or 2) comply with State standards for a mobile-home park and obtain a use permit from the County (see Ch. 17, Mobile-home and RV Parks).
2. Accessory buildings and uses customarily incidental to any of the permitted uses are permitted only when located on the same lot and constructed simultaneously with or subsequent to the main building.
3. "Agricultural uses" include agricultural sheds and warehouses; packing, processing, storage or sale of agricultural products and supplies, machinery, implements and equipment; transportation of agricultural products, supplies and equipment together with the necessary maintenance, repair and service of trucks and equipment used therein; the feeding and selling of livestock; aquaculture; accessory buildings and uses including barns, stables and other farm outbuildings; quarters for farm labor or other employees employed on the premises; stands for sale of agricultural products grown on the premises.
4. Large-scale projects may be subject to a Specific Plan (Ch. 36) in conformance to the General Plan.
5. Uses may have been omitted from the list of those specified, hence the Commission may find other uses to be similar and not more obnoxious or detrimental to the public health, safety and welfare. See explanation of interpreting "similar uses" Chapter 04, Uses not listed as permitted.

SEE ALSO

Land Development Regulations –

- Ch. 04 Development Standards – General
- Ch. 06 Development Standards – Parking
- Ch. 07 Development Standards – Signs
- Table 04.010 Building Heights

Resource Extraction (RE)

INTENT: The “RE” designation is intended to provide for protection of the environment and resource extraction activities in a manner consistent with the Mono County General Plan and applicable state and federal laws. The designation is also intended to provide for processing plants utilizing on-site materials or materials found in close proximity to the site. The Resource Extraction Designation is intended to be applied only in areas with existing or proposed and permitted resource development activities.

PERMITTED USES

All permitted uses within each category are not listed; the Commission may determine additional uses for each category as long as they are consistent with the intent of this designation (see Section 04.030, Interpretation of Similar Uses).

- Geological, geochemical, or geophysical mapping, surface sampling by hand of outcrops and soil, and activities that do not involve extensive excavation, devegetation, or other potentially significant environmental effects.
- Such other uses as the Director may determine to be of an infrequent nature and that involve only minor surface disturbances.
- Residential uses are limited to caretaker units or on-call employee housing associated with on-site resource development projects; such residential units shall be removed during the final reclamation process. Residential subdivisions or other types of permanent residential development are not allowed.
- Agricultural uses that are compatible with the resource extraction activity.

USES PERMITTED SUBJECT TO DIRECTOR REVIEW (Director Review Processing, Ch. 31)

- Excavations or grading conducted for farming or on-site construction for the purpose of restoring land following a flood or natural disaster.
- Resource development activities involving the prospecting for, or extraction of, minerals for commercial purposes and the removal of overburden in total amounts of less than 1,000 cubic yards in any one parcel of one acre or less.
- Resource development activities that do not involve either the removal of more than 1,000 cubic yards of minerals, ore, or overburden; or involve more than one acre in any one parcel.
- Surface mining operations that are required by federal law in order to protect a mining claim, if such operations are conducted solely for this purpose and in compliance with applicable federal regulations that administer the affected mined lands.
- Such other surface mining operations as are categorically determined by the State Mining and Geology Board to be exempt from the provisions of SMARA (Surface Mining and Reclamation Act); and/or those particular resource development activities with similar impacts that the County may determine to be of infrequent nature and/or involve insignificant amounts of surface disturbance.

USES PERMITTED SUBJECT TO USE PERMIT (Use Permit Processing, Ch. 32)

- Surface mining operations as defined in SMARA.
- Subsurface mining operations.
- Exploring, drilling, processing, stockpiling and transporting of gas, oil and other hydrocarbons.
- Exploring, drilling, and development of geothermal resources.
- Construction and operation of geothermal power plants, hydropower plants, and wind and solar power plants.
- Resale and wholesale distributing of materials produced on site and accessory uses, including but not limited to constructing and using rock-crushing plants, aggregate washing, screening and drying facilities and equipment, ore-reduction plants, asphalt and concrete batching plants, and storage of materials and machinery in use and utilized by the permitted operation.

DEVELOPMENT STANDARDS

Minimum Lot Area: 40 acres or 1/4 of 1/4 section, with the exception of patent and/or historical mining claims and "vested operations" that shall be considered on a case-by-case basis. Minimum lot area may be reduced in conformance to the permit process.

Minimum District Area: 40 acres or 1/4 of 1/4 section

Density: Residential uses are not permitted with the exception of on-call employee housing or a caretaker's unit.

Setbacks:

No processing equipment or facilities or resource development shall occur within:

- a. 100 feet from any interior public street or highway unless the Public Works director determines that a lesser distance would be acceptable;
- b. 100 feet from any exterior property line;
- c. 500 feet from any adjacent private dwelling, institution, school, or other building or location used for public assemblage; and
- d. No geothermal development located within the Hot Creek Buffer Zone shall occur within 500 feet on either side of a surface watercourse (as indicated by a solid or broken blue line on US Geological Survey 7.5 or 15-minute series topographic maps).

Residential uses shall be:

- a. 50 feet from any interior public street or highway unless the Public Works director determines that a lesser distance would be acceptable; and
- b. 50 feet from any exterior property line.

SEE ALSO

Land Development Regulations –

Ch. 04	Development Standards – General
Ch. 06	Development Standards – Parking
Ch. 07	Development Standards – Signs
Ch. 15	Development Standards – Resource Extraction
Ch. 35	Development Standards – Reclamation Plan Processing
Table 04.010	Building Heights