

ASSEMBLY BILL

No. 2509

Introduced by Assembly Member Nielsen

February 24, 2012

An act to amend Section 2714 of the Public Resources Code, relating to surface mining.

LEGISLATIVE COUNSEL'S DIGEST

AB 2509, as introduced, Nielsen. Surface mining and reclamation plans: exempted activities.

Existing law, the Surface Mining and Reclamation Act of 1975, prohibits a person from conducting a surface mining operation unless, among other things, a reclamation plan has been submitted to and approved by the lead agency, as defined, for the operation. Existing law excepts from those requirements certain activities including, among other things, excavations or grading conducted for farming or the immediate excavation or grading of lands affected by a flood or natural disaster for the purpose of restoring those lands to their prior condition.

This bill would exempt instead the immediate excavations or grading of lands affected by a flood or natural disaster for the purpose instead of restoring those lands to their prior condition within 20 years of when the lands were affected.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 2714 of the Public Resources Code is
2 amended to read:

1 2714. This chapter does not apply to any of the following
2 activities:

3 (a) Excavations or grading conducted for farming or the
4 immediate excavation or grading of lands affected by a flood or
5 natural disaster for the purpose of restoring those lands to their
6 prior condition *within 20 years of when the lands were affected*.

7 (b) Onsite excavation and onsite earthmoving activities that are
8 an integral and necessary part of a construction project and that
9 are undertaken to prepare a site for construction of structures,
10 landscaping, or other land improvements associated with those
11 structures, including the related excavation, grading, compaction,
12 or the creation of fills, road cuts, and embankments, whether or
13 not surplus materials are exported from the site, subject to all of
14 the following conditions:

15 (1) All required permits for the construction, landscaping, or
16 related land improvements have been approved by a public agency
17 in accordance with applicable provisions of state law and locally
18 adopted plans and ordinances, including, but not limited to,
19 Division 13 (commencing with Section 21000).

20 (2) The lead agency's approval of the construction project
21 included consideration of the onsite excavation and onsite
22 earthmoving activities pursuant to Division 13 (commencing with
23 Section 21000).

24 (3) The approved construction project is consistent with the
25 general plan or zoning of the site.

26 (4) Surplus materials shall not be exported from the site unless
27 and until actual construction work has commenced and shall cease
28 if it is determined that construction activities have terminated, have
29 been indefinitely suspended, or are no longer being actively
30 pursued.

31 (c) Operation of a plant site used for mineral processing,
32 including associated onsite structures, equipment, machines, tools,
33 or other materials, including the onsite stockpiling and onsite
34 recovery of mined materials, subject to all of the following
35 conditions:

36 (1) The plant site is located on lands designated for industrial
37 or commercial uses in the applicable county or city general plan.

38 (2) The plant site is located on lands zoned industrial or
39 commercial, or are contained within a zoning category intended
40 exclusively for industrial activities by the applicable city or county.

1 (3) None of the minerals being processed are being extracted
2 onsite.

3 (4) All reclamation work has been completed pursuant to the
4 approved reclamation plan for any mineral extraction activities
5 that occurred onsite after January 1, 1976.

6 (d) Prospecting for, or the extraction of, minerals for commercial
7 purposes where the removal of overburden or mineral product
8 totals less than 1,000 cubic yards in any one location, and the total
9 surface area disturbed is less than one acre.

10 (e) Surface mining operations that are required by federal law
11 in order to protect a mining claim, if those operations are conducted
12 solely for that purpose.

13 (f) Any other surface mining operations that the board, as
14 defined by Section 2001, determines to be of an infrequent nature
15 and which involve only minor surface disturbances.

16 (g) The solar evaporation of sea water or bay water for the
17 production of salt and related minerals.

18 (h) Emergency excavations or grading conducted by the
19 Department of Water Resources or the Reclamation Board for the
20 purpose of averting, alleviating, repairing, or restoring damage to
21 property due to imminent or recent floods, disasters, or other
22 emergencies.

23 (i) (1) Surface mining operations conducted on lands owned
24 or leased, or upon which easements or rights-of-way have been
25 obtained, by the Department of Water Resources for the purpose
26 of the State Water Resources Development System or flood control,
27 and surface mining operations on lands owned or leased, or upon
28 which easements or rights-of-way have been obtained, by the
29 Reclamation Board for the purpose of flood control, if the
30 Department of Water Resources adopts, after submission to and
31 consultation with, the Department of Conservation, a reclamation
32 plan for lands affected by these activities, and those lands are
33 reclaimed in conformance with the standards specified in
34 regulations of the board adopted pursuant to this chapter. The
35 Department of Water Resources shall provide an annual report to
36 the Department of Conservation by the date specified by the
37 Department of Conservation on these mining activities.

38 (2) Nothing in this subdivision shall require the Department of
39 Water Resources or the Reclamation Board to obtain a permit or
40 secure approval of a reclamation plan from any city or county in

1 order to conduct surface mining operations specified in paragraph
2 (1). Nothing in this subdivision shall preclude the bringing of an
3 enforcement action pursuant to Section 2774.1, if it is determined
4 that a surface mine operator, acting under contract with the
5 Department of Water Resources or the Reclamation Board on lands
6 other than those owned or leased, or upon which easements or
7 rights-of-way have been obtained, by the Department of Water
8 Resources or the Reclamation Board, is otherwise not in
9 compliance with this chapter.

10 (j) (1) Excavations or grading for the exclusive purpose of
11 obtaining materials for roadbed construction and maintenance
12 conducted in connection with timber operations or forest
13 management on land owned by the same person or entity. This
14 exemption is limited to excavation and grading that is conducted
15 adjacent to timber operation or forest management roads and shall
16 not apply to onsite excavation or grading that occurs within 100
17 feet of a Class One watercourse or 75 feet of a Class Two
18 watercourse, or to excavation for materials that are, or have been,
19 sold for commercial purposes.

20 (2) This exemption shall be available only if slope stability and
21 erosion are controlled in accordance with subdivision (f) of Section
22 3704 and subdivision (d) of Section 3706 of Title 14 of the
23 California Code of Regulations and, upon closure of the site, the
24 person closing the site implements, where necessary, revegetation
25 measures and postclosure uses in consultation with the Department
26 of Forestry and Fire Protection.

27 (k) Excavations, grading, or other earthmoving activities in an
28 oil or gas field that are integral to, and necessary for, ongoing
29 operations for the extraction of oil or gas that comply with all of
30 the following conditions:

31 (1) The operations are being conducted in accordance with
32 Division 3 (commencing with Section 3000).

33 (2) The operations are consistent with any general plan or zoning
34 applicable to the site.

35 (3) The earthmoving activities are within oil or gas field
36 properties under a common owner or operator.

37 (4) No excavated materials are sold for commercial purposes.

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