

SANTA FE COUNTY

Ordinance No. 1991-2

AN ORDINANCE, TO ESTABLISH ZONING FOR MINERAL EXPLORATION AND MINING USES. AMENDING ARTICLE III, SECTION 5, MINERAL EXPLORATION AND EXTRACTION, OF THE SANTA FE COUNTY LAND DEVELOPMENT CODE, ORDINANCE 1980-6, AS AMENDED.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF SANTA FE COUNTY:

Section 1.

Article III, Section 5, Mineral Exploration and Extraction; Subsection 5.1, Mining Uses; Subsection 5.2, Location Standards for Creation of New Mining Zones; Subsection 5.3, Submittals Required for the Creation of Mining Zones; Subsection 5.4, Submittals for Mining Uses; Subsection 5.5, Performances Standard; Subsection 5.6, Reviews for Mining Uses; Subsection 5.7, Continuance of Existing Mining Uses is amended as follows:

These sections are repealed.



727332
COUNTY OF SANTA FE 188
STATE OF NEW MEXICO
I hereby certify that this instrument was filed
for record on this 18 day of Jan 1991
at 9:12 AM and was duly recorded in Book 105
page 502-505

Christina Garcia
Deputy

1 Section 2.

2 Article III, Section 5, Mineral Exploration and Extraction
3 is established as follows:

4 5.1 General Provisions

5 5.1.1 Applicability

6 A. Anyone who conducts or intends to conduct a
7 mineral exploration or extraction activity within Santa Fe
8 County shall be subject to the provisions of this Code, as
9 applicable, and this Section 5. Mining uses shall be
10 allowed in mining zones established on Code Map 30 provided
11 the requirements of this Section are met.

12 B. Applications seeking to establish mine
13 districts will also be subject to all State and Federal
14 requirements and permits, and shall be subject to the
15 review, as applicable, including but not limited to the
16 following agencies: New Mexico Environmental Improvement
17 Division (EID), the New Mexico State Engineer (SEO), Soil
18 and Water Conservation District (SCD), the New Mexico State
19 Highway and Transportation Department (NMSHTD), New Mexico
20 Department of Game and Fish, and the Mining and Minerals
21 Division of the New Mexico Energy, Minerals and Natural
22 Resources Department (MMD).

23 C. Existing exploration or mining operations
24 which are in operation or in a state of temporary cessation
25 prior to the effective date of this Code, as amended, may

1 continue operations, provided the operator submits to the
2 County a description of operations and a reclamation plan
3 pursuant to Section 5.4.1 A.

4 D. In order to preserve the welfare, health,
5 safety and environment of its residents, the County shall,
6 unless specifically preempted, require that a mineral
7 exploration or extraction use permitted on state or federal
8 lands be subject to, and coordinated with, the provisions of
9 this Section 5 for the purpose of imposing certain of its
10 regulations. Such regulations pertain to, but are not
11 limited to, blasting, flood hazards, water quality, and
12 archaeological sites.

13 E. Patented lands shall be treated as any other
14 private property.

15 5.1.2 Pre-Emption

16 A. Nothing in this ordinance shall be construed
17 to supersede or contravene the authority which the state or
18 federal governments or their agencies have with respect to
19 the management, protection and utilization of the lands and
20 resources under their jurisdiction. The regulations in this
21 ordinance should apply to state or federally owned lands
22 unless they are specifically preempted from having authority
23 in this area by state or federal law.

24 B. Provisions of this ordinance which do not
25 conflict with state or federal law shall be enforceable on

1 the state and federal lands insofar as this ordinance merely
2 regulates and does not prohibit mining.

3 C. Revisions to these regulations, including
4 those resulting from changes to applicable regulations
5 promulgated by state or federal agencies which administer
6 permits for mineral exploration or extractions, may be
7 proposed from time to time.

8 D. This Section applies to all mining land
9 uses, notwithstanding the provisions of Article I, Section
10 8.1 of the Code.

11 5.1.3 Purpose and Intent

12 The policy of the County regarding mineral
13 exploration and extraction is:

14 A. To protect the health, safety and welfare of
15 the citizens of Santa Fe County as that relates to its
16 quality of life, its economy, its cultural heritage, history
17 or traditions, its infrastructure or its natural resources;

18 B. To protect the environment of Santa Fe
19 County and its residents from the harmful effects, or
20 nuisances resulting from mineral exploration and extraction,
21 including but not limited to, air quality, ground water
22 quality, visual quality, erosion of soils, noise and
23 vibration, toxic matter, fire or explosive hazards; adverse
24 traffic and road conditions;
25

1 C. To assure that mineral exploration or
2 extraction activities are compatible with other uses in the
3 County, including but not limited to, traditional patterns
4 of land use, recreational uses, and existing or planned
5 urban or metropolitan areas;

6 D. To assure that the reclamation of affected
7 areas which are the subject of mineral exploration or
8 extraction meet the standards and objectives of this Section
9 5;

10 E. To assure that off-site improvements to
11 roads or utilities required as a result of mineral
12 exploration or extraction activities are funded and
13 implemented;

14 F. To provide for a fair and efficient system
15 for the regulation of mineral exploration and extraction
16 activities;

17 G. To assure protection of wildlife and
18 wildlife habitat, and native biological diversity;

19 H. To protect the scenic quality of Santa Fe
20 County, its environment and its residents from significant
21 adverse effects of mining;

22 I. To discourage development of incompatible
23 land use relationships.

24 5.1.4 Provision of Services by Local Government
25

1 Where it is determined by the County that a
2 mineral exploration or extraction (mining) use will have an
3 adverse fiscal impact on the provision of services by local
4 government, resulting from demographic changes which are
5 directly attributable to the exploration or mining use, such
6 as housing supply, capacity of schools, local water
7 supplies, transportation systems, utilities expansions,
8 health care facilities, law enforcement and fire protection,
9 such impact will be addressed through cooperative effort
10 toward financing of public improvements by the developer,
11 such as phasing of the project, and cooperation with local
12 government for impact fees, or other programs.

13 5.2 Definitions

14 Adjacent area - means land located outside the affected
15 area, permit area, or mine plan area, depending on the
16 context in which adjacent area is used, where a mine site
17 has a direct impact on enjoyment of property and aesthetic
18 values, air quality, surface or ground water quality, fish,
19 wildlife, vegetation or other natural resources.

20 Affected area - means an area within a permit area
21 where existing resources are impacted as a result of mineral
22 exploration or mining conducted in accordance with a permit
23 issued under Article III, Section 5 of the Code.

24 Applicant - means a person who desires to perform
25 mining land use activities in the County, and such mining
activities do not include prospecting.

1 Beneficiation - means the process of liberating and
2 concentrating a mineral from ore.

3 County - means the County of Santa Fe, New Mexico.

4 Direct Impact - means an effect directly attributable
5 to the mineral exploration or mining operations or
6 rehabilitation activities which impact, injure or create
7 hazards to the public health, safety or welfare, including
8 but not limited to, geological, hydrological, visual,
9 auditory activities, emissions, discharges or vibrations.

10 Engineered Materials - means any material that has been
11 evaluated by sound and generally accepted mining or
12 engineering practices to be capable of ensuring the
13 structural integrity of a structure or a designed entity.

14 Existing Mine - means any exploration or extraction
15 operation which existed prior to the effective date of this
16 Code as amended.

17 Exploration - means the act of searching for or
18 investigating a mineral deposit. "Exploration" includes,
19 but is not limited to, geophysical, geochemical or
20 geological surveying and sampling, drilling or rotary
21 drilling of core and bore holes, and digging pits, trenches
22 or cuts and other works for the purpose of extracting
23 samples prior to commencement of mine development or
24 extraction operations, and the building of roads, access
25 ways, and other facilities related to such work.

1 Extraction - means the removal of minerals and/or
2 overburden from places of natural occurrence to surface
3 locations.

4 Harmful Materials - means materials harmful to human
5 health or the environment, but not including hazardous
6 wastes regulated by the Federal Resource Conservation and
7 Recovery Act, latest revision.

8 Hazardous Materials - means any hazardous chemical or
9 extremely hazardous substance as defined or listed in the
10 Federal Emergency and Community Right-to-Know Act of 1986,
11 40 CFR Part 300 Volume 51, No. 221 (inclusive), as
12 periodically amended.

13 Highwall - means the boundary surface of a pit as a
14 result of mining.

15 Life of the Mine - includes the period of time
16 necessary to develop, mine and reclaim the mine site
17 including that period after cessation necessary to complete
18 reclamation as required by the County, until such time as
19 the County releases in writing, the operator from further
20 reclamation obligations regarding the affected land,
21 declares the operation terminated, and releases all
22 applicable warranties of performance.

23 Master Plan - means a report, plans, and other
24 submittals as required by this Code for a proposed
25 subdivision or zoning or re-zoning of land showing the

1 development proposal in a manner comprehensive enough to
2 evaluate the scope, size, intensity, compatibility,
3 benefits, relationships, and impacts of a project and
4 including submittals as set forth in Article V, Section 5.2
5 and as otherwise required by this Code for the specific land
6 use or zone district proposed.

7 Mine or Mining District - means any tract or parcel of
8 land which is zoned for a mining land use, pursuant to an
9 approved Master Plan by the County.

10 Mine Development - means the construction of declines
11 or shafts, roads or access ways, buildings or other
12 facilities in anticipation of or used in a mineral
13 extraction activity.

14 Mine Site - means the area of land in which the
15 exploration, mine development, or extraction activities will
16 be situated, or the land upon which any mill, recovery
17 plant, crushers, buildings, structures, improvements, wells,
18 excavations, dumps, waste piles, tailings ponds and other
19 features normally utilized in mining operations are located
20 and shall include all of the area of land containing the
21 same, similar or related mineral bodies or deposits which
22 the mine operator may excavate and mine which is lying
23 within the same tract which has been designated as a mining
24 district pursuant to the Code.
25

1 Mineral - means an inanimate constituent of the earth
2 in solid, liquid, or gaseous state which when extracted from
3 the earth, is usable in its natural form or is capable of
4 conversion into a usable form of metal, or metallic
5 compound, a non-metal, a non-metallic compound, a chemical,
6 an energy source, or a raw material for manufacturing, or
7 oil, oil shale, natural gas, geothermal resources, but shall
8 not include surface or subsurface water.

9 Mining Land Use - means drilling, drillholes, and other
10 levels of exploration or mine development activities or the
11 operation of a placer mine, a shaft mine, an open pit mine,
12 or the processing or moving of overburden or other
13 excavation from which minerals, ore or other mineral
14 substances are sought to be removed or taken, and the
15 processing or storage of such minerals, ore or mineral
16 substances.

17 Mining Waste - means waste material commonly connected
18 with the mining or exploration of ores and minerals.

19 Operator - means any person engaged in a mineral
20 exploration or a mining operation.

21 Overburden - means all of the earth which lies above a
22 mineral deposit and includes such earth and other materials
23 disturbed from their natural state in the process of mining.
24 Suitable plant growth material, including topsoil, salvaged
25 for reclamation shall not be considered overburden.

1 Permit - means an authorization to conduct mineral
2 exploration and/or mining land uses issued by the County
3 pursuant to the Santa Fe County Land Development Code.

4 Permit area - means the area of land indicated on the
5 approved map submitted by the permittee with his or her
6 application, which area of land shall be covered by the
7 permittee's warranty of performance as required by Code.

8 Permittee - means any person holding a permit.

9 Person - means a natural person, corporation,
10 partnership, joint venture, association or any such entity,
11 including any agent or employee of such an entity or natural
12 person.

13 Pit - means an area within a mine site from which
14 overburden has been or is being removed for the purpose of
15 surface mining.

16 Prospecting - means mining activities which cause no or
17 very little surface disturbance, such as airborne surveys
18 and photographs, use of instruments or devices which are
19 hand carried or otherwise transported over the surface to
20 make geophysical, radioactive, or other tests and
21 measurements, boundary or claim surveying, location work, or
22 other work which causes no significant land disturbance.

23 Reclamation - means the restoration of the affected
24 area during or after any or all phases of an exploration or
25 extraction activity, or mine development, pursuant to a

1 reclamation plan approved by the Board, including but not
2 limited to, protection of water quality, stabilization and
3 re-contouring of slopes, protection and re-introduction of
4 top soil, installation and establishment of vegetation,
5 restoration of habitat such that the land can support the
6 biological diversity associated with specific life zones,
7 removal of buildings and other structures and measures to
8 reduce, neutralize, and otherwise reclaim mining waste.

9 Reclamation plan - means a report or document and maps,
10 approved by the Board, which sets forth a plan for
11 reclamation of the proposed exploration or mining site.

12 Solid waste facility - means the regional or County
13 designated landfill.

14 Structural integrity - means rocks or other materials
15 or aspects of the earth's crust that demonstrate a rigid
16 adherence to an approved code or standard of values and
17 soundness for the purposes for which they are intended to be
18 used.

19 Tailings impoundment - means the final depository for
20 processed ore and components of the process, discharged from
21 a mill.

22 5.3 Review Procedures, Amendments or Revisions to Plan;
23 Appeals; Notice Requirements; Warranties of Performance;
24 Fees; Temporary Cessation; Inspection and Monitoring; Local
25 Land Use Plans; Penalties

1 5.3.1 Review Procedures2 A. Zoning Approvals3 1. Pre-application

4 Prior to submittal of an application
5 pursuant to this Section 5, an applicant may arrange for an
6 apparent completeness review of his or her application with
7 the County Code Administrator.

8 2. Review by Code Administrator

9 Upon receipt of an application pursuant
10 to this Section 5, the Code Administrator shall review it in
11 accordance with the procedure established by Article II,
12 Section 2.

13 3. Mining Plans Review Board

14 a. In order to assure that the
15 technical components of environmental assessments or impact
16 statements are appropriately reviewed, operations and
17 reclamation plans are feasible and that cost estimates for
18 reclamation are reasonable for the purpose of financial
19 warranties, a Mining Plans Review Board (MPRB) shall be
20 appointed by the Board of County Commissioners.

21 b. The Mining Plans Review Board shall
22 consist of nine (9) members, shall meet on a case-by-case
23 basis, shall review all operations, reclamation and
24 environmental assessment plans, and environmental impact
25 statements when required, and make recommendations to the
CDRC and the Board based on its findings.

1) Members of the Mining Plans

Review Board shall have the following credentials:

a) two (2) members from the County of Santa Fe to represent the interests of the general public;

b) one (1) member from the faculty of the New Mexico Institute of Technology Mining, Environmental and Geological Engineering Department at Socorro, NM;

c) one (1) member who is certified or registered as a professional engineer in the State of New Mexico specializing in mining engineering;

d) one (1) member with expertise in the field of geo-hydrology;

e) one (1) member from the Soil and Water Conservation District staff;

f) one (1) member with expertise in the field of Biology or Ecology;

g) one (1) member specializing in the field of socio-economic analysis;

h) one (1) member from the New Mexico Department of Game and Fish staff;

i) each member shall have a similarly qualified alternate;

j) members may be considered who have a minimum of five (5) years recent experience with ten (10) years preferred.

2) Each member shall be appointed for a term of two years. In the event a member develops a conflict of interest, such member shall file a statement of disclosure as set forth by this subsection. Upon filing of such disclosure statement, the Board shall, at its next regularly scheduled meeting, determine whether the conflict of interest is cause for removal.

3) Meetings of the Mining Plan Review Board will be held on an as-needed basis and shall be coordinated by the administrative staff of the County with the applicant.

4) The Mining Plans Review Board shall be convened within thirty (30) days of receiving an application for mineral exploration or extraction. An application may be scheduled for a public hearing before the CDRC after the Mining Plans Review Board submits its review of the environmental assessment, and/or the operations and reclamation plans, with its findings, and with its recommendations on financial warranties.

5) Fees for convening the Mining Plans Review Board shall be based on the complexity of the plans to be reviewed, shall be reasonable and shall be paid by the applicant.

1 6) Each member of the MPRB shall
2 submit his or her written findings and conclusions, in his
3 or her area of expertise, to the MPRB and to the CDRC. The
4 MPRB shall then submit its final conclusions and
5 recommendations to the CDRC.

6 7) Review of environmental
7 assessments, operations and reclamation plans shall be done
8 pursuant to the provisions of this Section 5 and the County
9 Land Development Code. Findings shall be based on the
10 responsiveness of the application, appropriateness of the
11 plans, and reasonableness of executing such plans. The
12 findings of the MPRB shall be submitted to the CDRC within
13 15 days of the meeting of the MPRB.

14 8) The findings and conclusions of
15 the MPRB shall not be set aside, unless new or additional
16 technical or factual information which has a technical
17 bearing is presented to the CDRC or the Board for additional
18 review. At the public hearing, members of the public shall
19 have the right to question MPRB members requested by the
20 CDRC or the Board to be present to respond to technical
21 evidence.

22 9) In the event the Mining Plans
23 Review Board is unable to convene or be formed, the Board of
24 County Commissioners may contract with appropriate experts
25 to review and find on the submittals, with such review to be

1 done in the same manner and procedure as is required of the
2 MPRB.

3 10) All members of the Mining Plans
4 Review Board (MPRB), or experts contracted by the County
5 under the preceding paragraph, shall be required to file a
6 conflict of interest statement prior to appointment by the
7 Board of County Commissioners. No members of the MPRB or
8 experts shall receive or shall have received, during the
9 previous two years, a significant portion of their income
10 directly or indirectly from permit holders, operating mining
11 companies or applicants for a permit, or persons seeking to
12 participate in the permitting process. All members or
13 experts shall, upon acceptance of their appointment and
14 prior to the performance of any of their duties, file a
15 statement of disclosure with the County disclosing any
16 amount of money or item of value, and its source, that they
17 received directly or indirectly from permit holders,
18 operating mining companies or applicants for permits. No
19 MPRB member or experts with a significant financial interest
20 affected or potentially affected by a permit action may
21 participate in any decision pertinent to that permit action.

22 4. The CDRC

23 In arriving at its determination to
24 recommend the granting or denial of a permit for mineral
25 exploration or extraction, the CDRC shall review all
pertinent material including but not limited to:

- 1 a. The recommendations of the Code
- 2 Administrator;
- 3 b. The recommendations of the Mining
- 4 Plans Review Board or of experts contracted pursuant to
- 5 subsection 5.3.1 A 2 supra;
- 6 c. The master plans for development;
- 7 d. The operator information and legal
- 8 data required by Section 5.4.3.B.3;
- 9 e. The report responding to
- 10 Environmental Protection Performance Standards as required
- 11 by Section 5.4.3.B.4;
- 12 f. The schedule of activities required
- 13 by Section 5.4.3.B.5;
- 14 g. Any environmental impact statements
- 15 or socioeconomic analysis required by this Section 5;
- 16 h. The water use report provided
- 17 pursuant to Section 5.5.3;
- 18 i. The reports or recommendations of
- 19 State and Federal agencies to which the application has been
- 20 referred;
- 21 j. Any other submittals which may have
- 22 been requested pursuant to Section 5.4.3.B.6;
- 23 k. The testimony and evidence presented
- 24 to it pursuant to the public hearing(s) held on the
- 25 application.

1 5. Mining use or mineral exploration
2 activity may be permitted if it is determined that:

3 a. The application satisfies the
4 submittal requirements of this Section 5 of the Code;

5 b. The proposed mining use or mineral
6 exploration activity meets the performance and development
7 standards established by this Section 5 of the Code;

8 c. The proposed mining use or mineral
9 exploration activity is able to obtain the necessary permits
10 and approvals required by State or Federal agencies for such
11 use or activity;

12 d. The proposed mining or mineral
13 exploration activity is compatible with the purpose and
14 intent of the Santa Fe County General Plan, of the Code or
15 of this Section 5, as such purposes and intent are therein
16 expressed.

17 6. No mining use or mineral exploration
18 activity will be permitted if it is determined by the Board
19 of County Commissioners that the use will have a significant
20 adverse affect on health, safety, morals or general welfare
21 of the County or its residents, based upon findings of fact
22 and conclusions of law which the CDRC or Board, as
23 applicable, must provide to the applicant in writing, within
24 seven (7) days of such board's hearing on this matter.
25

1 B. Amendments or Revisions to Plans; Permit
2 Transfers

3 1. Minor revisions or minor procedures of a
4 technical nature can be approved by County staff, where
5 appropriate, or can be reviewed by consultants employed by
6 the County who shall provide recommendations to the County
7 staff.

8 2. Extensive or substantial amendments or
9 revisions to approved plans as determined by the Code
10 Administrator, shall be subject to review by the CDRC and
11 review and approval by the Board. Major revisions of an
12 approved plan or major revisions of a technical nature
13 require the MPRB to convene and to re-submit its findings to
14 the CDRC. Procedures for convening the MPRB are found in
15 Section 5.3.1 A.3., supra.

16 a. A revision to a permit is not minor
17 and approval of the CDRC and Board must be obtained:

18 1) For changes in the mining or
19 reclamation operations described in the original application
20 and approved under the original permit, when such changes
21 constitute a significant departure from the method of
22 conduct of mining or reclamation operations contemplated by
23 the original permit. Significant departures as used herein
24 include but are not limited to:
25

- 1 a) Significant changes in the
2 permit area boundary;
- 3 b) Changes in the method of
4 extracting minerals from the earth (e.g. change from surface
5 to underground mine);
- 6 c) Experimental practices as
7 that term is used in part 10 and Section 69-25A-33 NMSA
8 1978;
- 9 d) Changes which would require
10 a variance;
- 11 e) Changes which may have an
12 adverse effect on the environment of a nature not originally
13 covered by the approved permit; or
- 14 f) Changes which may have an
15 effect on financial warranty requirements.
- 16 2) For a significant change in
17 financial warranty, including but not limited to, the
18 cancellation or material reduction of the liability
19 insurance policy, capability or self-insurance, or
20 performance bond. Continued operation after a significant
21 change in the financial warranty may occur only after
22 approval of the CDRC and the Board, or after modification of
23 financial warranty by the CDRC and the Board.
- 24 3) As otherwise required by the
25 Ordinance.

1 b. All other revisions can be done by
2 the Code Administrator.

3 3. Transfer of a mineral exploration and/or
4 mining land use permit to succeeding operators must be
5 approved by the Board. Succeeding operators shall assume
6 and are responsible for the transfer of all liabilities
7 relating to performance and financial warranties associated
8 with the development permit issued by the County for the
9 specific mine district.

10 4. Transferees of a mine site or permit
11 which has been abandoned or temporarily out of operation for
12 more than 3 years are required to submit a reclamation plan
13 according to Section 5.4.3 B.2., for all of the transferred
14 property. For the purpose of this section, the County shall
15 consider the period of time from the effective date of this
16 Code, as amended, to the present as part of the three-year
17 period of consideration for inactivity.

18 C. Appeals

19 1. Appeals of findings or decisions by the
20 County Development Review Committee shall be made to the
21 Board of County Commissioners, pursuant to Article II of the
22 Code. The Board shall hear the application de novo.

23 2. Appeals of the Board of County
24 Commissioners' decisions are filed in the First Judicial
25 District Court, within 30 days of such decision.

1 D. Notice Requirements

2 1. Mineral exploration and extraction
3 applications shall be subject to the notice requirements set
4 forth by the Code for public hearings, for notice to
5 adjacent property owners, and for re-zoning of property.

6 2. When an incorporated neighborhood
7 association has filed a request in writing with the Code
8 Administrator, notice shall also be given to such
9 association.

10 5.3.2 Warranties of Performance

11 A. After a mining permit application has been
12 approved, but before the permit is issued, the applicant
13 shall file with the County of Santa Fe financial warranty
14 for performance conditioned upon faithful performance of all
15 of the requirements of the permit. The financial warranty
16 shall cover that phase or area of land within the permit
17 area upon which the operator will initiate and conduct
18 mineral exploration, extraction and reclamation operations
19 within the initial term of the permit. As succeeding
20 increments or phases of operations are to be initiated and
21 conducted within the permit area, the permittee shall file
22 with the County an additional financial warranty to cover
23 such increments in accordance with this Section 5. The
24 amount of the financial warranty required for each area
25 shall depend upon the reclamation requirements of the

1 approved permit; shall reflect the probable difficulty of
2 reclamation giving consideration to such factors as offsite
3 impact, topography, geology of the site, hydrology and
4 revegetation potential, and shall be determined by the
5 County. The amount of the financial warranty shall be
6 sufficient to assure the completion of the reclamation plan
7 if the work would have to be performed by the County or an
8 independent contractor hired by the County.

9 B. The liability under performance sureties or
10 other financial warranty shall continue until such time as
11 they are released in their entirety by the Board of County
12 Commissioners.

13 C. In determining the form of financial
14 warranty to be provided by the permittee, the Board of
15 County Commissioners shall approve a method acceptable to
16 the operator and consistent with the requirements of this
17 Section 5.

18 1. Financial warranties may be provided by
19 the permittee, the operator, by any third party, or by any
20 combination of these persons.

21 2. Financial warranties shall consist of
22 any one or more of the following:

23 a. A surety bond issued by a corporate
24 surety authorized to do business in this state, payable to
25 the County of Santa Fe;

1 b. An irrevocable letter of credit
2 issued by a bank authorized to do business in the United
3 States, payable to the County of Santa Fe;

4 c. A certificate of deposit payable to
5 the County of Santa Fe;

6 d. A reclamation trust fund held by an
7 independent trustee.

8 3. Financial warranties shall be maintained
9 in good standing for the entire life of the permit. Notice
10 to the Board by the applicant is required for any
11 circumstance that would impair such warranties or require
12 their revocation.

13 D. RESERVE SECTION

14 5.3.3 Fees

15 Fees for reviews and permitting of mining
16 districts, and any other fees shall be reasonable and set by
17 a resolution of the Board of County Commissioners.
18 Extraordinary fees for consultants or the Mine Plans Review
19 Board shall be reasonable and paid by the applicant.
20 Reasonable review fees shall be assessed by the County to
21 the applicant for the review of the annual report,
22 maintenance of all warranties, including forfeited
23 warranties, warranties of performance, and inspections.

24 5.3.4 Temporary Cessation
25

1 A. Owners and/or operators of mineral
2 exploration or mining operations that sustain a temporary
3 cessation for any reason shall be subject to and be
4 responsible for the following:

5 1. Giving notice to the County within 30
6 days of plans to temporarily cease operations for any period
7 exceeding six (6) months, the reasons therefor if not
8 proprietary, the date operation will cease, and an estimate
9 of when operations will resume. Such notice shall also
10 include posting on the mine property and mailing certified
11 letters to all known adjacent property owners as they are
12 disclosed by the records of the Santa Fe County Tax
13 Assessor, and to neighborhood associations on record with
14 the Code Administrator under this Section 5.

15 2. Providing protection and security of the
16 site from damage by erosion, surface drainage, ground and
17 surface water and maintaining the performance standards of
18 the Code.

19 3. Reclamation of areas designated in the
20 approved plan, warranties of performance, annual reporting,
21 inspections, and monitoring shall continue during the
22 temporary cessation period.

23 4. A caretaker shall remain on the mine
24 site and access to the mine site shall be controlled.
25

1 B. The period of temporary cessation may not
2 extend longer than three years from the date notice is given
3 to the County, pursuant to Section 5.3.4.A. Any mineral
4 exploration or mining operation which exceeds the three year
5 period of temporary cessation set forth herein shall be
6 recognized as an abandoned exploration or operation and
7 before any future mineral exploration or mining operation
8 can commence, an applicant must obtain a new permit. For
9 the purposes of this section, the three-year period of
10 cessation accrues as of the effective date of this
11 Ordinance.

12 C. For purposes of this section, sporadic or
13 intermittent mining or exploration activity shall not
14 constitute an interruption of the three year cessation
15 period. Applications may be submitted to extend the time of
16 temporary cessation for a period not to exceed three
17 additional years, provided the application complies with
18 5.3.4. A through D.

19 D. If it is determined at any time by the
20 County or the permittee that the operation is terminated and
21 closure of the mine site is required, the County may, at its
22 sole option, call and exercise the warranties of performance
23 to reclaim the mine site, in accordance with the approved
24 reclamation plan.

25 5.3.5 Inspection and Monitoring

1 A. Each approved mineral exploration or
2 extraction permittee shall:

3 1. Establish and maintain permit documents,
4 as reasonably required by the Code Administrator;

5 2. Make yearly reports to the Code
6 Administrator; such reports shall consist of:

7 a. An estimate of the acreage affected
8 during the last 12 month period.

9 b. An estimate of the acreage to be
10 affected during the next 12 month period. Note: The
11 anniversary of the 12 month period is the date on which the
12 development permit was issued.

13 c. A listing of the number of employees
14 currently employed or subcontracted at the site and any
15 change in such employment.

16 d. Updated maps which show the permit
17 area, the affected area, the area to be affected, the area
18 undergoing reclamation, and areas within the permit area
19 that are not to be disturbed.

20 e. A re-evaluation of financial
21 warranty requirements and a justification for any change in
22 such requirements.

23 f. Results of monitoring pursuant to
24 Sub-section 5.3.5, infra.
25

1 3. Install, use and maintain any necessary
2 monitoring equipment or methods;

3 4. Provide a report on the amount of annual
4 use of water; and

5 5. Provide such other information relative
6 to the mineral exploration or extraction and reclamation
7 operations as the County, by regulation, deems reasonable
8 and necessary.

9 6. As determined by the County, some items
10 may not be applicable for mines in temporary cessation.

11 B. For those mining and reclamation operations
12 which may adversely impact aquifers or significantly injure
13 the water supply for water users either on or off the mining
14 site, the County may require the permittee to provide, as
15 set forth by the approved master plan:

16 1. Monitoring sites to record the quantity
17 and quality of surface drainage above and below the mine
18 site as well as in the potential zone of influence;

19 2. Monitoring wells to record the quantity
20 and quality of ground water and aquifers potentially
21 affected by the mining;

22 3. Monitoring of the mine site to record
23 precipitation.

24 C. The monitoring data collection and analysis
25 required by this Sub-section shall be conducted according to

1 standards and procedures set forth by the Code or by the
2 Code Administrator in order to assure their reliability and
3 validity.

4 D. The authorized representatives of the
5 County, without advance notice and upon presentation of
6 appropriate credentials, shall:

7 1. Have the right of entry to, upon or
8 through any mineral exploration, mine operation or
9 reclamation operation, or any premises; and

10 2. At reasonable times, and without delay,
11 have access to and copy any records associated with
12 permitting and compliance, inspect any monitoring equipment
13 or method of operation required under the Code; provided,
14 however, that before entry to, upon or through any mineral
15 exploration, mine operation or reclamation operation, or any
16 premises, the authorized representative is properly safety
17 trained, is equipped with proper safety equipment and
18 devices, is knowledgeable about current safety hazards, and
19 is accompanied at all times by an authorized representative
20 of the operator or permittee, who will, at all times, be
21 present on the mine site during normal business hours.

22 E. The inspections shall:

23 1. Occur as necessary to insure compliance
24 with the Code, or any condition of a permit issued under the
25 Code. The frequency of inspection shall be determined by

1 the extent of the operation, rate of mining, degree of
2 actual or potential environmental impact, and the operator's
3 past record of compliance;

4 2. Occur without prior notice to the
5 permittee or his agents or employees except for necessary
6 on-site meetings with the permittee; and

7 3. Include the filing of inspection reports
8 adequate to enforce the requirements of and to carry out the
9 terms and purposes of the Code.

10 F. Each permittee shall conspicuously maintain
11 at the entrances to the mining and reclamation operations a
12 clearly visible sign which sets forth the name, business
13 address and phone number of the permittee and the permit
14 number of the mining and reclamation operation.

15 G. Copies of any record, reports, inspection
16 materials or information obtained under these Code
17 provisions, except for competitively sensitive, cost and
18 other financial data or material required by law to be kept
19 confidential, shall be made immediately available to the
20 public upon request.

21 5.3.6 Local Land Use Plans, Community, Neighborhood or
22 Sector Plans and Code Amendments

23 This section establishes additional procedures to
24 create an amendment to the County General Plan for the
25 purpose of designating agricultural, residential,

1 commercial, industrial, mineral extraction, recreational, or
2 other use areas to assure the locational suitability and
3 compatibility of a wide range of existing and future land
4 uses in greater detail than is provided by the County
5 General Plan and Land Development Code.

6 A. Amendments to the Land Development Code
7 (1980-6) relating to zoning may be proposed to the Board,
8 provided a local land use plan, community, neighborhood or
9 sector plan or other general plan amendment is adopted by
10 the Board.

11 B. Components of local land use or sector plans
12 must address a full range of land use classes for
13 relationship, compatibility and intensity of types of uses
14 and suitability of locations, including but not limited to,
15 roads and utilities, a mix of housing types, commercial
16 districts, industrial use areas, natural resource areas,
17 open space areas, institutional uses, recreational uses,
18 cultural properties, mineral extraction and lands unsuitable
19 for development.

20 C. Applications for local, community,
21 neighborhood or sector plans should address special needs or
22 conditions which justify the plan; outline required studies
23 and results; describe procedures for implementation; and map
24 the proposed planning area boundaries.
25

1 D. All public participation proceedings shall
2 be recorded and participation must represent a cross section
3 of County residents, ethnic, cultural, economic and
4 property interests, and other interested persons.

5 E. Reports shall clearly identify and discuss
6 major land use and development issues of the community and
7 neighborhoods.

8 F. The plan document shall include goals and
9 objectives, the methodology used for analysis and be derived
10 from current planning practice and techniques.

11 G. Submittals for local land use, neighborhood,
12 community or sector plans shall be reviewed in accordance
13 with Article VI, Section 4, and according to the public
14 hearing procedures in Article II of the Code. The Board
15 shall make any general plan amendment based on clear and
16 convincing evidence that such an amendment is in the best
17 interests of the County, without working a hardship on
18 residents of the area sought to be rezoned.

19 5.3.7 Penalties

20 A. Failure to comply with this Section 5 of the
21 Code shall be subject to penalties as set forth in Article
22 II, Section 5, Enforcement of the Code.

23 B. Penalties may also include suspension or
24 revocation of the mineral exploration and/or mining land use
25 permit or the calling and exercise of the financial

1 warranty. The penalties in this paragraph will be imposed
2 only after a hearing before the Board.

3 5.4 Submittals

4 To establish a mining district for the purpose of
5 mineral exploration or extraction the following shall be
6 required:

7 5.4.1 Submittals for Types of Mines and Operations

8 Each application for mineral exploration or
9 extraction shall be evaluated for the purpose of
10 establishing the type of mine that is proposed. The type
11 and size of mining land use and mine site will then be
12 evaluated by the Code Administrator to determine which
13 submittals will be required of the applicant. Objections to
14 the findings of the Code Administrator can be appealed to
15 the CDRC.

16 A. Existing Mines and Operations

17 1. Existing mines are defined by Section
18 5.2.

19 2. Existing mines shall submit the
20 following:

21 a. A description of current operations,
22 which sets forth the following:

23 1) The area which the operator is
24 currently mining or which is in a temporary state of
25 cessation. This description shall be either a legal

1 description, or a US Geological Survey map or comparable
2 map, outlining, to the satisfaction of the County, the area
3 of operation;

4 2) The type of mining operation;

5 3) The date the mining interest was
6 acquired;

7 4) The nature of the title of the
8 ownership or possessory interest (fee simple, lease, and
9 mining location) all of which are to be submitted within
10 four (4) months of the effective date of this Ordinance, and

11 b. A reclamation plan for the current
12 operations which provides for the following requirements:

13 1) On all affected areas, the
14 operator in consultation with the surface estate owner and
15 mineral estate owner where possible, and in agreement with
16 the County, whose agreement will not be unreasonably
17 withheld, shall determine which parts of the affected area
18 shall be reclaimed.

19 2) A detailed description of how
20 the reclamation is to be achieved;

21 3) A detailed description of
22 techniques proposed to be used in reclamation, pursuant to
23 the environmental performance standards in Section 5.5.5;

24 4) A detailed timetable for each
25 phase of reclamation;

1 5) An estimated cost of
2 accomplishing the reclamation plans, or an explanation of
3 how the reclamation is to be done, with any bonding or
4 financial responsibility requirements to be decided by the
5 Code Administrator on a case-by-case basis;

6 6) A detailed description of the
7 measures to be taken during the reclamation process to
8 provide for the protection of the quantity and quality of
9 surface and ground water systems, both on and off site, from
10 adverse effects of the mining and reclamation processes; all
11 of which (1 through 6) are to be submitted within 18 months
12 of the effective date of this Ordinance.

13 7) In order for the County to
14 determine present environmental conditions on land that the
15 mining operation claims to be a pre-existing mining use
16 under this Section and on which such mining operator intends
17 to conduct mining activities:

18 a) Where such information can
19 be lawfully obtained, a description of all streams, creeks,
20 arroyos, and bodies of water within 1000 feet of the
21 boundaries of the current mining activity;

22 b) A detailed description and
23 maps of the tailings, mineral waste, and geologic conditions
24 on the tract;
25

1 c) A scaled plan in cross-
2 section by length and height, showing existing profiles of
3 slope of the affected area;

4 d) An inventory and detailed
5 description of existing vegetation, wildlife and wildlife
6 habitat according to species and density of occurrence;

7 B. RESERVE SECTION

8 C. Exploration Operations

9 1. Exploration activities are defined by
10 Section 5.2.

11 2. Persons desiring to undertake
12 exploration activities shall be required to submit an
13 environmental assessment, a master plan and a reclamation
14 plan pursuant to Sections 5.4.2, and 5.4.3.

15 3. Exploration activities shall be subject
16 to the performance standards of this Section 5, to
17 warranties of performance, and the review procedures of
18 Section 5.3.

19 D. Mineral Extraction and Mine Development

20 1. Mineral extraction and mine development
21 activities are defined by Section 5.2.

22 2. Submittals shall include:

23 a. An environmental assessment pursuant
24 to Section 5.4.2.

25 b. A master plan for development
pursuant to Section 5.4.3,

1 3. Mineral extraction uses shall be subject
2 to the performance and development standards, warranties of
3 performance and the review procedures of this Section 5.

4 5.4.2 Environmental Assessments; Environmental Impact
5 Statements

6 The following analysis shall be considered by
7 the County with the assistance of the Mining Plans Review
8 Board, the reviewing agencies and/or consulting
9 professionals to the County:

10 A. Environmental assessments shall be required.
11 Environmental assessments shall contain the following:

12 1. The location and extent of area to be
13 affected.

14 2. An inventory of existing conditions on
15 the site, including, but not limited to, degree of slope,
16 soils types, extent and location of water resources,
17 geologic or other hazards, flood zones, eroded areas,
18 wildlife and wildlife habitat, vegetation types and extent
19 of cover and a description of the extent to which the
20 exploration, extraction or reclamation will impact those
21 conditions.

22 3. A description of chemical substances and
23 hazardous materials or technical methodologies contemplated
24 for use or to be produced by either the mineral exploration
25 or the mining operation and a detailed plan for containment
and disposal of such materials.

1 B. Upon a finding of significant impact to any
2 of the items listed in 2, 5, 6, or 7 above by the Mine Plans
3 Review Board, the Code Administrator may require the
4 submittal of an Environmental Impact Statement which shall
5 be reviewed by the MPRB for additional recommendations
6 before CDRC review, which will reasonably amend the timing
7 requirements in Section 5.3.1, supra.

8 C. Guidelines for the contents of an
9 Environmental Impact Statement (EIS) are found in the
10 Regulations of the National Environmental Policy Act, 40 CFR
11 Parts 1500-1508.

12 D. Socio-economic assessments may be required
13 of projects requiring an EIS. Such assessments shall
14 analyze the effects of the project on the socio-economic
15 characteristics of the County or its services and
16 infrastructure, and should include anticipated employment,
17 tax revenues, orders to local suppliers for goods and
18 services, and similar items. Socio-economic assessments
19 shall be evaluated according to the following types of
20 criteria:

21 1. That expansion of services such as fire
22 and police protection rendered to the project by the County
23 will not result in a negative fiscal impact to the County.

24 2. That the project will not affect, in a
25 negative manner, the rate, distribution and demographic

1 characteristics of the County as that relates to the
2 provision of roads, water supply, sewage disposal, housing,
3 schools, landfills, health facilities, recreation and local
4 business.

5 5.4.3 Submittals for Mineral Exploration or Extraction

6 A. Submittal of a master plan as set forth in
7 Article V, Section 5.2, Master Plans. The master plan
8 submittal shall be accompanied by a market analysis, an
9 economic impact report and a fiscal impact report; a traffic
10 report described by Article III, Section 4.4.1, shall
11 include documentation of truck traffic and type of materials
12 and weight of loads to be carried by trucks on roads on and
13 off the site.

14 B. Other submittals include:

15 1. Operations Plans shall consist of the
16 following:

17 a. Maps, plans and graphics
18 descriptions, timetables, and reports which correlate and
19 specify:

20 1) a detailed description of the
21 method(s) or technique(s) of mining to be employed in each
22 stage of the operation where any surface disturbance on
23 affected lands will occur;

24 2) pursuant to the standards in
25 Section 5.5.5 B, a description of all earthmoving activities

1 which includes backfilling of cuts, and leveling or
2 compaction of overburden;

3 3) the location and size of all
4 water diversions and impoundments or discharge of water used
5 in mine operations;

6 4) the size and location of area(s)
7 to be disturbed, which includes excavations, overburden
8 spoils, topsoil stockpiles, driveways and roads;

9 5) location and size of areas to be
10 used for tailings impoundments, leaching dumps or storage of
11 mine waste materials;

12 6) areas to be used for storage of
13 equipment, vehicles and chemicals;

14 7) location and size of
15 structures;

16 8) areas designated to be
17 reclaimed;

18 9) hours of operation and a
19 description of outdoor lighting;

20 10) fire protection plans; and

21 11) proposed emergency training and
22 procedures.

23 b. A general description of the nature
24 of the ore body or minerals to be mined; the volume and
25 depth of the overburden to be removed and the size of the

1 area to be affected or disturbed; and the nature and
2 thickness of the geologic stratum beneath the surface except
3 when information related to the ore body or minerals to be
4 mined is considered by the Code Administrator to be
5 proprietary.

6 c. A description of how ore or
7 materials will be processed on the site.

8 d. A description of how minerals,
9 processed ore, or other materials will be removed from the
10 site.

11 e. A description of how each phase of
12 exploration or extraction correlates to the reclamation
13 plan.

14 f. A detailed time table for each phase
15 of operations and reclamation.

16 g. A detailed description of the steps
17 to be taken to comply with applicable air and water quality
18 laws and regulations and any applicable health and safety
19 standards.

20 h. A drainage control plan showing
21 methods which will be utilized to avoid erosion on and
22 adjacent to the affected lands.

23 i. A description of all hazardous
24 materials to be used and transported in connection with the
25 mining or mineral exploration activity and a description of

1 steps that will be taken to insure that the use of such
2 materials will have no adverse impact on the residents or
3 environment of Santa Fe County.

4 2. Reclamation Plans. A reclamation plan
5 shall be required for each phase of the exploration or
6 extraction and reclamation activity and shall consist of the
7 following:

8 a. On all affected areas, the operator
9 in consultation with the County, surface estate owner and
10 mineral estate owner where possible, subject to the approval
11 of the County, shall determine which parts of the affected
12 land shall be reclaimed.

13 b. A detailed description of how the
14 reclamation is to be achieved;

15 c. The detailed description of mining
16 techniques proposed to be used in reclamation pursuant to
17 the environmental performance standards in Section 5.5.5,
18 infra;

19 d. A detailed estimated timetable for
20 each phase of the mineral exploration or mining operation;

21 e. An estimated cost of accomplishing
22 each major step in the mineral exploration, extraction and
23 reclamation plan;

24 f. A statement explaining how the
25 reclamation plan is consistent with any applicable state and
local land use plans and programs;

1 g. A description of the manner in which
2 the reclamation plan is consistent with local physical
3 environmental and climatological conditions as follows:

4 1) A description of all streams,
5 creeks, arroyos, and bodies of water within 1000 feet of the
6 boundaries of mine site.

7 2) A detailed description and maps
8 of the existing soils, mineral constituents, and geologic
9 conditions on the mine site.

10 3) A scaled plan in cross-section
11 by length and height, showing existing and planned profiles
12 of slope of the affected area before and after the proposed
13 mineral exploration or mining operation, and after
14 reclamation;

15 4) An inventory and detailed
16 description of existing vegetation, wildlife and wildlife
17 habitat according to species and density of occurrence;

18 5) A plan for revegetation of
19 affected lands including the location and depth of soil
20 types, degree of slope, precipitation patterns, density of
21 each species of vegetation to be used, methods for
22 stockpiling, protecting and restoring topsoil and adding
23 other growth mediums where required, time of planting,
24 method(s) of planting, proposed seed rates and/or density of
25 planting, and if necessary, use of fertilizers.

1 6) A plan for the reclamation of
2 tailings and mine waste, sediment ponds and areas of stored
3 overburden.

4 h. A detailed description of the
5 measures to be taken during the reclamation process to
6 provide for the protection of the quantity and quality of
7 surface and ground water systems, both on and off site, from
8 adverse effects of the mining and reclamation processes;

9 3. A listing of surface and sub-surface
10 owners of record of and anyone claiming an interest in the
11 property proposed for mineral exploration or extraction, and
12 of property adjacent to the mine site, and of lease holders
13 of the sub-surface minerals as follows:

14 a. The name, address and telephone
15 number of the person or operator engaging in the mineral
16 extraction or mining activity.

17 b. The name, address and telephone
18 number of the local representative responsible and in the
19 employ of the person or operator engaging in the mineral
20 extraction or mining activity.

21 c. A description by township, range and
22 section, using metes and bounds, of the lands subject to
23 exploration or extraction activity including the estimated
24 acreage of surface area which will be disturbed as a result
25 of the mineral exploration and/or extraction activity.

1 d. If the surface and mineral estates
2 are separately owned, a description of the legal
3 arrangements under which the proposed exploration or mining
4 use would occur.

5 4. A report which responds in detail to the
6 Environmental Protection Performance Standards in Section
7 5.5.5.

8 5. A schedule which specifies the
9 following:

10 a. The anticipated date upon which
11 mineral exploration activity would commence.

12 b. A certification that the abandonment
13 and plugging procedures of all surface drill holes shall
14 conform to all applicable federal and New Mexico State Laws
15 and Regulations.

16 c. The date by which reclamation of the
17 mineral exploration or extraction activity and all phases
18 thereof will be completed.

19 6. Any additional submittals required by
20 the County.

21 7. A listing of the permits required to be
22 obtained to engage in the mining use on the mine site. Upon
23 obtaining copies of the required permits, submission of a
24 copy of each of these permits to the Code Administrator.
25 Copies of the submittals or other data presented to obtain

1 required permits shall be provided to the Code Administrator
2 upon request, with the name of the regulatory agency under
3 which this permit is required.

4 5.5 Performance and Development Standards for Mineral
5 Exploration and Extraction

6 The following criteria shall be considered by the
7 County in determining the suitability of the proposed mine
8 site for approval of a mine district.

9 5.5.1 Location Criteria

10 Unless mitigated or buffered pursuant to the
11 provisions of 5.5.1 D no mineral exploration or extraction
12 permit shall be granted if the application indicates that
13 any of the following uses are located within the noted
14 distances of the permit area:

15 A. The existence of any residential,
16 institutional, or recreational uses within one-half mile
17 (2640 ft.) of the proposed mine site.

18 B. The location of any of the following
19 conditions within five hundred (500) feet of the mine site:

20 1. A groundwater re-charge area or wetland
21 as defined by the current standards of the US Army Corps of
22 Engineers;

23 2. The limits of a one hundred (100) year
24 floodplain;

25 3. Any water well.

1 C. The presence of geologic hazards or other
2 dangerous conditions where off-site impacts such as
3 landslides or subsidence may occur as a result of blasting
4 or earth moving activities.

5 D. Mitigation or buffering pursuant to Sections
6 5.5.6 may be required to offset impacts relating to location
7 or existing conditions of the site.

8 5.5.2 Traffic Generation

9 A. The amount of traffic generated by the
10 mineral exploration or extraction activity shall not at any
11 time impede traffic flow, cause public roads to operate at
12 less than a Level of Service (LOS) C, of the American
13 Association of State Highway Transportation Officials,
14 "Highway Capacity Manual," or cause deterioration to public
15 roads as a result of the activity, without just compensation
16 to the County.

17 B. If it is determined by the traffic report
18 submitted with the master plan that the development will
19 increase the burden or cause deterioration to any public
20 roads, the permittee or operator shall be required to
21 undertake his or her pro-rata share of the cost of
22 improvements or repairs to the public roads which are shown
23 to be caused by the proposed use.

24 5.5.3 Water Use Report
25

1 All mineral exploration or extraction activities
2 must have a water source. This may be either through an
3 imported supply or an on-site well, or wells.

4 A report shall be submitted to the Code
5 Administrator containing a water budget for the proposed
6 development and any information required by Article VII,
7 Section 6 - Water Supply of the County Land Development
8 Code.

9 Water supplied by an on-site well shall
10 demonstrate water availability by the submission of a
11 geohydrologic report prepared according to Article VII,
12 Section 6 of the County Land Development Code. The report
13 shall relate total water use to lot size or water budget
14 according to the Hydrology Appendix to the Code.

15 The report shall document all proposed uses of
16 water including sanitary uses, irrigation of landscaping,
17 and the mining use, and shall use standard engineering
18 methods to quantify proposed water uses. The report shall
19 also describe any water conservation measures proposed.
20 Proposals with water budgets exceeding the limitations of a
21 three acre-foot well (NMSA, Section 72-12-1, 1978, as
22 amended) shall be required to supply from the State Engineer
23 evidence of water rights that are appurtenant to the well or
24 wells proposed for development in sufficient amounts to
25 sustain the proposed use.

1 5.5.4 Maximum Height

2 Structures on a mine site shall be limited to a
3 maximum height of 36 feet from the highest point of the
4 surface of the ground at the perimeter of the structure.
5 This height limitation shall also apply to temporary or
6 portable drilling equipment. Use of conveyor belts or other
7 mine structures or equipment which exceed the height
8 limitations set by the Code shall require approval of a
9 variance. The variance procedure is set forth in Article
10 III, Section 3 of the Code.

11 5.5.5 Environmental Protection Performance Standards;

12 The mineral exploration or extraction activities
13 shall utilize standard techniques currently available in
14 order to minimize noise, vibration, smoke and other
15 particulate matter; odorous matter, toxic or noxious matter;
16 radiation hazards; fire and explosive hazards; and
17 electromagnetic interference. The Code Administrator shall
18 refer an application to the New Mexico Environmental
19 Improvement Division (EID) or to appropriate experts under
20 contract with the County for comment concerning the
21 performance standards. If it is determined that the
22 development will create any dangerous, injurious, noxious or
23 otherwise objectionable condition, noise or vibration,
24 smoke, dust, odor, or other form of air pollution,
25 electrical or other disturbance, glare or heat, in a manner

1 which causes a direct or primary impact to the adjacent
2 areas, such effects or impacts shall be mitigated. (See
3 Sec. 5.5.6, infra, for types of mitigation.)

4 A. Any permit issued under the Code to conduct
5 mineral exploration or mining operations shall be required
6 to meet all applicable performance standards. Operations
7 shall be conducted in compliance with all applicable federal
8 and state statutes, regulations and standards.

9 B. Performance standards shall apply to all
10 lands affected by the mineral exploration, mining operation,
11 or reclamation operation as follows:

12 1. Disturbances to the prevailing
13 hydrologic balance of the affected area and of the adjacent
14 area and to the quality and quantity of water in surface and
15 ground water systems both during and after the mining
16 exploration and operation and during reclamation shall be
17 avoided, to the greatest extent practicable using the best
18 available current technology.

19 2. The quality of water discharged from the
20 mining exploration, extraction, or reclamation operation
21 shall meet the standards set by the U.S. Environmental
22 Protection Agency, the New Mexico Environmental Improvement
23 Division and the New Mexico Water Quality Control
24 Commission.
25

1 3. The affected area shall be restored to
2 standards set forth in the approved reclamation plan.

3 4. Grading, recontouring or backfilling
4 shall be done according to an approved grading and drainage
5 plan, shall create a final topography pursuant to an
6 approved reclamation plan, and shall:

7 a. Be conducted as contemporaneously as
8 possible with mineral exploration and mining operations;

9 b. To the greatest extent possible blend
10 in with the topography of the surrounding terrain.

11 Reclamation of slopes shall be no steeper than a horizontal
12 to vertical ratio of 2:1; except that slopes adjacent to
13 drainage areas or standing water shall be no steeper than
14 3:1; or as otherwise determined by the reclamation plan;

15 c. Protect, and if necessary, re-
16 establish any existing drainage system in order to prevent
17 pollution or diminution of the quantity and quality of the
18 surface water and groundwater or to protect the water rights
19 of downstream users; and

20 d. Create structurally stable slopes by
21 compaction, the use of vegetation and/or engineered
22 materials.

23 5. When backfilling of open pits is part of
24 a reclamation plan, such backfilling or earthmoving
25 operations shall be conducted so as to assure both stability

1 of the materials and prevention of leaching of toxic
2 materials. Highwalls may be retained provided that they
3 will not create a hazard to public health and safety, will
4 be sufficiently stable so as to not damage adjoining
5 property and will ensure structural integrity.

6 6. Where highwalls, tailings impoundments,
7 earth dams or incised impoundments are constructed, and in
8 order to control erosion, reduce sedimentation, and prevent
9 spillage, such impoundments shall be designed, located,
10 constructed, maintained and removed or abandoned in
11 accordance with established engineering principles and shall
12 comply with all applicable local, State and Federal laws,
13 rules and regulations. Upon final reclamation, all tailings
14 impoundments not designed for retention of fluids must be
15 free-draining. Drainage from such impoundments must not
16 cause erosion, interfere with post-closure monitoring
17 systems, and must meet applicable local, State and Federal
18 water quality standards.

19 Access to the mine site during post-
20 mining operations shall be limited if impoundments retaining
21 water contaminated with harmful or hazardous materials
22 and/or hazardous conditions or materials would remain on the
23 site.

24 7. Mine waste piles or impoundments shall
25 be so located as to prevent surface water runoff from

1 entering the mine site and any structures to be established
2 shall divert surface water runoff from mine waste piles or
3 impoundments containing water which has been contaminated
4 during mine operations. Protection of groundwater from
5 seepage of leachate from mine waste piles or from
6 impoundments shall be accomplished through the use of liners
7 or other specific technologies or locational and design
8 factors as determined by the approved reclamation plan.

9 8. All mine waste shall be placed, stored
10 and disposed in a designated area to ensure that leachate
11 and surface water runoff do not degrade surface or
12 groundwater, that fires are prevented, and that the area
13 remains stable. The designated area should be a naturally
14 stable area as outlined in Section 5.5.5 B 4.

15 9. Mine waste which may retain hazardous
16 chemical residues shall be detoxified or removed. For
17 purposes of this Section detoxified shall mean that wastes
18 are 1) not hazardous wastes as defined by local, State and
19 Federal regulations, 2) stabilized or treated such that
20 potential for groundwater contamination cannot occur, and 3)
21 capable of supporting natural vegetation and biota.

22 10. Mine waste shall be treated, stored and
23 disposed in accordance with all local, state and federal
24 requirements and regulations. Mine waste not used for
25 backfilling shall be covered and graded to allow surface
drainage and ensure long term stability.

1 11. In the revegetation part of the approved
2 reclamation plan, topsoil or other suitable rooting medium
3 shall be replaced and the affected land shall be revegetated
4 in such a way as to establish a diverse, effective, and long
5 lasting vegetative cover that is capable of re-seeding
6 itself or spreading, is at least equal in extent of cover to
7 the natural vegetation of the surrounding area, and is
8 capable of supporting the range of wildlife associated with
9 the particular life zones affected. Native species should
10 receive first consideration, but appropriately introduced
11 species that are non-sterile hybrids may be used in the
12 revegetation process. In order to assure the success of the
13 revegetation program, the planting and seeding shall take
14 place when natural precipitation will assist in establishing
15 the plants and shall be supplemented with an irrigation
16 program. Plants that die or are not established after a two
17 year period shall be replaced; revegetation shall be
18 monitored for a minimum of five (5) years. Success rate of
19 re-seeding and re-vegetation shall be determined by the
20 Mining Plans Review Board.

21 12. In the revegetation part of the approved
22 reclamation plan, topsoil shall be removed from the affected
23 land and segregated from other material. If such topsoil is
24 not replaced on a backfill area within a time short enough
25 to avoid deterioration of the topsoil, vegetative cover or

1 other means shall be employed so that the topsoil is
2 preserved from wind and water erosion, remains free of any
3 contamination by other acid or toxic material, and is in a
4 usable condition for sustaining vegetation when restored
5 during reclamation. If it is determined that such topsoil
6 is of insufficient quantity or is of poor quality for
7 sustaining vegetation, or if other strata can be shown to be
8 as suitable for vegetation requirements, the operator shall
9 remove, segregate, and preserve in a like manner such other
10 strata which are best able to support vegetation.

11 13. Drainage control structures shall be
12 used as necessary to control runoff and to minimize erosion,
13 sedimentation and flooding.

14 14. Areas outside of the affected area shall
15 be protected from slides or damage occurring during the
16 mining operation and reclamation. Mining operations shall
17 be confined to the permit area.

18 15. All surface areas of the affected area
19 shall be stabilized and protected so as to effectively
20 control erosion and attendant air and water pollution.

21 16. Since the County finds time to be of the
22 essence in reclamation matters, reclamation must begin as
23 soon as technologically practicable after mining or
24 exploration activities commence and must continue as
25 concurrently as possible until such time that the mining

1 operation is terminated and all of the affected area is
2 reclaimed. In-progress reclamation should be scheduled to
3 coincide with the site development schedule in the approved
4 operations plan.

5 17. Planting shall not be required on any
6 affected area where the chemical and physical
7 characteristics of the surface and immediately underlying
8 material of such affected area are, through no fault of the
9 operator, toxic, deficient in plant nutrients, or composed
10 of sand, gravel, shale, or stone to such an extent as to
11 seriously inhibit plant growth and such condition cannot
12 economically be remedied by chemical treatment,
13 fertilization, replacement of overburden, natural weathering
14 or like measures. In those cases where planting is not
15 required, the permittee shall still be required to stabilize
16 the affected area so that all applicable local, state and
17 federal laws and regulations are not violated.

18 18. To the greatest extent possible, and
19 using the best technology currently available, mining
20 operations shall be conducted to mitigate or avoid
21 disturbances and direct impacts to fish, wildlife and their
22 habitats or migratory habits. In addition, the design,
23 construction, maintenance and post mining conditions of
24 access roads into and across the site of operations shall be
25 configured to control or prevent erosion and siltation, to

1 prevent pollution of water or damage to fish or wildlife or
2 their habitat.

3 19. Explosives shall be used only in
4 accordance with state and federal law and local regulations.
5 Notice to adjacent property owners of blasting activities
6 shall be required.

7 20. Proposed hours of operation and outdoor
8 lighting will be reviewed in order to determine if night
9 operations will create nuisances to neighbors. If it is
10 determined that such nuisances may occur, these shall be
11 mitigated accordingly.

12 21. Upon cessation of mining operations, all
13 buildings, structures, impoundments, drainage control
14 structures, mining waste piles, and other related items not
15 necessary for environmental protection of the mine site
16 shall be removed, reclaimed or stabilized according to the
17 approved reclamation plan. The affected area shall be
18 graded to the approved final topography and the area
19 revegetated if revegetation is part of the reclamation plan.

20 22. Adverse visual impacts due to the
21 exploration or extraction activity shall be avoided or
22 minimized to the extent practical through the following
23 location or site design techniques:

24 a. Minimizing the area of disturbance
25 due to the mining activity pursuant to a phasing program;

1 b. Minimizing excavation in visually
2 sensitive areas;

3 c. Avoiding location of structures,
4 machinery and equipment storage and repair areas, utility
5 lines, access roads and driveways, mined material
6 stockpiles, and mine waste impoundments in visually
7 sensitive areas;

8 d. Locating, designing or screening
9 excavated portions of the mine site, structures, machinery
10 and equipment storage and repair areas, utility lines,
11 access roads and driveways, mined material stockpiles, and
12 mine waste impoundments in a manner sensitive to the natural
13 color, form and texture of the surrounding area;

14 e. Visually sensitive areas are areas
15 visible along highways, and state, county or federally
16 designated scenic areas.

17 23. Fire protection plans shall include type
18 of construction for structures and full disclosure of types
19 of chemicals to be stored on the site and their location.
20 These disclosures shall include:

21 a. Minimum hazardous doses or
22 exposures;

23 b. Immediate and delayed signs and
24 symptoms of exposure;
25

1 c. Emergency and extended treatments
2 for exposures;

3 d. Complete breakdown of health risks
4 based on minimum to maximum doses or exposures, and short to
5 long term effects on human physiology;

6 e. Chemical life data detailing
7 dilution or reduction time requirements and materials which
8 will detoxify the chemical (if any); and

9 f. Fire hazard risk of chemicals,
10 including but not limited to flammability, explosion
11 potential and effect of mixing with water and fire
12 extinguishing agents.

13 24. Where applicable, monitoring wells shall
14 be installed for the purpose of determining quantity and
15 quality of surface drainage or underground water resources.

16 C. If the use of hazardous materials or a
17 chemical mining process is proposed by the applicant, the
18 applicant must demonstrate that the use of such materials,
19 or chemical mining processes, will not have an adverse
20 impact upon the public health, safety, welfare and
21 environment.

22 D. If the applicant proposes to dispose of
23 tailings or materials that have been chemically processed
24 and/or have been milled to a particle size fine enough to
25 liberate heavy metals, the applicant shall be required to

1 demonstrate that the practice will not have an adverse
2 impact on the public health, safety, welfare and
3 environment.

4 5.5.6 Mitigation Criteria and Buffer Zones

5 A. The feasibility of protection from or
6 mitigation of any impacts to such existing conditions or
7 uses listed in this Section 5 which may be affected by any
8 mineral exploration or extraction operations and/or
9 rehabilitation activities, both on and off the mine site
10 shall be considered.

11 B. Protection or mitigation may consist of any
12 of the following:

- 13 1. Avoiding the location;
- 14 2. Limiting the degree of activity;
- 15 3. Restoration or rehabilitation of the
16 impacted location;
- 17 4. Reducing the impact over time by
18 preservation and maintenance during the life of the
19 activity;
- 20 5. Buffering or screening the activity;
- 21 6. Relocation of the affected item;
- 22 7. Permanent protection of wetlands or
23 other environmental resources;
- 24 8. Provision, if applicable, of traffic
25 control devices.

1 C. Mineral exploration and extraction uses
2 shall, where applicable, establish buffer zones for adjacent
3 uses of at least 2640 feet and/or provide a mitigation plan
4 which provides for measures to reduce negative or direct
5 impacts to adjacent uses including a statement of the legal
6 responsibility for mitigating these impacts by the operator,
7 his contractors and permittee.

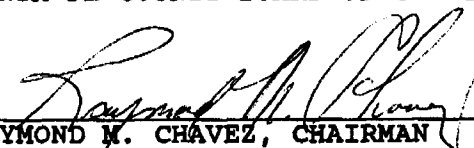
8 5.5.7 Solid Waste

9 For the purposes of this Section 5, solid waste
10 means garbage, refuse or discarded material generated by the
11 mine operations that is not mining waste. Such solid waste
12 may not be stored or buried on the mine site. Solid waste
13 must be removed on a scheduled basis to a designated
14 landfill or authorized transfer station.

15 Effective date: This ordinance shall become effective on
16 the 30th day after the date of adoption by the Board.
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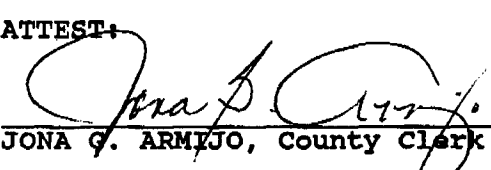
PASSED, APPROVED AND ADOPTED THIS 16th DAY OF January 1991.
SANTA FE COUNTY BOARD OF COUNTY COMMISSIONERS:


RAYMOND M. CHAVEZ, CHAIRMAN

APPROVED AS TO LEGAL FORM AND SUFFICIENCY:

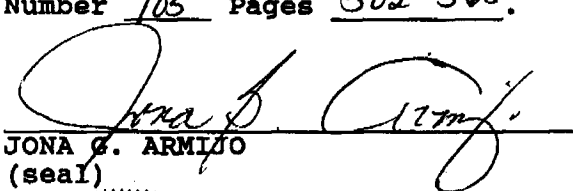

TERRENCE BRENNAN, County Attorney

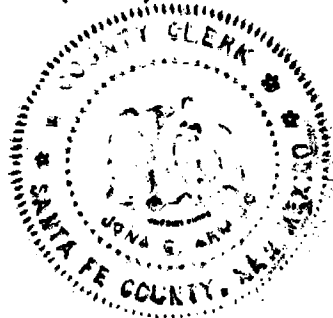
ATTEST:


JONA G. ARMIJO, County Clerk

CERTIFICATE OF FILING

I Jona G. Armijo, County Clerk, do hereby certify that the
foregoing ordinance designated as Ordinance 1991-2 was filed
in my office on the 18 day of January, 1991 in Book
Number 705 Pages 502-565.


JONA G. ARMIJO
(seal)



1 4. A description of the mineral exploration
2 activity and any proposed or resulting mining operation,
3 including but not limited to a description of trenching,
4 shaft sinking, bulk sampling, assay work and the like for
5 exploration; existing structures and improvements, and their
6 intended uses, and proposed structures and improvements and
7 their respective locations; improvements to roads, including
8 County roads, to be used to access the property, and roads
9 to be utilized or constructed on the property; a description
10 of areas to be subjected to blasting, drilling, excavation;
11 grading, impoundment of materials for processing or milling,
12 and of mining waste or tailing impoundments, and drainage
13 control structures and earth stabilization techniques.

14 5. The location of any site listed on the
15 National Historic Register, a site of significant
16 archaeological value, a public park, or other cultural
17 resource. For purpose of this Section 5, a reconnaissance
18 survey pursuant to Article VI, Section 3 shall be required
19 for all applications.

20 6. The presence on the site of a rare or
21 endangered species of animal, plant, or habitat of such
22 species.

23 7. The presence on the site of prime farm
24 land, wetlands, wild and scenic rivers, or an ecologically
25 critical area.