

ASSEMBLY BILL

No. 1034

Introduced by Assembly Member Obernolte
(Principal coauthor: Senator Fuller)
(Coauthor: Senator Morrell)

February 26, 2015

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

LEGISLATIVE COUNSEL'S DIGEST

AB 1034, as introduced, Obernolte. Surface mining and reclamation plans: exemption.

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 of the mining operation. Existing law exempts certain activities from the act's requirements.

This bill would additionally exempt the operation of a renewable energy generation facility, as specified, from the act's requirements.

Vote: majority. Appropriation: no. Fiscal committee: yes. 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:
- 3 2714. This chapter does not apply to any of the following
- 4 activities:
- 5 (a) Excavations or grading of lands conducted for farming.

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

9 (1) All required permits for the construction, landscaping, or
10 related land improvements have been approved by a public agency
11 in accordance with applicable provisions of state law and locally
12 adopted plans and ordinances, including, but not limited to,
13 ~~Division~~ *the California Environmental Quality Act (Division 13*
14 *(commencing with Section ~~21000~~; 21000))*.

15 (2) The lead agency’s approval of the construction project
16 included consideration of the onsite excavation and onsite
17 earthmoving activities pursuant to ~~Division~~ *the California*
18 *Environmental Quality Act (Division 13 (commencing with Section*
19 *~~21000~~; 21000))*.

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

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

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

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

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

37 (3) None of the minerals being processed are being extracted
38 onsite.

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

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

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

11 (f) Any other surface mining operations that the board, as
12 defined by Section 2008, determines to be of an infrequent nature
13 and that involve only minor surface disturbances.

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

16 (h) Emergency excavations or grading conducted by the
17 Department of Water Resources or the ~~Reclamation~~ *Central Valley*
18 *Flood Protection* Board for the purpose of averting, alleviating,
19 repairing, or restoring damage to property due to imminent or
20 recent floods, disasters, or other emergencies.

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

37 (2) Nothing in this subdivision shall require the Department of
38 Water Resources or the ~~Reclamation~~ *Central Valley Flood*
39 *Protection* Board to obtain a permit or secure approval of a
40 reclamation plan from any city or county in order to conduct

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

38 (l) (1) The immediate excavation or grading of lands affected
39 by a natural disaster for the purpose of restoring those lands to
40 their prior condition.

1 (2) The immediate removal of material deposited by a flood
2 onto lands being farmed for the purpose of restoring those lands
3 to their prior condition.

4 (m) *The operation of a renewable energy generation facility,*
5 *including associated onsite structures, equipment, machines, tools,*
6 *or other materials or related land improvements approved by a*
7 *public agency in accordance with applicable law, including, but*
8 *not limited to, local plans and ordinances and the California*
9 *Environmental Quality Act (Division 13 (commencing with Section*
10 *21000)).*

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