

GUIDELINES AND REGULATIONS FOR AREAS
AND ACTIVITIES OF STATE INTEREST OF
THE COUNTY OF SAGUACHE, STATE OF COLORADO

Public Hearing

Original hearing date September 28, 1990

Updated December 4, 2012

Amended and ~~Readopted~~ Restated:
_____, 2020

CONTENTS

- Chapter 1: Administrative Regulations
- Chapter 2: Permits
- Chapter 3: Mineral Resource Areas
- Chapter 4: Geologic Hazard Areas
- Chapter 5: ~~(Reserved)~~ Areas Containing or Having a Significant Impact Upon Natural Resources of Statewide Importance
- Chapter 6: (Reserved)
- Chapter 7: (Reserved)
- Chapter 8: Significant Wildlife Habitat Areas ~~and Areas Containing or Having a Significant Impact upon Natural Resources of Statewide Importance~~
- Chapter 9: Site Selection and Construction of Major New Domestic Water and Sewage Treatment Systems and Major Extensions of such Systems
- Chapter 10: (reserved)
- Chapter 11: (Reserved)
- Chapter 12: Efficient Utilization of Municipal and Industrial Water Projects
- Chapter 13: Site Selection and Construction of Major Facilities of a Public Utility

Chapter 1
Administrative Regulations

Article 1 Introductory and General Provisions

- 1-101 Title and Citation
- 1-102 Purpose and Findings; [Scope](#)
- 1-103 Authority
- 1-104 Applicability
- 1-105 Exemptions
- 1-106 Relationship of Regulations to other County, State and Federal Requirements
- 1-107 Maps
- 1-108 Duties of the Board of County Commissioners
- 1-109 Severability
- 1-110 Definitions

Article 2 (Reserved)

Article 3 Designation of Matters of State Interest

- 1-301 Board of County Commissioners to Make Designations
- 1-302 (Reserved)
- 1-303 Public Hearing Required
- 1-304 Notice of Public Hearing; Mailing List; Publication
- 1-305 Matters to be Considered at Designation Hearing
- 1-306 Record of Designation Proceeding
- 1-307 Adoption of Designation and Regulations
- ~~1-308~~ ~~Submission of Material to Colorado Land Use Commission~~
- 1-309~~8~~ Recording of Notice of Designation
- 1-~~309~~~~310~~ Effect of Notice of Designation – Moratorium until Final Determination

Article 4 Exhibits

- Exhibit A Form of Designation Order
- Exhibit B Application for Permit
- Exhibit C Form of Permit
- Exhibit D Maps: Mineral Resource Areas
- Exhibit E Maps: Geologic Hazard Areas
- Exhibit F Maps: Lands Historically Irrigated in Saguache County
- Exhibit G Maps: Significant Wildlife Habitat
 - Bighorn Sheep Range
 - Elk Range
 - Mule Deer Range
 - Occupied Habitat of the Gunnison Sage Grouse

Article 1 **Introductory and General Provision**

1-101 Title and Citation

- (1) These various sections constituting Chapters 1 through 13 are entitled and may be cited as the “Guidelines and Regulations for Areas and Activities of State Interest of Saguache County,” or the “Guidelines and Regulations.”
- (2) These various sections constituting Chapter 1 of the “Guidelines and Regulations for Areas and Activities of State Interest of Saguache County,” may be cited as the “Administrative Regulations,” ~~and may be referred to in this Chapter 1 as “these Regulations.”~~

1-102 Purpose and Findings; Scope

- (1) The purpose and intent of the “Guidelines and Regulations for Areas and Activities of State Interest of Saguache County” ~~regulations in this Chapter 1~~ is to facilitate identification, designation, and administration of matters of state interest consistent with the statutory requirements and criteria set forth in Section 24-65.1-101, et seq., C.R.S., and the Guidelines for Identification and Designation of Areas and Activities of State Interest made available by the former ~~approved by the~~ Colorado Land Use Commission.
- (2) The Board of County Commissioners, County of Saguache, State of Colorado, finds that:
 - (a) The notice and public hearing requirements of Section 24-65.1-404, C.R.S. have been followed;
 - (b) These Regulations are necessary because of the intensity of current and foreseeable development pressures on and within the County;
 - (c) These Regulations were adopted after taking into consideration applicable guidelines adopted and issued by the former Colorado Land Use Commission;
 - (d) These Regulations apply to the entire unincorporated territory of the County of Saguache;
 - (e) These Regulations interpret and apply to any regulations adopted for specific areas of state interest and specific activities of state interest which have been or may be designated by the Board of County Commissioners of the County of Saguache.

1-103 Authority

These Regulations are authorized by, inter alia, Section 24-65.1-101, et seq., C.R.S.; Section 30-28-101, et seq., C.R.S.; Section 30-28-201, et seq., C.R.S.; and Section 29-20-101, et seq., C.R.S.; ~~and Section 24-32-111, C.R.S.~~ These Regulations are necessary for preservation of the public health, safety and welfare.

1-104 Applicability

These Regulations shall apply to all proceedings concerning identification, ~~and~~ designation and regulation of any developments in any area of state interest or any activity of state interest which has been or may hereafter be designated by the Board of County Commissioners of the County of Saguache.

1-105 Exemptions

The portions of the ~~Guidelines and~~ Regulations authorized exclusively under Section 24-65.1-101, et seq., C.R.S., shall not apply to any development in an area of state interest or any activity of state interest if, on the effective date of their adoption on September 29, 1990, December 4, 2012, or _____ 2020, as applicable:

- (1) The specific development or activity is covered by a current building permit issued by the County of Saguache;
- (2) The specific development or activity has been approved by the electorate of the County of Saguache, provided, that approval of a bond issue shall not, in and of itself be construed to be an approval of the specific development activity.
- (3) The specific development or activity is to be on land which has been finally approved for planned unit development or for a use substantially the same as planned unit development, and a Site Development Plan has been approved by the County prior to the effective date of these Regulations for the development or activity which would otherwise be subject to these Regulations;
- (4) The specific development or activity is to be on land which has been zoned in response to an application which specifically contemplated said specific development or activity and a Site Development Plan has been approved for the specific development or activity which would otherwise be subject to these Regulations.
- (5) The specific development or activity is to be on land with respect to which a development plan has been conditionally or finally approved by the County of Saguache.
- (6) The day-to-day operations of an existing project or facility, or a minor change in the operation of an existing project or facility, including retrofitting or updating technology, so long as the change in operation does not constitute a material change and does not cause negative impacts different from that of the existing facility or project or otherwise exacerbate existing impacts. The determination of minor change, material change, and negative or exacerbating impacts shall be made by the County Administrator.
- (7) These Regulations shall not apply to any use otherwise lawfully existing on the date the area or activity is designated or subjected to these Regulations which use becomes nonconforming as a result of the adoption of these Regulations, provided, when such a nonconforming use shall be discontinued for one year or more or a nonconforming structure is damaged or destroyed to the extent of at least fifty (50) percent of the

County Assessor's assessed value, any reuse, reconstruction, or replacement of such structure shall be deemed a new use and shall be subject to these Regulations. Additionally, expansion of a legal nonconforming use shall require a permit.

~~(5)~~ —

~~The Board of County Commissioners hereby designates the following to be matters of state interest and subject to regulation under Saguache County's 1041 regulations:~~

~~Solar energy facilities generating more than 5 megawatts;~~

~~Wind energy generation facilities with towers higher than 75 feet;~~

~~Water pipeline projects intended to transport water not for consumption or use within Saguache County;~~

~~Geothermal energy projects designed for use of the energy off of the owner's property.~~

~~The Board of County Commissioners will determine at the time of submission of an application for one of the above projects or development the appropriate generally acceptable criteria to be applied in determining whether to grant or deny the application.~~

1-106 Relationship of Regulations to Other County, State and Federal Requirements

- (1) Whenever these Regulations are found to be inconsistent with any other resolution, ordinance, code, regulation, or other enactment of the County of Saguache, the enactment imposing the more restrictive standards or requirements shall control.
- (2) In the event these Regulations are found to be less stringent than the statutory criteria for administration of matters of state interest set forth in Section 24-65.1-202, C.R.S., the statutory criteria shall control.
- (3) In the event these Regulations are found to be more stringent than the statutory criteria for administration of matter of state interest set forth in Sections 24-65.1-202 and 24-65.1-204, C.R.S., these regulations shall control pursuant to the authority of Section 24-65.1-402 (3), C.R.S.
- (4) These Regulations are intended to be applied in addition to, and not in lieu of, all other regulations of the County of Saguache, including, without limitation, the Saguache County Land Development Code adopted, as amended.
- (4)(5) Permit requirements included in these Regulations shall be in addition to and in conformance with all applicable state and federal water quality and environmental laws, rules and regulations, including but not limited to the following, as amended from time to time.
 - (a) San Luis Valley Protection Act, PL102-575

- (b) Rules Governing Withdrawal of Groundwater in the Combined Aquifer System, June 30, 2004
 - (c) Rio Grande River Compact, CRS 37-66-101 and 37-66-102
 - (d) Section 25-8-701, et seq, CRS, sewage treatment plant site approval
 - (e) 5 CCR §10002-22 Regulation No. 22, Site Location and Design Approval Regulations for Domestic Wastewater Treatment Works
 - (f) Section 25-8-501, et seq, CRS, point source pollutant discharge permits
 - (g) Section 208 (33 USC Section 1288) area wide wastewater treatment management planning administered by the Pikes Peak Area Council of Governments (as to wastewater treatment only)
 - (h) Section 303 (33 USC Section 1313) river basin water quality management planning
 - (i) Disposal of sewage sludge (33 USC Section 1345)
 - (j) Section 32-1-201, CRS, Special District Control Act
 - (k) 16 USC Sections 661-666(c) 1970, the Fish and Wildlife Coordination Act
 - (l) Section 102(c) (42 USC Section 4321, et seq), the National Environmental Policy Act
 - (m) Section 404 of the Federal Clean Water Act
 - (n) Current clearance letter or take Permit for the relevant Project issued by the US Fish & Wildlife Service for threatened or endangered animals or plant species
- (6) Review or approval of a project by a federal or state or local agency does not obviate and shall not substitute for, the need to obtain a permit for that Project under these Regulations. Any applicant for a permit under these Regulations that is also subject to the regulations of other agencies may request in writing that the County application and review process be coordinated with that of the other agency or agencies. If practicable, and in its discretion, the County may attempt to eliminate redundant application submittal requests and may coordinate its review of the application with that of other agencies as appropriate. The County shall provide the applicant, in writing, a copy of its decision upon such coordination request.
- (7) The applicant shall comply with all applicable federal and state laws, regulations, ordinances, review and permit requirements, and other agency requirements, if any, of applicable agencies including, but not limited to, the Colorado Division of Wildlife, Colorado Department of Transportation, U.S. Army Corps of Engineers, and the U.S.

Fish and Wildlife Service regarding the Endangered Species Act, particularly as it relates to the Preble's Meadow Jumping Mouse as a listed threatened species.

- (8) For projects located in known Preble's Meadow Jumping Mouse habitat, approval of a permit is subject to the applicant obtaining the approval of the U. S. Fish & Wildlife Service (FWS) to undertake development activities since the property is located in known Preble's Meadow Jumping Mouse ("PMJM") habitat, and therefore, development on the site may directly affect continued existence of the PMJM. Therefore, prior to issuance of the permit, applicant shall obtain approval from the FWS for the same and shall provide evidence of said approval to the Permit Authority and the Development Services Department.
- ~~(2) Whenever these Guidelines and Regulations are found to be inconsistent with any other resolution, ordinance, code, regulation, or other enactment of the County of Saguache, the enactment imposing the more restrictive standards or requirements shall control.~~
- ~~(3) In the event these Guidelines and Regulations are found to be less stringent than the statutory criteria for administration of matters of state interest set forth in Section 24-65.1-202, C.R.S., the statutory criteria shall control.~~
- ~~(4) In the event these Guidelines and Regulations are found to be more stringent than the statutory criteria for administration of matter of state interest set forth in Sections 24-65.1-202 and 24-65.1-204, C.R.S., these regulations shall control pursuant to the authority of Section 24-65.1-402 (3), C.R.S.~~
- ~~(5) These Guidelines and Regulations are intended to be applied in addition to, and not in lieu of, all other regulations of the County of Saguache, including, without limitation, the Saguache County Land Development Code adopted April 4, 1988.~~

1-107 Maps

- (1) Each map referred to in designations and regulations for any particular matter of state interest adopted by the Board of County Commissioners of the County of Saguache is deemed adopted therein as if set out in full.
- (2) Maps referred to in any such designations and regulations shall be filed with and available for inspection at the office of the Clerk and Recorder of the County of Saguache and shall also be available for inspection in the office of the Saguache County Land Use Administrator.

1-108 Duties of the Board of County Commissioners

Unless otherwise specifically provided, it shall be the duty of the Board of County Commissioners of Saguache County to perform all functions set forth in all regulations pertaining to matters of state interest.

1-109 Severability

If any section, clause, provision, or portion of these ~~Guidelines and~~ Regulations should be found to be unconstitutional or otherwise invalid by a court of competent jurisdiction, the remainder shall not be affected thereby.

1-110 Definitions

The words and terms used in these ~~Guidelines and~~ Regulations ~~for administration of areas and activities of state interest~~ shall have the meanings set forth below unless the context requires otherwise or unless a specific definition is set forth in a subsequent chapter of these Regulations:

- (1) *Adequate security* means such funds or funding commitments, whether in the form of cash, negotiable securities, letters of credit, bonds or other instruments or guarantees, which is deemed sufficient, in the sole discretion of the Board, and in form approved by the County Attorney, to guarantee performance of the act, promise, permit condition or obligation to which it pertains.
- (2) *Administratively Approved Permit* means a permit under these Regulations which is administratively approved with or without conditions, by the Land Use Administrator under Section 2-202.
- (3) *Applicant* means any individual, partnership, corporation, association, or other private or corporate body, including the federal government or federal entity, and includes the state of Colorado and any subdivision, instrumentality, or other corporation thereof.
- (4) *Board of County Commissioners* means the Board of County Commissioners, County of Saguache, State of Colorado.
- (5) *Confined aquifer* means a formation, groups of formations, or parts of formations underlying portions of Water Division No. 3, consisting in part of unconsolidated clays, silts, sands, gravels, or interbedded volcanic rock and containing saturated permeable materials that yield water under Artesian Pressure that is or may be extracted and applied to a beneficial use. The Confined Aquifer includes any formation, group of formations, or part of a formation containing saturated permeable material that yielded water under Artesian Pressure during the period 1978 through 2000, whether or not the water level in the formation, group of formations, or part of a formation is under Artesian Pressure conditions at any time after the Effective Date of the Rules Governing the Withdrawal of Groundwater in Water Division No. 3, issued by the State Engineer on September 23, 2015.
- ~~(4)~~(6) *County* means Saguache County, Colorado.
- ~~(2)~~(7) *Designation* means only that legal procedure specified by Section 24-65.1-401, et seq., C.R.S. It is carried out by the Board of County Commissioners.
- (8) *Development* means any construction or activity which changes the basic character or the use of the land on which the construction or activity occurs.

- (9) Development Area means those geographic areas within the County which will be developed or altered by construction of, or a portion of the proposed project.
- (10) Land Development Code, or LDC means the Saguache County Land Development Code, as amended from time to time by the Board of County Commissioners.
- (11) Land Use Administrator means the person designated as such by the County, including his or her designee.
- ~~(3)~~(12) Layman’s description means a general, non-legal description and the popular name, if any, of the tract of land upon which the activity or development is to be conducted. The term “general description” means “layman’s description.”
- ~~(4)~~(13) Legal description means any description from which it is possible to locate accurately on the ground the boundaries of the land being described.
- (14) Material change means any change in a Project as approved under these Regulations which significantly changes the nature of impacts considered by the Permit Authority in approval of the original Permit or in the case of a development not previously issued a permit, a structural modification, change of use, change of operation, change of user, which significantly changes the nature of the development and its associated impacts.
- (15) Matter of state interest means an area of state interest or an activity of state interest or both.
- (16) Mitigation means avoiding an impact; minimizing impacts by limiting the degree or magnitude of the action or its implementation; rectifying the impact by repairing, rehabilitating or restoring the impact area, facility or service; or compensation for the impact by replacing or providing for the replacement of biological or physical conditions, services or facilities.
- (17) Municipality means a home rule or statutory city, town or a city and country or a territorial charter city.
- ~~(5)~~(18) Nonconforming use means a use or development in existence at the time of adoption or amendment of these Regulations, which, were it a new use or development, would be one for which a permit would be required under these Regulations.
- (19) Permit means a permit issued under these Regulations to conduct an activity of state interest and/or to engage in development in an area of state interest. Permit shall also include an Administrative Approval issued by the Director of Planning under [Section 2.202], as the context requires.
- ~~(6)~~(20) Permit Authority means the Board of County Commissioners.
- (21) Person means any private individual, partnership, corporation, association, company, or any public or corporate body, including the federal government, and includes any

political subdivision, agency, instrumentality, or corporation of the State or the United States government.

- (22) Project: the facility and/or development which is the subject of an application or an approved Permit under these Regulations, including all support facilities, activities and projects which are required for this Project, such as, but not limited to, wells, pipelines, conduits, pumping stations, and revegetation and reclamation programs.
- (23) Receipt of Application means the time at which the completed application is accepted by the Permit Authority.
- (24) Responsible party means the person or persons responsible for construction or operation of a permitted development in an area of state interest, or a permitted activity of state interest under these Regulations. This term includes all persons responsible for compliance with any permit condition.
- (25) Rio Grande Water Conservation District Plan of Water Management means one or more plans sponsored by the Rio Grande Water Conservation District, approved by the District Court for Water Division No. 3 and under which lands are legally obligated to be withdrawn from irrigation.
- (26) Significant means deserving to be considered important, notable, and not trifling.
- (27) Site Development Plan means the development plan for one or more lots or tracts of property showing the existing and proposed conditions of the property and any improvements existing or to be constructed on the property. This includes topography, vegetation, drainage, floodplains, wetlands and waterways, landscaping and open spaces, walkways, means of ingress and egress, circulation, utility services, structures and buildings, signs and lighting, berms, buffers and screening devices, surrounding development, and other information that may be reasonably required for the Land Use Administrator to determine compliance with the requirements of these Regulations, and subsequently to authorize issuance of a building or development permit.
- (28) Unconfined Aquifer means a geologic formation, groups of formations, or parts of formations underlying portions of Water Division No. 3 consisting in part of unconsolidated clays, silts, sands, gravels, interbedded volcanic rock, or other materials and containing saturated permeable materials that yields water under water table conditions that is or may be extracted and applied to beneficial use.

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Article 2 (Reserved)
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Article 3 Designation of Matters of State Interest

1-301 Board of County Commissioners to Make Designations

Designations and amendments of designations may be initiated in ~~two~~^{three} ways:

- (1) The Board of County Commissioners may in its discretion designate and adopt regulations for the administration of any matter of state interest. ~~ie: Wind, Solar, Geothermal, Water Pipelines. Procedures for these areas will be created in the future.~~
- (2) The Saguache County Planning Commission may on its own motion or upon request by the Board of County Commissioners, recommend the designation of matters of state interest. The Board of County Commissioners shall decide, in its sole discretion, whether or not to designate any or all of the requested matters of state interest.
- ~~(3) If the Colorado Land Use Commission submits a formal request to the Board of County Commissioners under Section 24-65.1-407, C.R.S., with regard to a specific matter which the Colorado Land Use Commission considers to be of state interest within the County of Saguache, the Board of County Commissioners shall publish notice and conduct a hearing pursuant to Section 24-65.1-407 (1) (a), C.R.S. After the Board of County Commissioners has received such a request, no person shall engage in development in the area or conduct the activity specifically described in said request until the Board of County Commissioners has held its hearing and issued its order relating thereto.~~

1-302 (Reserved)

1-303 Public Hearing Required

The Board of County Commissioners shall hold a public hearing before designating any matter of state interest and adopting regulations for the administration thereof. Said hearing shall be held not less than thirty (30) days nor more than sixty (60) days after the giving of public notice of said hearing.

- ~~(1) In the event that the Colorado Land Use Commission submits a formal request to take action, such public hearing for designation shall be held within ninety (90) days after receipt of the formal request.~~

1-304 Notice of Public Hearing; Mailing List; Publication

- (1) The Board of County Commissioners shall prepare a notice of the designation hearing which shall include:
 - (a) The time and place of the hearing;
 - (b) The place at which materials relating to the matter to be designated and any guidelines and regulations for the administration thereof may be examined;
 - (c) The telephone number and e-mail address where inquiries may be answered;

- (d) A description of the area or activity proposed to be designated in sufficient detail to provide reasonable notice as to property which would be included.
- (2) The Board of County Commissioners shall maintain a mailing list of the names of those persons requesting of the Clerk of the Board of County Commissioners that their names and addresses be placed on the list and paying to the Clerk an annual fee of twelve dollars(\$12.00) to cover the costs of production, handling and mailing of notices of all such hearings pursuant to Sections 24-65.1-404 (2) (b) and 24-65.1-501 (2) (c), C.R.S. In order to have his name and address retained on said mailing list, the person shall resubmit thehis name and address and pay said annual fee before January 31st of each year.
- (3) At least thirty (30) days, but no more than sixty (60) days before the public hearing, the Board of County Commissioners shall publish the notice in a newspaper of general circulation in the County and shall mail the notice by first class mail to each of the following:
 - (a) ~~The Colorado Land Use Commission and other s~~State and federal agencies, as deemed appropriate in the discretion of the Board of County Commissioners;
 - (b) Persons on the mailing list;
 - (c) In the discretion of the Board of County Commissioners, members of the news media and any other person considered likely to be affected by the proposed designation; and
 - (d) If any other local government jurisdiction would be directly or indirectly affected, the proposed designation similarly may be mailed to such government.

1-305 Matters to be Considered at Designation Hearing

At the public hearing, the Board of County Commissioners shall receive into the public record:

- (1) Testimony and evidence from any and all persons or organizations desiring to appear and be heard, including County staff;
- (2) Any documents that may be offered; and
- (3) The recommendations of the Saguache County Planning Commission, if any.

1-306 Record of Designation Proceeding

The Board of County Commissioners shall collect and preserve the following record of the public hearing:

- (1) A copy of the notice of the hearing;
- (2) The certificate of publication of the notice of the hearing and a listing of all persons to whom the notice was mailed;

- (3) The names and addresses of persons who presented written or oral statements or offered documentary evidence;
- (4) Any written statements or documents presented in support of or in opposition to the proposed designation of the matter of state interest;
- (5) Any recording or transcript, if any, of the hearing as provided in Section 1-306 (2);
- (6) The order of designation of the area or activity of state interest; and
- (7) A map or maps depicting each area of state interest designated.

1-307 Adoption of Designations and Regulations

- (1) In making any such designation, the Board shall take into consideration:
 - (a) All testimony, evidence and documents taken and admitted at the public hearing;
 - (b) The intensity of current and foreseeable development pressures in the County of Saguache;
 - (c) The matters and considerations set forth in any applicable guidelines or model regulations issued by the Colorado Land Use commission and other State agencies; and
 - (d) Reasons why the particular area or activity is of state interest, the dangers that would result from uncontrolled development of any such area or uncontrolled conduct of such activity, and the advantages of development of such area or conduct of such activity in a coordinated manner.
- (2) Any action under this Section 1-307 shall be taken by resolution.
- (3) In the event the Board of County Commissioners finally determines that any matter is a matter of state interest within the County, it shall be the Board's duty to designate such matter and adopt regulations for the administration thereof.
- (4) Each designation order adopted by the Board of County Commissioners shall:
 - (a) Specify the boundaries of the designated area of state interest or the boundary of the area in which an activity of state interest has been designated;
 - (b) State reasons why the particular area or activity is of state interest, the dangers that would result from uncontrolled development of any such area or uncontrolled conduct of such activity, and the advantages of development of such area or conduct of such activity in a coordinated manner.

~~1-308 Submission of Material to Colorado Land Use Commission~~

~~Upon adoption of a designation order, all relevant materials including the record of any public hearing relating to the designation and regulations, as described in Section 1-306 above, shall be forwarded by the Board of County Commissioners to the Colorado Land Use Commission for review, pursuant to Section 24-65.1-406, C.R.S. If within thirty (30) days after receipt of a designation order and regulation the Colorado Land Use Commission has notified the Board of County Commissioners that modification of the designation or regulations is recommended, the Board of County Commissioners shall, within thirty (30) days after receipt of the recommended modifications:~~

- ~~(1) Modify the original order in a manner consistent with the recommendations of the Colorado Land Use Commission and resubmit the order to the Colorado Land Use Commission, or~~
- ~~(2) Notify the Colorado Land Use Commission that the Commission's recommendations are rejected.~~

~~1-308309~~ Recording of Notice of Designation

A notice of the designation shall be certified by the Board of County Commissioners to the County Clerk and Recorder for filing in the same manner as any document affecting real property.

~~1-309310~~ Effect of Designation – Moratorium Until Final Determination

After a matter of state interest is designated ~~pursuant to Section 1-307~~, no person shall engage in development in such area and no such activity shall be conducted until the designation and regulations for such area or activity are finally determined as required by Section 24-65.1-404 (4), C.R.S.

Article 4 Exhibits: The following exhibits are attached to these Regulations, or referenced as on file at the County and fully incorporated herein by this reference:

Exhibit A Form of Designation Order

Exhibit B Application for Permit

Exhibit C Form of Permit

Exhibit D Maps: Mineral Resource Areas

Exhibit E Maps: Geologic Hazard Areas

Exhibit F Maps: Lands Historically Irrigated in Saguache County

Exhibit G Maps: Significant Wildlife Habitat

- Bighorn Sheep Range
- Elk Range
- Mule Deer Range
- Occupied Habitat of the Gunnison Sage Grouse

Chapter 2
Permit Regulations

Article 1 Permit Authority

- 2-101 Title and Citation
- 2-102 Purpose and ~~Intent~~Findings
- ~~2-103~~ ~~Authority~~
- ~~2-103~~104 Permit Authority Established
- 2-104 Permit or Administrative Approval Required
- 2-105 Judicial Review

Article 2 Permit Application Procedures

- 2-201 ~~Pre-Application Process~~Permits Required After Designation
- 2-202 ~~Administratively Approved Permit~~Application Fee
- 2-203 Permits Required After Designation
- 2-204 Application Fee; Deposit
- 2-205 Application Submittal Requirements
- 2-206 Waiver of Submission Requirements
- 2-207 Intergovernmental Agreements
- 2-208 Simultaneous Processing of other County Permits
- 2-209 Referral Agencies

Article 3 Permit Hearing

- 2-301 Notice of Permit Hearing
- 2-302 Conduct of Permit Hearing
- 2-303 Review Criteria for All Applications
- ~~2-304~~303 Approval or Denial of Permit Application
- ~~2-305~~304 Combined Designation and Permit Hearing

Article 4 Issuance, Revocation or Suspension of Permits

- 2-401 Issuance of Permit; Conditions
- 2-402 Financial Security
- 2-403 Revocation or Suspension of Permits
- 2-404 Annual Review; Progress Reports
- 2-405 Permit Renewal
- 2-406 Permit Amendment

2-407 Transfer of Permits

Article 5 **Administration, Enforcement and Penalties**

2-501 Enforcement and Penalties

2-502 Mapping Disputes

2-503 Inspection

Article 1 Permit Authority

2-101 Title and Citation

These various sections constituting Chapter 2 of the “Guidelines and Regulations for Areas and Activities of State Interest of Saguache County” may be cited as the “Permit Regulations.” ~~and may be referred to in this Chapter 2 as “these Regulations.”~~

2-102 Purpose and Intent~~Findings~~

(1) —The purpose and intent of the Permit Regulations is to facilitate administration of matters of state interest consistent with statutory requirements and criteria set forth in Section 24-65.1-101, et seq., C.R.S., ~~and Guidelines for Identification and Designation approved by the Colorado Land Use Commission.~~

(2) —~~The Board of County Commissioners finds that:~~

~~The notice and public hearing requirements of Section 24-65.1-404, C.R.S. have been followed;~~

~~These regulations are necessary because of the intensity of current and foreseeable development pressured on and within this County;~~

~~These Regulations were adopted after taking into consideration applicable guidelines adopted and issued by the Colorado Land Use Commission;~~

~~These Regulations apply to the entire unincorporated territory of the County of Saguache; and~~

~~These Regulations interpret and apply to any regulations adopted for specific areas of state interest and specific activities of state interest which have been or may be designated by the Board of County Commissioners.~~

~~2-103~~ Authority

~~These Regulations are authorized by, inter alia, Section 24-65.1-101, et seq., C.R.S.; Section 30-28-101, et seq., C.R.S.; Section 30-28-201, et seq., C.R.S.; Section 29-20-101, et seq., C.R.S.; and Section 24-32-111, C.R.S. These Regulations are hereby determined to be necessary for the preservation of the public health, safety and welfare.~~

2-~~103~~104 Permit Authority Established

(1) The Saguache County Permit Authority is hereby established, the members of which shall be the Board of County Commissioners.

(2) Except as otherwise specifically provided in these Regulations, the Permit Authority shall exercise all powers and duties granted in this Chapter 2.

2-104 Permit or Administrative Approval Required

(1) No person may conduct a designated activity of state interest, or develop in a designated area of state interest, without first obtaining an Administrative Approval, a Permit, or a Permit amendment under these Regulations.

(2) No permit for a permanent use in a County right-of-way or on County owned properties and no grading permit, excavation permit or building permit shall be issued by the County for the purposes of development in an area of state interest and/or conduct of a designated activity of state interest without first obtaining an Administrative Approval or a Permit pursuant to these Regulations.

(3) When approval is sought to conduct more than one activity of state interest and/or engage in development in more than one area of state interest, the application may be completed for all such activities or developments and may be reviewed simultaneously and a single Permit issued. These Regulations are not intended to create third party rights of enforcement beyond those provided by law.

2-105 Judicial Review

Any action seeking judicial review of a final decision of the Permit Authority shall be initiated ~~within thirty (30) days after the decision is made,~~ in the District Court in and for the County of Saguache, pursuant to Rule 106 of the Colorado Rules of Civil Procedure.

Article 2 Permit Application Procedures

2-201 ~~Pre-Application Process~~ Permits Required After Designation

- ~~(1) Prior to making a pre-application submittal, it is recommended that the applicant meet with the Planning Department to review the project application process in order to determine the applicable Chapter or Chapters of these Regulations.~~
- (1) Before submitting an application for a Permit, the applicant shall meet with the Land Use Administrator to review the project application process in order to determine the applicable Chapter or Chapters of these Regulations.
- (2) At or before the pre-application meeting, the applicant shall provide the Land Use Administrator with:
- (a) Names and addresses of all persons or interests proposing the activity or development;
 - (b) Name and qualifications of the person(s) responding to the requirements detailed in these Regulations;
 - (c) A written summary of the Project including a map prepared at an easily readable scale showing:
 - i. boundary of the proposed Project
 - ii. relationship of the proposed Project to surrounding topographic and cultural features such as roads, streams and existing structures
 - iii. proposed buildings, improvements and infrastructure
 - (d) Information that is sufficient for determining the nature of the Project and the type, extent and location of impacts associated with the Project; and
 - (e) Any additional information requested by the Land Use Administrator as may be reasonably necessary to make a determination of the required permitting procedure and applicable portions of these Regulations.
- (3) The purpose of the pre-application meeting is to permit the applicant and the staff to review the proposal informally and to coordinate with or request review and comment from other relevant agencies before substantial commitment of time and money is made. Topics of discussion may include, as relevant to the specific application, but are not limited to:
- (a) Characteristics of the activity, including its location or potential locations, significant natural and man-made features, with particular attention to natural hazard, resource or other special areas; the size and accessibility of the site; surrounding development and land uses; and its potential impact on surrounding

- areas, including potential environmental effects and planned mitigation strategies.
- (b) The nature of the development proposed, including land use types and their densities; placement of proposed buildings and maintenance of common open space or treatment of public use areas; the preservation of natural features; proposed parking areas and internal circulation system, including trails, the total ground coverage of paved areas and structures; and types of water and sewage treatment systems proposed.
 - (c) Community policy considerations, including the review process and likely conformity of the proposed development with the policies and requirements of these Regulations.
 - (d) Applicable regulations, review procedures and submission requirements.
 - (e) Other regulatory reviews or procedures to which the applicant is subject, the applicant's time frame for the Project, and other concerns of the applicant.
- (4) Any comments or commitments made by the Land Use Administrator during this pre-application conference are only preliminary in nature and should not be relied upon by the applicant. All prospective applicants should be informed that formal comments cannot be made by the Land Use Administrator until after the application is submitted.
- (5) Pre-Application Costs. Within seven (7) days after the pre-application meeting, the Land Use Administrator shall establish an estimated fee in an amount reasonable and necessary to cover costs of determining whether an Administratively Approved Permit or alternatively, a Permit or Permit Amendment is required. The estimate will include the costs of copying, mailing, publications, labor, overhead and retention of consultants, experts, and attorneys the Land Use Administrator deems necessary to advise in making the determination. Once the estimate is established, the Land Use Administrator shall notify the applicant in writing of said fee and its amount. Following receipt of such notice, the applicant shall present to the Land Use Administrator cash, cashier's check, or a certified check in the amount set. Until the fee is paid, no further action shall be taken in the pre-application process. The Land Use Administrator shall provide to the applicant, upon completion of the aforementioned review, an itemized accounting of expenses incurred by the County and shall, in accordance with County disbursement procedures, refund to the applicant any unexpended portion of the fee payment.

2-202 Administratively Approved Permit

Based upon review of the pre-application submittals and the information obtained at the pre-application conference, and after receipt of the pre-application fee, the applicant may request, and the Land Use Administrator may determine, that an Administrative Approval is warranted or that a Permit or Permit Amendment is required. Such determination shall be made by the Land Use Administrator within thirty (30) days after receipt of the fee and any additional information requested at the pre-application meeting. Alternatively, the Land use Administrator may choose to

request that the Permit Authority act to determine if an Administratively Approved Permit is appropriate.

- (1) Administratively Approved Permit. The Land Use Director may determine that an Administratively Approved Permit should be issued if the construction or operation of the Project, as proposed, is unlikely to have any significant adverse impact to the County in consideration of the relevant Permit Application Review Criteria, and any conditions, requirements or mitigation measures imposed under Section 2-202(4)(a). If the Land Use Administrator issues an Administratively Approved Permit, the applicant does not need to submit a Permit application, unless the Permit Authority deems that a Permit is necessary, following reconsideration as set forth below.
- (2) Permit Required. If the Land Use Administrator determines that an Administratively Approved Permit is not appropriate based upon review of the pre-application submittals and the information obtained at the pre-application meeting, then the applicant must submit a full Permit application.
- (3) Notice of Land Use Administrator's Determination on an Administratively Approved Permit. Upon the Land use Administrator's determination on an Administratively Approved Permit, the Land Use Administrator shall notify the applicant by mail, and shall notify the Permit Authority, the County Administrator, and the County Attorney of the determination.
- (4) Legal effect of an Administratively Approved Permit.

 - (a) The Administratively Approved Permit may include conditions, requirements and mitigation measures imposed by the Land Use Administrator. Such conditions may include the need to submit a copy of any other regulatory approval once obtained and prior to the County's approval of a site development plan and issuance of a construction permit for the project.
 - (b) The Administratively Approved Permit is limited to the Project as described at the pre-application meeting and in any supplementary information provided prior to the Land Use Administrator's decision.
 - (c) If the Project is revised to exceed or vary from the terms of the Administratively Approved Permit as issued by the Land Use Administrator, the Administratively Approved Permit shall be invalid and application to and review by the Permit Authority under these Regulations is required.
- (5) Reconsideration and Appeal of an Administratively Approved Permit.

 - (a) Within fourteen (14) days after the date of notice of the Land Use Administrator's determination on an Administratively Approved Permit under Section 2-202(3), the applicant may file a written request for reconsideration with the Land Use Administrator. Such request must be accompanied with such modifications to the application and/or additional information as the applicant

wishes the Land Use Administrator to consider, along with the factual or legal basis for the request.

(b) In processing the petition, the Land Use Administrator may request such additional details from the applicant as he or she may believe necessary and may hold a face-to-face meeting with the applicant to assist in deciding upon the merits of the request.

(c) The Land Use Administrator shall act on the request for reconsideration within fourteen (14) days of its receipt and shall notify the applicant of his or her decision in the manner set forth in Section 2-202(3). Only one (1) such request is permitted.

(d) If no request for reconsideration is filed within the required period, the Land Use Administrator's decision on the Administratively Approved Permit is final and non-appealable.

(e) The Land Use Administrator's decision may be appealed only by the applicant to the Permit Authority by the filing of a written appeal with the Land Use Administrator within fourteen (14) days of the date of notice of the Land Use Administrator's decision on the reconsideration request. The Permit Authority shall consider the appeal at a hearing conducted in substantially the same manner as set forth in Section 2-302.

(4) Suspension of an Administratively Approved Permit. In the event the Land Use Administrator has reason to believe that the condition imposed in an Administratively Approved Permit has been violated by the Permittee, the Land Use Administrator may temporarily suspend the Administratively Approved Permit for a period of thirty (30) days. Before imposing such a temporary suspension, the Land Use Administrator shall give the permittee written notice of the specific violation and shall allow the Permit holder a period of at least ten (10) days to correct the violation. If the Permittee does not concur that there is a violation, the Permittee shall, within ten (10) days of the date of such notice, demonstrate to the Land Use Administrator why temporary suspension should not be ordered. Within ten (10) days thereafter, the Land Use Administrator shall make a decision, as follows:

(f) If the Land Use Administrator determines there is no violation, the matter is closed and the Administratively Approved Permit remains in effect.

(g) If the Land Use Administrator finds a violation exists, the Administratively Approved Permit shall be suspended for thirty (30) days. During such period, the applicant shall either:

Correct the violation;

Request an extension of time to correct the violation, or

Request a show cause hearing before the Permit Authority, which shall be conducted in substantially the manner set forth in Section 2-302.

- (5) The Land Use Administrator may, in lieu of or subsequent to temporary suspension, permanently revoke or suspend an Administratively Approved Permit in the manner provided for permits in Section 2-403. This decision may be appealed to the Permit Authority in the manner set forth in Section 2-202(5)(e).
- (6) Annual review and interim progress reports of an Administratively Approved Permit shall be conducted by the Land Use Administrator following the procedure for Permits in Section 2-404.

2-~~201~~203 Permits Required After Designation; Receipt of Application Form

- (1) If an Administratively Approved Permit is not granted, then Any person desiring to engage in a development in a designated area of state interest or to conduct a designated activity of state interest must apply for and obtain a pPermit from the Permit Authority, in the form attached hereto as **Exhibit B**. In the event a development or activity is proposed as an integral part of a subdivision or PUD, it shall be the responsibility of the service provider and/or developer to comply with the requirements of these “Guidelines and Regulations for Areas and Activities of State Interest of Saguache County. In the event of application to amend a previously issued Permit, all the requirements of these Regulations for application for a Permit shall apply.
- (2) An application shall not be accepted unless it is complete. A request for waiver of submission requirements pursuant to these Regulations shall not render the application incomplete. If the application is considered incomplete by the Permit Authority, the Permit Authority shall specify what additional information is required. When a submitted application is considered to be complete by the Permit Authority, the Permit Authority shall note upon the application the date and hour of its receipt.
- (3) When an applicant seeks a pPermit to engage in development in more than one area of state interest and/or to conduct more than one activity of state interest and/or to engage in development in one area of state interest, and to conduct one activity of state interest, a single application may be completed for all such activities or developments and may be reviewed by the Permit Authority in one consolidated hearing, and one or more Permits may be granted or denied, as appropriate.

2-~~204~~202 Application Fee; Deposit

- (1) The complete application must be accompanied by an initial deposit of Ten Thousand Dollars (\$10,000.00) toward the application fee. Within thirty days following receipt of a completed application and \$10,000 deposit in the form of certified funds, the Permit Authority shall determine and set a fee in an amount necessary to cover the estimated costs (including County staff time and expenses) incurred in the review and consideration of the permit application, including all hearings conducted therefore, and shall notify the applicant in writing of said fee and its amount. If the County does not have qualified staff to review certain elements of any application or referral agencies

are not able to adequately advise the Permit Authority regarding certain elements of an application, the Permit Authority may authorize the review be performed by necessary ~~a~~ consultants engaged or approved by the Permit Authority. At the time of determining the need for a consultant, the Permit Authority shall determine whether the applicant shall pay all, part of, or none of the consultants' fees, based upon the nature and extent of consulting expertise required.

- (2) If the application fee exceeds the initial deposit, the applicant shall present, within ten (10) working days following receipt of such notice, to the Permit Authority, certified funds for the difference between the deposit and application fee. The Permit Authority will establish and administer a schedule for the payment of subsequent installments of the application fee, which installments will be structured so that, throughout the application process, the County retains a balance of at least Twenty-five hundred dollars (\$2500.00) for covering future processing costs and expenses. If the balance falls below Twenty Five Hundred Dollars (2500.00), the County may cease processing the application pending receipt of additional installments bringing the balance to at least Twenty Five Hundred dollars). The County will deposit that portion of the application fee which is not necessary to cover current costs and expenses in an interest bearing account. The County will obligate, encumber or use such funds, from time to time, at its discretion, when necessary to cover the cost of processing the application. Interest earned on the account will belong to the applicant and will be applied by the County toward subsequent installments of the application fee.
- (3) Each applicant will be required, at time of submission of preliminary application, to enter into a written escrow agreement to detail the financial requirements of the applicant for processing the application and post-permit cost reimbursement to the County.
- (4) The County will maintain accurate records of the manner in which the application fee and escrow account funds (per escrow agreement) are used and will make such records available for inspection by the applicant and the public at reasonable times as determined by the County.
- (5) Any portion of the application fee submitted by the applicant, or any interest earned on such fee pursuant to subparagraph (2) of this section, which is not necessary to cover the cost of processing the application will be reimbursed to the applicant.
- (6) The Permit Authority may suspend any further action on the application until all fees and expenses are paid. Such suspension shall not extend the one year time period for completion of the application process unless mutually agreed upon by the Permit Authority and the Applicant in writing.
- (7) A referral agency may impose a fee for the review of an application. No hearings by the Permit Authority will be held if any such referral agency's fee has not been paid.
- (8) A financial requirement (escrow agreement) may be waived, in the Permit Authority's sole discretion, if a project is solely financed by state agencies, a political subdivision

of the state, or a special or enterprise fund. Such waiver will be subject to the Permit Authority being reimbursed for actual “out of pocket expenses.”

- (9) In the event of any litigation challenging a Permit or the Permit Authority’s action on the same, the Permittee shall bear the County’s attorney fees and costs and such shall automatically become a condition of any issued Permit.

2-205203 Application Submittal requirements. See each chapter for different submittal requirements.

In addition to specific submission requirements listed in Chapters 3,4,5,8,9,12 and 13, all applications for a Permit under these Regulations shall be accompanied by copies of the following materials in the number required by the Land Use Administrator. Additional materials may be required by the Land Use Administrator for a particular type of Project. To the extent an applicant has prepared or submitted materials for a federal, state or local Permit which are substantially the same as required herein, a copy of those materials may be submitted to satisfy the corresponding submission required below.

- (1) Completed application form in the format attached as **Exhibit B** and approved by the Land Use Administrator.
- (2) The Land Use Administrator may require submission of any plan, study, survey or other information, in addition to the information required by this Section, at the applicant's expense, as in the Land Use Administrator's judgment is necessary to enable it to review and act upon the application.
- (3) Any application which requires compliance with § 24-65.5-101, et seq., C.R.S., (Notification to Mineral Owners of Surface Development) shall not be considered to have been submitted as complete until the applicant has provided a certification signed by the applicant confirming that the applicant or its agent has examined the records of the Saguache County Clerk and Recorder for the existence of any mineral estate owners or lessees that own less than full fee title in the property which is the subject of the application, and stating whether or not any such mineral estate owners or lessees exist. In addition, for purposes of the Permit Authority convening its initial public hearing on any application involving property which mineral estate owners or lessees owning less than full fee title in the property have been certified by the applicant to exist, the application shall not be considered to have been submitted as complete until the applicant has provided an additional signed certification confirming that the applicant has, at least 30 days prior to the initial public hearing, transmitted to the County and to the affected mineral estate owners and lessees the notices required by C.R.S. §24-65.5-101, et seq.
- (4) Information describing the applicant.
 - (a) The names, addresses, including email address, organizational form, and business of the applicant and, if different, the owner of the Project, as well as all Responsible Parties, as defined at Section 1-110.
 - (b) The names, addresses and qualifications, including those areas of expertise and experience with projects directly related or similar to that proposed in the application package, of individuals who are or will be responsible for constructing and operating the Project.
 - (c) Written authorization of the application package by the Project owner and landowner(s), if different than the applicant.

(d) Documentation of the applicant's financial and technical capability to develop and operate the Project, including a description of the applicant's experience developing and operating similar projects.

(5) Information describing the Project.

(a) Executive summary of the proposal indicating the scope and need for the Project.

(b) The legal and layman's description of the proposed development site

(c) An index map showing the general location of the Project area and its relationship to surrounding topographic and cultural features. A standard U.S.G.S. quadrangle map would usually be adequate for an index map.

(d) Ownership of the surface of the area of land to be affected.

(e) A topographic map or maps showing location, nature, and density of the proposed development or land use change.

(f) Aerial photographs, when available, of reasonable scale and of a date which reasonably portrays the current condition of the area to be covered by the permit application. The area to be caused by the permit shall be outlined on the aerial photograph.

(g) Plans and specifications of the Project in sufficient detail to evaluate the application against the applicable Review Criteria.

(h) Descriptions of alternatives to the Project considered by the applicant. If the Land Use Administrator determines that the nature or extent of the proposal involves the potential for significant damage and warrants examination of other specific, less damaging alternatives, the Land Use Administrator may require the applicant to evaluate and present information on such additional alternatives as part of the application.

(i) Schedules for designing, permitting, constructing and operating the Project, including the estimated life of the Project.

(j) The need for the Project, including a discussion of alternatives to the Project that were considered and rejected; existing/proposed facilities that perform the same or related function; and population projections or growth trends that form the basis of demand projections justifying the Project.

(k) Description of relevant conservation techniques to be used in the construction and operation of the Project.

(l) Description of demands that this Project expects to meet and basis for projections of that demand.

(m) List of adjacent property owners within 2500 feet of any Project component, and their mailing addresses.

(7) Property rights, other permits and approvals.

(a) Description of property rights that are necessary for or that will be affected by the Project, including easements and property rights proposed to be acquired through negotiation or condemnation.

(b) A list of all other federal, state and local permits and approvals that will be required for the Project, together with any proposal for coordinating these approvals with the County permitting process. Copies of any permits or approvals related to the Project that have been granted.

(c) Copies of relevant official federal and state consultation correspondence prepared for the Project; a description of all mitigation required by federal, state and local authorities; and copies of any draft or final environmental assessments or impact statements required for the Project.

(8) Land Use.

a. Provide a map at a scale relevant to the Project describing existing land uses and existing zoning of the proposed Project area and the Project service area, including peripheral lands which may be impacted. The land use map shall include but need not necessarily be limited to the following categories: residential, commercial, industrial, extractive, transportation, communication and utility, institutional, open space, outdoor recreation, agricultural, forest land and water bodies. Show all special districts (school, fire, water, sanitation, etc.) within the Project area.

b. All immediately affected public land boundaries should be indicated on the map. Potential impacts of the proposed development upon public lands will be visually illustrated on the map as well as described in the text.

c. Specify whether and how the proposed Project conforms to the County's planning policies, including without limitation, the Saguache County Comprehensive Plan.

d. Specify whether and how the proposed Project conforms to applicable regional and state planning policies.

e. Specify whether and how the proposed Project conforms to applicable federal land management policies.

f. If relevant to the Project design, describe the agricultural productivity capability of the land in the Project area, using Soils Conservation Service soils classification data.

- g. Specify whether the demand for the Project is associated with development within or contiguous to existing service areas.
- (9) The applicant shall supply a surface and subsurface drainage analysis.
- (10) Financial feasibility of the Project.
- (a) Relevant bond issue, loan and other financing approvals or certifications (ex: approved bond issues; bond counsel opinion).
- (b) Business plan that generally describes the financial feasibility of the Project.
- (11) Local infrastructure and services impacts. An impact analysis that addresses the manner in which the applicant will comply with the relevant Review Criteria. The impact analysis shall include the following information: description of existing capacity of and demand for local government services including but not limited to roads, schools, water and wastewater treatment, water supply, emergency services, transportation, infrastructure, and other services necessary to accommodate the Project within Saguache County.
- (12) Recreational Opportunities. Description of the impacts and net effect of the Project on present and potential recreational opportunities within Saguache County.
- (13) Areas of Paleontological, Historic or Archaeological Importance. Description of the impacts and net effect of the Project on sites of paleontological, historic or archaeological interest.
- (14) Nuisance. Descriptions of noise, glare, dust, fumes, vibration, and odor levels anticipated to be caused by the Project.
- (15) Air Quality. Description of the impacts and net effect the Project would have on air quality during both construction and operation, and under both average and worst case conditions, considering particulate matter and aerosols, oxides, hydrocarbons, oxidants, and other chemicals, temperature effects and atmospheric interactions.
- (16) Visual Quality. Description of the impacts and net effect the Project would have on visual quality, considering viewsheds, scenic vistas, unique landscapes or land formations within view of the Project area.
- (17) Surface Water Quality.
- (a) Map and/or description of all surface waters to be affected by the Project, including description of provisions of the applicable regional water quality management plan, any NPDES Permit, or Section 404 Federal Clean Water Act Permit that applies to the Project.

(b) Descriptions of the immediate and long-term impact and net effects that the Project would have on the quantity and quality of surface water under both average and worst case conditions.

(18) Groundwater Quality.

(a) Map and/or description of all groundwater, including any and all aquifers. At a minimum, the description should include:

- i. seasonal water levels in each portion of the aquifer affected by the Project.
- ii. artesian pressure in said aquifers.
- iii. groundwater flow directions and levels.
- iv. existing aquifer recharge rates and methodology used to calculate recharge to the aquifer from any recharge sources.
- v. for aquifers to be used as part of a water storage system, methodology and results of tests used to determine the ability of the aquifer to impound groundwater and aquifer storage capacity.
- vi. seepage losses expected at any subsurface dam and at stream-aquifer interfaces and methodology used to calculate seepage losses in the affected streams, including description and location of measuring devices.
- vii. existing groundwater quality and classification.
- viii. location of all water wells potentially affected by the Project and their uses.
- ix. description of the impacts and net effect of the Project on groundwater.

(19) Water Quantity.

- (a) Map and/or description of existing stream flows and reservoir levels.
- (b) Map and/or description of existing minimum stream flows held by the Colorado Water Conservation Board.
- (c) Descriptions of the impacts and net effect that the Project would have on water quantity.
- (d) Statement of methods for efficient utilization of water, including recycling and reuse.

(20) Soils, Geologic Conditions and Natural Hazards.

- (a) Map and/or description of soils, geologic conditions, and natural hazards including but not limited to soil types, drainage areas, slopes, avalanche areas, debris fans, mud flows, rock slide areas, faults and fissures, seismic history, and wildfire hazard areas, all as relevant to the Project area.
- (b) Descriptions of the risks to the Project from natural hazards.
- (c) Descriptions of the impacts and net effect of the Project on soil and geologic conditions in the area.

(21) Hazardous Materials.

- (a) Description of all solid waste, hazardous waste, petroleum products, hazardous, toxic, and explosive substances to be used, stored, transported, disturbed or produced in connection with the Project, including the type and amount of such substances, their location, and the practices and procedures to be implemented to avoid accidental release and exposure.
- (b) Location of storage areas designated for equipment, fuel, lubricants, and chemical and waste storage with an explanation of spill containment plans and structures.

(22) Monitoring and Mitigation Plan.

- (a) Description of all mitigation that is proposed to avoid, minimize or compensate for adverse impacts of the Project and to maximize positive impacts of the Project.
- (b) Describe how and when mitigation will be implemented and financed.
- (c) Describe impacts that are unavoidable that cannot be mitigated.
- (d) Description of methodology used to measure impacts of the Project and effectiveness of proposed mitigation measures.
- (e) Description, location and intervals of proposed monitoring to ensure that mitigation will be effective.

(23) Additional Information. The Land Use Administrator may request that the applicant supply additional information related to the Project if the Land Use Administrator and/or the Permit Authority will not be able to make a determination on any one of the applicable Review Criteria without the additional information. Such additional information may include applicant's written responses to comments by a referral agency.

2-204206 Waiver of Submission Requirements

- (1) The Permit Authority may waive any part but not all of the submission requirements imposed by these Regulations upon petition of the applicant that full compliance with

the submission requirements would be unreasonably burdensome for the applicant and that the submission requirements so waived would not address or disclose a substantial impact on the County or its residents. A waiver of submission requirements may be granted by the Permit Authority upon a written determination that the information to be submitted is sufficient for the Permit Authority to arrive at a permit decision in full compliance with the law and these Regulations.

- (2) The petition shall be considered and the decision rendered by the Permit Authority at a public meeting of the Permit Authority held in substantial compliance with the provisions of Sections 2-301 and 2-302 of these Regulations.
- (3) In the event the waiver request is denied, the applicant shall provide the required additional information on or before ten (10) days prior to the date set for hearing of the application itself. If the applicant fails to provide such information, the Permit Authority may in its discretion vacate the public hearing on the application itself and require complete reapplication, or may continue the hearing in accordance with Section 2-303(2) of these Regulations.

2-205207 Intergovernmental Agreements

Upon the request of the State of Colorado or a political subdivision of the state, as defined by Section 29-1-202(4), C.R.S., proposing to engage in a designated activity of state interest or development in a designated area of state interest, the requirements of these Regulations may be met by the approval of an intergovernmental agreement between the County and the state or political subdivision applicant. The County may, but shall be under no obligation to, approve such an intergovernmental agreement in lieu of a permit application and review as provided by these Regulations. In the event such an agreement is approved by the County, no permit application to conduct the activity of state interest shall be required, provided that all of the following conditions are met:

- (1) The state or political subdivision applicant and the County must both be authorized by Article XIV, Section 18(2) of the Colorado Constitution and Sections 29-1-201 et seq., 29-20-105 and 29-20-107, C.R.S., to enter into the agreement.
- (2) The purpose and intent of these Guidelines and Regulations must be satisfied by the terms of the agreement.
- (3) A public hearing must be conducted by the Permit Authority in conformance with Section 2-302 of these Regulations [with the exception that the references to "permit application" in Section 2-302(5)(a), (c) and (g) shall be deemed replaced with "proposed intergovernmental agreement,"]. Prior to the hearing, the Board of County Commissioners shall approve the form of any proposed intergovernmental agreement, provided, however, that the final approval of the agreement shall take place at the conclusion of or subsequent to the public hearing. The public hearing shall be for the purpose of taking comment upon the proposed intergovernmental agreement, the provisions of which have been determined to be acceptable to the applicant and to the County.

- (4) Any approval by the Permit Authority and the governing body of the state or political subdivision applicant must be in the manner required of each of them by the Colorado
- (5) Exercise of the provisions of this Section by the state or political subdivision applicant will not prevent that entity from electing at any time to proceed under the permit provisions of these Regulations. Additionally, any entity which has previously proceeded under the permit provisions of these Regulations may at any time elect to proceed instead under this Section 2-204.

2-208 Simultaneous Processing of Other County Permits.

In the event a conditional use permit, rezoning, PUD, subdivision, or other land use permit is required under the LDC for a proposed activity which is also governed by these Regulations, review of the required Permit under these Regulations may be combined with review of the other permit application pursuant to the following procedures:

- (1) The submission requirements for a conditional use permit, rezoning, PUD, subdivision or other land use permit as established by the Land Use Administrator may be combined with those for the relevant Permit under these Regulations and duplication eliminated.
- (2) The Planning Commission hearing if required by the LDC for a conditional use permit, rezoning, PUD, subdivision or other land use permit must precede the Board of County Commissioners' hearing on the relevant permit under these Regulations.
- (3) The Board of County Commissioners' hearing on the conditional use permit, rezoning, PUD, subdivision or other land use permit may be combined with the Board's hearing on the relevant permit under these Regulations.
- (4) At the close of the combined hearing, the Board shall act first on the conditional use permit, rezoning, PUD, subdivision or other land use permit application, and either approve, approve with conditions or deny the same, as contemplated by the LDC.
- (5) In the event the conditional use permit, rezoning, PUD, subdivision or other land use permit is denied, the Board shall not act upon the application for the relevant permit under these Regulations, in recognition of the fact that no permit under these Regulations may be issued if another required county permit is not obtained or is denied.
- (6) In the event the Board approves the conditional use permit, rezoning, or other land use permit application, with or without conditions, the Board then shall proceed to take action on the application for the relevant permit under these Regulations.
- (7) Subsequent to approval of a conditional use permit, rezoning, PUD, subdivision, or other land use permit under this combined procedure, the permit holder shall, if required by the terms of the conditional use permit, rezoning, or other land use permit, apply for renewals of the same in the manner prescribed by the LDC.

2-209 Referral Agencies

The Land Use Administrator, in his or her discretion, may refer any pre-application and/or permit application submittal to any outside agency. Copies of any such referral agency comments received shall be promptly forwarded to the applicant for its response.

Article 3 Permit Hearing

2-301 Notice of Permit Hearing

Not later than 45 days after ~~final~~ application is deemed complete., the Permit Authority shall set and publish notice(s) of the date, time and place for hearing(s) on said application and any requested waiver of submission requirements. Notice of the public hearing shall be published once in a newspaper of general circulation in the County of Saguache, not less than thirty (30) nor more than sixty (60) days before the date set for hearing and shall also be given to other persons and entities in the same manner as set forth above for the notice of a designation hearing in Section 1-304. In cases in which the development activity must also comply with PUD and/or subdivision regulations, the permit hearing required by these Regulations should be held at the same time as the preliminary plat hearing.

2-302 Conduct of Permit Hearing

- (1) The Permit Authority shall conduct the public hearing in such a manner to afford ~~procedural~~ due process to the applicant as well as to any person who opposes issuance of the ~~P~~ permit. Such procedures will be made available to the public at time of public hearing notice.
- (2) The Permit Authority may hear testimony and receive evidence, including:
 - (a) Report and recommendations from the Land Use Administrator;
 - (b) Presentation from the applicant;
 - ~~(a)~~(c) The recommendations of the Saguache County Planning Commission, if any, and
 - ~~(b)~~(d) Public testimony and documents presented.

Although the Colorado Rules of Civil Procedure do not govern the conduct of the hearing, all persons appearing at the hearing, in person or by counsel, may be afforded the reasonable right of cross-examination as well as reasonable opportunity to offer evidence in rebuttal. The applicant will be afforded a reasonable opportunity to respond to questions raised during the cross examination.

- (3) Any person may, at ~~their~~~~his~~ own expense, provide for the recording of the hearing and transcription thereof, provided, however, that a copy of the recording or transcript thereof, if transcribed, shall be furnished free of charge to the Permit Authority and shall become part of the record.
- (4) The Permit Authority shall collect and preserve the following record of the public hearing:
 - (a) The permit application;

- (b) A copy of the notice of the hearing, the certificate of publication of the notice of hearing, and a listing of all persons to whom the notice was mailed;
- (c) Any written statements or documents presented in support of or ~~in~~ opposition to the permit application;
- (d) The name and addresses of all persons who presented oral or written statements, appeared as witnesses, or offered documentary evidence;
- (e) Any recording or transcript, if any, of the hearing as provided in Section 2-302~~(3)~~(4);
- (f) Written minutes of the ~~hearing~~ ~~Permit Authority granting or denying the permit application~~; and
- (g) The resolution of the Permit Authority granting or denying the permit application; and
- (h) A copy of the permit, if issued.

(5) Completion of permit hearing. The Public Hearing process shall be deemed completed at the conclusion of the public hearing conducted by the Permit Authority. No further comments or evidence will be received from the public, agencies or applicant unless specifically authorized by the Permit Authority.

2-303 Review Criteria for All Applications

In addition to the review criteria listed at Sections 3-405, 4-404, 5-304, 8-304, 9-306, 12-306, and 13-306, all applications under these Regulations shall be evaluated against the following general criteria.

- (1) All of the provisions of the permit application procedure have been complied with.
- (2) The health, welfare and safety of the citizens of this County will be protected and served.
- (3) The proposed activity is in general conformance with the Saguache County Comprehensive Plan, the Regional Water Quality Management Plan, any applicable NPDES II Permit, or other duly adopted plans of Saguache County.
- (4) The Project is financially feasible. The determination of financial feasibility of the Project may include but is not limited to the following considerations:
 - (a) The business plan submitted by the applicant.
 - (b) Relevant bond issue, loan and other financing approval or certifications (ex: approved bond issue; bond counsel opinion).

- (5) The Project is not subject to significant risk from natural hazards. The determination of risk from natural hazards to the Project may include but is not limited to the following considerations:
- (a) Faults and fissures
 - (b) Unstable slopes including landslides, rock slides and avalanche areas
 - (c) Expansive or evaporative soils and risk of subsidence
 - (d) Wildfire hazard areas
 - (e) Floodplains
- (6) The Project will not have a significant adverse effect on the capability of local governments affected by the Project to provide local infrastructure and services, or exceed the capacity of service delivery systems. The determination of the effects of the Project on local government services may include but is not limited to the following considerations:
- (a) Current and projected capacity of roads, schools, infrastructure, drainage and/or stormwater infrastructure, housing, and other services necessary to accommodate development, and the impact of the Project upon the current and projected capacity.
 - (b) Changes caused by the Project in the cost of providing education, transportation networks, water treatment and wastewater treatment, stormwater drainage, channel stabilization, bridges, emergency services, or other governmental services or facilities.
 - (c) Need for temporary roads to access the Project for construction and maintenance.
 - (d) Change in demand for public transportation.
- (7) The Project will not create an undue financial burden on existing or future residents of the area or community.
- (8) The Project will not have a significant adverse effect on the quality or quantity of recreational opportunities and experience. The determination of effects of the Project on recreational opportunities and experience may include but is not limited to the following considerations:
- (a) Changes to existing and projected visitor days
 - (b) Changes in quality and quantity of fisheries
 - (c) Changes in instream flows or reservoir levels

- (d) Changes in access to recreational resources
 - (e) Changes to quality and quantity of hiking, biking, or horseback riding trails
 - (f) Changes to hunting experiences
 - (g) Changes to open space
 - (h) Changes to existing conservation easements
 - (i) Changes to regional or neighborhood parks
- (9) The Project will not significantly degrade air quality. The determination of effects of the Project on air quality may include but is not limited to the following considerations:
- (a) Changes in visibility and microclimates
 - (b) Applicable air quality standards
- (10) The Project will not significantly degrade existing visual quality. The determination of visual effects of the Project may include but is not limited to the following considerations:
- (a) Visual changes to ground cover and vegetation, waterfalls and streams, or other natural features
 - (c) Interference with viewsheds and scenic vistas
 - (d) Changes in landscape character types of unique land formations
 - (e) Compatibility of structure size and color with scenic vistas and view sheds
 - (f) Changes to open space
 - (g) Changes to existing conservation easements
 - (h) Changes to impacts to regional or neighborhood parks
- (11) The Project will not significantly degrade surface water quality. The determination of effects of the Project on surface water quality may include but is not limited to the following considerations:
- (a) Changes to existing water quality, including patterns of water circulation, temperature, conditions of the substrate, extent and persistence of suspended particulates and clarity, odor, color or taste of water
 - (b) Applicable narrative and numeric water quality standards
 - (c) Changes in point and nonpoint source pollution loads

- (d) Increase in erosion
 - (e) Changes in sediment loading to waterbodies
 - (f) Changes in stream channel or shoreline stability
 - (g) Changes in stormwater runoff flows
 - (h) Changes in trophic status or in eutrophication rates in lakes and reservoirs
 - (i) Changes in the capacity or functioning of streams, lakes or reservoirs
 - (j) Changes to the topography, natural drainage patterns, soil morphology and productivity, soil erosion potential, and floodplains
 - (k) Changes to stream sedimentation, geomorphology, and channel stability
 - (l) Changes to lake and reservoir bank stability and sedimentation, and safety of existing reservoirs
- (12) The Project will not significantly degrade groundwater quality. The determination of effects of the Project on groundwater quality may include but is not limited to the following considerations:
- (a) Changes in aquifer recharge rates, groundwater levels and aquifer capacity including seepage losses through aquifer boundaries and at aquifer-stream interfaces
 - (b) Changes in capacity and function of wells within the impact area
 - (c) Changes in quality of well water within the impact area
- (13) The Project will not significantly degrade wetlands and riparian areas, terrestrial or aquatic plant or animal life. The determination of effects of the Project on these areas shall include the considerations raised in the applicable federal and/or state permits.
- (14) The Project will not significantly deteriorate soils and geologic conditions. The determination of effects of the Project on soils and geologic conditions may include but is not limited to the following considerations:
- (a) Loss of topsoil due to wind or water forces
 - (b) Changes in soil erodibility
 - (c) Physical or chemical soil deterioration
 - (d) Terrain deformation/mass wasting/subsidence
 - (e) Compacting, sealing and crusting

(f) Waterlogging

(g) Soil morphology and productivity

(15) The Project will not cause a nuisance. The determination of nuisance effects of the Project may include but is not limited to the following considerations: increase in odors, dust, fumes, glare, heat, noise, vibration or artificial light.

(16) The Project will not result in unreasonable risk of releases of hazardous materials. The determination of the risk of release of hazardous materials caused by Project may include but is not limited to the following considerations:

(a) Plans for compliance with federal and state handling, storage, disposal, and transportation requirements

(b) Use of waste minimization techniques

(c) Adequacy of spill prevention and response plans

2-~~304~~³⁰³ Approval or Denial of Permit Application

- (1) If the Permit Authority finds that there is not sufficient information concerning any material feature of a proposed development or activity, the Permit Authority may deny the application or it may continue the decision on the application for additional consideration or additional information to be received. However, no such continuance may exceed sixty (60) days unless agreed to by the permit authority and the applicant.
- (2) The Permit Authority shall approve an application for a ~~p~~^PPermit to engage in development in an area of state interest or for the conduct of an activity of state interest if the proposed development or activity satisfies the review criteria of this Chapter and complies with the provisions of the regulations governing such area or activity. The Permit Authority may attach reasonable conditions to its approval. If the proposed development does not comply with the ~~r~~^RRegulations ~~governing the area or activity~~, the ~~P~~^Ppermit shall be denied.
- (3) The burden of proof shall be upon the applicant to show compliance with the provisions of the ~~“Guidelines and Regulations,”~~ governing the area or activity of state interest involved.
- (4) The Permit Authority shall state, in writing, reasons for its decision on a permit application, and its findings and conclusions.
- (5) The Permit Authority shall reach a decision on a permit application within one hundred twenty (120) days after the completion of the permit hearing, or the ~~p~~^PPermit shall be deemed approved.

2-~~305~~³⁰⁴ Combined Designation and Permit Hearing

If a person proposes to engage in a development in an area of state interest or to conduct an activity of state interest not previously identified, designated, or for which regulations have not been adopted, the Board of County Commissioners may hold one hearing for determination of identification, designation, and regulations, as well as for granting or denying the permit. No permit that is granted at the conclusion of any such hearing shall be authority to engage in development or to conduct an activity until the identification, designation and regulations are finally determined.

Article 4 Issuance, Revocation or Suspension of Permits

2-401 Issuance of Permit: Conditions

- (1) The ~~p~~Permit shall be issued on the form adopted by the Board of County Commissioners. An example permit is attached hereto as **Exhibit C**.
- (2) The Permit Authority may attach any conditions to the Permit to ensure that the requirements of these Regulations are continuously met. The Permit Authority may impose additional mitigation requirements and conditions on an applicant under the following procedure:
 - (a) The Permit Authority shall make written findings that each such requirement and condition is necessary to ensure that the proposed project will not result in significant adverse net effect on the resources, values and conditions in the applicable chapter of these Regulations.
 - (b) The Permit Authority shall also find in writing that each such requirement and condition is necessitated by the proposed Project.
 - (c) All such findings shall be based on material in the administrative record.
 - (d) The Permit Authority shall base the additional requirements and conditions on applicable design standards as adopted by the County to the extent that such standards then exist.
- (3) The permit may be issued for an indefinite term, or for a specified period of time, depending upon the size and complexity of the Project. Periodic progress reports may be required to be submitted to demonstrate that the applicant is completing the development with reasonable diligence. If the applicant fails to take substantial steps to initiate the permitted Project within twelve (12) months from the date of the permit or such other time period specified in the permit, if such steps have been taken but the applicant has failed to complete the development with reasonable diligence, then the permit may be revoked or suspended in accordance with Section 2-403.
- ~~(1) years. The applicant will have one (1) year to complete the permit process after the Permit Authority has deemed the FINAL application complete. This time may be extended by the~~ This time may be extended by the Permit Authority for only one (1) additional year mutual agreement of both parties in writing. The applicant shall have one year to complete the permit process after the Permit Authority has deemed the final application complete, unless otherwise agreed upon by the Permit Authority and the Applicant upon a showing of substantial progress.
- (4) .
- ~~(2)~~(5) All issued permits shall require that the permittee notify all Project landowners that failure of the permittee to comply with permit conditions may result in foreclosure of a County lien.

2-402 Financial Security

- (1) Before any permit is issued, the Permit Authority ~~shall~~may, in its discretion, require the applicant to file a guarantee of financial security deemed adequate by the Permit Authority, in form approved by the County Attorney and payable to the County of Saguache. Parties signatory to the financial guarantee shall include the permittee and all "Responsible Parties," as defined at Section 1-110.
- (2) The purpose of said financial guarantee shall be to assure that the applicant or permittee shall faithfully perform all requirements of the permit applicable regulations adopted by the Board of County Commissioners.
- (3) The amount of said financial guarantee shall be established by the Permit Authority upon consideration of the following applicable criteria:
 - (a) The estimated cost of returning the site of the permitted development or activity to its original condition or to a condition acceptable to the Permit Authority in accordance with standards adopted by the Permit Authority for the matter of state interest for which the permit is being granted;
 - (b) The estimated cost of implementing and successfully maintaining any revegetation required by the permit.
 - ~~(b)~~(c) The estimated cost of completing the permitted development or activity; and
 - ~~(c)~~(d) The estimated cost of complying with any conditions of the ~~p~~Permit.
- (4) Estimated cost shall be based on the applicant's submitted cost estimate plus the Permit Authority's estimate of the additional cost to bring in personnel and equipment to accomplish any unperformed purposes of the financial guarantee. The Permit Authority shall consider the duration of the development or activity and compute a reasonable projection of increases due to inflation over the entire life of the proposed Project. The Permit Authority may require, as a condition of the permit, that the financial security shall be adjusted upon receipt of bids.
- (5) At least ten percent (10%) of the amount of the financial guarantee shall be in cash deposited with the County Treasurer and shall be placed in an earmarked escrow account mutually agreeable to the County and the applicant.
- (6) The financial guarantee may be released only when:
 - (a) The permit has been surrendered to the Permit Authority before commencement of any physical activity on the site of the permitted development or activity;
 - (b) The development or activity has been abandoned and the site thereof has been returned to its original condition or to a condition acceptable to the Permit Authority in accordance with standards adopted by the Permit Authority for the matter of state interest for which the permit is being granted;

- (c) The project has been satisfactorily completed; or
 - (d) Applicable guaranteed conditions have been satisfied.
- (7) Any security may be cancelled by a surety only upon receipt of the Permit Authority's written consent which may be granted only when such cancellation will not detract from the purposes of the security.
- (8) If the license to do business in Colorado of any surety upon a security filed pursuant to these Regulations is suspended or revoked by any State authority, then the applicant or permittee, within sixty (60) days after receiving notice thereof, shall substitute a good and sufficient surety licensed to do business in the State. Upon failure of the permittee to make substitution of surety within the time allowed, the Permit Authority shall suspend the permit until proper substitution has been made.
- ~~(8)~~(9) No security is acceptable if signed by or drawn on an institution for or in which the permittee or any Responsible Party is an owner, shareholder or investor.
- ~~(9)~~(10) If the Permit Authority determines that a financial guarantee should be forfeited because of any violation of the permit, it shall provide written notice to the surety and to the permittee makes written demand to the Permit Authority within thirty (30) days after permittee's receipt of notice requesting a hearing before the Permit Authority. If no demand is made by the permittee within said period, then the Permit Authority shall order the financial guarantee forfeited.
- ~~(10)~~(11) The Permit Authority shall hold a hearing within thirty (30) days after the receipt of the demand by the permittee. At the hearing, the permittee may present for the consideration of the Permit Authority statements, documents, and other information with respect to the alleged violation. At the conclusion of the hearing, the Permit Authority shall either withdraw the notice of violation or enter an order for forfeiting the financial guarantee.
- (12) The cash deposit described in Subsequent (5), above, may be used by the Permit Authority in the event of the default or alleged default of the permit holder only for the purposes of recovering on the surety or fulfilling the permit obligations of the permit holder. In the event that the ultimate reviewing court determines that there has been no default by the permittee, that portion of any monies expended by the Permit Authority from the escrow funds relating to such default shall be placed in the escrow account by the Board of County Commissioners immediately following such determination. The Permit Authority may arrange with a lending institution, which provides money for the permit holder that said institution may hold in escrow any funds required for said cash deposit. Funds shall be disbursed out of escrow by the institution to the County upon the County's demand for the purposes specified in this section.
- ~~(11)~~(13) Where appropriate, the Permit Authority may require the recording of a lien in favor of the County, applicable to Project real property, to further guarantee permit compliance.

(12)(14) If the forfeiture results in inadequate revenue to cover the costs of accomplishing the purposes of the financial guarantee, the Saguache County attorney shall take such steps as ~~he deems~~ proper to recover such costs, including foreclosure of the County lien and/or certifying the same to the County Treasurer for collection in the same manner as real property taxes.

2-403 Revocation or Suspension of Permits

- (1) In the event the Permit Authority has reason to believe that the provision of any permit or the terms of any regulation for administration have been violated by the holder of the permit, the Permit Authority may temporarily suspend the permit for a period of thirty (30) days. Before imposing such a temporary suspension, the Permit Authority shall give the permit holder written notice of the specific violation and shall allow the permit holder a period of at least fifteen (15) days to correct the violations. If the permit holder does not concur that there is a violation, he shall, within fifteen (15) days of his receipt of such notice, show cause to the Permit Authority why temporary suspension should not be ordered. A hearing shall be held within said thirty (30) day period pursuant to Section 2-403 (2).
- (2) Prior to or subsequent to a temporary suspension, the Permit Authority may permanently revoke or suspend the permit after conducting a public hearing in substantially the same manner and after substantially the same notice as for permit hearings (Sections 2-301 through 2-303), and if it finds:
 - (a) A violation of the provision of the permit or any applicable regulation for administration which may have been adopted by the Board of County Commissioners; or
 - (b) That the applicant has failed to take substantial steps to initiate the permitted development or activity within twelve (12) months from the date of the permit, or, if such steps have been taken, the applicant has failed to complete the development or activity with reasonable diligence.
 - (c) In the event that, the county or its designee determine that continued operation of the project presents a significant eminent danger to the health or safety of the public, the county has the authority to order the immediate suspension of all operations of the project pending further avoidance of the danger.

2-404 Annual Review; Progress Reports

- (1) Within thirty (30) days prior to each annual anniversary date of the granting of a permit by the Permit Authority, the permittee shall submit to the Permit Authority a report detailing any and all activities conducted by the permittee pursuant to the permit including, but not limited to, a satisfactory showing that the permit has complied with all conditions of the permit and applicable regulations.
- (2) The Permit Authority shall review the report set forth in Section 2-404 (1) within thirty (30) days from the date of submittal thereof. If the Permit Authority determines, based upon its review, that the permittee was likely to have violated the provisions of the permit and/or applicable regulations, it shall consider the matter at a scheduled public hearing. If the Permit Authority determines at said public hearing that the permittee has violated the provisions of the permit and/or applicable regulations, the Permit Authority may suspend and/or revoke the permit in accordance with Section 2-403.

(3) Upon fulfillment of all permit conditions, this annual review requirement may be waived by the Permit Authority.

(4) At any time, the Permit Authority may require the permittee to submit an interim progress report.

2-405 Permit Renewal

Permits and Administratively Approved Permits issued under these Regulations may be renewed following the same procedure for approval of new permits. The Board may impose additional conditions at the time of renewal if necessary to ensure that the Project will comply with these Regulations.

2-406 Permit Amendment

Any material change, as determined by the Land Use Administrator, in the construction, use, or operation of a Project from that approved by the Permit Authority shall require a Permit amendment. The amendment shall be processed in accordance with and subject to the same procedures and requirements set forth herein for a new Permit.

2-407 Transfer of Permits

A Permit may be transferred only upon consent of the Land Use Administrator. The Permit Authority, or in the case of and Administratively Approved Permit, the Land Use Administrator, must ensure, in approving any transfer, that the proposed transferee can and will comply with all the requirements, terms, and conditions contained in the Permit and these Regulations; that such requirements, terms, and conditions remain sufficient to protect the health, welfare, and safety of the public; and that an adequate guarantee of financial security can be made.

Article 5 Administration, Enforcement, and Penalties

2-501 Enforcement and Penalties

Any person engaging in a development in a designated area of a state interest or conducting a designated activity of state interest who does not obtain a permit pursuant to these Regulations, who does not comply with permit requirements, or who acts outside the authority of the permit, may be enjoined by the County or the Colorado Land Use Commission from engaging in such development or conducting such activity, and may be subject to such other criminal or civil liability as may be prescribed by law.

2-502 Mapping Disputes

Where interpretation is needed as to the exact location of the boundary of any designated area and where there appears to be a conflict between a mapped boundary and actual field conditions, the Permit Authority shall make the necessary determination of the boundary. Any person contesting the location of the boundary shall be given an opportunity to present a case on the subject to the Permit Authority.

2-503 Inspection

- (1) The Permit Authority or its authorized representative is hereby empowered and directed to inspect and examine the use, occupation or development of or activity in each and every area or activity subject to these Guidelines and Regulations for the purpose of determining from time to time whether or not any use, occupation, development or activity is in violation of any of the provisions of these Regulations or of any permit issued or required pursuant to these or other applicable regulations.
- (2) If a violation shall be found to exist, the Permit Authority or its authorized representative shall by written order direct that such remedial action be taken forthwith as will result in full compliance with the applicable regulations, provided, however, that the issuance of such order shall in no way or manner be deemed a prerequisite to the institution of such enforcement proceedings as are set forth in these Regulations; and provided further, that compliance with such order shall not necessarily be deemed to be a defense to any alleged violation of these Regulations or other applicable regulations of Saguache County or the State of Colorado.

Chapter 3
Mineral Resource Area Regulations

Article 1 General and Introductory Provisions

- 3-101 Title and Citation
- 3-102 Purpose and Intent
- 3-103 Definitions
- 3-104 Authority
- 3-105 Applicability
- 3-106 Nonconforming Uses

~~3-107 Relationship of Regulations to Other County, State and Federal Requirements~~

Article 2 Regulation of Mineral Resource Areas

- 3-201 Permit Required
- 3-202 Mineral Resource Initial Control Areas
- 3-203 Uses in Designated Mineral Resource Areas Containing Only Sand, Gravel, Quarry Aggregate, or Limestone Used for Construction Purposes
- 3-204 Uses in Designated Mineral Resource Areas Containing Oil and Gas or Geothermal Resources
- 3-205 Uses in Designated Mineral Resource Areas Containing Minerals Other Than Sand, Gravel, Quarry Aggregate, Limestone Used for Construction Purposes, Oil, Gas, or Geothermal Resources

Article 3 Specific Mineral Resource Areas in This County Subject to Regulation

- 3-301 All Mineral Resource Areas Designated or Regulated Must be Listed
- 3-302 Designation or Regulation of Mineral Resource
- 3-303 ~~Areas~~ Reasons for Designation
- 3-304 Description of Designated or Regulated Mineral Resource Areas

Article 4 Permit Application and Permits

- 3-401 Procedural Requirements
- 3-402 (Reserved)
- 3-403 Applicant's Submission Requirements
- 3-404 Waiver of Submission Requirements
- 3-405 ~~Approval of Permit Application~~ Review criteria

Article 5 Administration, Enforcement, and Penalties

- 3-501 Administration, Enforcement, and Penalties
- 3-502 Severability

Article 1 General and Introductory Provisions

3-101 Title and Citation

These various sections constituting Chapter 3 of the “Guidelines and Regulations for Areas and Activities of State Interest of Saguache County” may be cited as the “Mineral Resource Area Regulations,” ~~and may be referred to in this Chapter 3 as “these Regulations.”~~

3-102 Purpose and Intent

The purpose and intent of the regulations contained in this Chapter 3 are:

- (1) To protect and administer mineral resource areas in such a manner as to permit the extraction and exploration of minerals therefrom, unless extraction and exploration would cause significant danger to public health and safety;
- (2) To permit development in mineral resource areas which will not interfere with the extraction and exploration of minerals;
- (3) To give preference to existing or requested uses other than mineral extraction if the economic value of the minerals present is of less value than those other uses;
- (4) To administer areas containing only sand, gravel, quarry aggregate, or limestone used for construction purposes according to Section 34-1-301, et seq., C.R.S.;
- (5) To accomplish extraction and exploration of minerals from any area in a manner which causes the least practicable environmental disturbance and reclaim such surface areas disturbed thereby in accordance with the provisions of Section 34-32-101, et seq., or Section 34-40-101, et seq., C.R.S., whichever applicable;
- (6) To prevent landslides, floods, or erosion due to mineral extraction operations;
- (7) To preserve access to and extraction of mineral resources according to a rational plan for extraction of such resources;
- (8) To provide, during the mining process and after the mining operations have been completed, for the reclamation of land subjected to surface disturbance by mining and thereby conserve natural resources, aid in the protection of wildlife, aquatic. Historic, and ~~arehealogie~~archeologic resources, and establish wise, sequential land use;
- (9) To extract commercial mineral deposits according to a rational plan, calculated to avoid waste of such deposits and cause the least practicable disruption of the ecology and quality of life of the citizens of the state and of the County;
- (10) To protect and perpetuate the taxable value of property; and
- (11) To protect and promote the health, safety, and general welfare of the people of this state and of the County.

3-103 Definitions

- (1) *Affected Land* means the area of land from which any amount of overburden has been removed, or upon which any amount of overburden has been deposited, or both. This term also includes the disturbed surface of an area where a mining operation is being or will be conducted, including but not limited to: onsite private ways, roads, and railroad lines; land excavations; development drill sites or workings; refuse banks or spoil piles; evaporation or settling ponds; leaching dumps; placer areas; tailings' ponds or dumps' work, parking, storage or waste discharge areas; areas in which structures, facilities, equipment, machines, tools, or other materials or property which result from or are used in such operations, are situated.
- (2) *Commercial Mining Deposit* means a natural mineral deposit for which extraction by an extractor is or will be commercially feasible and regarding which it can be demonstrated by geologic, mineralogic, or other scientific data that such deposit has significant economic or strategic value to the area, state, or nation.
- (3) *Mineral* means an inanimate constituent of the earth in either solid, liquid, or gaseous state, which, when extracted from the earth, is usable in its natural form or is capable of conversion into usable form as a metal, a metallic compound, a chemical, an energy source, a raw material for manufacturing, or construction material. This definition does not include surface or ground water subject to appropriation for domestic, agricultural, industrial, or other purposes, nor does it include geothermal resources.
- (4) *Mineral Resource Area* means an area in which minerals are located in sufficient concentration in veins, deposits, bodies, beds, seams, fields, pools, or otherwise, as to be capable of economic recovery. The term includes but is not limited to any area in which there has been significant mining activity in the past, there is significant mining activity in the present, mining development is planned or in progress, or mineral rights are held by mineral patent or valid mining claims with the intention of mining. The term also includes an area of oil and gas and geothermal resource development if such area has been identified by the state Oil and Gas Conservation Commission for designation.
- (5) *Mineral Resource Initial Control Area* means an area regulated pursuant to Section 3-202 of these Regulations.
- (6) *Mining* means the process of removing or extracting minerals and building stone from naturally occurring veins, deposits, bodies, beds, seams, fields, pools, or other concentrations in the earth's crust. This term also includes the preliminary treatment of such ore or building stone.
- (7) *Nonconforming Use* means a use in existence at the time of the adoption of these Regulations, which use, were it a new use, would be one for which a permit is required under these Regulations.
- (8) *Open Mining* means the mining of natural mineral deposits by removing any amount of overburden lying above such deposits, and mining directly from the deposits thereby

exposed. The term includes, but is not limited to, such practices as open cut mining, open pit mining, strip mining, quarrying and dredging.

- (9) *Operator* means any person, firm, or corporation engaged in controlling a mining operation.
- (10) *Overburden* means all of the earth and other materials which lie above natural mineral deposits and which are distributed from their natural state in the process of mining.
- (11) *Reclamation* means the rehabilitation of affected land by means of replanting, soil stabilization, water resource protection, and other measures appropriate to the subsequent beneficial use of such mined and reclaimed lands.
- (12) *Recorded mineral right* means those mineral rights which have been officially recorded or registered with the Colorado Secretary of State or the Clerk and Recorder of the local County in which the right is located.
- (13) *Refuse* means all waste material generated by or directly connected with the mining operations. This includes, but is not limited to, the cleaning, classification, milling, smelting, refining, and preparation of substances mined.
- (14) *Significant impact* means any material effect on the surrounding community that potentially endangers health, safety, economy, or resources. It includes, but is not limited to, the imposition of any obstacle to the extraction of a commercial mineral deposit, a significant increase in the cost of providing any governmental services, an increase in air or water pollution in excess of federal or state standards, a major relocation or location of high population density, a detrimental impact to significant wildlife resources, a significant effect on the ground water table and/or surface water rights, a measurable increase in noise or obnoxious odor around residential or potential residential areas, and a contribution to or initiation of hazardous traffic patterns.
- (15) *Topsoil* means the layer at the surface of the earth which has been so modified and acted upon by physical, chemical and biological agents that it will support rooted plants necessary to achieve reclamation goals.
- (16) *Underground mining* means mining activity which occurs primarily beneath the surface of the ground.

3-104 Authority

These regulations are adopted pursuant to, inter alia, Section 29-20-101, et seq., C.R.S., Section 30-28-101, et seq., C.R.S., Section 30-28-201, et seq., C.R.S., and Section 24-65.1-101, et seq., C.R.S. These Regulations are hereby declared necessary for the preservation of the public health, safety and welfare.

3-105 Applicability

- (1) These Regulations apply to applications for permits to engage in development in all designated or regulated mineral resource areas within the unincorporated territory of this County.
- (2) Any person seeking to engage in development in any designated or regulated mineral resource area in the unincorporated territory of this County shall obtain a permit pursuant to these Regulations before seeking any other permit, rezoning, or other action by this County.
- (3) These Regulations shall not apply to the extraction of any mineral covered by the provisions of Section 34-32-101, et seq., C.R.S.

3-106 Nonconforming Uses

- (1) The provisions of this Chapter shall not apply to any ~~nonconforming~~ use existing on the date the area is designated or subjected to these Regulations, which use is not in conformance with these Regulations, provided that, when such a nonconforming use shall be discontinued for six months or more or a nonconforming structure is damaged or destroyed to the extent of at least fifty (50) percent of the appraised value, any reuse, reconstruction, or replacement of such structure shall be deemed a new use and shall be subject to the provisions of these Regulations.
- (2) Any alteration, addition, or repair to any nonconforming structure or significant change in land use permitted pursuant to Section 3-106 (1) of these Regulations shall be designed to minimize, mitigate or avoid the significant adverse impact by or to mineral resource utilization.

~~3-107 Relationship of Regulations to Other County, State and Federal Requirements~~

- ~~(1) Nothing in these Regulations shall be construed as exempting an application for a permit from any other requirement of this County or other state or federal laws and regulations.~~
- ~~(2) To the extent that the requirements of these Regulations differ from any other applicable requirements, the more restrictive requirements shall apply.~~

Article 2 Regulations of Mineral Resource Areas

3-201 Permit Required

No person may engage in any development or activity, in any designated mineral resource area without first obtaining a permit pursuant to these Regulations, except that the extraction of any mineral covered by the provisions of Section 34-32-101, et seq., C.R.S., as amended by H.B. 1065 (1976), shall not require a permit under these Regulations.

3-202 Mineral Resource Initial Control Areas

- (1) The provisions of ~~this~~ Section 3-202 apply to each mineral resource initial control area shown on the map or maps listed in Article 3 of this Chapter 3.
- (2) The Board of County Commissioners finds and declares that:
 - (a) Within each such area a mineral resource exists but its extent has not been determined by thorough, detailed, technical studies; and
 - (b) The mineral resource may be of such significance that before any proposed development or activity may be permitted in any portion of such area, public health, safety and welfare require that the extent of the mineral resource at the site of the proposed development or activity be determined
- (3) No person may engage in any development in any such mineral resource initial control area without a permit pursuant to these Regulations. Upon receipt of an application for a permit, the Board of County Commissioners shall cause a determination to be made as to whether the site for the proposed development is located in a mineral resource area, as promptly as may be appropriate and practical. Such determination shall be made through a study by a qualified professional geologist or engineer as specified in Section 3-403 (5) of these Regulations. Any application for a permit to conduct a development in a mineral resource initial control area shall not be considered complete or be accepted unless and until it is accomplished by the results of any studies needed to determine whether the proposed development is located in a mineral resource area.
- (4) The necessary studies referred to in Section 3-202 (3) of these Regulations may be financed by this County, the applicant for a permit, or otherwise, as the Permit Authority shall determine.
- (5) Upon completion of the study of the area, the Board of County Commissioners shall inform the applicant in writing whether the site of his proposed development or activity lies within any of the following:
 - (a) An area containing a commercial mineral deposit of limestone used for construction purposes, sand, gravel, quarry aggregate, in which case further processing of the application shall be governed by Sections 3-203, 3-403, and 3-405, below;

- (b) An area containing commercial mineral deposits of oil and gas and geothermal resources, in which case further processing of the application shall be governed by sections 3-204, 3-403, and 3-405, below;
- (c) An area containing any other commercial mineral deposit not included in (a) or (b) above, in which case further processing of the application shall be governed by Sections 3-205, 3-403, and 3-405, below;
- (d) None of the above, in which case none of the provisions of this Chapter shall have any further force or effect with respect to the permit application which prompted such study and determination.

3-203 Uses in Designated Mineral Resource Areas Containing Only Sand, Gravel, Quarry Aggregate, or Limestone Used for Construction Purposes

- (1) The following uses shall be considered allowable uses:
 - (a) Agricultural uses such as general farming, grazing, truck-farming, forestry, sod farming, and wild crop harvesting;
 - (b) Public and private recreational uses not requiring permanent structures such as parks, natural swimming areas, golf courses, driving ranges, picnic grounds, wildlife and nature preserves, game farms, shooting preserves, target ranges, trap and skeet ranges, and hunting, fishing, skiing and hiking areas; and
 - (c) Public purposes not involving erection of permanent structures which would preclude permanently the extraction of commercial mineral deposits.
- (2) Prohibited Uses:
 - (a) No use shall be allowed which would interfere with the present or future extraction of such deposits by an operator unless such use was permitted under the zoning governing such land on July 1, 1973. Uses may be allowed which do not permit erection of permanent structures upon, or otherwise permanently preclude the extraction of commercial mineral deposits by an operator from land subject to said uses; and
 - (b) No use shall be allowed which would create a significant impact on the surrounding community, unless mitigated pursuant to Subsection (3) below.
- (3) Uses which will create a significant impact on the surrounding community and which are generally prohibited in a designated mineral resource area may be permitted if it is determined that those impacts will be alleviated through the use of documented mitigation techniques. These include but are not limited to:
 - (a) Measures which will lessen potential dangers to health, safety, economy, or resources to an acceptable level;

- (b) Measures which will offset increased costs of providing any governmental services;
 - (c) Measures which will ~~insure~~ensure that air and water pollution resulting from development will meet applicable federal and state laws, rules, and regulations;
 - (d) Measures which will contain noise and/or obnoxious odors within the development; and
 - (e) Measures which will prevent hazardous traffic patterns resulting from development of the site.
- (4) To the extent that a proposed use is not covered by Subsequent (1), (2), and (3) above, the provisions of Section 34-1-301, et seq., C.R.S., shall apply.

3-204 Uses in Designated Mineral Resource Areas Containing Oil and Gas or Geothermal Resources

- (1) If the designated mineral resource area contains part or all of another designated area of state interest, or if the proposed use is a designated activity of state interest, the following provisions shall apply:
- (a) Allowable Uses:
 - i. Exploration and extraction of minerals subject to the permit requirements of this Chapter;
 - ii. Agricultural uses such as general farming, grazing, truck-farming, forestry, sod farming, and wild crop harvesting;
 - iii. Public and private recreational uses not requiring permanent structures such as parks, natural swimming areas, golf courses, driving ranges, picnic grounds, wildlife and nature preserves, game farms, shooting preserves, target ranges, trap and skeet ranges and hunting, fishing, skiing and hiking areas; and
 - iv. Public purposes not involving erection of permanent structures which would preclude permanently the extraction of commercial mineral deposits.
 - (b) Prohibited Uses:
 - i. Uses which would prevent the future extraction of commercial mineral deposits, unless the Permit Authority, after weighing sufficient evidence determines that the value of such use outweighs the economic value of the minerals affected by the use; and
 - ii. Uses which will create a significant impact on the surrounding community, unless the mitigation measures described in Subsection © below are followed.
 - (c) Conditional Uses:

- (1) Land uses which will create a significant impact on the surrounding community and which are generally prohibited in a designated mineral resource area may be permitted if it is determined that those impacts will be alleviated through the use of documented mitigation techniques. These include but are not limited to:
 - i. Measures which will lessen potential dangers to health, safety, economy, or resources to an acceptable level;
 - ii. Measures which will offset increased costs of providing any governmental services;
 - iii. Measures which will ~~insure~~ensure that air and water pollution resulting from development will meet applicable federal and state laws, rules, and regulations;
 - iv. Measures which will contain noise and/or obnoxious odors within the development;
 - v. Measures which will prevent hazardous traffic patterns resulting from development of the site.
- (2) All other mineral resource areas covered by this section shall be subject to the restrictions in Subsection (1) above if the state Oil and Gas Conservation Commission has previously identified the area for designation.

3-205 Uses in Designated Mineral Resource Areas Containing Minerals Other than Sand, Gravel, Quarry Aggregate, Limestone Used for Construction Purposes, Oil, Gas, or Geothermal Resources

- (1) Allowable Uses:
 - (a) Exploration and extraction of minerals if the exploration and extraction would not cause significant dangers to public health and safety; and
 - (b) Uses which would not interfere with the extraction and exploration of minerals, including the following:
 - (c) Agricultural uses such as general farming, grazing, truck-farming, forestry, sod farming, and wild crop harvesting;
 - (d) Public and private recreational uses not requiring permanent structures such as parks, natural swimming areas, golf courses, driving ranges, picnic grounds, wildlife and nature preserves, game farms, shooting preserves, target ranges, trap and skeet ranges and hunting, fishing, skiing and hiking areas; and
 - (e) Public purposes not involving erection of permanent structures which would prevent future extraction of commercial mineral deposits
- (2) Prohibited Uses:

- (a) Uses which would prevent the future extraction of commercial mineral deposits, unless the Permit Authority, after weighing sufficient evidence, determines that the value of such use outweighs the economic value of the minerals affected by the use; and
 - (b) Uses which will create a significant impact on the surrounding community, unless the mitigation measures described subsection (3) below are followed.
- (3) Conditional Uses:
- (a) Land uses which will create a significant impact on the surrounding community and which are generally prohibited in a designated mineral resource area may be permitted if it is determined that those impacts will be alleviated through the use of documented mitigation techniques. These include but are not limited to:
 - i. Measures which will lessen potential dangers to health, safety, economy, or resources to an acceptable level;
 - ii. Measures which will offset increased costs of providing any governmental services;
 - iii. Measures which will ~~insure~~ensure that air and water pollution resulting from development will meet applicable federal and state laws, rules, and regulations;
 - iv. Measures which will contain noise and/or obnoxious odor within the development; and
 - v. Measures which will prevent hazardous traffic patterns resulting from development of the site.

Article 3 Specific Mineral Resource Areas in This County Subject to Regulation

3-301 All Mineral Resource Areas Designated or Regulated Must be Listed

All areas within this County that are subject to these Regulations or designation under this Chapter are listed and described in Section 3-304. Any and all property not so listed has not been designated or regulated under this Chapter.

3-302 Designation or Regulation of Mineral Resource Areas

~~This body~~ The Permit Authority having considered the intensity of current and foreseeable development pressures, applicable Guidelines for Identification and Designation adopted and issued by the former Colorado Land Use Commission, and guidelines for land use in mineral resource areas promulgated by the Colorado Geological Survey, it is the order of this body that the mineral resource areas described in Section 3-304 below are designated as areas of state interest and that the mineral resource areas described in Section 3-304 below are subject to regulations hereby adopted by this County.

3-303 Reasons for Designation

The mineral resource areas described in Section 3-304 are hereby designated as matters of state interest for the reasons stated in Section 3-102 of this Chapter.

3-304 Descriptions of Designated or Regulated Mineral Resource Areas

~~This~~ The County hereby declares that the following area shall be designated as mineral resource areas in order to meet the purposes and intent of these Regulations.

- (1) The mineral resource initial control areas shown on sheet Nos. 1-6 of the Maps of Designated Areas of State Interest of the County of Saguache, State of Colorado, were designated or subjected to regulation on September 28, 1990. These maps are identified hereby on Exhibit D to these Regulations.
- (2) An official copy of the maps described in Section 3-304 (1) shall be filed in the office of the Saguache County Land Use Administrator and available for public inspection. Copies of the official maps shall be sent to the Colorado Geological Survey, Denver, Colorado.

Article 4 Permit Applications and Permits

3-401 Procedural Requirements

- (1) The procedures concerning permit applications, notice and conduct of permit hearings, review of Permit Authority decisions and the issuance and contents of permits to engage in development in any designated or regulated mineral resource area shall comply with the provisions set forth in Chapter 2, the Permit Regulations adopted by this County.
- (2) Any person seeking to engage in development in any designated or regulated mineral resource area shall apply for a permit from the Permit Authority on the appropriate form prescribed by these Regulations, at Exhibit B, and maintained in the office of the Saguache County Land Use Administrator.
- (3) All persons owning mineral rights which would be affected the proposed permit shall be given adequate and proper notice of the permit hearing.
- (4) Upon receipt by the Permit Authority, a completed permit application shall be forwarded to those agencies noted in Section 3-405 (1) (f), below. The agencies named in this section shall be allowed thirty days after forwarding of a completed application in which to make recommendations.

3-402 (Reserved)

3-403 Applicant's Submission Requirements

- (1) **In addition to the requirements of Section 2-205, A**all applicants seeking to engage in development subject to the Regulations in a mineral resource area shall submit to the Permit Authority, as a minimum, five (5) copies of the following documents and information:
 - (a) A completed application form;
 - ~~(b) Name and address of the applicant;~~
 - ~~(c) When applicable, the name, address, and phone number of the corporation's registered agent;~~
 - ~~(d) The legal and layman's description of the proposed development site;~~
 - ~~(e) An index map showing the general location of the permit area and its relationship to surrounding topographic and cultural features. A standard U.S.G.S. quadrangle map would usually be adequate for an index map;~~
 - ~~(f)~~**(b)** Ownership of the surface of the area of land to be affected;
 - ~~(g)~~**(c)** Ownership of the mineral rights affected;

~~(h) A topographic map or maps showing location, nature and density of the proposed development or land use change;~~

~~(i)~~(d) Aerial photographs, when available, of reasonable scale and of a date which reasonably portrays the current condition of the area to be covered by the permit application. The area to be covered by the permit shall be outlined on the aerial photograph;

~~(j)~~(e) Type and location of mineral resources on or under the property;

~~(k)~~(f) An analysis of the commercial feasibility of extracting the mineral resource;

~~(l)~~(g) A map or maps portraying the geologic conditions of the area with particular attention given to the appropriate designated mineral resource deposit. If appropriate or needed, subsurface geologic cross sections shall also be utilized to portray such conditions at depth. If possible, the geologic maps shall be at the same scale and in the same format as the development plan maps;

~~(m) An analysis of the fiscal impacts on local services and facilities;~~

~~(n)~~(h) A statement that the developer will comply with all applicable federal, state and local requirements existing at the same time the plan is to be implemented; and

~~(o) Descriptive material showing the relationship of the proposed development to existing comprehensive plans for the area involved.~~

(2) Applicants seeking to engage in development of a mineral resource area without the intention of exploration or extraction of minerals also shall submit to the Permit Authority, as a minimum, five (5) copies of the following documents and information:

~~(a) A completed application form;~~

~~(b)~~(a) If the development is a subdivision, data equivalent to that required for a Sketch Plan by the County Subdivision Regulations; and

~~(c)~~(b) Evidence that the development plan will present no obstacle to extraction of the mineral resource on or under the subject property or evidence that the proposed development will be of greater economic value than the minerals present.

(3) Applications for development in mineral resource areas designated or regulated shall include such additional information or data as may be required by this County.

(4) Map requirements – unless otherwise specified above, the following map standards will be adhered to:

(a) Topographic maps will have a contour interval of 10 feet or smaller;

- (b) Map scale shall be on a scale sufficiently detailed to meet the objectives of this regulation but, in no case, less detailed than 1 inch = 500 feet.
 - (c) All maps shall show a true north arrow, section corners, contour interval, and the appropriate land grid, the name of the person who prepared the map, the map scale, with bar scale in English metric units, and the date the map was prepared; and
 - (d) One of the five (5) copies of each map shall be in reproducible form (mylar, sepia, clear film positive).
- (5) Qualifications of Investigators:
- (a) All geologic maps, and reports prepared under these Regulations shall be prepared by or under the responsible direction of and signed by a professional geologist as defined by Sections 34-1-201, et seq., C.R.S.; and
 - (b) All engineering work prepared under the requirements of these Regulations shall be prepared by or under the responsible charge of a registered professional engineer as defined in Section 12-25-101, et seq., C.R.S. Such engineer shall also be experienced and competent in the engineering specialty required to meet the objectives of these Regulations.

3-404 Waiver of Submission Requirements

See, Section 2-206.

- ~~(1) The Permit Authority may waive any part but not all of the submission requirements imposed by these Regulations upon petition of the applicant that full compliance with the submission requirements would be unreasonably burdensome for the applicant and that the proposed development will have an insubstantial impact on the surrounding area. Such a waiver may be granted, after due consideration by the Permit Authority, upon a written determination that the information to be submitted is sufficient for the Permit Authority to arrive at a permit decision in full compliance with the law and these Regulations that the proposed development will have an insubstantial impact on the surrounding area.~~
- ~~(2) The petition shall be considered and the decision rendered by the Permit Authority at a public hearing held in compliance with the provisions of Section 2-301 of the Permit Regulations adopted by this County.~~
- ~~(3) In the event the waiver request is denied, the applicant shall provide the required additional information on or before five (5) days prior to the date set for hearing of the application itself. If the applicant fails to provide such information, the Permit Authority may in its discretion vacate the public hearing on the application itself and require complete reapplication, or may continue the hearing in accordance with Section 2-303 of the Permit Regulations adopted by this County.~~

3-405 Review Criteria~~Approval of Permit Application~~

- (1) The Permit Authority shall approve an application for a permit to engage in development in a mineral resource area (with reasonable conditions, if any, in the discretion of the Permit Authority) only if the proposed development complies with the review criteria in Section 2-303 and with all of the following criteria:
 - ~~(a)~~ (a) ~~All of the provisions of the permit application procedure have been complied with;~~
 - ~~(b)~~ (a) The proposed development in a mineral resource area can be accommodated within the financial capacity of the area to sustain such growth and development. In measuring financial capacity, the Permit Authority shall consider, as a minimum, the immediate and long-range services and capital expenditures which will be required both as a result of the proposed development and those employed by or because of the development and the immediate and long range revenue which will be generated from the development;
 - ~~(c)~~ (b) The use is an allowable or conditional use under the applicable provisions of Sections 3-203, 3-204, or 3-205 of the Chapter;
 - ~~(d)~~ (c) Structures designed for human occupancy and sites designed for human use shall be constructed so as to prevent danger to human life or property;
 - ~~(e)~~ (d) Manmade changes shall not initiate or intensify hazardous conditions within a mineral resource area unless appropriate mitigation techniques are used;
 - ~~(f)~~ (e) The Permit Authority has considered recommendations concerning the proposed development in the designated mineral resource area which have been received within the time limits specified in Section 3-401 (4) from the Colorado Geologic Survey, the Colorado division of Mines, and Colorado Mined Land Reclamation Board. Additional recommendations from the Colorado Oil and Gas Conservation Commission shall also be considered in the same manner by the Permit Authority for development in designated mineral resource areas which involve oil and gas or geothermal resources;
 - ~~(g)~~ (f) Non-conflicting open space uses such as agriculture, grazing, greenbelt, and recreation are incorporated into the development plan to the greatest practicable extent; such maximization of open space uses shall be in addition to other required mitigation processes; and
 - ~~(h)~~ ~~The burdens imposed upon local government services and facilities are sufficiently offset by increases in the tax base and local economy or by direct compensation from the developer or other sources in a timely fashion; and~~
 - ~~(i)~~ (g) Potential health and safety hazards are reasonably mitigated.

- (2) The Permit Authority may impose such conditions and require such financial guarantees as may be necessary, in its discretion, to meet these standards.
- (3) The permit shall be denied if the development does not meet all of the applicable criteria in Section 405 (1) and (2) and Section 2-303~~of these Regulations~~.

Article 5 Administration, Enforcement and Penalties

3-501 Administration, Enforcement, and Penalties

The provisions of these Regulations and any permit issued hereunder shall be administered and enforced according to the provisions of the Administrative and Permit Regulations adopted by this County.

~~3-502 Severability~~

~~If any section, clause, provision, or portion of these Regulations should be found to be unconstitutional or otherwise invalid by a court of competent jurisdiction, the remainder shall not be affected thereby.~~

Chapter 4
Geologic Hazard Area Regulations

Article 1 General and Introductory Provisions

- 4-101 Title and Citation
- 4-102 Purpose and Intent
- 4-103 Definitions
- 4-104 Authority
- 4-105 Applicability
- 4-106 Nonconforming Uses

Article 2 Regulation of Geologic Hazard Areas

- 4-201 Permit Required
- 4-202 Geologic Hazard Initial Control Areas
- 4-203 Allowable Uses
- 4-204 Prohibited Uses
- 4-205 Conditional Uses

Article 3 Specific Geologic Hazard Areas in This County Subject to Regulation

- 4-301 All Areas Designated or Regulated Must be Listed
- 4-302 Designation or Regulation of Geologic Hazard Areas
- 4-303 Descriptions of Designated or Regulated Geologic Hazard Areas
- 4-304 Reasons for Designation

Article 4 Permit Applications and Permits

- 4-401 Procedural Requirements
- 4-402 Reserved
- 4-403 Applicant’s Submission Requirements
- 4-404 Review Criteria

Article 5 Administration, Enforcement, and Penalties

- 4-501 Administration, Enforcement, and Penalties
- ~~4-502 Severability~~

Article 1 **General and Introductory Provisions**

4-101 Title and Citation

These various sections constituting Chapter 4 of the “Guidelines and Regulations for Areas and Activities of State Interest of Saguache County” may be cited as the “Geologic Hazard Area Regulations.”

4-102 Purpose and Intent

The purpose and intent of the regulations contained in this Chapter 4 are:

- (1) To minimize significant hazards to public health and safety or to property in a designated geologic hazard;
- (2) To promote safe use of geologic hazard areas;
- (3) To reduce the impact of geologic hazards on life and property by:
 - (a) Prohibiting certain land uses which are dangerous to life or property in geologic hazard areas;
 - (b) Restricting the land uses which would be hazardous to the public health and safety or property in geologic hazard areas;
 - (c) Restricting the land uses which are particularly vulnerable to geologic hazards so as to alleviate hardship and reduce the demands for public expenditures for relief and protection;
 - (d) Requiring land uses permitted in geologic hazard areas, including public facilities which serve such uses, to be protected from geologic hazards by providing for geologic hazard investigation and the avoidance of or mitigation of such hazard impacts at the time of initial construction.
- (4) To protect geologic hazard area occupants or users from the impact of geologic hazards which may be caused by their own, or other, land use and which is or may be undertaken without full ~~realization~~realization of the danger by:
 - (a) Regulating the area in which, or the manner in which, structures designed for human occupancy may be constructed so as to prevent danger to human life or property within such structures;
 - (b) Designating, delineating and describing areas that could be adversely affected by geologic hazards so as to protect individuals from purchasing or improperly utilizing lands for purposes which are not suitable;
- (5) To protect the public from the burden of excessive financial expenditures from the impacts of geologic hazards and relief by:

- (a) Regulating land uses within geologic hazard areas so as to produce a pattern of development or a soundly engineered manner of construction which will minimize the intensity and/or probability of damage to property and loss of life or injury to the inhabitants or the users of geologic hazard areas;
- (b) Regulating the cutting, filling, or drainage changes and other man-made changes which could initiate or intensify adverse conditions within geologic hazard areas;
- (c) Encouraging nonconflicting uses such as agriculture, grazing, greenbelt, open space and recreation within geologic hazard areas.

4-103 Definitions

- (1) *Avalanche* means a mass of snow or ice and other material which may become incorporated therein as such mass moves rapidly down a mountain slope.
- (2) *Geologic hazard* means a geologic phenomenon which is so adverse to past, current, or foreseeable construction or land use as to constitute a significant hazard to public health and safety or to
- (3) *Geologic hazard area* means an area which contains or is directly affected by a geologic hazard.
- (4) *Geologic hazard initial control area* means an area regulated pursuant to Section 4-202 of these Regulations.
- (5) *Ground Subsidence* means a process characterized by the downward displacement of surface material caused by natural phenomena such as removal of underground fluids, natural consolidation, dissolution of underground minerals or by man-made phenomena such as underground mining.
- (6) *Landslide* means a mass movement where there is a distinct surface of rupture or zone of weakness which separates the slide material from more stable underlying material.
- (7) *Mudflow* means a flowing mass of predominately fine grained earth material possessing a high degree of fluidity during movement.
- (8) *Nonconforming use* means a use in existence at the time of the adoption of these Regulations, which use, were it a new use, would be one for which a permit is required under these Regulations.
- (9) *Radioactivity* means a condition related to various types of radiation emitted by natural radioactive minerals that occur in natural deposits of rock, soils, and water.
- (10) *Rockfall* means the rapid free-falling, bounding, sliding, or rolling of large masses of rock or individual rocks.

- (11) *Seismic effects* means direct and indirect effects caused by a natural earthquake or a man-made phenomenon.
- (12) *Unstable or potentially unstable slope* means an area susceptible to a landslide, a mudflow, a rockfall, or accelerated creep of slope-forming materials.

4-104 Authority

These regulations are adopted pursuant to inter alia, Section 29-20-101, et seq., C.R.S., Section 30-28-101, et seq., C.R.S., Section 30-28-201, et seq., C.R.S., and Section 24-65.1-101, et seq., C.R.S. These are hereby declared necessary for the preservation of the public health, safety and welfare.

4-105 Applicability

- (1) These Regulations apply to applications for permits to engage in development in all designated or regulated geologic hazard areas within the unincorporated territory of this County.
- (2) Any person seeking to engage in development in any designated or regulated geologic hazard area in the unincorporated territory of this County shall obtain a permit pursuant to these Regulations before seeking any other permit, rezoning, or other action by this County.

4-106 Nonconforming Uses

- (1) The provisions of this Chapter shall not apply to any ~~nonconforming~~ use existing on the date the area is designated or subjected to these Regulations, which use is not in conformance with these Regulations, provided that, when such a nonconforming use shall be discontinued for six months or more or a nonconforming structure is damaged or destroyed to the extent of at least fifty (50) percent of the appraised value, any reuse, reconstruction, or replacement of such structure shall be deemed a new use and shall be subject to the provisions of these Regulations.
- (2) Uses or adjuncts thereof which are nuisances, or which significantly increase the severity of geologic hazards and create an increasingly severe impact on current or proposed land use in or adjacent to a Designated Geologic Hazard Area, shall not be permitted to continue as nonconforming uses.
- (3) Any alteration, addition, or repair to any nonconforming structure or significant change in land use permitted pursuant to Section 4-106 (1) of these Regulations shall be designed to minimize, mitigate or avoid the significant adverse impact of geologic hazards.

~~4-107 Relationship of Regulations to Other State and Federal Requirements~~

- ~~(1) Nothing in these Regulations shall be construed as exempting an applicant for a permit from any other requirement of this County or other state or federal laws and regulations.~~
- ~~(2) To the extent that the requirements of these Regulations differ from any other applicable requirements, the more restrictive requirements shall apply.~~

Article 2 Regulations of Geologic Hazard Areas

4-201 Permit Required

No person may engage in any development or activity, including any permitted or conditional use, in any designated geologic hazard area without first obtaining a permit pursuant to these Regulations.

4-202 Geologic Hazard Initial Control Area

- (1) The provisions of this Section 4-202 apply to each geologic hazard initial control area shown on the map listed in Article 3 of this Chapter 4.
- (2) The Board of County Commissioners finds and declares that:
 - (a) Within each such area a geologic hazard exists but its extent has not been determined by thorough, detailed, technical studies.
 - (b) The hazard is of such significance that before any proposed development or activity may be permitted in any portion of such area, public health, safety and welfare require that the extent of the hazard at the site of the proposed development or activity must be determined.
- (3) No person may engage in any development in any such geologic hazard initial control area without first obtaining a permit pursuant to these Regulations. Upon receipt of an application for a permit, the Board of County Commissioners shall cause a determination to be made as to whether the site for the proposed development is located in a particular geologic hazard area, as promptly as may be appropriate and practical. Such determination shall be made through a study by a qualified professional geologist or engineer as specified in Section 4-403 (4) of these Regulations. Any application for a permit to conduct a development in a geologic hazard initial control area shall not be considered complete or be accepted unless and until it is accompanied by the results of any studies needed to determine whether the proposed development is located in a particular geologic hazard area.
- (4) The necessary studies referred to in Section 4-201 (3) of these Regulations may be financed by this County, the applicant for a permit, or otherwise, as the Permit Authority shall determine.

- (5) Upon completion of the study of the area, the Board of County Commissioners shall inform the applicant in writing whether the site of his proposed development or activity lies within any of the following:
- (a) An avalanche area, in which case further processing of the application shall be governed by Sections 4-403 (1), 4-403 (2) (a), and 4-404, below.
 - (b) A landslide area, in which case further processing of the application shall be governed by Sections 4-403 (1), 4-403 (2) (c), and 4-404, below.
 - (c) A rockfall area, in which case further processing of the application shall be governed by Sections 4-403 (1), 4-403 (2) (d), and 4-404, below.
 - (d) A mudflow area, in which case further processing of the application shall be governed by Sections 4-403 (1), 4-403 (2) (d), and 4-404, below.
 - (e) An unstable or potentially unstable slope area, in which case further processing of the application shall be governed by Sections 4-403 (1), 4-403 (2) (e), and 4-404, below.
 - (f) A seismic effect area, in which case further processing of the application shall be governed by Sections 4-403 (1), 4-403 (2) (f) and 4-404, below.
 - (g) An area of radioactivity, in which case further processing of the application shall be governed by Sections 4-403 (1), 4-403 (2) (g), and 4-404, below.
 - (h) A ground subsidence area, in which case further processing of the application shall be governed by Sections 4-403 (1), 4-403 (2) (h), and 4-404, below.
 - (i) None of the above, in which case none of the provisions of this Chapter shall have any further force or effect with respect to the permit application which prompted such study and determination.

4-203 Allowable Uses

- (1) The following uses shall be permitted within designated geologic hazard areas upon the issuance of a valid permit, to the extent that they are not prohibited in a particular area by any zoning ordinance or other regulation of this County:
- (a) Agricultural uses such as general farming, grazing, truck-farming, forestry, sod farming and wild crop harvesting;
 - (b) Industrial-commercial uses such as loading areas, parking area not requiring extensive grading or impervious paving, and storage yards for equipment or machinery easily moved or not subject to geologic hazard damage;
 - (c) Public and private recreational use such as parks, natural swimming areas, golf courses, driving ranges, picnic grounds, wildlife and nature preserves, game

farms, shooting preserves, target ranges, trap and skeet ranges and hunting, fishing skiing and hiking areas if such uses do not cause concentrations of people in areas during periods of high hazard probability nor require permanent structures designed for human habitation.

4-204 Prohibited Uses

The following land uses are prohibited unless mitigation techniques are carried out pursuant to Section 4-205, below:

- (1) Land uses which are dangerous to life or property in designated areas of geologic hazard;
- (2) Permanent structures designed for human habitation or causing concentrations of people in designated geologic hazard areas during periods of high hazard probability;
- (3) Building structures or any type development involving winter use in a designated avalanche area;
- (4) Any type development where slope failure would result in more than minimal damage;
- (5) Any type development in a designated rock-fall prone area;
- (6) Any type development in a designated mudflow area;
- (7) Any type development in a designated unstable or potentially unstable slope area;
- (8) Any type development in designated seismic areas astride known active faults;
- (9) Any type development in a designated radioactive area; and
- (10) Any type development in designated areas of extremely hazardous, localized ground subsidence

4-205 Conditional Uses

- (1) Land uses which are generally prohibited in a designated geologic hazard area may be permitted if the following mitigation techniques specified in this section or other techniques proven to be effective are carried out for uses within each type of geologic hazard area indicated:
 - (a) Avalanche areas
 - i. Artificial release of avalanche by explosive control or artillery shall not be considered an acceptable mitigation technique for areas of potential human occupancy.

- ii. Structures designed to support the snow in the starting zone may be an acceptable mitigation technique if detailed technical data shows this to be viable.
 - iii. Structural control in the runout zone may be an acceptable mitigation technique if supported by proper technical evidence. Structural control includes, among others, avalanche deflecting and arresting structures and direct protection structures for individual buildings.

- (b) Landslide areas. Correction of adverse conditions through engineered design and construction may be an acceptable mitigation technique if the methods are supported by careful investigation and evaluation, by a qualified professional engineer or geologists, of the physical extent, seriousness and causes of geologic problems. Those methods may involve among others: refraining from removing natural support material in the area immediately beneath or adjacent to the slide area; addition of artificial support to the area in the form of rock or earthfill buttressing retaining walls or cribbing, concrete slurry, bolting and reinforced piling; permanent improvement and control of surface and subsurface drainage; and stabilization of the slide area by chemical treatment, bridging weak zones, removal of unstable material, and avoidance of loading on unstable areas.

- (c) Rockfall areas. Decrease of rockfall hazard to an acceptable level may be an acceptable mitigation technique if supported by qualified technical evidence. Methods may involve, among others:
 - i. Stabilization of rocks by bolting, gunite application (cementing), outright removal of unstable rocks (scaling), cribbing, or installation of retaining walls;
 - ii. Slowing or diverting the moving rocks by rock fences, screening, channeling and dams, or by concrete barriers or covered galleries; or
 - iii. Installation of physical barriers against rock impact around vulnerable structures.

- (d) Mudflow areas. Correction of adverse conditions through engineered design and construction may be an acceptable mitigation technique if supported by proper technical evidence. This may include channelization, diversion dikes, debris catchment basins, special foundation, and other means.

- (e) Unstable or potentially unstable slopes. Engineered design and construction can be used in areas where instability is moderate and is amenable to remedial engineering. Applicable techniques are contained in Section 4-205 (1) (b) (*) of these Regulations.

- (f) Seismic areas.

- i. Special engineered designs and construction may be an acceptable mitigation technique in areas astride known active faults where avoidance is impossible or impractical. Such designs and construction shall be supported by proper technical evidence.
 - ii. Engineered design and earthquake-resistant construction according to the Uniform Building Code (1988 edition), and relating to the various seismic zones shall be an acceptable mitigation technique.
- (g) Radioactive areas. Potential hazards may be removed by relocating mine wastes, mill tailings piles, and other radioactive sources.
- (h) Ground subsidence areas. Under certain conditions careful engineering and geologic studies and corrective engineered construction may allow certain types of development to be carried out.
- (2) These mitigation techniques are meant to be minimum standards and may be supplemented by more stringent requirements if warranted by local conditions.

Article 3 **Specific Geologic Hazard Areas in This County Subject to Regulations**

4-301 All Areas Designated or Regulated Must be Listed

All areas within the County that are subject to regulation or designation under this Chapter are listed and described in Section 4-303. Any and all listed and described in Section 4-303. Any and all property not so listed has been designated or regulated under this Chapter.

4-302 Designation or Regulation of Geologic Hazard Areas

The Board of County Commissioners~~This body~~ having considered the intensity of current and foreseeable development pressures, applicable Guidelines for Identification and Designation adopted and issued by the former Colorado Land Use Commission, and guidelines for land use in geologic hazard areas promulgated by the Colorado Geological Survey, it is the order of this body that the geologic hazard areas described in Section 4-303, below are designated as areas of state interest and that the geologic hazard areas described in Section 4-303 below are subjected to regulations hereby adopted by this County.

4-303 Descriptions of Designated or Regulated Geologic Hazard Areas

This County hereby declares that the following areas shall be designated as geologic hazard areas in order to meet the purposes and intent of these Regulations:

- (1) The avalanche, rockfall, mudflow, unstable or potentially unstable slopes, and landslide, hazard initial control areas shown on Plate Nos. 1-40 of the Maps of Designated Areas of State Interest of the County of Saguache, State of Colorado, were designated or subjected to regulation on September 28, 1990.
- (2) The seismic effect and ground subsidence hazard initial control areas shown on Plate No. 41 of the Maps of Designated Areas of State Interest of the County of Saguache, State of Colorado, were designated or subjected to regulation on September 28, 1990. These maps are identified hereby as **Exhibit E** to these Regulations.
- (3) An official copy of the maps described in Section 4-303 (1) and (2) shall be filed in the office of the Saguache County Land Use Administrator and available for public inspection. Copies of the official maps shall be sent to the Colorado Geological Survey, Denver, Colorado.

4-304 Reasons for Designation

The geologic hazard areas described in Section 4-303 are hereby designated as matters of state interest for the reasons stated in Section 4-101 of this Chapter.

Article 4 Permit Applications and Permits

4-401 Procedural Requirements

- (1) The procedures concerning permit applications, notice and conduct of permit hearings, review of Permit Authority decisions and the issuance and content of permits to engage in development in any designated or regulated geologic hazard area shall comply with the provisions set forth in Chapter 2, the Permit Regulations adopted by this County.
- (2) Any person seeking to engage in development shall apply for a permit from the Permit Authority on the appropriate form prescribed by these Regulations, at Exhibit B, and maintained in the office of the Saguache County Land Use Administrator.
- (3) Mapping Disputes: The following procedure shall be used by the Board of County Commissioners in deciding contested cases in which the boundary of a designated Geologic Hazard Area is disputed or in cases where because of local, detailed circumstances, the designated hazard condition does not present a significant hazard to public health, safety or to property at the specific location for the particular proposed land use. In all cases, a person contesting the location of the Designated Geologic Hazard Area boundary or the severity of conditions at a specific location within the Designated Geologic Hazard Area shall be given a reasonable opportunity to present his case to the Board and shall submit technical and geological evidence to support such contest. The Board shall not allow deviations from the boundary line as mapped or non-permitted land uses within the boundary areas unless technical and geological evidence clearly and conclusively establishes that the map location of the line is incorrect, or that the Designated Hazard conditions do not present a significant hazard to public health, safety or to property at the specific location within the hazard area boundary for the particular proposed land use.

4-402 (Reserved)

4-403 Applicant's Submission Requirements

- (1) **In addition to the requirements of Section 2-205,** Applicants seeking to engage in development in a geologic hazard area shall submit to the permit authority, as a minimum, five (5) copies of the following documents and information:
 - (a) A completed permit application form.
 - ~~(b) An index map showing the general location of the permit area and its relationship to surrounding topographic and cultural features. A standard U.S.G.S. quadrangle map would usually be adequate for an index map.~~
 - ~~(c) A topographic map or maps showing the location, nature and density of the proposed development or land use change.~~
 - ~~(d) The legal and layman's description of the proposed development site.~~

~~(e)~~(b) A map or maps portraying the geologic conditions of the area with particular attention given to the appropriate designated geologic hazard. If appropriate or needed, subsurface geologic cross sections shall also be utilized to portray such conditions at depth. Specific requirements of such map or maps are listed below in the appropriate subsection of 4-403 (2). If possible, the geologic maps shall be at the same scale and in the same format as the development plan maps.

~~(f)~~(c) A geologic report explaining the above maps and cross section with particular emphasis on evaluating and predicting the impact of such geologic or hazardous conditions on the proposed land use changes and developments. It shall also include recommended mitigating procedures to be employed in meeting the purposes of this Regulation. Specific requirements of such report are listed below in the appropriate subsection of 4-403(2).

~~(g)~~(d) The applicant, in narrative, pictorial or graphic form shall explain the nature, density and intensity of the proposed development or land use change, and shall explain mitigation procedures which will be needed and are planned to carry out the objectives of these Regulations.

~~(h)~~(e) The geological reports required by these Regulations need not be duplicated to meet the requirements of Section 30-28-133, C.R.S.

~~(i) — A map or written statement explaining the existing zoning of the property.~~

(2) Additional requirements for the various types of geologic hazards are as follows:

(a) Applications for development in an avalanche hazard area also shall include but not be limited to the following information or data:

- i. Location of buildings
- ii. Building type, arrangement, and proportion
- iii. Building stability and strength
- iv. Areal extent of the runout zone
- v. Impact pressure distribution within the runout zone
- vi. Type of avalanche reaching various parts of the runout zone
- vii. Avalanche frequency
- viii. Avalanche discharge
- ix. Avalanche flow depth
- x. Summary of the information noted above on a map with a scale of one inch equals fifty feet or larger, with accurate topographic details.

- xi. A report which presents the necessary explanatory text, data tabulation, and other essentials for further work or governmental review.
 - xii. Mitigation techniques that will be employed, estimated cost, and documentation of previous effectiveness.
 - xiii. Past occurrences of avalanches
- (b) Application for development in a landslide hazard area also shall include but not be limited to the following information or data:
- i. Type of landslide
 - ii. Rate of movement
 - iii. Volume of material involved in the landslide
 - iv. Mechanism(s) responsible for initiation and movement
 - v. Slope gradient
 - vi. Location of buildings
 - vii. Building type, arrangement, and proportion
 - viii. Grading plan which portrays the original or existing and the final or as-constructed configuration of the surface of the land in question.
 - ix. Surface and subsurface drainage
 - x. Recommended design and construction procedures
 - xi. Summary of the information noted above on a map with a scale of one inch equals fifty feet or larger, with accurate topographic details.
 - xii. A report which presents the necessary explanatory text, data tabulation, and other essentials for further work or governmental review.
 - xiii. Mitigation techniques that will be employed, estimated cost, and documentation of previous effectiveness.
 - xiv. Past occurrences of landslides.
- (c) Application for development in a rockfall hazard area also shall include but not be limited to the following information or data:
- i. Detailed description of the type of rockfall involved.

- ii. Slope gradient on and adjacent to the site.
 - iii. Aspect
 - iv. Climatologic data regarding freeze-thaw cycles.
 - v. Jointing data with special consideration given to water percolation.
 - vi. Specific rock types involved.
 - vii. Talus or colluvial slopes adjacent to the rockfall hazard area.
 - viii. Cause of rockfall in the designated area including, but not limited to, removal of support, ground shaking, ice wedging, and jointing.
 - ix. Summary of the information noted above on a map with a scale of one inch equals fifty feet or larger, with accurate topographic details.
 - x. A report which presents the necessary explanatory text, data tabulation, and other essentials for further work governmental review.
 - xi. Mitigation techniques that will be employed, estimated cost, and documentation of previous effectiveness.
 - xii. Past occurrences of rockfall.
- (d) Application for development in a mudflow hazard area also shall include but not limited to the following information or data:
- i. Drainage basin study including all stream channels upstream from the site.
 - ii. Sediment yield study with data regarding superficial materials, vegetative cover, topography, and erosion potential of areas upstream from the site.
 - iii. Climatologic data including precipitation data for short duration, intense rainstorms, and snow melt runoff characteristics.
 - iv. Geologic map with topography overlaid showing mudflow deposits.
 - v. Volume and mass of potential mudflows on the site.
 - vi. Summary of the information noted above on a map with a scale of one inch equals fifty feet or larger, with accurate topographic details.
 - vii. A report which presents necessary explanatory text, data tabulation, and other essentials for further work or governmental review.

- viii. Mitigation techniques that will be employed including specific geologic evaluations and engineering designs associated with the site and its development.
 - ix. Estimated mitigation costs and documentation of previous effectiveness of the technique.
 - x. Past occurrences of mudflows.
- (e) Applications for development in an unstable or potentially unstable slope area also shall include but not limited to the following information or data:
- i. Past occurrences of landslides, mudflows, rockfalls, and surficial creep on the site and adjacent areas.
 - ii. Rate of movement of the surficial materials.
 - iii. Summary of the information noted above on a map with a scale of one inch equals fifty feet or larger, with accurate topographic details.
 - iv. A report which presents necessary explanatory text, data tabulation, and other essentials for further work or governmental review.
 - v. Mitigation techniques that will be employed, estimated cost, and documentation of previous effectiveness.
- (f) Applications for development in a seismic effect area also shall include but not limited to the following information or data:
- i. Map showing all faults on the site and adjacent lands with special emphasis on active faults.
 - ii. Studies and/or maps showing areas subject to indirect effects of seismic activity such as, landslides, liquefaction, and differential settlement.
 - iii. In areas of high seismicity a general study of ground response.
 - iv. Type of buildings and structures and intended uses.
 - v. Summary of the information noted above on a map with a scale of one inch equals fifty feet or larger, with accurate topographic details.
 - vi. A report which presents the necessary explanatory text, data tabulation, and other essentials for further work or governmental review.
 - vii. Mitigation techniques that will be employed, estimated cost, and documentation of previous effectiveness.

- (g) Applications for development in a radioactive area also shall include but not limited to the following information or data:
- i. Geologic map showing concentrations of radioactive minerals.
 - ii. Map and description showing mine dumps, tailings piles, and mines on the site and adjacent areas where radioactive minerals mining has or is occurring.
 - iii. Data regarding radioactive content of soils and water on the site.
 - iv. Summary of the information noted above on a map with a scale of one inch equals fifty feet or larger, with accurate topographic details.
 - v. Report which presents the necessary explanatory text, data tabulation, and other essentials for further work or governmental review.
 - vi. Mitigation techniques that will be employed, estimated cost, and documentation of previous effectiveness.
- (h) Applications for development in a potential or actual ground subsidence area also shall include but not limited to the following information or data:
- i. Amount of materials removed or materials subject to volume decrease.
 - ii. Interval between the ground surface and the location of void space or materials subject to volume decrease.
 - iii. In poorly consolidated aquifers, the effect of pore fluid withdrawal.
 - iv. In wind deposited silt (loess) areas, and areas of predominantly fine-grained colluvial silts, the amount of wetting area is subjected to and its effect.
 - v. In areas of soluble materials, the effect of wetting.
 - vi. In areas of underground mining, data regarding air shafts, haulage ways, adits, faults, rooms and pillars, and fine mine maps.
 - vii. Building locations.
 - viii. Building type, arrangement, and proportion.
 - ix. Pertinent historic, geologic, and hydrologic factors of the area.
 - x. Logs of wells which were spaced according to the geologic conditions of the site and character of the surface land use.

- xv. Applications for development in geologic hazard areas not noted above but which may be designated or regulated shall include such information or data as may be required by this jurisdiction.
 - xiv. Past occurrences of ground subsidence.
 - xiii. Mitigation techniques that will be employed, estimated cost and documentation of previous effectiveness.
 - xii. A report which presents the necessary explanatory text, data tabulation, and other essentials for further work or governmental review.
 - xi. Summary of the information noted above on a map with a scale of one inch equals fifty feet or larger, with accurate topographic details.
- (3) Map requirements. Unless otherwise specified above, the following map standards shall be adhered to:
- (a) Topographic maps will have a contour interval of 10 feet or smaller.
 - (b) Map scale shall be on a scale sufficiently detailed to meet the objectiveness of this regulation but, in no case, less detailed than 1 inch = 500 feet.
 - (c) All maps shall show a true north arrow and shall show section corners and the appropriate land grid.
 - (d) One of the five copies of each map shall be in reproducible form (mylar, sepia, clear film positive).
- (4) Qualifications of Investigators
- (a) All geologic maps, and reports prepared under these Regulations shall be prepared by or under the responsible direction of and signed by a professional geologist (as defined by Sections 34-1-201, et seq., C.R.S.) who has a minimum of two years-experience in the specialty of “engineering geology.”
 - (b) All engineering work prepared under the requirements of this Regulation shall be prepared by or under the responsible charge of a registered professional engineer as defined in Sections 12-25-101, et seq., C.R.S. 1973. Such engineer shall also be experienced and competent in the engineering specialty required to meet the objectives of these Regulations.
- (5) Waiver of Submission Requirements: [See, Section 2-206.](#)

- ~~(a) The Permit Authority may waive any part but not all of the submission requirements imposed by these Regulations upon petition of the applicant that full compliance with the submission requirements would be unreasonably burdensome for the applicant and that the proposed development will have an insubstantial impact on the surrounding area. Such a waiver may be granted, after due consideration by the Permit Authority, upon a written determination that the information to be submitted is sufficient for the Permit Authority to arrive at a permit decision in full compliance with the law and these Regulations and that the proposed development will have an insubstantial impact on the surrounding area.~~
- ~~(b) The petition shall be considered and the decision rendered by the Permit Authority at a public hearing held in 2-301 of the Permit Regulations adopted by this County.~~
- ~~(c) In the event the waiver request is denied, the applicant shall provide the required additional information on or before five (5) days prior to the date set for the hearing of the application itself. If the applicant fails to provide such information, the Permit Authority may in its decision vacate the public hearing on the application itself and require complete re-application, or may continue the hearing in accordance with Section 2-303 of the Permit Regulations adopted by this County.~~

~~4-404 Approval of Permit Application~~

- ~~(1) The Permit Authority shall approve an application for a permit to engage in development in a geologic hazard area (with reasonable conditions, if any, in the discretion of the Permit Authority) only if the proposed development complies with all of the following criteria
 - ~~(a) All of the provisions of the permit application procedures have been complied with.~~
 - ~~(b) The petition shall be considered and the decision rendered by the Permit Authority at a public hearing held in compliance with the provisions of Section 2-301 of the Permit Regulations adopted by this County.~~
 - ~~(c) In the event the waiver request is denied, the applicant shall provide the required additional information on or before five (5) days prior to the date set for the hearing of the application itself. If the applicant fails to provide such information, the Permit Authority may in its discretion vacate the public hearing on the reapplication, or may continue the hearing in accordance with Section 2-303 of the Permit Regulations adopted by this County.~~~~

4-404 Review Criteria~~Approval of Permit Application~~

- (1) The Permit Authority shall approve an application for a permit to engage in development in a geologic hazard area (with reasonable conditions, if any, in the

discretion of the Permit Authority) only if proposed development complies with the review criteria in Section 2-303 and with all of the following criteria:

- ~~(a)~~ (a) All of the provisions of the permit application procedure have been complied with;
 - ~~(b)~~ (a) Provision is made for the protection of the long-term health, welfare, and safety of the public from geologic hazards to life, property, and associated investments;
 - ~~(c)~~ (a) The proposed development will not create an undue financial burden on existing or future residents of the area or community;
 - ~~(d)~~ (b) Structures designed for human occupancy and sites designed for human use shall be constructed so as to prevent danger to human life property;
 - ~~(e)~~ (c) Permitted land uses, including public facilities which serve such uses shall avoid or mitigate geologic hazards at the time of initial construction using the techniques set forth in Section 4-205 ~~of these Regulations~~;
 - ~~(f)~~ (d) Manmade changes shall not initiate or intensify adverse natural conditions within a geologic hazard area;
 - ~~(g)~~ (e) Recommendations concerning the proposed development in the designated geologic hazard area by the Colorado Geological Survey shall be solicited and considered. The Colorado Geological Survey shall be allowed no less than thirty days in which to respond to such referrals;
 - ~~(h)~~ (f) Provision is made for disclosure, prior to sales, of all geologic hazards and mitigation procedures undertaken and for attaching a delineation and description of the geologic hazard and mitigation measures to all deeds, titles, and recorded documents involving a transfer of ownership of the subject land; and
 - ~~(i)~~ (g) Nonconflicting open space uses such as agriculture, grazing, greenbelt, and recreation are incorporated into the development plan to the greatest practicable extent. Such maximization of open space uses shall be in addition to other required mitigation procedures.
- (2) For each specific type of geologic hazard additional criteria which may be added from time to time shall be met.
- (3) The permit shall be denied if the development does not meet all of the criteria in this Section and Section 2-303 ~~4-404 of these Regulations~~.

Article 5 Administration, Enforcement, and Penalties

4-501 Administration, Enforcement, and Penalties

The provisions of these Regulations and any permits issued hereunder shall be administered and enforced according to the provisions of the Administrative and Permit Regulations adopted by the County.

~~4-502 Severability~~

~~If any section, clause, provision, or portion of these Regulations should be found to be unconstitutional or otherwise invalid by a court of competent jurisdiction, the remainder shall not be affected thereby.~~

Chapter 5

Regulations for Development in Areas Containing or Having
a Significant Impact Upon Natural Resources of Statewide Importance

Article 1 General and Introductory Provisions

- 5-101 Title and Citation
- 5-102 Purpose and Intent
- 5-103 Findings
- 5-104 Definitions
- 5-105 Applicability

Article 2 Designation of Development in Areas Containing or Having a Significant
Impact upon Natural Resources of Statewide Importance

- 5-201 Designation of Development
- 5-202 Boundaries of Area Covered by Designation
- 5-203 Reasons for Designation

Article 3 Permit Applications and Permits

- 5-301 Application Procedure
- 5-302 Prohibition of Development
- 5-303 Submission Requirements
- 5-304 Review Criteria

Article 1 **General and Introductory Provisions**

5-101 Title and Citation.

These various sections constituting Chapter 5 of the "Guidelines and Regulations for Areas and Activities of State Interest of Saguache County" may be cited as the "Regulations for Development in Areas Containing or Having a Significant Impact upon Natural Resources of Statewide Importance."

5-102 Purpose and Intent.

The purpose and intent of the Regulations contained in this Chapter 5 are:

- (1) To administer areas containing or having a significant impact upon natural resources of statewide importance in a manner that will allow man to function in harmony with, rather than be destructive to, these resources;
- (2) To protect areas of Saguache County which are essential for wildlife habitat;
- (3) To ensure that development in areas containing natural resources is conducted in a manner which will minimize damage to those resources for future use;
- (4) To ensure that development in areas containing or having a significant impact upon natural resources of statewide importance takes place in a manner which will result in protection of the soil in areas of the County which have been historically irrigated, in order that significant wildlife habitats within the County may be protected and preserved;
- (5) To ensure that development in areas containing or having a significant impact upon natural resources of statewide importance is conducted in such a manner as to minimize environmental impacts associated with such development;
- (6) To ensure that development in areas containing or having a significant impact upon natural resources of statewide importance is planned and executed in a manner so as not to impose an undue economic burden on existing or proposed communities within this County;
- (7) To ensure that the impacts of development in areas containing or having a significant impact upon natural resources of statewide importance, including but not limited to soil loss from air or water erosion, airborne dust, noxious weed invasion, and negative effects on surface and groundwater quality and the aquatic and natural habitat of the source development area, are effectively mitigated.

5-103 Findings.

The Board of county Commissioners hereby finds that:

- (1) The areas of Saguache County which have been historically irrigated, as identified on **Exhibit F** hereto, are also the most significant for wildlife habitat, lying as they do adjacent to the major waterways, both natural and artificial, throughout the County.
- (2) The areas described on **Exhibit F** contains and/or has significant impact upon natural resources of statewide importance, consisting of significant wildlife habitats in which the wildlife species, as identified by the Division of Wildlife of the Colorado Department of Natural Resources, could be endangered.
- (3) Viable topsoil is fundamental to the maintenance of significant wildlife habitat.
- (4) Loss of topsoil results in inability of the land to support native plants upon which all wildlife species depend. Particularly in the areas of Saguache County which have been historically irrigated, the presence of topsoil on those areas has enabled wildlife to survive upon grain in harvested and fallow fields.
- (5) Noxious weed invasion aggravates the loss of topsoil by crowding out native plants and further degrading the ability of wildlife species to exist.
- (6) This topsoil is the fundamental basis upon which the economy and life of the County is based. Its productivity is inextricably linked to the economic health of the County and its residents.
- (7) Without adequate and enforceable revegetation plans, loss of topsoil from historically irrigated lands within the County, from air and waterborne erosion, or from noxious weed invasion, is a direct result of the transfer of water rights from the land and subsequent dry-up.
- (8) These Regulations are necessary to require and enforce adequate revegetation plans for lands which are removed from irrigated agricultural production.
- (9) Adequate revegetation plans for such lands are needed to ensure that the significant wildlife habitat values of such lands are preserved and protected.

5-104 Definitions.

- (1) *Development* means and includes any of the following actions, if proposed to be taken with respect to any single parcel or tract of land of more than three (3) acres, located within the area described in **Exhibit F**, and which land is irrigated as of the effective date of these Regulations:
 - (a) permanent cessation of irrigation as evidenced by entry of a final decree of transfer of water rights by the Water Court for Water Division 3;
 - (b) lease, sale, or other disposition, in whole or in part, of the land or the water rights historically used to irrigate the same, including refraining from exercising

the water rights to irrigate the land, the effect of which is to cease irrigation for a period of three (3) consecutive years or more;

(c) development of the land for a use or uses other than irrigated agriculture; or

(d) any sale or transfer of land located within the areas described on **Exhibit F** or of the water rights used to irrigate such lands, when the effect of such sale or transfer is to separate ownership of the land from the water rights.

(2) *Natural resource of statewide importance* means and includes the areas of Saguache County which have historically been irrigated, as shown on **Exhibit F**.

(3) *Nonconforming use* means a use or development in existence at the time of the adoption of these Regulations, which use, were it a new use or development, would be one for which a permit is required under these Regulations.

(4) *Noxious weed invasion* means the appearance and establishment of non-native plants in a manner or quantity which threatens to displace or does displace native vegetation, vegetation planted as a part of a revegetation program or effort, or vegetation planted as an agricultural crop or practice. Noxious weed invasion shall not include the appearance and establishment of non-native plants when part of an approved revegetation plan.

(5) *Soil Loss* means the loss of topsoil from historically irrigated lands by air or waterborne erosion, or by noxious weed invasion.

(6) *Source development area* means that geographic area or region wholly or partially within the unincorporated territory of this County which will be developed, altered or affected in connection with a development as defined herein.

(7) *Wildlife habitat* means a geographical area containing those elements of food, water, cover, space and general welfare in a combination and in quantities adequate to support a species for at least a portion of the year. A particular area need not be occupied by a particular wildlife species in order to be considered habitat for that species. Wildlife habitat may include those areas which were historically occupied and are still suitable for occupancy, are presently occupied, or are potentially suitable for occupancy but not historical range, i.e., mountain goat habitat in Colorado.

5-105 Applicability

(1) This Chapter applies to all “development,” as defined at Section 5-104 and Section 1-110, in areas containing or having a significant impact upon natural resources of statewide importance wholly or partially within the unincorporated territory of this County.

(2) This Chapter does not apply to development of water resources upon lands which are:

- (a) legally obligated to be withdrawn from irrigation pursuant to one or more “Plans of Water Management” sponsored by Rio Grande Water Conservation District to be administered through one or more Special Improvement Districts thereof, and finally approved by the District Court for Water Division No. 3 or an approved “Annual Replacement Plan” under such a Plan of Water Management; or
 - (b) subject to recorded real property title restrictions precluding irrigation which are required as a part of a final order of the District Court for Water Division No. 3, and which restrictions are designed to enhance, restore or maintain the Confined and Unconfined Aquifers within the San Luis Valley; or
 - (c) legally obligated to be withdrawn from irrigation pursuant to a decree of the District Court, Water Division No. 3, that allows the previous irrigation water to be used as a part of a plan for augmentation, Plan of Water Management or Annual Replacement Plan which will remedy injurious depletions caused by groundwater withdrawals of wells located only within Saguache County; or
 - (d) legally obligated to be withdrawn from irrigation pursuant to a conservation program sponsored in whole or in part by the Rio Grande Water Conservation District.
- (3) The existence of a Water Court decree, by itself, does not exempt a development from regulation under this Chapter.

Article 2 Designation of Development in Areas Containing or Having a Significant Impact upon Natural Resources of Statewide Importance

5-201 Designation of Development

The Board of County Commissioners, having considered the intensity of current and foreseeable development pressures, hereby orders that development in areas containing or having a significant impact upon natural resources of statewide importance be designated a matter of state interest and regulated pursuant to the provisions of this Chapter.

5-202 Boundaries of Area Covered by Designation

Development in areas containing or having a significant impact upon natural resources of statewide importance wholly or partially within the portion of the unincorporated territory of this County shown on the maps attached hereto as **Exhibit D** shall be subject to this designation and this Chapter.

5-203 Reasons for Designation

Development in areas containing or having a significant impact upon natural resources of statewide importance is hereby designated as a matter of state interest for the reasons stated in Sections 5-102 and 5-103.

Article 3 Permit Applications and Permits

5-301 Application Procedure

The procedures concerning permit applications, notice and conduct of permit hearings, review of Permit Authority decisions, and the issuance and content of permits to engage in development in areas containing or having a significant impact upon natural resources of statewide importance shall comply with the provisions set forth in Chapter 2.

5-302 Prohibition of Development

- (1) No person may undertake "development," as defined in Section 5-104 wholly or partially within the area described on **Exhibit D** without first obtaining a permit pursuant to these Regulations.
- (2) No local authority may issue a building permit for purposes of "development" as defined in Section 5-104 without the applicant first having obtained a permit pursuant to these Regulations.

5-303 Submission Requirements

An application for a permit to conduct development as defined in Section 5-104 shall be accompanied by five (5) copies of the completed application form and the following documents and information, in addition to the submission requirements at Section 2-205:

- (1) A completed application form;
- (2) Preliminary review and comment on the proposal by the appropriate agency of the Colorado Department of Natural Resources and/or the Colorado Department of Public Health & Environment, as applicable;
- (3) For the purpose of assisting in evaluation of the applicant's selected development alternative only, a listing of alternative development and general degree of feasibility of each or, at the option of the applicant, the environmental analyses, assessments and statements developed under any required review pursuant to the National Environmental Policy Act (NEPA).
- (4) Scope of proposal.
 - (a) Describe the source and rights for any water subject to transfer by decree as a part of the development, including a copy of the transfer decree;
 - (b) Describe existing water utilization including historic yield from rights and use by category such as agricultural, municipal and industrial and supply obligations to other systems; and
 - (c) Provide a description and sufficiently detailed engineering plans and specifications, prepared by a registered professional engineer, of the proposed

construction of structures, buildings and improvements associated with the project and the financial, environmental and social impacts thereof on the community or surrounding areas within the development area and source development area.

(5) Environmental analysis

- (a) Describe the relationship, if any, of the proposed development to formally adopted regulations and policies of federal, state, regional or county governments, which regulations or policies would govern the use of land or water resources impacted by the Project;
- (b) Describe the agricultural productivity capability of the land in the development area (NRCS classification);
- (c) Describe the potential adverse impact of the proposed development on the soil of the source development area, including impact upon soil productivity, potential soil loss from air or water erosion, and degradation from susceptibility to noxious weed invasion.

(6) Water Resources.

- (a) Describe and indicate on an appropriate map relevant surface water bodies (streams, lakes and reservoirs) and groundwater aquifers in the source development area and their uses;
- (b) Relate augmentation water, if required, to water proposed to be withdrawn, as to amount, location of withdrawal and replacement, schedule of withdrawal and release, location of source (if surface) or, if underground well depth and aquifer strata to be withdrawn from or replaced;
- (c) Documents evidencing program for compliance with the “Rules Governing the Withdrawal of Groundwater in Water Division No. 3 (the Rio Grande Basin) and Establishing Criteria for the Beginning and End of the Irrigation Season in Water Division No. 3 for all Irrigation Water Rights,” September 25, 2015, as amended, including withdrawn and exported water and proposed replacement wells as to location, amount and depth;
- (d) Describe the expected effect of the Project upon surface and groundwater in the Saguache Creek Corridor, existing winter recharge decrees, and the conservation credit program for riparian areas in the San Luis and the Saguache Creek drainages.
- (e) Describe potential effects of the proposed development on eutrophication, wasteload allocations and water quality of rivers, streams, aquifers and/or any existing or proposed reservoirs in this County;

- (f) Describe potential effects of the proposed development on the above-described water features in the source development area, including the effects on present water quality and current uses. Include a detailed statement of impacts of the proposed project upon water quality standards including, but not limited to antidegradation standards, and all applicable basic or numeric standards for physical, biological, organic, inorganic, and metals pollutants; and
- (g) Describe the potential adverse effects of the proposed development upon plant and animal life dependent upon the water resources in the development area and source development area.

(7) Significant Environmentally Sensitive Factors.

Identify and locate on a map of an appropriate scale each of the following features present in the source development area and its environs and detail the potential impact of the proposed development upon each feature:

- (a) Marshlands and wetlands,
- (b) Groundwater recharge areas,
- (c) Potential natural hazards,
- (d) Forests and woodlands,
- (e) Critical wildlife habitat or other wildlife protection areas,
- (f) Public outdoor recreation areas,
- (g) Critical aquatic life habitat, and
- (h) Agricultural lands.

(8) Visual Aesthetics and Nuisance Factors

Identify any significant deterioration of existing natural aesthetics, creation of visual blight, noise pollution or obnoxious odors which may stem from the proposed development, including airborne dust and noxious weed invasion.

(9) Revegetation Plan.

- (a) All applications must include a detailed revegetation plan for all land areas from which historic irrigation practices will be removed. Describe all revegetation plans or efforts proposed as part of the development, including any such plans required as a condition of any Water Court decree pertaining to the development. Such plan shall include, at a minimum:
 - i. Description of all lands included.

- ii. Plant and seed material to be used and the method and timing of their application.
 - iii. Source, amount, timing and seasonal duration of irrigation water to be applied to establish the intended revegetation, for a period no less than three (3) consecutive growing seasons, or, in the event following is to be employed, such longer period proposed as sufficient to achieve stable revegetation, or such longer or shorter period as the Permit Authority shall require.
 - iv. Whether the plan is required as a part of any Water Court transfer decree, and if so, whether the plan has been approved by the Water Court (include a copy of the decree and plan as so approved).
 - v. As a part of the security required by Section 2-402:
 - a. proposed security to guarantee implementation of the revegetation plan, including the costs of preparing the soil, seeding and planting vegetation and irrigating the same, costs of removal of noxious weeds, and revising and repeating the revegetation plan in the event the plan fails in whole or in part, and
 - b. identify the parties responsible for the implementation and success of the revegetation plan for the life of the Project.
 - vi. Proposed form of covenant(s) to be recorded making future landowners aware of:
 - a. obligation to maintain dry land farming and revegetation conditions;
 - b. the requirements of any Water Court order or stipulation, if applicable;
 - c. any lien or letter of credit obligation, and
 - d. the requirements of these Regulations.
- (b) The Application shall demonstrate how the applicant will meet the applicable habitat needs listed below by the identified wildlife species and will avoid conflict with these needs. Where conflicts are unavoidable, the applicant shall present proposals to minimize the extent and degree of the conflict, including revegetation and/or compensation through replacement or enhancement of habitat on an alternative site.
- (c) If the applicant believes that revegetation is not necessary and that dry land agricultural practices may be undertaken on land which is presently irrigated,

the applicant must present evidence from an expert agronomist, local soil conservation district, local NRCS Office or other appropriate source that dry land agricultural practices are reasonably possible and that air quality, significant environmentally sensitive factors, visual aesthetics, nuisance factors and all other appropriate considerations as set forth herein will be satisfied. The Permit Authority shall make the final decision whether revegetation is necessary under these circumstances.

- (d) Production Areas. These include areas necessary for prenuptial activities, breeding, young-bearing and rearing, i.e., spawning beds, nursery streams, and protected shoal areas for fish; permanent shallow water for amphibians; strutting, booming and dancing grounds and calling perches, nesting places, and protective young-rearing cover for birds; breeding grounds, calving and fawning areas, den trees, burrows, and young-rearing cover for mammals.
- (e) Principal Feeding Areas. These include areas containing the natural foods of a wildlife species of sufficient quantity and quality and readily available to sustain a normal population.
- (f) Summer Ranges. Summer ranges relatively free of human disturbance are highly important to the survival of some species, especially those requiring extended periods of time for young-rearing.
- (g) Winter Ranges. Winter ranges of sufficient quality and quantity are critical for two reasons: (1) they are frequently so restricted in area that they limit the size of an animal population over its entire range; and (2) these ranges are often in proximity to human populations and human activities so that the species involved are adversely affected, or the species may adversely affect real and personal property.
- (h) Concentration Areas. Areas where high density of wildlife species at certain times of the year makes them highly susceptible to developments and activities of man. Examples of concentration areas include staging areas for waterfowl, sandhill cranes and deer; roosting areas for a number of birds; colonies of such colonial species as swallows, herons and beaver; and mass dens of snakes.
- (i) Shelter Areas. Those physical or natural features in their habitats which provide escapement from their enemies and adverse weather conditions. Included here are such things as rough terrain for many species of wildlife; rocky bottoms and shorelines and aquatic vegetation in and adjacent to water for protection of fish, amphibians, and aquatic oriented species of terrestrial wildlife.
- (j) Water and Minerals. A permanent water supply in sufficient quantity and quality is necessary to support most wildlife species. In addition, some species have special mineral needs. Continuous stream flows and conservation pools in reservoirs are essential to the survival of fish. Stable water levels in lakes and reservoirs are highly desirable for fish, amphibians and many forms of

terrestrial wildlife. High quality water, free of pollutants, is essential to the survival of fish, amphibians and many birds, as well as to the food organisms upon which they depend.

- (k) Shoreline Vegetation. Vegetation along stream banks and the shorelines of lakes is extremely important to aquatic wildlife and aquatic related forms of terrestrial wildlife. Such vegetation controls water temperatures provides food and shelter, and protects banks from excessive erosion which damages or destroys wildlife habitats.

(10) Financial Impact Analysis.

- (a) Review and summary of any assessed taxable property valuations, property tax collection experience, and all other matters of aid in determining the impact of the proposed development upon the County.
- (b) Proposed security to guarantee revegetation, and Responsible Parties for the same.

(11) The benefits of the project, both in natural and socioeconomic terms, and the degree to which benefits, both within the County and to the applicant, outweigh the adverse impacts of the project within the County.

5-304 Review Criteria

- (1) In determining whether to approve, approve with conditions, or disapprove a permit application, the Permit Authority shall take into consideration the following criteria and the criteria listed at Section 2-303:
 - (a) The proposed development adequately provides for revegetation of lands historically irrigated in a manner which will successfully prevent invasion of noxious weeds and air or waterborne soil loss;
 - (b) Revegetation plans required by Section 5.303(9) have been approved by the Permit Authority and adequate security therefor has been placed with the County. Security is sufficient to guarantee revegetation success for the life of the Project. Security shall be in the form of bonds or letters of credit drawn on a financial institution and in form approved by the County Attorney. The Permit Authority may, but is not required to, consider a Water Court approved revegetation plan as partial or full satisfaction of the requirements of this subsection.
 - (c) The following presumptive standards and requirements concerning revegetation plan have or can be met:
 - i. proof that dry land farming, with or without crop rotation, will be successful, if proposed;

- ii. revegetated lands will not be further tilled; and
 - iii. no irrigation laterals will be eliminated until reclamation is complete and revegetation (or dry land farming) is successful.
- (d) The proposed development will not significantly degrade existing natural scenic characteristics, create blight, nor cause other nuisance factors such as excessive noise, obnoxious odors, airborne dust or noxious weed invasion;
- (e) The proposed development does not conflict with an approved local master plan or other applicable regional, state or federal land use or water plan;
- (f) Adequate water supplies are available for successful implementation of revegetation plans;
- (g) The proposed development does not adversely affect either surface or subsurface water rights of upstream or downstream users; provided, however, that the exercise of a senior water right in such a manner as to not cause material injury to other water rights in accordance with state statutes, decided case law and decrees of the water court, shall not be considered to create any adverse water rights impact upon such junior water rights;
- (h) The benefits of the proposed development outweigh the losses of any natural resources or agricultural lands rendered unavailable or less productive as a result of the proposed development;
- (i) The proposed development will not decrease the quality of peripheral or downstream surface or subsurface water resources below that designated by the Colorado Water Quality Control Commission as of the date of adoption of these Regulations;
- (j) The proposed development will not violate federal or state air quality standards;
- (k) The proposed development will not significantly deteriorate aquatic habitats, marshlands and wetlands, groundwater recharge areas, steeply sloping or unstable terrain, forests and woodlands, critical wildlife habitat or other wildlife protection areas, big game migratory routes, calving grounds, migratory ponds, nesting areas and the habitats of rare and endangered species, public outdoor recreation areas, and unique areas of geologic, historic, or archeological importance, or the extent to which the proposed development will replace such habitat or areas in other locations within the County;
- (l) The proposed development will not create an undue financial burden on existing or future residents within the source development area. The cost of securing an adequate supply of water for existing and future needs of the residents of this County shall be considered in determining whether an “undue financial burden” will result.

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Chapter 6

Reserved)

Chapter 7

Reserved)

Chapter 8

Significant Wildlife Habitat Areas ~~Regulations Having a Significant Impact upon Natural Resources of Statewide Importance~~

Article 1 General and Introductory Provisions

8-101 _____ Title and Citation

8-102 _____ Purpose and Intent

8-103 _____ Definitions

~~8-104 Authority~~

8-10~~4~~⁵ _____ Applicability

8-10~~6~~⁵ _____ Nonconforming Uses

~~8-107 Relationship of Regulations to Other County, State and Federal Requirements~~

Article 2 Specific Significant Wildlife Habitats in This County Subject to Regulation

8-201 _____ All Areas Designated or Regulated Must be Listed

8-202 _____ Designations or Regulation of Significant Wildlife Habitats

8-203 _____ Reasons for Designation

8-204 _____ Descriptions of Designated or Regulated Significant Wildlife Habitats

Article 3 Permit Program for Significant Wildlife Habitat

8-301 _____ Prohibition on Development in Designated Significant Wildlife Habitat Without Permit

~~8-302 Procedural Requirements~~

~~8-303 Application Fee~~

8-30~~2~~⁴ _____ Applicant's Submission Requirements

8-30~~3~~⁵ _____ Waiver of Submission Requirements

8-30~~6~~⁴ _____ ~~Review Criteria~~ Approval of Permit Application

Article 4 Administration, Enforcement, and Penalties

8-401 Administration, Enforcement, and Penalties

8-402 Severability

Article 1 General and Introductory Provisions

8-101 Title and Citation

These various sections constituting Chapter 8 of the “Guidelines and Regulations for Areas and Activities of State Interest of Saguache County” may be cited as the “Significant Wildlife Habitat Area Regulations.”

8-102 Purpose and Intent

The purpose and intent of the regulations contained this Chapter 8 are:

- (1) To protect those areas essential for wildlife habitat.
- (2) To establish procedures and requirements for development or activity within significant wildlife habitats which will allow man to function in harmony with, rather than be destructive to, significant wildlife habitat; and
- (3) To regulate development and activities within areas of significant wildlife habitat in a manner that will minimize damage to this resource for future use.

8-103 Definitions

- ~~(1)~~ “Applicant” means any individual, partnership, corporation, association, company, or other public or corporate body, including the federal government or federal entity, and includes any political subdivision, agency, instrumentality, or corporation of the state.
- ~~(2)~~ “Development” means any construction or activity which changes the basic character or the use of land on which the construction or activity occurs.
- ~~(3)~~ “Nonconforming use” means a use in existence at the time of the adoption of these Regulations, which use, were it a new use, would be one for which a permit is required under these Regulations.
- ~~(4)~~(1) “Significant wildlife habitat” means those areas containing, or having significant impact upon, those wildlife habitats in which the wildlife species, as identified by the Division of Wildlife of the Department of Natural Resources, could be endangered by development, and includes those essential elements of a wildlife habitat which, if altered or eliminated, would impair or destroy the area’s capability to sustain a wildlife species.
- ~~(5)~~(2) *Wildlife* means wild vertebrates, mollusks, crustacean and fish; animals or their progeny, which were once domesticated but have escaped human control, temporarily or permanently, e.g., horses, burros, goats; dogs, and cats are not considered wildlife.
- ~~(6)~~(3) *Wildlife habitat* means a geographical area containing those elements of food, water, cover, space and general welfare in a combination and in quantities adequate to support a species for at least a portion of the year. A particular area need not be occupied by a particular wildlife species in order to be considered habitat for those species. Wildlife habitat may include those areas which were historically occupied and are still suitable for occupancy, are presently occupied, or are potentially suitable for occupancy but not historical range, i.e., mountain goat habitat in Colorado.

~~8-104~~ Authority

~~These Regulations are adopted pursuant to inter alia, Sections 24-65.1-101, et seq., and Sections 29-20-101, et seq., C.R.S. 1973.~~

8-~~104~~105 Applicability

- (1) These Regulations apply to applications for permits to engage in development in all designated or regulated significant wildlife habitat areas within this County.
- (2) Any person seeking to engage in development in any designated or regulated significant wildlife habitat area in this County shall obtain a permit pursuant to these Regulations before seeking any other permit, rezoning, or other action by this County.

8-106 Nonconforming Uses

- (1) The provisions of this Chapter shall not apply to any nonconforming use existing on the date the area is designated or subjected to these Regulations, which use is not in conformance with these Regulations, provided that, when such a nonconforming use shall be discontinued for six months or more or a nonconforming structure is damaged or destroyed to the extent of at least fifty (50) percent of the appraised value, any reuse, reconstruction, or replacement of such structure shall be deemed a new use and shall be subject to the provisions of these Regulations.

~~8-107~~ Relationship of Regulations to Other County, State and Federal Requirements

- ~~(1) Nothing in these Regulations shall be construed as exempting an applicant for a permit from any other requirements of this County or other state or federal laws and regulations.~~
- ~~(2) To the extent that the requirements of these Regulations differ from any other applicable requirements, the more restrictive requirements shall apply.~~

Article 2 **Specific Significant Wildlife Habitats in This County Subject to Regulation**

8-201 All Areas Designated or Regulated Must be Listed

All areas within this County that are subject to regulation or designation under this Chapter are listed and described in Section 8-204. Any and all property not so listed has not been designated or required under this Chapter.

8-202 Designation or Regulation of Significant Wildlife Habitats

The Board of County Commissioners~~This body~~ having considered the intensity of current and foreseeable development pressures, applicable Guidelines for Identification and Designation adopted and issued by the former Colorado Land Use Commission, and Guidelines for Identification, Designation and Administration of Significant Wildlife Habitats, published by the Colorado Division of Wildlife, it is the order of this body that the significant wildlife habitats described in Section 8-204 below are designated as areas of state interest and that the significant wildlife habitats described in Section 8-204 below are subject to these Regulations hereby adopted by this County.

8-203 Reasons for Designation

The significant wildlife habitats described in Section 8-204 are hereby designated as matters of state interest for the reasons stated in Section 8-102 of this Chapter.

8-204 Descriptions of Designated or Regulated Significant Wildlife Habitats

The Board of County Commissioners~~This County~~ hereby declares that the following areas shall be designated as significant wildlife habitats in order to meet the purposes and intent of these Regulations.

- (1) The significant wildlife habitat(s) shown on the following described map(s) provided by the Colorado Division of Wildlife was designated or subjected to these Regulations on September 28, 1990. Map filed in Office of Clerk and Recorder. Book 464, Page 875. An official copy of the map(s) shall be filled in the office of the Land Use Department and available for public inspection.
- (2) One copy of all maps of designated significant wildlife habitats in this County shall be sent to the Colorado Division of Wildlife.
- (3) The foregoing maps are hereby fully incorporated herein by this reference and for reference purposes are referred to as **Exhibit G** hereto.

Article 3 Permit Program for Significant Wildlife Habitat

8-301 Prohibition on Development in Designated Significant Wildlife Habitat Without Permit

- (1) No person may engage in development in a designated significant wildlife habitat in this County without first obtaining a permit pursuant to these Regulations.
- (2) No person shall apply for a rezoning, a building permit or any other requirement of this County for development in a designated significant wildlife habitat without first obtaining a permit pursuant to these Regulations.

~~8-302 Procedural Requirements~~

- ~~(1) The procedures concerning permit applications, notice and conduct of permit hearings, review of Permit Authority decisions and issuance and content of permits to engage in development in any designated significant wildlife habitat shall comply with the provisions set forth in Chapter 2, the Permit Regulations adopted by this County.~~
- ~~(2) Any person seeking to engage in development in any designated significant wildlife habitat shall apply for a permit from the Permit Authority on the appropriate form prescribed by these Regulations, at Exhibit B, and maintained in the office of the County Department of Community Development.~~

~~8-303 Application Fee~~

- ~~(1) Not later than ten (10) days following receipt of a completed application for a permit to engage in development in any designated significant wildlife habitat, the Permit Authority shall determine and set a fee in an amount necessary to cover the costs incurred in the review and approval or disapproval of the permit application, including all hearings conducted therefore, and shall notify the applicant in writing of said fee and its amount. Not later than ten (10) days following his receipt of such notice, the applicant shall present to the Permit Authority nonrefundable certified funds in the amount set. Until the fee is paid to the Permit Authority, the application for permit shall not be further processed, and each day said fee is late will extend all other deadlines the same.~~

8-~~302~~304 Applicant's Submission Requirements

Applicants seeking to engage in development in a designated significant wildlife habitat shall submit to the Permit Authority, as a minimum, five (5) copies of the information required by Section 2-205 as well as following documents and information:

- (1) Completed application form.
- ~~(2) Legal description of the proposed development site.~~

- ~~(3) Index map showing the general location of the proposed development site and its relationship to surrounding topographic and cultural features (a standard U.S.G.S. quadrangle map would usually be adequate for an index map).~~
- ~~(4) Topographic map or maps showing the location, nature and density of the proposed development or land use change.~~
- ~~(5)~~(2) Description of the nature, density and intensity of the proposed development, activity, or land use change in sufficient detail to allow analysis of the effects of the proposed development, activity, or land use change upon significant wildlife habitat and to evaluate the effectiveness of any proposed mitigating measures or programs.
- ~~(6)~~(3) A plan of operations, which shall contain the applicant's analysis of the effects of the proposed development activity or land use change upon wildlife species (identified by the Division of Wildlife of the Department of Natural Resources) within the designated significant wildlife habitat. The plan shall demonstrate how the applicant will meet the applicable will avoid conflict with these needs. Where conflicts are unavoidable, the applicant shall present proposals to minimize the extent and degree of the conflict, including compensation through replacement or enhancement of habitat on an alternative site.
- (a) Production Areas. These include areas necessary for pre-nuptial activities, breeding, young-bearing and rearing, i.e., spawning beds, nursery streams, and protected shoal areas for fish; permanent shallow water for amphibians; strutting, booming and dancing grounds and calling perches, nesting places, and protective young-rearing cover for birds; breeding grounds, calving and fawning areas, den trees, burrows, and young-rearing cover for mammals.
 - (b) Principal Feeding Areas. These include areas containing the natural foods of a wildlife species of sufficient quantity and quality and readily available to sustain a normal population.
 - (c) Summer Range. Summer ranges relatively free of human disturbance are highly important to the survival of some species, especially those requiring extended periods of time for young-rearing.
 - (d) Winter Ranges. Winter ranges of sufficient quality and quantity are critical for two reasons: (1) they are frequently so restricted in area that they limit the size of an animal population over its entire range; and (2) these ranges are often in proximity to human populations and human activities so that the species involved are adversely affected, or the species may adversely affect real and personal property.
 - (e) Concentration Areas. Areas where high density of wildlife species at certain times of the year makes them highly susceptible to development and activities of man. Examples of concentration areas include staging areas for waterfowl, sandhill cranes and deer; roosting areas for a number of birds; colonies of such colonial species as swallows, herons, beaver, and mass dens of snakes.

- (f) Shelter Areas. Those physical or natural features in their habitats which provide escapement from their enemies and adverse weather conditions. Included here are such things as rough terrain for many species of wildlife; rocky bottoms and shorelines and aquatic vegetation in and adjacent to water for protection of fish, amphibians, and aquatic oriented species of terrestrial wildlife.
- (g) Water and Minerals. A permanent water supply in sufficient quantity and quality is necessary to support most wildlife species. In addition, some species have special mineral needs. Continuous stream flows and conservation pools in reservoirs are essential to the survival of fish. Stable water levels in lakes and reservoirs are highly desirable for fish, amphibians and many forms of terrestrial wildlife. High quality water, free of pollutants, is essential to the survival of fish, amphibians and many birds, as well as to the food organisms upon which they depend.
- (h) Movement Corridors. Many species of wildlife have daily and seasonal movement patterns along more or less established corridors. These may be between seasonal ranges; to reach spawning areas; or between nesting, resting, roosting, feeding, and watering areas. Concentrating of animals along such corridors increase the likelihood of conflict between wildlife and humans. Many of these corridors offer the only means for wildlife movements, or their uses become so traditional that disruption or interferences could be disastrous for the species involved.
- (i) Buffer Zones. Some species of wildlife are intolerant to disturbance from human activities during portions of the year. In order to protect these species, buffer zones with no, or limited, human related disturbances are necessary during those seasons when these species occupy specific areas.
- (j) Special Habitat Needs. Some wildlife species have very specific habitat needs, without which they cannot survive. Therefore, reduction of such needs beyond certain limits, or a complete destruction of these habitat features could cause a species to be reduced in number or perish. For example, sagebrush is essential to the survival of sage grouse; wild turkeys need roost trees meeting certain requirements; catfish will only spawn when water temperatures are within certain limits; and black footed ferrets are limited to ranges occupied by prairie dogs.
- (k) Shoreline Vegetation. Vegetation along stream banks and the shorelines of lakes is extremely important to aquatic wildlife and aquatic related forms of terrestrial wildlife. Such vegetation controls water temperatures, provides food and shelter, and protects banks from excessive erosion which damages or destroys wildlife habitats.

8-303305 Waiver of Submission Requirements

- (1) The Permit Authority may waive any part but not all of the submission requirements imposed by these Regulations upon petition of the applicant that full compliance with

the submission requirements would be unreasonably burdensome for the applicant and that the proposed development will have an insubstantial impact on the surrounding area. Such a waiver may be granted, after due consideration by the Permit Authority, upon a written determination that the information to be submitted is sufficient for the Permit Authority to arrive at a permit decision in full compliance with the law and these Regulations, that the proposed development will have an insubstantial impact on the surrounding area, and upon written concurrences by the Director of the Colorado Division of Wildlife. The Division of Wildlife shall provide a written response to the Permit Authority within 30 days after receiving a copy of such petition for waiver of submission requirements from the Permit Authority.

~~(2) The petition shall be considered, and the decision rendered by the Permit Authority pursuant to Section 2-206, as a public hearing held in compliance with the provision of Section 2-301 of the Permit Regulations adopted by this County.~~

~~(3) In the event the waiver request is denied, the applicant shall provide the required additional information on or before five (5) days prior to the date set for hearing of the application itself. If the applicant fails to provide such information, the Permit Authority may in its discretion vacate the public hearing on the application itself and require complete reapplication, or may continue the hearing in accordance with Section 2-303 of the Permit Regulations adopted by this County.~~

~~(2)~~

8-306 Review Criteria~~Approval of Permit Application~~

- (1) The Permit Authority shall approve an application for a permit to develop within a designated significant wildlife habitat only if the proposed development complies with the review criteria in Section 2-303~~these Regulations (except to the extent waived pursuant to Section 8-305) and all other relevant guidelines and regulations~~ and meets all of the following criteria:
 - (a) The development is compatible with the significant wildlife habitat as designated;
 - (b) The development is designed and will be administered, controlled and regulated to allow man to function in harmony with, rather than be destructive to, the significant wildlife habitat as designated;
 - (c) The applicant has presented and is capable of administering a program to meet the specific habitat needs of species identified by the Division of Wildlife of the Department of Natural Resources within the significant wildlife habitat as designated.
 - (d) The development has been approved by the Division of Wildlife of the Department of Natural Resources.

- (2) The Permit Authority shall deny the permit if the proposed development does not meet all of the criteria in this Section and Section 2-303-8-306(1).

Article 4 Administration, Enforcement, and Penalties

8-401 Administration, Enforcement, and Penalties

The provisions of these Regulations and any permit issued hereunder shall be administered and enforced according to the provisions of the Administrative and Permit Regulations adopted by this County.

~~8-402 Severability~~

~~———— If any section, clause, provision, or portion of these Regulations should be found to be unconstitutional or otherwise invalid by a court of competent jurisdiction, the remainder of these Regulations shall not be affected thereby and is hereby declared to be necessary for the public health, safety, and welfare.~~

Chapter 9

Regulations of Site Selection and Construction of Major New Domestic Water and Sewage Treatment Systems and Major Extension of Such Systems

Article 1 General and Introductory Provisions

- 9-101 Title and Citation
- 9-102 Purpose and Intent
- 9-103 Definitions
- 9-104 Authority
- 9-105 Applicability
- 9-106 Nonconforming Uses
- 9-107 Relationship of Regulations to Other County, State and Federal Requirements

Article 2 Designation of Site Selection and Construction of Major New Domestic Water and Sewage Treatment ~~Plants~~Systems and Major Extensions of Such Systems

- 9-201 Designation of Site Selection and Construction of Major New Domestic Water
- 9-202 Boundaries of Area Covered by Designation
- 9-203 Reasons for Designation

Article 3 Permit Applications and Permits

- 9-301 Applications Procedure
- 9-302 Prohibition of the Site Selection and Construction of Major New Domestic Water and Sewage Treatment Plants
- 9-303 Application for Permit
- 9-304 Submission Requirements
- 9-305 Waiver of Submission Requirements
- 9-306 ~~Review Criteria~~Approval of Permit Application

Article 4 Administration, Enforcement, and Penalties

- 9-401 Administration, Enforcement, and Penalties
- ~~9-402 Severability~~

Article 1 General and Introductory Provisions

9-101 Title Citation

These various sections constituting Chapter 9 of the “Guidelines and Regulations for Areas and Activities of State Interest of Saguache County” may be cited as the “Regulations for Site Selection and Construction of Major New Domestic Water and Sewage Treatment Systems and Major Extensions of Such Systems,” and may be referred to in this Chapter 9 as “these Regulations.”

9-102 Purpose and Intent

The purpose and intent of the regulations contained in this Chapter 9 are:

- (1) To ~~insure~~ensure that new domestic water and sewage treatment systems and major extensions of such systems are constructed in areas which will result in the proper utilization of existing treatment plants and the orderly development of domestic water and sewage treatment systems within this County;
- (2) To ~~insure~~ensure that site selection and construction of major new domestic water and sewage treatment systems and major extensions of such systems are conducted in such a manner as to minimize environmental impacts associated with such development;
- (3) To ~~insure~~ensure that site selection and construction of major new domestic water and sewage treatment systems and major extensions of such systems are planned and developed in a manner so as not to impose an undue economic burden on existing or proposed communities within this County;
- (4) To ~~insure~~ensure that urban development, population densities, and site layout and design of water, wastewater, storm water and sanitation systems shall be accomplished in a manner that will prevent the pollution of aquifer recharge areas; ~~and~~
- ~~(5)~~ (6) To ~~insure~~ensure that the off-site impacts of new domestic water and sewage treatment systems are effectively mitigated; and
- ~~(5)~~(6) To ensure that the surface and groundwater resources of the County are protected from any adverse impact of the development of major water and sewage treatment systems and major extensions of such systems.

9-103 Definitions

- (1) *Major new domestic water system* means a system for provision to the public of ~~pipel~~ piped water for human consumption or a system for the provision to the public of ~~pipel~~ piped water which will be used in exchange for water for human consumption, if such system is proposed to serve a population equivalent of one hundred (100) or more residential dwelling units or the equivalent thereof in other uses. This term includes the activity of removal of water from historically irrigated lands, as a “development” per the definition of the same at Section 5-104.
- (2) *Major new domestic sewage treatment system* means a new sewage treatment system and collector system capable of treating the wastewater generated by a population

equivalent of one hundred (100) or more residential dwelling units or the equivalent thereof in other uses.

- (3) *Domestic water and sewage treatment system* means a wastewater treatment plant, or water supply system, and any system of pipes, structures, and facilities through which water and wastewater is collected for treatment.
 - (a) *Wastewater treatment plant* means the facility or group of units used for treatment of wastewater from sewer systems and for the reduction and handling of solids and gases removed from such wastes.
 - (b) *Water supply system* means the system of pipes, structures and facility or facilities through which a water supply is obtained, collected, treated and sold or distributed for human consumption or the system of pipes, structures and facilities through which a water supply is obtained which will be exchanged or traded for water which will be used for human consumption.
 - (c) *Water treatment plant* means the facility or facilities within the water supply system which can alter the physical, chemical or bacteriological quality of the water.
- (4) *Major extension of an ~~E~~existing domestic water treatment system* means (1) the expansion of existing domestic water treatment capacity for storage or (2) any extension of existing water supply systems to service an additional population equivalent of one hundred (100) or more residential dwelling units or the equivalent thereof in other uses. This term includes the activity of removal of water from historically irrigated lands, as a “development” per the definition of the same at Section 5-104.
- (5) *Major extension of an existing sewage treatment system* means any modification of an existing sewage treatment plant to increase hydraulic capacity or upgrade treatment capability or any extension of existing main collector sewer lines or any extensions to serve a total population equivalent of one hundred (100) or more dwelling units or the equivalent thereof in other uses.
- (6) *Source area* means a geographic area or region where moisture falls and drains through natural processes to either streams or lakes or permeates to the groundwater table, analogous to catchment basin or watershed.
- (7) *Collector system* means a network of pipes and conduits through which sewage flows to a sewage treatment plant.
- (8) *Distribution system* means a network of pipes and conduits through which water is piped to the public for human consumption or through which water is piped for exchange or trade for water which will be used for human consumption.
- (9) *Proposed development* means a major new domestic water or sewage treatment system, or a major extension of such a system, as defined in Section 9-103, ~~(1), (2) and (3),~~ and

includes any proposed land development directly related to such system if such development is to be located wholly or partially within this County and if such development specifically generates the need for the system. The term “development area” as used in these Regulations is included within the meaning of “proposed development.”

- (10) *Source development area* means that geographic area or region wholly or partially within the unincorporated territory of this County which will be developed or altered in connection with the development of a major new domestic water or sewage treatment system, or a major extension of such a system, as those terms are defined in Section 9-103 ~~(1), (2) and (3)~~. The source or development area may or may not be wholly or partially within the development area.
- (11) *Nonconforming use* means a use in existence at the time of the adoption of these Regulations, which use, were it a new use, would be one for which a permit is required under these Regulations.

9-104 Authority

These Regulations are adopted pursuant to, inter alia, Section 24-65.1-101, et seq., C.R.S., Section 30-28-101, et seq., C.R.S., Section 30-28-201, et seq., C.R.S., and Section 29-20-101, et seq., C.R.S. These Regulations are hereby declared necessary for the preservation of the public health, safety and welfare.

9-105 Applicability

- (1) These Regulations shall apply to the site selection and construction of all major new domestic water and sewage treatment systems, and major extensions of such systems, wholly or partially within the unincorporated territory of this County.
- ~~(2) These Regulations shall not apply to expansion of existing domestic water or sewage treatment systems.~~
- (2) A permit under these Regulations shall be required prior to or in conjunction with subdivision, PUD or preliminary plan approval, but in every case must be obtained prior to commencement of construction of the project.
- (3) To the extent the Project proposes or relies upon the removal of water from historically irrigated lands, within the scope of “development” defined at Section 5-104, a permit under Chapter 5 of these Regulations is required, unless exempt under Section 5-105..

9-106 Nonconforming Uses

The provisions of this Chapter shall not apply to any nonconforming use existing on the date the area is designated or subjected to these Regulations which use is not in conformance with these Regulations, provided that, when such a nonconforming use shall be discontinued for six months or more or a nonconforming structure is damaged or destroyed to the extent of at least fifty (50) percent of the appraised value, any reuse, reconstruction, or replacement of such structure shall be deemed a new use and shall be subject to the provisions of these Regulations.

~~9-107 Relationship of Regulations to Other County, State, and Federal Requirements~~

- ~~(1) Nothing in these Regulations shall be construed as exempting an applicant for a permit from any other requirements of this County or other state or federal laws and regulations.~~
- ~~(2) To the extent that the requirements of these Regulations differ from any other applicable requirements, the more restrictive requirements shall apply.~~
- ~~(3) Permit requirements included in these Regulations shall be in addition to and in conformance with all applicable state and federal water quality laws, rules and regulations, including but not limited to the following:
 - ~~(a) Section 28-8-702, C.R.S., sewage treatment plant site approval;~~
 - ~~(b) Section 25-8-501, C.R.S., point source pollutant discharge permit;~~
 - ~~(c) Section 208 (33 U.S.C. Section 1288) area-wide wastewater treatment management planning;~~
 - ~~(d) Section 303 (33 U.S.C. Section 1313) river basin water quality management planning;~~
 - ~~(e) Disposal of sewage sludge (33 U.S.C. Section 1345);~~
 - ~~(f) Section 32-1-201, C.R.S., Special District Control Act;~~
 - ~~(g) 16 U.S.C. Section 661-666 © (1970), the Fish and Wildlife Coordination Act;~~
 - ~~(h) Section 102 © 42 U.S.C. Section 4321, et seq., the National Environment Policy Act; and~~
 - ~~(i) Section 404 of the Federal Clean Water Act.~~~~

Article2 Designation of Site Selection and Construction of Major New Domestic Water and Sewage Treatment Systems and Major Extension of Such SystemsPlants

9-201 Designation of Site Selection and Construction of Major New Domestic Water and Sewage Treatment Systems and Major Extension of Such SystemsPlants

The Board of County Commissioners having considered the intensity of current and foreseeable development pressures and applicable Guidelines for Identification and Designation adopted and issued by the Colorado Land Use Commission, it is the order of this Board of County Commissioners that site selection and construction of major new domestic water of state interest and regulated pursuant to the provisions of this Chapter.

9-202 Boundaries of Area Covered by Designation

The site selection and construction of any major new domestic water and sewage treatment systems and major extension of such systemsplants wholly or partially within the unincorporated territory of this County shall be subject to this designation and these Regulations.

9-203 Reasons for Designation

Site selection and construction of major new domestic water and sewage treatment systems and major extension of such systemsplants is hereby designated as a matter of state interest for the reasons stated in Section 9-102 of this Chapter.

Article 3 Permit Applications and Permits

9-301 Application Procedure

The procedures concerning permit applications, notice and conduct of permit hearings, review of Permit Authority decisions, and the issuance and content of permits to engage in site selection and development of major new domestic water and sewage treatment systems shall comply with the provisions set forth in Chapter 2, the Permit Regulations adopted by this County.

9-302 Prohibition of the Site Selection and Construction of Major New Domestic Water and Sewage Treatment Systems and Major Extension of Such Systems~~Plants~~

- (1) No person may locate a major new domestic water or sewage treatment system or a major extension of such a system wholly or partially within the unincorporated territory of this County without first obtaining a permit pursuant to these Regulations.
- (2) No ~~local authority may issue a~~ building permit may be issued for purposes of selecting a site for or constructing a major new domestic water or sewage treatment system or a major extension of such a system~~plant~~ without the applicant first having obtained a permit pursuant to these Regulations.

9-303 Application for Permit

Any person seeking to locate or construct a major new domestic water or sewage treatment system or a major extension of such a system wholly or partially within the unincorporated territory of this County shall apply for a permit from the Permit Authority, on the appropriate form prescribed by these Regulations, at **Exhibit B**, and maintained in the Office of the Saguache County Land Use Administrator. (For sewage systems, the site application form adopted by the Colorado Water Quality Control eCommission must be completed and attached to the application form).

9-304 Submission Requirements

An application for a permit to locate or construct a major new domestic water or sewage treatment system or a major extension of such a system shall be accompanied by five (5) copies of information required by Section 2-205, as well as the following documents and information:

- (1) Completed application form;
- (2) An abstract of the proposal indicating the scope and need for the development;
- (3) Preliminary review and comment on the proposal by the appropriate agency of the Colorado Department of Natural Resources and the Colorado Department of Health within sixty (60) days;
- ~~(4) Alternative potential site locations and degree of feasibility of each;~~
- ~~(5) Proponents of proposal:~~
 - ~~(a) Names, addresses and business of all local or other interests proposing site selection and construction of a major new water or sewage treatment system.~~

~~(b)~~ Name and qualifications of the person(s) responding to the requirements detailed in these Regulations.

~~(6)~~(4) Scope of Proposal:

- (a) Provide detailed engineering plans and specifications of the proposal, prepared by a registered professional engineer, including proposed system capacity and service area plans mapped at a scale determined by the Permit Authority;
- (b) Provide a description of all existing or approved proposed domestic water or sewage treatment systems within the development area and source development area;
- (c) Detail the design capacity of each domestic water or sewage treatment system and the distribution or collection network in the development area and source development area;
- (d) Detail the excess capacity of each treatment system and distribution or collection network in the community or development area and source development area;
- (e) Provide an inventory of total commitments already made for current water or sewage services in the development area and sources development area;
- (f) Detail the operational efficiency of each existing system in the development area and source development area, including age, state of repair, and level of treatment;
- (g) Detail the source and rights for the water supplies for the system, including any permits, decrees or contracts for such rights, or the application submitted for change of water rights, appropriation of water or augmentation plans;
- (h) Detail existing water utilization including historic yield from rights and use by category such as agricultural, municipal and industrial and supply obligations to other systems; and
- (i) Provide a description and detailed engineering plans and specifications, prepared by a registered professional engineer, of the proposed construction of structures, buildings and improvements associated with the project and the financial, environmental and social impacts thereof on the community or surrounding areas within the development area and source development area.

~~(7)~~(5) Demonstrate the need for a new water or sewage treatment system or major extension of such system:

- (a) Provide population trends for the development area and source development area: e.g., present population, population projections, and growth rates;
- (b) Specify the predominant types of developments to be served by the proposed new water or sewage treatment system;

- (c) Specify at what percentage of the design capacity the current system is now operating in the development area and source development area;
- (d) Water Treatment system: _____
- (e) Wastewater treatment system: _____
- (f) Specify whether or not present facilities can be upgraded to adequately accommodate the ten (10) year projected increased need in treatment and/or hydraulic capacity in the development area and source development area.

~~(8)~~(6) Environmental impact analysis:

(a) Land Use:

- ~~i.~~ Provide a map (at an appropriate scale) detailing existing land uses of the development area, source development area, and the project service area including peripheral lands which may be impacted. The land use map should include, but not necessarily be restricted to, the following categories: residential, commercial, industrial, open space, outdoor recreation, agricultural, forest land and water bodies (surface and subsurface);
- ~~ii.~~ All immediately affected public land boundaries should be indicated on the map. Potential impacts of the proposed development upon public lands will be visually illustrated on the map as well as described in the textual form;
- ~~iii.~~ Specify whether the proposed project conforms to this County's planning policies;
- ~~iv.~~ Specify whether the proposed project conforms to regional and state planning policies;
- ~~v.~~ Specify whether the proposed project conforms to federal land management policies;
- ~~vi.i.~~ Describe the present use of land in the development area and source development area;
- ~~vii.ii.~~ Detail the present zoning of the land in the development area and source development area;
- ~~viii.iii.~~ Detail the agricultural productivity capability of the land in the development area and source development area (SCS classification);

- ~~ix~~.iv. Specify how the proposed development will utilize existing easements or rights-of-way for new associated distribution or collector networks;
- ~~x~~.v. Describe the probability that the system may be significantly affected by earthquakes, floods, fires, snowslides, avalanches, rockslides, or landslides and any measures taken to reduce the impact of such events upon the system; and
- ~~xi~~.vi. Specify whether the demand for this project is associated with development within or contiguous to existing service areas.

(b) Water Resources

- i. Describe and indicate on an appropriate map relevant surface water bodies (streams, lakes and reservoirs) and groundwater aquifers in the development area and source development area and their uses;
- ii. On the same, or other appropriate map, indicate any floodplain associated with the proposed development. Documentation of historical flooding activity should be included. Detail potential adverse impacts of associated floodplain in the development area and source development area;
- iii. Describe potential effects of the proposed development on eutrophication, wasteload allocations and water quality of rivers, streams, aquifers and/or any existing or proposed reservoirs in this County;
- iv. Describe potential effects of the proposed development project on the above-described water features in the development area and source development area, including the effects on present water quality and current uses. Include a detailed statement of impacts of the proposed project upon water quality standards including, but not limited to anti-degradation standards, and all applicable basic or numeric standards for physical, biological, organic, inorganic, and metals pollutants described at 5 C.C.R. 1002-8, 3.6.0 et seq.; ~~and~~
- v. Describe the potential adverse effects of the proposed development upon plant and animal life dependent upon the water resources in the development area and source development area; and

(c) Air Quality. Detail the impact of the proposed development on ambient air quality of the development area and source development area and their environs.

(d) Significant Environmentally sensitive Factors. Identify and locate on a map of an appropriate scale each of the following features present in the development area and

source development area and its environs and detail the potential impact of the proposed development upon each feature:

- i. Marshlands and wetlands
 - ii. Groundwater recharge areas,
 - iii. Potential natural hazards,
 - iv. Forests and woodlands,
 - v. Critical wildlife habitat or other wildlife protection areas,
 - vi. Public, outdoor recreation areas,
 - vii. Unique areas of geological, historical and archaeological importance,
 - viii. Critical aquatic life habitat, and
 - ix. Agricultural areas.
- (e) Visual Aesthetics and Nuisance Factors: Identify any significant deterioration of existing natural aesthetic, creation of visual blight, noise pollution or obnoxious odors which may stem from the proposed development area or source development area.
- (f) Describe what impact the proposed development will have upon the need for and supply of public transportation in this County.

~~(9)(7)~~ Financial impact analysis of site selection and construction of major new water and sewage treatment facilities will include but not be limited to the following:

- (a) Review and summary of any existing engineering and/or financial feasibility studies, assessed taxable property valuations, property tax collection experience, and all other matters of aid in determining the feasibility of the new facility, including such as related to:
 - i. Service area and/or boundaries;
 - ii. Applicable methods of transmitting storing, treating and delivering water, and collecting, transmitting, treating, and discharging sewage (including effluent and/or sludge disposal);
 - iii. Estimated construction costs and period of construction of each new facility component;
 - iv. Assessed valuation of the property to be included within the service area and/or boundaries;
 - v. Revenues and operating expenses of the new facility including but not limited to historical and estimated property taxation, service charges and rates, assessments, connection and tap fees, stand by charges and all other revenues of the new facility;

- vi. Amount and security of proposed debt and method and estimated cost of debt service;
 - vii. Details of any substantial contract or agreement for revenues (as in (v) above) or for services to be paid, furnished or used by or with any person, association, corporation and governmental body.
- (b) Provide a debt retirement schedule based upon anticipated service fees and tax base.
 - (c) Identification of the person, association, corporation and governmental body that will benefit by, use and will pay any or all of the revenues (as in (a)(v) above).
 - (d) If the new water or sewage treatment system exceeds the proposed ten (10) year population growth needs as detailed by the appropriate region's 208 planning demographic projections, then detail excess service capacity and the cost of such excess capacity to the community.
 - (e) Increased Domestic and/or Municipal Water Treatment Costs and/or Wastewater Treatment Costs:
 - i. The application shall submit a plan to offset increased domestic and/or municipal water treatment and/or wastewater treatment necessary to meet water quality standards and determined to be a direct result of flow modification through changes in the transport of nutrients, total dissolved solids, hardness, minerals or other pollutants due to the operation of any project facilities proposed by the applicant. This may be accomplished either by construction and operation of additional domestic and/or municipal water treatment facilities made necessary by the reduction in flow, or the applicant may elect to pay a fee in lieu of those mitigation measures. This fee will be based upon the additional costs of domestic and/or municipal treatment and/or wastewater treatment (capital, operation and maintenance); and it will be used exclusively for meeting the costs of such additional domestic and/or municipal treatment and/or wastewater treatment.

~~(10)~~(8) Any demographic data needed to fulfill the requirements of this Regulation shall be consistent with those used for the 208 area wide waste treatment management planning.

~~(11)~~(9) For each alternative site or expansion area being considered by the applicant, ~~the~~all of the information specified in ~~Subsection (1) through (10)~~ of this Section.

9-305 Waiver of Submission Requirements

- (1) The permit Authority may waive any part but not all of the submission requirements imposed by these Regulations upon petition of the applicant that full compliance with the submission requirements would be unreasonably burdensome for the applicant and

that the proposed development these Regulations upon petition of the applicant that full compliance with the submission requirements would be unreasonably burdensome for the applicant and that the proposed development will have an in substantial impact on the development area and source development area. The criteria and procedure for consideration of a waiver request is found at Section 2-206.~~In cases in which the development or activity must also comply with PUD and/or subdivision regulations, the permit hearing required by these regulations should be held at the same time as the preliminary plat hearing. Such a waiver of submission requirements may be granted, after due consideration by the Permit Authority, upon a written determination that the information to be submitted is sufficient for the Permit Authority to arrive at a permit decision in full compliance with the law and these Regulations and that the proposed development area and source development area.~~

- ~~(2) The petition shall be considered and the decision rendered by the Permit Authority at a public hearing held in substantial compliance with the provisions of Section 2-301 of the Permit Regulations adopted by this county.~~
- ~~(3) In the event the waiver request is denied, the applicant shall provide the required additional information on or before five (5) days prior to the date set for the hearing of the application itself. If the applicant fails to provide such information, the Permit Authority may in its discretion vacate the public hearing on the application itself and require complete reapplication, or may continue the hearing in accordance with Section 2-303 of the Permit Regulations adopted by this County.~~

9-306 Review Criteria~~Approval of Permit Application~~

- (1) A permit application for site selection and construction of a major new domestic water or sewage treatment system or major extension of such system shall be approved (with reasonable conditions, if any, in the discretion of the Permit Authority) only if the proposed development complies with the review criteria in Section 2-303 and all of the following criteria:
 - (a) New domestic water and sewage treatment systems shall be constructed in areas which will result in the proper utilization of existing treatment plants and the orderly development of domestic water and sewage treatment systems of communities within this County within the development area and source development area;
 - (b) The proposed development does not conflict with an approved local master plan or other applicable regional, state or federal land use or water plan;
 - (c) The proposed development does not adversely affect either surface or subsurface water rights of upstream or downstream users;
 - (d) Adequate water supplies, as determined by the Colorado Department of Health, are available for efficient operational needs;

- (e) Existing domestic water treatment systems servicing the area must be at or near operational capacity;
- (f) Existing domestic sewage treatment facilities servicing the area must be at or greater than eighty percent (80%) of operational capacity;
- (g) The scope and nature of the proposed development will not compete with existing water and sewage services or create duplicative services;
- (h) Age of existing water and sewage systems, operational efficiency, state of repair or level of treatment is such that replacement is warranted;
- (i) Area and community development and population trends demonstrate clearly a need for such development;
- (j) Existing facilities cannot be upgraded or expanded to meet waste discharge permit conditions of the Colorado Water Quality Control Commission;
- (k) Appropriate easements can be obtained for any associated collector or distribution system that will serve existing and proposed needs;
- (l) The benefits of the proposed development outweigh the losses of any natural resources or agricultural lands rendered unavailable or less productive as a result of the proposed development;
- (m) The proposed development will not decrease the quality of peripheral or downstream surface or subsurface water resources below that designated by the Colorado Water Quality Control Commission ~~as established on May 22, 1979, and effective July 10, 1979;~~
- (n) The proposed development or its associated collector or distribution system or new service areas will not violate federal or state air quality standards;
- (o) The proposed development or its associated collector or distribution system will not significantly deteriorate aquatic habitats, marshlands and wetlands, groundwater recharge areas, steeply sloping or unstable terrain, forests and woodlands, critical wildlife habitat or other wildlife protection areas, big game migratory routes, calving grounds, migratory ponds, nesting areas and the habitats of rare and endangered species, public outdoor recreation areas, and unique areas of geologic, historic, or archaeological importance;
- (p) The proposed development or its associated collector or distribution system will not significantly degrade existing natural scenic characteristics, create blight, nor cause other nuisance factors such as excessive noise or obnoxious odors;
- (q) The proposed development or its associated collector or distribution system will not create an undue financial burden on existing or future residents within the development area and source development area. The cost of securing an

adequate supply of water for this County shall be considered in determining whether an “undue financial burden” will result;

- (r) Water treatment offset plans required by Section 9-304-~~(9)~~-~~(7)~~(e) have been approved by the Permit Authority and required fees associated therewith, if any, have been paid;
 - (s) The construction of structures, buildings and improvements associated with the proposed development will not significantly impact existing or proposed communities within the development area and source development area;
 - (t) The development site of a major new domestic water or sewage treatment system is not subject to significant risk from earthquakes, floods, fires, snowslides, landslides, avalanches, rockslides or other disasters which could cause a system operational breakdown; and
 - (u) The proposed development is capable of providing water meeting the requirements of the Colorado Department of Health and other state and federal water quality requirements.
- (2) The permit shall be denied if the applicant fails to satisfy all the criteria outlined in this Section and Section 2-303~~9-306~~~~(1)~~.

Article 4 Administration, Enforcement, and Penalties

9-401 Administration, Enforcement, and Penalties

The provisions of these Regulations and any permits issued hereunder shall be administered and enforced according to the provisions of the Administrative and Permit Regulations adopted by this county.

~~9-402 Severability~~

~~—————If any section, clause, provision, or portion of these Regulations should be found to be unconstitutional or otherwise invalid by a court of competent jurisdiction, the remainder shall not be affected thereby.~~

Chapter 10

(Reserved)

REGULATIONS FOR MAJOR EXTENSION OF EXISTING DOMESTIC WATER AND
SEWAGE TREATMENT SYSTEMS

Article 1 — General and Introductory Provisions

10-101 — Title and Citation

10-102 — Purpose and Intent

10-103 — Definitions

10-104 — Authority

10-105 — Applicability

10-106 — Relationship of Regulations to Other County, State and Federal Requirements

Article 2 — Designation of Major Extensions of Existing Domestic Water and Sewage
Treatment Systems

10-201 — Designation of Major Extensions of Existing Domestic Water and Sewage
Treatment Systems

10-202 — Boundaries of Area Covered by Designation

10-203 — Reasons for Designation

Article 3 — Permit Applications and Permits

10-301 — Application Procedure

10-302 — Prohibition of Major Extensions of Existing Domestic Water and Sewage
Treatment Systems

10-303 — Application for Permit

10-304 — Submission Requirements

10-305 — Waiver of Submission Requirements

10-306 — Approval of Permit Application

Article 4 — Administration, Enforcement, and Penalties

10-401 — Administration, Enforcement, and Penalties

~~10-402 Severability~~

~~Article 1 General and Introductory Provisions~~

~~10-101 Title and Citation~~

- ~~(1) These various sections constituting Chapter 10 of the “Guidelines and Regulations for Areas and Activities of State Interest of Saguache County” may be cited as the “Regulations for Major Extensions of Existing Domestic Water Supply and Sewage Treatment Systems,” and may be referred to in this Chapter 10 as “these Regulations.”~~

~~10-102 Purpose and Intent~~

~~— The purpose and intent of the regulations contained in this Chapter 10 are:~~

- ~~(1) To insure that anticipated growth and development that may occur as a result of major extensions of domestic water and sewage treatment systems can be accommodated within the financial and environmental capacity of the development area and source development area to sustain growth and development;~~
- ~~(2) To insure the planned and orderly land use development that may occur as a result of major extensions of domestic water and sewage treatment systems within the development area and source development area; and~~
- ~~(3) To regulate the use of land on the basis of the financial and environmental impact thereof on the community or surrounding areas within the development area and source development area.~~

~~10-103 Definitions~~

- ~~(1) “Domestic water and sewage treatment system” means a wastewater treatment plant, water treatment plant, or water supply system and any system of pipes, structures, and facilities through which wastewater is collected for treatment.~~
- ~~(a) “Wastewater treatment plant” means the facility or group of units used for treatment of wastewater from sewer systems and for the reduction and handling of solids and gases removed from such wastes.~~
- ~~(b) “Water supply system” means the system of pipes, structures and facilities through which a water supply is obtained, treated and sold or distributed for human consumption or the system of pipes, structures and facilities through which water is obtained which will be exchanged or traded for water which will be used for human consumption.~~
- ~~(c) “Water treatment plan” means the facility or facilities within the water supply system which can alter the physical, chemical or bacteriological quality of the water.~~

- (2) ~~“Source area” means a geographic area or region where moisture falls and drains through natural processes to either streams or lakes or permeates to the groundwater table, analogous to catchment basin or watershed.~~
- (3) ~~“Collector system” means a network of pipes and conduits through which sewage flows to a sewage treatment plant.~~
- (4) ~~“Distribution system” means a network of pipes and conduits through which water is piped to the public for human consumption or a network of pipes and conduits through which water is piped to the public in exchange or trade for water for human consumption.~~
- (5) ~~“Proposed development” means a major extension of an existing domestic water or sewage treatment system, as defined in Section 10-103 (1), (2) and (3), and includes any proposed land development related to such system if such development specifically generates the need for a major extension of an existing major water or sewage treatment system. The term “development area” as used in these Regulations is included within the meaning of “proposed development.”~~
- (6) ~~“Source development area” means that geographic area or region wholly or partially within the unincorporated territory of this County which will be developed or altered in connection with a major extension of existing domestic water and sewage treatment systems, as defined in Section 10-103 (1), (2) and (3). The source development areas may or may not be the same as the development area.~~
- (7) ~~“Nonconforming use” means a use in existence at the time of the adoption of these “Regulations”, which use, were it a new use, would be one for which a permit is required under these Regulations.~~

10-104 Authority

~~These Regulations are adopted pursuant to, inter alia, Section 24-65.1-101, et seq., C.R.S., Section 30-28-101, et seq., C.R.S., Section 30-28-201, et seq., C.R.S., and Section 29-20-101, et seq., C.R.S. These Regulations are hereby declared necessary for the preservation of the public health, safety and welfare.~~

10-105 Applicability

- (1) ~~A permit under these Regulations shall be required prior to or in conjunction with the subdivision, PUD. These Regulations shall apply to the site selection and construction of all major extensions of existing domestic water and sewage treatment systems wholly or partially within the unincorporated territory of this County.~~
- (2) ~~or preliminary plan approval, but in every case must be obtained prior to commencement of construction of the project.~~

10-106 Relationship of Regulations to Other County, State and Federal Requirements

- (1) ~~Nothing in these Regulations shall be construed as exempting an applicant for a permit from any other requirements of this County or other state or federal laws and regulations.~~
- (2) ~~To the extent that the requirements of these Regulations differ from any other applicable requirements, the more restrictive requirements shall apply.~~
- (3) ~~Permit requirements included in these Regulations shall be in addition to and in conformance with all applicable state and federal water quality laws, rules and regulations, including but not limited to the following:~~
 - (a) ~~Section 25-8-702, C.R.S., sewage treatment plant site approval;~~
 - (b) ~~Section 25-8-501, C.R.S., point source pollutant discharge permit;~~
 - (c) ~~Section 208 (33 U.S.C. Section 1288) area-wide wastewater treatment management planning;~~
 - (d) ~~Section 303 (33 U.S.C. Section 1313) river basin water quality management planning;~~
 - (e) ~~Disposal of sewage sludge (33 U.S.C. Section 1345);~~
 - (f) ~~Section 32-1-201, C.R.S., Special District Control Act;~~
 - (g) ~~16 U.S.C. Section 661-666 © 1970, The Fish and Wildlife Coordination Act;~~
 - (h) ~~Section 102©, 42 U.S.C. Section 4321, et seq.; The National Environmental Policy Act; and~~
 - (i) ~~Section 404 of the Federal Clean Water Act.~~

Article 2 — Designation of Major Extensions of Existing Water and Sewage Treatment Plants

10-201 Designation of Major Extensions of Existing Water and Sewage Treatment Plants

~~The Board of County Commissioners having considered intensity of current and foreseeable development pressures and applicable Guidelines for Identification and Designation adopted and issued by the Colorado Land Use Commission, it is the order of this Board of County Commissioners that major extensions of existing domestic water and sewage treatment systems be designated a matter of state interest and regulated pursuant to the provisions of this Chapter.~~

10-202 Boundaries of Area Covered by Designation

~~Major extensions of existing domestic water and sewage treatment systems wholly or partially within the unincorporated territory of this County shall be subject to this designation and these Regulations.—~~

10-203 Reasons for Designation

~~Major extensions of existing domestic water and sewage treatment plants is hereby designated as a matter of state interest for the reasons stated in Section 10-102 of this Chapter.~~

Article 3 — Permit Applications and Permits —

10-301 Application Procedure

~~The procedure concerning permit applications, notice and conduct of permit hearings, review of Permit Authority decisions, and the issuance and content of permits to engage in a major extension of existing domestic water and sewage treatment systems shall comply with the provisions set forth in Chapter 2, the Permit Regulations adopted by this County.~~

10-302 Prohibition of Major Extensions of Existing Domestic Water and Sewage Treatment Plants

- ~~(1) No person may engage in a major extension of a domestic water or sewage treatment system wholly or partially within the unincorporated territory of the County without first obtaining a permit pursuant to these Regulations.~~
- ~~(2) No local authority shall issue a building permit for purposes of a major extension of an existing domestic water or sewage treatment system without the applicant first having obtained a permit pursuant to these Regulations.~~

10-303 Application for Permit

~~Any person seeking to develop a major extension of an existing domestic water or sewage treatment system wholly or partially within the unincorporated territory of this County shall apply for a permit from the Permit Authority on the appropriate form prescribed by these Regulations, at Exhibit B, and maintained in the office of the Saguache County Land Use Administrator. (For sewage systems, the site application form adopted by the Water Quality Control Commission will be completed and attached to the application.)~~

10-304 Submission Requirements

~~An application for a permit to develop a major extension of an existing domestic water or sewage treatment system shall be accompanied by five (5) copies of the following documents and information:~~

- ~~(1) A completed application form;~~
- ~~(2) An abstract of the proposal indicating the scope and need for the development;~~
- ~~(3) Preliminary review and comment on the proposal by the appropriate agency of the Colorado Department of Natural Resources and the Colorado Department of Health within sixty (60) days;~~
- ~~(4) Alternate potential site locations and degree of feasibility of each;~~
- ~~(5) Proponents of proposal:
 - ~~(a) Names, addresses and business of all local or other interests proposing site of major extension of domestic water or sewage treatment system; and~~
 - ~~(b) Name and qualification of the person(s) responding to the requirements detailed in these Regulations.~~~~
- ~~(6) Scope of Proposal:
 - ~~(a) Provide detailed engineering plans and specifications of the proposal including proposed system capacity and service area plans mapped at an appropriate scale;~~~~

- ~~(b) Provide a description of all existing or approved proposed systems within the development area and source development area;~~
- ~~(c) Detail the excess capacity of each treatment system and the distribution or collection network in the community or development area and source development area;~~
- ~~(d) Detail the excess capacity of each treatment system and distribution or collection network in the community or development area and source development area;~~
- ~~(e) Provide an inventory of total commitments already made for current water or sewage services in the development area and source development area;~~
- ~~(f) Detail the operational efficiency of each existing system in the development area and source development area, including age, state of repair, and level of treatment;~~
- ~~(g) Detail the source and rights for the water supplies for the system, including any permits, decrees or contracts for such rights, or the application submitted for change of water rights, appropriation of water or augmentation plans;~~
- ~~(h) Detail water utilization including historic yield from rights and uses by category such as agricultural, municipal and industrial and supply obligations to other systems; and~~
- ~~(i) Provide a description and detailed engineering plans and specifications of the proposed construction of structures, buildings, and improvements associated with the project and the financial, environmental and social impacts thereof on the community or surrounding areas within the development area and~~
- ~~(7) Demonstrate the need for a major extension of a domestic water or sewage system:~~
 - ~~(a) Provide population trends for the development area and source development area; e.g., present population, population projections, and growth rates;~~
 - ~~(b) Specify the predominant types of developments to be served by the proposed extension of water or sewage treatment system;~~
 - ~~(c) Specify at what percentage of the design capacity the current system is now operating:~~
 - ~~Water treatment system: _____~~
 - ~~Wastewater treatment system: _____; and~~
 - ~~(d) Specify whether or not present facilities can be upgraded to adequately accommodate the ten year projected increased need in treatment and/or hydraulic capacity in the development area and source development area.~~
- ~~(8) Environmental impact analysis:~~
 - ~~(a) Land Use:~~
 - ~~ii. Provide a map (at an appropriate scale detailing existing land uses of the proposed development, source development area, and the project service area including peripheral lands which may be impacted. The land use map should include, but not necessarily be restricted to, the following categories: residential, commercial,~~

- industrial, extractive, transportation, communication and utility, institutional, open space, outdoor recreation, agricultural, forest land and water bodies;
- iii. All immediately affected public land boundaries should be indicated on the map. Potential impacts of the proposed development upon public lands will be visually illustrated on the map as well as described in textual form;
 - iv. Specify whether the proposed project conforms to this County's planning policies;
 - v. Specify whether the proposed project conforms to regional and state planning policies;
 - vi. Specify whether the proposed project conforms to federal land management policies;
 - vii. Describe the present use of the land in the development area and source development area;
 - viii. Detail the present zoning of the land in the development area and source development area;
 - ix. Detail the agricultural productivity capability of the land in the development area and source development area (SCS classification);
 - x. Specify how the proposed development will utilize existing easements or rights-of-way for new associated distribution and collector networks;
 - xi. Describe the probability that the system may be significantly affected by earthquakes, floods, fires, snowslides, Avalanches, rockslides, or landslides and any measures taken to reduce the impact of such events upon the system; and
 - xii. Specify whether the demand for this project is associated with development within or contiguous to existing service areas.

(b) Water Resources

- xiii. Describe and indicate on an appropriate map relevant surface water bodies (streams, lakes and reservoirs) and groundwater aquifers in the development area and source development area and their uses;
- xiv. On the same, or other appropriate map, indicate any floodplain associated with the proposed development. Documentation of historical flooding activity should be included. Detail potential adverse impacts of associated floodplain;
- xv. Describe potential effects of the proposed development on eutrophication, wasteload allocations and water quality of rivers,

streams, aquifers and/or any existing or proposed reservoirs in this County;

xvi. Describe potential effects of the proposed development project on the above-described water features, including the effects on present water quality and current uses. Include a detailed statement of the impacts of the proposed project upon water quality standards including, but not limited to antidegradation standards, and all applicable basic or numeric standards for physical, biological, organic, inorganic, and metal pollutants described at 5 C.C.R. 1002-8, Section 3.6.0, et seq.; and

xvii. Describe the potential adverse effects of the proposed development upon plant and animal life dependent upon the water resources in question.

(c) Air Quality

Detail the impact of the proposed development on ambient air quality of the development area and source development area.

(d) Significant Environmentally Sensitive Factors

Identify and locate on a map of an appropriate scale the juxtaposition of any of the following features present in the development area and source development area and its environs and detail the potential impact of the proposed development upon each feature:

xviii. Marshlands and wetlands;

xix. Groundwater recharge areas;

xx. Potential natural hazards;

xxi. Forests and woodlands;

xxii. Critical wildlife habitat or other wildlife protection areas;

xxiii. Public, outdoor recreation areas;

xxiv. Unique areas of geological, historic and archaeological importance;

xxv. Critical aquatic life habitat; and

xxvi. Agricultural areas;

(e) Visual Aesthetics and Nuisance Factors

(f) Describe what impact the proposed development will have upon the need for public transportation in this County.

(9) Financial impact analysis of major extensions of existing domestic water and sewage treatment facilities will include but not be limited to the following:

(a) Review and summary of any existing engineering and/or financial feasibility studies, assessed taxable property valuations, property tax collection experience, and all other matters of aid in determining the feasibility of the extension, including such as related to:

- ~~xxvii. — Service area and/or boundaries;~~
 - ~~xxviii. — Applicable methods of transmitting, storing, treating and delivering water, and collecting, transmitting, treating and discharging sewage (including effluent and/or sludge disposal);~~
 - ~~xxix. — Estimated construction costs and period of construction of each major extension component;~~
 - ~~xxx. — Assessed valuation of the property to be included within the service area and/or boundaries;~~
 - ~~xxxi. — Revenues and operating expenses of the new facility including but not limited to historical and estimated property taxation, service charges and rates, assessments, connection and tap fees, standby charges and all other revenues of the new facility;~~
 - ~~xxxii. — Amount and security of proposed debt and method and estimated cost of debt service;~~
 - ~~xxxiii. — Details of any substantial contract or agreement for revenues (as in (V) above) or for services to be paid, furnished or used by or with any person, association, corporation and governmental body.~~
- ~~(b) Provide a debt retirement schedule based upon anticipated service fees and tax base.~~
- ~~(c) Identification of the person, association, corporation and governmental body that will benefit by, use and will pay any or all of the revenues (as in (V) above).~~
- ~~(d) If the major extension capacity exceeds the proposed ten (10) year population growth needs as detailed by the appropriate region's 208 planning demographic projections, then detail the excess service capacity and the cost of such excess capacity to the community.~~
- ~~(e) Increased Domestic and/or Municipal Water Treatment Costs and/or Wastewater Treatment Costs: _____~~
- ~~xxxiv. — The applicant shall submit a plan to offset increased domestic and/or municipal water treatment and/or wastewater treatment necessary to meet water quality standards and determined to be a direct result of flow modification through changes in the transport of nutrients, total dissolved solids, hardness, minerals or other pollutants due to the operation of any project facilities proposed by the applicant. This may be accomplished either by construction and operation of additional domestic and/or municipal water treatment facilities made necessary by the reduction in flow, or the applicant may elect to pay a fee in lieu of those mitigation measures. This fee will be based upon the additional costs of domestic and/or municipal treatment and/or wastewater treatment (capital, operation and maintenance); and it will be used exclusively for meeting the costs of such additional domestic and/or municipal treatment and/or wastewater treatment.~~

- (10) — Any demographic data needed to fulfill the requirements of these Regulations shall be consistent with those used for the 208 area-wide treatment management planning.
- (11) — For each alternative expansion being considered by the applicant, the information specified in Subsections (1) through (10) of this section.

10-305 Waiver of Submission Requirements

- (1) The Permit Authority may waive any part but not all of the submission requirements imposed by this Regulation upon petition of the applicant that full compliance with the submission requirements would be unreasonably burdensome for the applicant and that the proposed development will have an insubstantial impact on the development area and source development area. In cases in which the development activity must also comply with PUD and/or subdivision regulations, the permit hearing required by these regulations should be held at the same time as the preliminary plat hearing. Such a waiver of submission requirements may be granted, after due consideration by the Permit Authority, upon a written determination that the information to be submitted is sufficient for the Permit Authority to arrive at a permit decision in full compliance with the law and these Regulations and that the proposed development area and source development area.
- (2) The petition shall be considered and the decision rendered by the Permit Authority at a public hearing held in substantial compliance with the provisions of Section 2-301 of the Permit Regulations adopted by the County.
- (3) In the event the waiver request is denied, the applicant shall provide the required additional information on or before five (5) days prior to the date set for hearing of the application itself. If the applicant fails to provide such information, the Permit Authority may in its discretion vacate the public hearing on the application itself and require complete reapplication, or may continue the hearing in accordance with Section 2-303 of the Permit Regulations adopted by this County.

10-306 Approval of Permit Application

- (1) A permit application for a major extension of existing domestic water or sewage treatment system shall be approved (with reasonable conditions, if any, in the discretion of the Permit Authority) only if the proposed development complies with the following criteria:
- (a) Major extensions of domestic water and sewage treatment systems shall be permitted in those areas in which the anticipated growth and development that may occur as a result of such extension can be accommodated within the financial and environmental capacity of the development area to sustain such growth and development;
- (b) The proposed development does not conflict with an approved local master plan or other applicable regional, state or federal land use or water plan;

- ~~(c) The proposed development does not adversely affect either surface or subsurface water rights of upstream or downstream users within the development area and source development;~~
- ~~(d) Adequate water supplies, as determined by the Colorado Department of Health, are available for efficient operational needs;~~
- ~~(e) Existing domestic water treatment systems servicing the area must be at or near operational capacity;~~
- ~~(f) Existing domestic sewage treatment facilities servicing the area must be at or greater than eighty percent (80%) of operational capacity;~~
- ~~(g) The scope and nature of the proposed development will not compete with existing water and sewage services or create duplicative services;~~
- ~~(h) Age of existing water and sewage systems, operational efficiency, state of repair, or level of treatment is such that replacement is warranted;~~
- ~~(i) Area and community development and population trends demonstrate clearly a need for such development;~~
- ~~(j) Existing facilities cannot be upgraded or expanded to meet waste discharge permit conditions of the Colorado Water Quality Control Commission;~~
- ~~(k) Appropriate easements can be obtained for any associated collector or distribution system that will serve existing and proposed needs;~~
- ~~(l) The benefits of the proposed development outweigh the losses of any natural resources or agricultural lands rendered of the proposed development;~~
- ~~(m) The proposed development will not decrease the quality of peripheral or downstream surface or subsurface water resources below that designated by the Colorado Water Quality Control Commission as established on May 22, 1979, and effective July 10, 1979;~~
- ~~(n) The proposed development or its associated collector or distribution system or new service areas will not violate federal or state air quality standards;~~
- ~~(o) The proposed development or its associated collector or distribution system will not significantly deteriorate aquatic habitats, marshlands and wetlands, groundwater recharge areas, steeply sloping or unstable terrain, forests and woodlands, critical wildlife habitat or other wildlife protecting areas, big game migratory routes, calving grounds, migratory ponds, nesting areas and the habitats of rare and endangered species, public outdoor recreational areas, and unique areas of geologic, historic, or archaeological importance;~~
- ~~(p) The proposed development or its associated collector or distribution system will not significantly degrade existing natural scenic characteristics, create blight, or cause other nuisance factors such as excessive noise or obnoxious odors;~~
- ~~(q) The proposed development or its associated collector or distribution system will not create an undue financial burden on existing or future residents within the development area and source development area. The cost of securing an adequate~~

~~supply of water for existing and future needs of the residents of this County shall be considered in determining whether and “undue financial burden” will result;~~

- ~~(r) Water treatment offset plans required by Section 10-304(9)(e) have been approved by the Permit Authority and required fees associated therewith, if any, have been paid;~~
 - ~~(s) The development site of a proposed major extension of an existing domestic water or sewage system is not subject to significant risk from earthquakes, floods, fires, snowslides, landslides, avalanches, rockslides or other disasters which could cause a system operational breakdown;~~
 - ~~(t) The proposed development is capable of providing water meeting the requirements of the Colorado Department of Health and other state and federal water quality requirements; and~~
 - ~~(u) The construction of structures, buildings and improvements associated with the proposed development will not significantly impact existing or proposed communities within the development area and source development area.~~
- ~~(2) The permit shall be denied if the applicant fails to satisfy all the criteria outlined in Section 10-306(1).~~

Article 4 — Administration, Enforcement, and Penalties

10-401 Administration, Enforcement, and Penalties

~~The provisions of these Regulations and any permits issued hereunder shall be administered and enforced according to the provisions of the Administrative and Permit Regulations adopted by this County.~~

10-402 Severability

~~If any section, clause, provision, or portion of these Regulations should be found to be unconstitutional or otherwise invalid by a court of competent jurisdiction, the remainder shall not be affected thereby.~~

Chapter 11

(Reserved)

Chapter 12

Regulations for Efficient Utilization of Municipal and Industrial Water Projects

Article 1 General and Introductory Provisions

12-101 Title and Citation

12-102 Purpose and Intent

12-103 Definitions

12-104 Authority

12-105 Applicability

~~12-106 Relationship of Regulations to Other County, State and Federal Requirements~~

Article 2 Designation of Municipal and Industrial Water Projects

12-201 Designation of Municipal and Industrial Water Projects

12-202 Boundaries of area Covered by Designation

12-203 Reasons for Designation

Article 3 Permit Applications and Permits

12-301 Application Procedure

12-302 Prohibition of Development of Municipal and Industrial Water Projects

12-303 Application for Permits

12-304 Submission Requirements

12-305 Waiver of Submission Requirements

12-306 ~~Approval of Permit Application~~
Review Criteria

Article 4 Administration, Enforcement, and Penalties

12-401 Administration, Enforcement, and Penalties

~~12-402 Severability~~

Article 1 General and Introductory Provisions

12-101 Title and Citation

These various sections constituting Chapter 12 of the “Guidelines and Regulations for Areas and Activities of State Interest of Saguache County,” may be cited as the “Regulations for Efficient Utilization of Municipal and Industrial Water Projects,” and may be referred to in this Chapter 12 as “these Regulations.”

12-102 Purpose and Intent

The purpose and intent of the regulations contained in this Chapter 12 are:

- (1) To ~~insure~~ensure that municipal and industrial water projects are developed in a manner so as to emphasize the most efficient use of water, including, to the extent permissible under law, the recycling and reuse of water;
- (2) To ~~insure~~ensure that urban development, population densities, and site layout and design of stormwater and sanitation systems shall be accomplished in a manner that will prevent the pollution of aquifer recharge areas;
- (3) To ~~insure~~ensure that municipal and industrial water projects are developed in such a manner so as not to pollute rivers, streams, lakes, reservoirs, ponds and aquifer, recharge areas within the source development area; and
- (4) To ensure that the off-site impacts of municipal and industrial water projects are effectively mitigated.
- ~~(4)~~(5) To ensure that the surface and groundwater resources of the County are protected from any adverse impacts of the development of municipal and industrial water projects.

12-103 Definitions

- (1) *Aquifer Recharge Area* means any area where surface waters may infiltrate to a water bearing stratum of permeable rock, sand or gravel. This definition will also include wells used for disposal of wastewater or other toxic pollutants.
- (2) *Efficient use of water* means the employment of methods, procedures, techniques, and controls to ~~insure~~ensure that the amount of water and the purpose for which water is used will yield the greatest possible benefit to the greatest number of people. Such benefits will consider, but not be limited to, economic, social, aesthetic, environmental, agricultural, aquicultural and recreational.
- (3) *Municipal and Industrial Water Project* means:
 - (a) a system and all integrated components thereof through which a municipality(ies) and/or industry derives its water supply from either surface or subsurface sources. This includes a system and all integrated components thereof through which a municipality or industry derives water exchanged or

traded for water it uses for its own needs. The term includes pipelines used or intended to convey raw or treated water from the source development area to end users. This term also includes stormwater and wastewater disposal systems of a municipality(ies) and/or industry.

~~(a)~~(b) This term includes the activity of removal of water from historically irrigated lands, as a “development” per the definition of the same at Section 5-104.

~~(3)~~(4) Recycling means the treatment of wastewater in a manner that will replenish its quality to the standard established by the Colorado Department of Public Health where permissible by Colorado water law.

~~(4)~~(5) Source Development Area means the geographic area or region wholly or partially within the unincorporated territory of this County which will be developed or altered in connection with the development of a municipal or industrial water project as these terms are defined in Section 12-103 (3).

12-104 Authority

These Regulations are adopted pursuant to, *inter alia*, Section 24-65.1-101, et seq., C.R.S., Section 30-28-101, et seq., C.R.S., Section 30-28-201, et seq., C.R.S., and Section 29-20-101, et seq., C.R.S. These Regulations are hereby declared necessary for the preservation of the public health, safety and welfare.

12-105 Applicability

(1) These Regulations shall apply to the development of municipal and industrial water projects wholly or partially within the unincorporated territory of this County.

~~(2)~~ A permit under these Regulations shall be required prior to or in conjunction with the subdivision, PUD or preliminary plan approval, but in every case must be obtained prior to commencement of construction of the project.

~~(2)~~(3) To the extent a proposed municipal or industrial water project includes or relies upon the removal of water from historically irrigated lands within the scope of “development” defined at Section 5-104, the project proponent must also apply for and receive a permit under Chapter 5 of these Regulations, unless exempt from that Chapter under Section 5-105.

~~12-106 Relationship of Regulations to Other County, State and Federal Requirements~~

~~(1) Nothing in these Regulations shall be construed as exempting an applicant for a permit from any other requirements of this County or other state or federal laws and regulations.~~

~~(2) To the extent that the requirements of these Regulations differ from any other applicable requirements, the more restrictive requirements shall apply.~~

|

Article 2 Designation of Municipal and Industrial Water Projects

12-201 Designation of Municipal and Industrial Water Projects

The Board of County Commissioners having considered the intensity of current and foreseeable development pressures and applicable guidelines for Identification and Designation adopted and issued by the former Colorado Land Use Commission, it is the order of this Board of County Commissioners that efficient use of municipal and industrial water projects be designated a matter of state interest and regulated pursuant to the provisions of this Chapter.

12-202 Boundaries of Area Covered by Designation

Development of municipal and industrial water projects wholly or partially within the unincorporated territory of this County shall be subject to this designation and these Regulations.

12-203 Reasons for Designation

Development of municipal and industrial water projects is hereby designated as a matter of state interest for the reason stated in Section 12-102 of this Chapter.

Article 3 Permit Applications and Permits

12-301 Application Procedure

The procedure concerning permit applications, notice and conduct of permit hearings, review of Permit Authority decisions, and the issuance and content of permits to engage in a major extension of existing domestic water and sewage treatment systems shall comply with the provisions set forth in Chapter 2, the Permit Regulations adopted by this County.

12-302 Prohibition of Development of Municipal and Industrial Water Projects

- (1) No person may engage in a development of a municipal or industrial water project wholly or partially within the unincorporated territory of this County without first obtaining a permit pursuant to these Regulations.
- (2) No ~~local authority may issue a~~ building permit may be issued for purposes of development or construction of a municipal or industrial water project without the applicant first having obtained a permit pursuant to these Regulations.

12-303 Application for Permit

Any person seeking to engage in development of a municipal or industrial water project wholly or partially within the unincorporated territory of this County shall apply for a permit from the Permit Authority on the appropriate form prescribed by these Regulations, at **Exhibit B**, and maintained in the office of the Saguache County Land Use Administrator.

12-304 Submission Requirements

An application for a permit to engage in development of a municipal or industrial water project shall be accompanied by five (5) copies of the information required by Section 2-205 and the following documents and information:

- (1) A completed application form;
- ~~(2) An abstract of the proposal indicating the scope and need for the development;~~
- ~~(3)~~(2) Preliminary review and comment on the proposal by the appropriate agency of the Colorado Department of Natural Resources and the Colorado Department of Natural Resources and the Colorado Department of Health within sixty (60) days.
- ~~(3)~~ Alternative potential site location and degree of feasibility of each.
- (4) Identify purchases of project water, amounts, and location of delivery;
- ~~(5) Proponents of proposal:~~
 - ~~(a) Names, addresses and business of all local or other interests proposing the development of a municipal or industrial water project;~~
 - ~~(b) Name and qualifications of the person(s) responding to the requirements detailed in these Regulations;~~

~~(6)~~(5) A detailed report on the proposed municipal or industrial water project to include:

- (a) Location and scope of the proposed project;
- (b) Current and future needs for such development;
- (c) Inventory of existing water projects presently serving the municipality or area in question and excess service capacity of each project;
- (d) Population trends, projections and growth rates (if a municipal project);
- (e) Primary source of proposed water resources;

~~(7)~~(6) Verification that the proposed water project will not conflict with federal, state, regional, or County planning policies or regulations applicable to land or water resources.

~~(8)~~(7) Detail proposed methods of insuring efficient and beneficial use of water resources within the municipality or industrial area and the source development area. Such methods should consider metering of all users, examination of rate structure to discourage waste and recycling of water for reuse where permissible by Colorado water law.

~~(9)~~(8) Provide a description and detailed engineering plans and specifications of the proposed construction of structures, buildings, and improvements associated with the projects and the financial and environmental impacts thereof on the community or surrounding areas within the development area and source development area.

~~(10)~~(9) In instances where municipal or industrial wastewater or stormwater disposal methods are not subject to and regulated by other state and/or federal statutes or regulations, detail the proposed methods by which stormwaters or wastewaters will be prevented from contaminating aquifers;

~~(11)~~(10) Provide assurance that the proposed municipal or industrial water project is capable of supplying water of a quality determined by the Colorado Department of Health.

~~(12)~~(11) Identify and locate on a map of an appropriate scale any of the following features present in the source development area and detail the potential impact of the municipal or industrial water project upon each feature:

- (a) Marshlands and wetlands;
- (b) Groundwater recharge areas;
- (c) Potential natural hazards;
- (d) Forests and woodlands;
- (e) Critical wildlife habitat or other wildlife protection areas;
- (f) Public, outdoor recreation areas;

- (g) Unique areas of geological, historic and archaeological importance;
- (h) Critical aquatic life habitat; and
- (i) Agricultural areas.

~~(13)~~(12) Describe the potential adverse effects of the diversion of water from the source development area upon plant and animal life dependent upon the water resources in question.

~~(14)~~(13) Describe and indicate on an appropriate map surface water bodies (streams, lakes, reservoirs (existing or proposed), etc.) and groundwater aquifers in the source development area and their uses. Describe the effects of the diversion of water for the municipal or industrial water project on the above-described water feature(s) including the effects on present water quality, current and foreseeable uses. Include a detailed statement of the impacts of the proposed project upon water quality standards including, but not limited to anti-degradation standards, and all applicable basic or numeric standards for physical, biological, organic, inorganic, and metal pollutants described at 5 C.C.R. 1002-8. ~3.6.0 et seq.

~~(15)~~(14) Detail the present zoning of the land in the source development area.

~~(16)~~(15) Detail the agricultural productivity capability of the land in the source development area (SCS classification) and describe the potential effects of the diversion of water for the municipal or industrial water project on that agricultural productivity capability.

~~(17)~~(16) Increased Domestic and/or Municipal Water Treatment Costs and/or Wastewater Treatment Costs:

(a) The applicant shall submit a plan to offset increased domestic and/or municipal water treatment and/or wastewater treatment necessary to meet water quality standards and determined to be a direct result of flow modification through change in the transport of nutrients, total dissolved solids, hardness, minerals or other pollutants due to the operation of any project facilities proposed by the applicant. This may be accomplished either by construction and operation of additional domestic and/or municipal water treatment facilities made necessary by the reduction in flow, or the applicant may elect to pay a fee in lieu of those mitigation measures. This fee will be based upon the additional costs of domestic and/or municipal treatment and/or wastewater treatment (capital, operation and maintenance); and it will be used exclusively for meeting the costs of such additional domestic and/or municipal treatment and/or wastewater treatment.

~~(a)~~(b) The plan, and if approved, the required fee, shall be made a condition of any permit approval.

(17) Any demographic data needed to fulfill the requirements of these Regulations shall be consistent with those used for the 208 areawide waste treatment management planning.

(18) Describe the potential effects of the proposed development on the eutrophication, wasteload allocations and water quality of the rivers, streams, aquifers and/or any existing or proposed reservoirs in the County.

~~(18)~~(19) For each alternative site or expansion area being considered by the applicant, the information specified in Subsections (1) through ~~(16)~~(19) of this Section.

12-305 Waiver of Submission Requirements

The Permit Authority may waive any part but not all of the submission requirements imposed by this Regulation upon petition of the applicant that full compliance with the submission requirements would be unreasonably burdensome for the applicant and that the proposed development will have an insubstantial impact on the development area and source development area. The criteria and procedure for consideration of a waiver request is found at Section 2-206.~~In cases in which the development activity must also comply with PUD and/or subdivision regulations, the permit hearing required by these regulations should be held at the same time as the preliminary plat hearing. Such a waiver of submission requirements may be granted, after due consideration by the Permit Authority, upon a written determination that the information to be submitted is sufficient for the Permit Authority to arrive at a permit decision in full compliance with the law and these Regulations and that the proposed development area and source development area.~~

~~The petition shall be considered and the decision rendered by the Permit Authority at a public hearing held in substantial compliance with the provisions of Section 2-301 of the Permit Regulations adopted by the Count.~~

~~In the event the waiver request is denied, the applicant shall provide any required additional information a minimum of thirty days (30) prior to the date set for hearing of the application itself. If the applicant fails to provide such information, the Permit Authority may in its discretion vacate the public hearing on the application itself and require complete reapplication, or may continue the hearing in accordance with Section 2-303 of the Permit Regulations adopted by this County.~~

12-306 Review Criteria~~Approval of Permit Application~~

- (1) A permit application for development of a municipal or industrial water project shall be approved (with reasonable conditions, if any, in the discretion of the Permit Authority) only if the proposed development complies with the review criteria in Section 2-303 and all of the following criteria:
 - (a) The need for the proposed water project can be substantiated;
 - (b) Assurances of compatibility of the proposed water project with federal, state, regional and County planning policies regarding land use and water resources;
 - (c) Municipal and industrial water projects shall emphasize the most efficient use of water, including, to the extent permissible under existing law, the recycling and reuse of water. Urban development, population densities, and site layout and design of ~~stormwater~~stormwater and sanitation systems shall be accomplished in a manner that will prevent the pollution of aquifer recharge areas;
 - (d) Provisions to ~~insure~~ensure that the proposed water project will not contaminate surface water resources;
 - (e) The proposed water project is capable of providing water pursuant to standards of the Colorado Department of Health;

- (f) The proposed diversion of water from the source development area will not decrease the quality of peripheral or downstream surface and subsurface water resources in the source development area below that designated by the Colorado Water Quality Control Division on May 22, 1979, and effective July 10, 1979;
 - (g) The proposed development and the potential diversions of water from the source development area will not significantly deteriorate aquatic habitats marshlands and wetlands, groundwater recharge areas, steeply sloping or unstable terrain, forests and woodlands, critical wildlife habitats, or other wildlife protection areas, big game migratory routes, calving grounds, migratory ponds, nesting areas and the habitats of rare and endangered species, public outdoor recreational areas, and unique areas of geologic, historic or archaeological importance;
 - (h) A water treatment offset plan required by Section 12-304 (14) has been approved by the Permit Authority as a condition of any issued Permit and required fees associated therewith, if, any, have been paid; and
 - (i) The construction of structures, buildings, and improvements associated with the proposed development will not significantly impact existing or proposed communities within the development area and source development area.
- (2) The permit shall be denied if the applicant fails to satisfy all the criteria outlined in this Section and Section 2-303.~~Section 12-306 (1).~~

Article 4 **Administration, Enforcement, and Penalties**

12-401 Administration, Enforcement, and Penalties

The provisions of these Regulations and any permits issued hereunder shall be administered and enforces according to the provisions of the Administrative and Permit Regulations adopted by this County.

~~12-402 Severability~~

~~——— If any section, clause, provision, or portion of these Regulations should be found to be unconstitutional or otherwise invalid by a court of competent jurisdiction, the remainder shall not be affected thereby.~~

Chapter 13

*Regulations for Site Selection and Construction
of Major Facilities of a Public Utility*

Article 1 General and Introductory Provisions

- 13-101 Title and Citation
- 13-102 Purpose and Intent
- 13-103 Definitions
- 13-104 Authority
- 13-105 Applicability
- 13-106 Nonconforming Uses
- 13-107 Relationship of Regulations to Other County, State and Federal Requirements

Article 2 Designation of Site Selection and Construction of Major Facilities of a Public Utility

- 13-201 Designation of Site Selection and Construction of a Major Facility of a Public Utility

~~13-202~~ — ~~Boundaries of Area Covered by Designation~~

- 13-~~202~~²⁰³ Reasons for Designation

Article 3 Permit Program for Site Selection and Construction of a Major Facility of a Public Utility

- 13-301 Prohibition on Site Selection and Construction of a Major Facility of a Public Utility Without Permit
- 13-302 Procedural Requirements

~~13-303~~ — ~~(Reserved)~~ —

- 13-~~303~~³⁰⁴ Submission Requirements

- 13-~~304~~³⁰⁵ Waiver of Submission Requirements

- 13-~~305~~³⁰⁶ ~~Review Criteria~~ ~~Approval of Permit Application~~

Article 4 Administration, Enforcement, and Penalties

- 13-401 Administration, Enforcement, and Penalties

~~13-402~~ — ~~Severability~~

|

Article 1 **General and Introductory Provisions**

13-101 Title and Citation

These various sections constituting Chapter 13 of the “Guidelines and Regulations for Areas and Activities of State Interest of Saguache County” may be cited as “Regulations for Site Selection and Construction of Major Facilities of a Public Utility,” and may be referred to in this Chapter 13 as “these Regulations.”

13-102 Purpose and Intent

The purpose and intent of the regulations contained in this Chapter 13 are:

- (1) To encourage planned and orderly land use development;
- (2) To provide for the needs of agriculture, forestry, industry, business, residential communities, and recreation in future growth;
- (3) To encourage uses of land and other natural resources which are in accordance with their character and adaptability;
- (4) To conserve soil, water, forest and agricultural resources;
- (5) To protect the beauty of the landscape;
- (6) To promote the efficient and economic use of public resources;
- (7) To regulate the site selection and construction of major facilities of a public utility to prevent significant deterioration or degradation of existing air and water quality in the state; and
- (8) To regulate the site selection and construction of major facilities of a public utility so as to avoid direct conflict with adopted local government, regional and state master plans.

13-103 Definitions

~~(1) “Applicant” means any individual, partnership, corporation, association, company, or other public or corporate body, including the federal government or any federal entity, and includes any political subdivision, agency, instrumentality, or corporation of the state.~~

~~(2)~~(1) “*Appurtenant facilities*” means any buildings, structures or other property which are clearly incidental to, and customarily found in connection with major facilities of public utilities and are operated and maintained for the benefit or convenience of the occupants, employees, customers or visitors of such major facilities.

~~(3)~~(2) *Central office buildings of telephone utilities* means facilities, including appurtenant facilities, owned and operated by a telephone utility for the primary purpose of offering of telephone utilities employees engaged in administrative,

accounting, engineering, training and like activities or public offices maintained for the transaction of business with telephone utilities customers, including the expansion of existing facilities which would increase office floor space by fifty (50) percent or more.

~~(4)~~—

~~(5)~~ “County” means Saguache County or County.

~~(6)~~(3) “Development Area means those geographic areas within the county which will be developed or altered by construction or a portion of the proposed project.

~~(7)~~(4) *Escrow Agreement* an agreement between the County and the applicant to cover an expenses pertaining to the any expenses needed for the application process.

~~(8)~~(5) *Major facilities of a public utility* means:

- a. Central office buildings of telephone utilities;
- b. Transmission lines, power plants, and substations of electrical utilities; and
- c. Pipelines and storage areas of utilities providing natural gas or other petroleum derivatives.

~~(9)~~(6) *Master plan* means a plan for the physical development of the jurisdiction as defined by Sections 30-28-106 and 30-28-107, C.R.S.

~~(10)~~ *Mitigation* means avoiding an impact; minimizing impacts by limiting the degree or magnitude of the action or its implementations; rectifying the impact by repairing, resubmitting or rectifying the impact area, facility or service; or compensation for the impact for replacing or providing for the replacement of biological or physical conditions services or facilities.

~~(11)~~ *Municipality* means a home rule or statutory city, town or a city and county or a territorial charter city.

~~(12)~~ *Nonconforming use* means a use in existence at the time of the adoption of these Regulations, which use, were it a new use, would be one for which a permit is required under these Regulations.

~~(13)~~(7) “Pipelines mean any pipeline and appurtenant facilities designed for, or capable of, transporting natural gas or other petroleum derivatives of ten (10) inches diameter or larger which creates a hoop stress of 20 percent or more at their specified minimum yield strength.

~~(14)~~(8) *Power plant* means any electrical energy generating facility with a generating capacity of fifty (50) megawatts or more, and any facilities appurtenant thereto, or any addition thereto increasing the existing design capacity of the facility by fifty (50) megawatts or more, with a generating source of natural gas, coal, geothermal resources or solar energy.

~~(15)~~(9) *Public utilities* as used un these Regulations means the term as defined by Section 40-1-103.

~~(16)~~ “Receipt of application” means the time at which the application is deemed complete and accepted by the permit Authority.

~~(17)~~ “Significant means deserving to be considered important; notable and not trifling.

~~(18)~~(10) *Site selection* means the process for determining the location of major facilities of a public utility or the expansion of existing major facilities of a public utility.

~~(19)~~(11) *Storage area* means any facility, including appurtenant facilities, designed to store 50 million cubic feet or more of natural gas or 35,000 barrels or more of petroleum derivatives, or any expansion of any existing storage facilities to accommodate 50 million cubic feet or more of natural gas or 35,000 barrels or more of petroleum derivatives. Deep underground storage areas are excluded.

~~(20)~~(12) *Substation* means any facility designed to provide switching, voltage transformation, or voltage control required for the transmission of electricity at 230 kilovolts.

~~(21)~~(13) *Transmission lines* mean any electric transmission line and appurtenant facilities which transmission line and appurtenant facilities which emanate from a power plant or substation and terminate at a substation.

13-104 Authority

These Regulations are adopted pursuant to, *inter alia*, Section 24-65.1-101, et seq., C.R.S., Section 30-28-101, et seq., C.R.S., Section 30-28-201, et seq., C.R.S., and Section 29-20-101, et seq., C.R.S. These Regulations are hereby declared necessary for the preservation of the public health, safety and welfare.

13-105 Applicability

(1) These Regulations shall apply to site selection of major facilities of any public utility to be located wholly or partially within the unincorporated territory of this County.

~~(1)~~(2) In the event a proposed major facility of a public utility includes or relies upon any removal of water from historically irrigated lands within the definition of “development” at Section 5-104, the project proponent must all apply for and receive a permit under Chapter 5 of these Regulations, unless exempt from that Chapter under Section 5-105.

13-106 Nonconforming Uses

The provisions of this Chapter shall not apply to any nonconforming use existing on the date the activity is designated or subjected to these Regulations, provided that, when such a nonconforming use shall be discontinued for six months or more or a nonconforming structure is damaged or destroyed to the extent of at least fifty (50) percent of the appraised value, any reuse, reconstruction, or replacement of such structure shall be deemed a new use and shall be subject to the provisions of these Regulations except when detrimental to the public health and safety.

13-107 Relationship of Regulations to Other County, State, and Federal Requirements

~~(1) Nothing in these Regulations shall be construed as exempting an applicant for a permit from any other requirements of this County or other state, or federal laws and regulations.~~

~~(2) To the extent that the requirements of these Regulations differ from any other applicable requirements, the more restrictive requirements shall apply.~~

~~(3)~~(1) Nothing in these Regulations shall be construed as enhancing or diminishing the power and authority of municipalities, counties, or the Public Utilities Commission. Any order, rule, or directive issued by any governmental agency pursuant to these Regulations shall not be inconsistent with or in contravention of any decision, order, or finding of the Public Utilities Commission with respect to public convenience and necessity. The Public Utilities Commission and public utilities shall take into consideration and, when feasible, foster compliance with adopted master plans of local governments, regions and the state.

~~(4)~~(2) Nothing in these Regulations shall be construed as enhancing or diminishing the rights and procedures with respect to the power of a public utility to acquire property and rights-of-way by eminent domain to serve public need in the most economical and expedient manner.

Article 2 Designation of Site Selection and Construction of Major Facilities of a Public Utility

13-201 Designation of Site Selection and Construction of Major Facilities of a Public Utility

The Board of County Commissioners having considered the intensity of current and foreseeable development pressures and applicable Guidelines for Identification and Designation adopted and issued by the former Colorado Land Use Commission, it is the order of this Body that site selection and construction of major facilities of a public utility be designated a matter of state interest and regulated pursuant to the provisions of this Chapter.

~~13-202 Boundaries of Area Covered by Designation~~

~~————— The site selection and construction of any major facility of a public utility is hereby designated as a matter~~

~~of state interest for the reasons stated in Section 13-202 of this Chapter. ———~~

13-203 Reasons for Designation

Site selection and construction of any major facility of a public utility ~~is~~ hereby designated as a matter of state interest for the reasons stated in Section 13-~~102204~~ of this Chapter. This designation expressly includes facilities for generating and transmitting electric energy from all generating sources, including natural gas, coal, wind, geothermal and solar.

Article 3 Permit Program for Site Selection and Construction of a Major Facility of a Public Utility

13-301 Prohibition on Site Selection and Construction of a Major Facility of a Public Utility Without Permit

(1) No person may locate or construct a major facility of a public utility wholly or partially in this County without first obtaining a permit pursuant to these Regulations.

~~(2)~~ No local authority may issue a building permit **may be issued** for purposes of selecting a site for or constructing a major facility of a public utility wholly or partially in this County without the applicant first having obtained a permit pursuant to these Regulations.

~~(2)~~**(3)** To the extent a facility within the scope of this Chapter is designed or intended to serve, in whole or in part, a development which is separately designated and requested under another Chapter of these Regulations, a permit under this Chapter is not effective unless and until all other required permits under these Regulations are approved.

13-302 Procedural Requirements

~~(1)~~ The procedures concerning permit applications, notice and conduct of permit hearings, review of Permit Authority decisions and issuance and content of permits for selecting a site and constructing any major facility of a public facility shall comply with the provisions set forth in Chapter 2, the Permit Regulations adopted by this County.

~~(2)~~ Any person seeking to select a site or construct any major facility of a public facility shall apply for a permit from the Permit Authority on the appropriate form prescribed by these Regulations, at Exhibit B, and maintained in the office of the Saguache County Land Use Administrator.

~~(3)~~**(1)** To minimize expenditures of time and money by all concerned, an application for a permit to locate and construct a major facility of a public utility shall be submitted first in a preliminary form so that general feasibility of the application can be assessed. Also, any major problems and issues can be identified and defined to direct the data gathering and assessment that are to accompany the final application.

~~(4)~~**(2)** The requirement of this Section 13-302 shall not be deemed to waive the requirements of Section 40-5-101, et seq., C.R.S., that a public utility obtain a certificate of public convenience and necessity.

13-303 Submission Requirements

~~(1)~~ Preliminary application:

At the time of making ~~preliminary~~ application, all applicants shall submit five (5) copies of **the information required by Section 2-205 and** the following documents and information:

~~(1)~~ A completed application form;

~~(2)~~**(1)** Description of proposed facility and site; ~~and~~

~~(3)~~(2) Description of the present use and zoning: Location map showing the proposed site and clearly indicating the relationship of the site to the surrounding area within fifty (50) miles from the site if central office building or power plant is proposed, and within ten (10) miles of the site if another major facility is proposed. For transmission lines and pipelines, provide map showing all existing transmission lines and pipelines within the County.

~~(4)~~(3) Type of facility – specify where applicable:

- (a) Approximate floor space of office building
- (b) Voltage and length of transmission line
- (c) Power source and generating capacity
- (d) Function and size of substation
- (e) Diameter and length of pipeline
- (f) Capacity of storage tanks, and type of petroleum derivative to be stored
- (g) Service area
- (h) Resource area (e.g. source of power being generated or transmitted, source of petroleum derivative being transported).

~~(5)~~(4) Projected development schedule:

- (a) Estimate maximum number of employees, number of shifts and employees per shift during the following phases: construction, operation and maintenance.
- (b) Specify any future phases or extensions of the facility and relationship of the facility (if currently foreseen) to larger programs and plans.
- (c) Specify timetable for planning (e.g., federal permits, state permits, local zoning, etc.).
- (d) Estimate beginning and completion of construction and beginning of operation of facility.
- (e) Describe support facilities (e.g. pollution control, parking areas, landscaping, etc.) to be provided.
- (f) Describe any feasible “non-structural” alternatives to meet the objectives of the proposed site selection and construction.

~~(6)~~(5) Hazards and emergency procedures:

- (a) Describe hazards, if any, of fire, explosion and other dangers to the health, safety and welfare of employees and the general public.
- (b) Describe hazards, if any, of environmental damage and contamination due to materials used at or activities taking place at the proposed facility.

- (c) Describe emergency procedures to be used in the event of fire, explosion or other event which may endanger the public health, safety and welfare.
- (d) Describe any prevalent natural hazards that will affect or be affected by development, and describe mitigating measures to be taken to reduce danger due to such natural hazards.

~~(e) Review of preliminary application~~

- ~~i. Upon acceptance of complete submission requirements by the Permit Authority, the applicant shall be issued a receipt indicating that preliminary application requirements have been met.~~
- ~~ii. Within thirty (30) days of issuing receipt of the preliminary application, the Permit Authority shall provide the applicant with a written review concerning the general feasibility of the application. Major problems and concerns will also be outlined in this review.~~
- ~~iii. Upon acceptance of complete submission requirement by the Permit Authority, an escrow agreement shall be agreed upon and signed by both parties with an amount of not less than \$15,000 to be in the account at all times.~~
- ~~iv. If the applicant, after receiving the written review, decided to proceed with the permit application, he shall notify the Permit Authority in writing within thirty (30) days. The Permit Authority shall then arrange a meeting at a mutually agreeable time and place.~~
- ~~v. The purpose of the meeting is to discuss and clarify, if necessary, the preliminary review, to determine submission requirements for final application, to identify sources of data and information, to coordinate this study with others, and to establish study format, methodology, map scales, work schedules gathering and analyzing data for the final application.~~

~~(2) Final Application~~

- ~~a. At the time of making final application, all applicants shall submit five (5) copies of the following documents and information;~~
- ~~b. Application as attached in Exhibit B.~~
- ~~c. Applicant will be required to send copies with a determination by the Land Use Administrator as to who should review the application and when the comments should be received back in the Land Use office,~~
 - ~~(1) Delineation of base area (that area likely to be subject to land use changes as a result of the project).
 - ~~(a) Map showing base area; describe how the determination was made.~~
 - ~~(b) Map showing all special districts, (school, fire, water sanitation, etc.) affected by the proposal.~~~~

~~(2) Delineation of impact area (that area whose physical and socio-economic environment is likely to be impacted, beneficially and adversely, by the site selection and construction of the proposed facility.)~~

~~(3) Objectives of the proposed site selection and facility.~~

~~(a) Describe the relationship of project to local land use policies and comprehensive plans and to policies and plans adopted or under preparation by federal, state and other affected local governmental agencies.~~

~~(4)~~(6) Describe the relationship of the project to other existing and planned utility facilities of similar nature, other communication or energy generation and transmission facilities, local government capital improvement programs, and special district expansion programs.

~~(5)~~(7) Description of need for project:

- (a) Describe briefly why the public convenience and necessity require the facility of the size and nature proposed be constructed on the site proposed.
- (b) Sources of demographic and economic data and methods of analysis.
- (c) Market function (i.e. what user needs and patterns will project fulfill).

~~(6)~~(8) Description of support facilities needed:

- (a) Type of water quality control.
 - i. Describe proposed sewage treatment facilities and nonpoint source controls.
 - ii. Describe pollutant loads (point and non-point sources) expected directly from development. Specify seasonal variations.
- (b) Public services and facilities.
 - i. Estimate police and fire protection requirements.
 - ii. Estimate public road maintenance requirements.
 - iii. Estimate educational and health service requirements.
 - iv. Estimate facilities and services requires to provide adequate water supply and sewage treatment.

~~(7)~~(9) Description of employment and economic opportunities.

- (a) Describe capital investment in facility.
- (b) Estimate anticipated revenues to local, state and federal governments, special districts.
- (c) Describe employment opportunities.
 - i. Types of jobs and number of positions anticipated; employment; wage and salary schedules.

- ii. Opportunities for employment of local citizens.
- iii. Employment opportunities for low income and minority population in impact area.

~~(8)~~(10) Description of visual conditions (base area).

- (a) Map area within view of project.
- (b) Map access and travel routes, public areas, residential areas that will have a view of the project.

~~(9)~~(11) Description of noise conditions (base area): Describe and map possible expected noise levels by immediate and future facility operation.

~~(10)~~(12) Description of socio-economic environment (impact area).

- (a) Characteristics of the existing population.
 - i. Age, income level and distribution, education, social background, family size, etc.
 - ii. Neighborhood and distinct socio-economic groups.
 - iii. Migrational trends and seasonal fluctuations.
 - iv. Anticipated population changes.
- (b) Current employment.
 - i. Principal employers, type, number of employees.
 - ii. Unemployment and under employment.
 - iii. Characteristics of local labor pool.
 - iv. Manpower training and retraining potential.
- (c) Inventory local governments and special districts providing services in base areas.
 - i. Map jurisdiction and type of service.
 - ii. Capacity and utilization of services.
 - iii. Operating revenue and expenditures.
 - iv. Tax base
 - v. Current level of taxation.
 - vi. Estimate revenue generating capacity and identify potential new sources of revenue.
- (d) Housing
 - i. Current housing inventory (including numbers, types, (owner or rental), sales or rental prices, year-round or seasonal, dormitories, mobile homes and locations.

- ii. Projected housing requirements (including numbers, types (owner or rental), sales or rental prices, year-round or seasonal, dormitories, mobile homes and locations).
- (e) Existing Transportation Network
 - i. Access to site
 - ii. Circulation within base area and community patterns impact area.

~~(f) Description of historical and archaeological resources.~~

~~(g) Describe historical and archaeological sites by means of completing state inventory forms and submit these to the State Historical Society for evaluation~~

~~(h) Describe resources individually and as they relate to the community; include photos wherever possible.~~

~~(i)~~(f) Description of atmospheric conditions (impact area).

- i. Meteorology (based on worst0case winter time conditions).
 - Wind speed and direction
 - Inversion height
 - Atmospheric stability
- ii. Topography: Describe general and outstanding topographic feature in project area (maps and aerial photos should be provided).
- iii. Background ambient air quality (TSP, SO₂, HC, CO, NO_x, O₃, etc.).

~~d. At the time of final application, applicants seeking a permit for the site selection and construction of transmission lines or substations shall submit, in addition to those requirements set forth in Section 304 (2) of this Chapter, five (5) copies of the following documents and information:~~

~~(1)~~(13) Description of geologic and pedagogic conditions of base area.

- (a) Map bedrock and surficial geology.
- (b) Map and describe areas of:
 - i. Avalanches
 - ii. Mud flow and debris fans
 - iii. All types of unstable or potentially unstable slope
 - iv. Special seismic considerations
 - v. Areas of high radioactivity
 - vi. Und subsidence
 - vii. Expansive soil and rock
 - viii. Other geologic conditions which are pertinent
- (c) Map extent of 100 –year ~~floodplain~~floodplain if present.

- (d) Map topography in adequate detail to determine adequacy of facility design.
- (e) Map and evaluate mineral and energy resources.
- (f) Map and evaluate agricultural resources.

~~(2)~~(14) Description of biotic conditions (impact area).

- (a) Map plant communities.
 - i. Characteristics, quantity, productivity of plant types.
 - ii. Endangered or threatened plant species.
 - iii. Evidence of past disturbance and current indications of stages in ecological succession.
- (b) Wildlife (Terrestrial)
 - i. Determine species present, seasonal occurrence, status and relative importance.
 - ii. Map distribution of species.
 - iii. Map biological features (migration routes, breeding grounds, etc.).
 - iv. Identify species included on official federal or state list of endangered or threatened species.
 - v. Identify species that are unique in their Colorado distribution.
- (c) Wildlife (Aquatic)
 - i. Identify species present.
 - ii. Map streams, lakes and reservoirs which provide or have potential for habitat.
 - iii. Map biological features (spawning runs, spawning beds, etc.).
 - iv. Identify any endangered species (federal or state) or any which are unique in their Colorado distribution.

~~e. At the time of final application, applicants seeking a permit for the site selection and construction of pipelines or storage areas shall submit, in addition to those requirements set forth in Section 304 (2) (a) and 304 (2) (b) of this Chapter, five (5) copies of the following documents and information:~~

~~(1) Description of hydrologic conditions surface (impact area):~~

~~(a) Provide map of all surface water.~~

~~(b) Describe expected monthly streamflow for typical year, wet year, dry year, (include 7 day — 10 year low flows where sufficient data exists).~~

~~(c) Describe physical stream features (gradient, velocity, depth, etc.).~~

~~(d) Provide data on chemical and biological quality, including BOD, dissolved O₂, free CO₂, PH, TDS, ph th alkalinity, MO~~

alkalinity, NH₄, heavy metals and other toxic or deleterious substances.

~~(2) Description of hydrologic conditions subsurface (impact area).~~

~~(a) Map all aquifers that may be affected by project.~~

~~(b) Provide tables, graphs, map showing permeability, transmissibility, thickness, volume, depth of aquifers.~~

~~(c) Describe geology of strata overlaying aquifers including percolation rates, travel time to groundwater surface.~~

~~(d) Map of all wells using aquifers including diameter, flow rates.~~

~~f. At the time of final application, applicants seeking a permit for the site selection and construction of a power plant shall submit, in addition to those requirements set forth in Sections 304 (2) (a), 304 (2) (b), and 304 (2) (c) of this Chapter, five (5) copies of the following documents and information:~~

~~(1)(15) Map locating and describing resource areas to be utilized as sources or energy.~~

~~(2)(16) Description of water system proposed.~~

~~(a) Source of supply, volume and rate of flow at full development.~~

~~(b) Water rights owned or utilized.~~

~~(c) Proposed points of diversion and changes of points of diversion.~~

~~(d) Volume of stream flow to remain unused between points of diversion.~~

~~(e) Dependability of supply (physical and legal).~~

~~(f) Effects of downstream users.~~

~~(3)(17) Description of air pollution control measures.~~

~~g. At the time of final application, all applicants shall submit an analysis of impacts as follows:—~~

~~(1) Summarize the major natural and socio-economic environmental constraints as they affect the site selection and construction of the facility as proposed.~~

~~(2) Describe present utilization of land, water, air, biotic, geologic and socio-economic environment of the impact area as applicable to submission requirements.~~

~~(3) Describe alternative uses for these resources~~

~~(4)(18) Analyze the effects of the proposed site selection and construction upon the natural and socio-economic environment of the impact area as applicable to submission requirements.~~

~~(a) Provide analysis of hydrologic, atmospheric, geologic, pedologic, biotic visual, and noise impacts.~~

~~(b) Provide surface and subsurface drainage analysis.~~

~~(c) Provide socio-economic impact analysis.~~

~~(d) Provide transportation impact analysis.~~

- (e) Provide analysis of impact upon agricultural productivity and agricultural resources.

~~(5) Analyze the long-term effects of the proposed site selection and construction upon the physical and socio-economic development of the impact area.~~

~~(6)~~(19) Justify the proposed site selection and construction against the present and alternative uses of the resources in the impact area.

~~(7)~~(20) Describe a program to minimize and mitigate adverse impacts and to maximize the positive impacts of the proposed site selection and construction.

- (a) Analyze alternatives
 - i. Alternative locations and routes
 - ii. Alternative types of facilities
 - iii. Use of existing rights-of-way
 - iv. Joint use of rights-of-way with other utilities
 - v. Upgrading of existing facilities
- (b) Analyze non-structural alternatives as applicable.
 - i. Conservation of energy use
 - ii. No development
- (c) Analyze management alternatives (i.e. development scheduling, training programs, facility design, land trades, etc.).
- (d) Analyze air and water pollution control alternatives.
- (e) Analyze design alternatives (access, landscaping, architectural controls, etc.).
- (f) Submit a program to meet “front and” costs of providing necessary services and facilities.

13-~~304~~305 Waiver of Submission Requirements: See Section 2-206.

~~The Permit Authority may waive any part but not all the submission requirements imposed by these Regulations upon petitions of the applicant that full compliance with the submission requirements would be unreasonably burdensome for the applicant and that the proposed development will have an insubstantial impact on the surrounding area. Such a waiver may be granted, after due consideration by the Permit Authority, upon a written determination that the information to be submitted is sufficient for the Permit Authority to arrive at a permit decision in full compliance with the law and these Regulations and that the proposed development will have an insubstantial impact on the surrounding area.~~

~~(1) The petition shall be considered and the decision rendered by the Permit Authority at a public hearing held in compliance with the provision of Section 2-301 of the Permit Regulations adopted by this County.~~

~~(2) In the event the waiver request is denied, the applicant shall provide the required additional information on or before five (5) days prior to the date set for hearing of the application itself. If the application fails to provide such information, the Permit Authority may in its discretion vacate the public hearing on the application, or may continue the hearing on the accordance with Section 2-303 of the Permit Regulations adopted by this County.~~

13-~~305~~306 Review Criteria Approval of Permit Application

- (1) The Permit Authority shall approve an application for permit for site selection and construction of a major facility of a public utility (with reasonable conditions, if any, in the discretion of the Permit Authority) only if the proposed site selection and construction complies with all of the following criteria and the criteria listed at Section 2-303.
 - ~~(a)~~ (a) The health, welfare and safety of the citizens of this County will be protected and served;
 - ~~(b)~~ (a) The natural and socio-economic environment of this County will be protected and enhanced.
 - ~~(c)~~ (b) All reasonable alternatives to the proposed action, including use of rights-of-way wherever uses are compatible, have been adequately assessed and the proposed action represents the best interests of the people of this County and represents the best interests of the people of this county resources in the impact area.
 - ~~(d)~~ (c) A satisfactory program to mitigate and minimize adverse impacts has been presented.
 - ~~(e)~~ (c) The nature and location of the facility complies with all applicable provisions of the master plan of this County, and other applicable regional, metropolitan, state, and national plans.
 - ~~(f)~~ (d) The nature and location or expansion of the facility complements the existing and reasonably foreseeable needs of the service area and of the area immediately affected by the facility.
 - ~~(g)~~ (e) The nature and location or expansion of the facility does not unduly or unreasonably impact existing community services.
 - ~~(h)~~ (f) The nature and location or expansion of the facility will not create an expansion of the demand for government services beyond the reasonable capacity of the community or region to provide such services, as determined by the Permit Authority.

- ~~(g)~~(g) The facility site or expansion area is not in an area with general meteorological and climatological conditions which would unreasonably interfere with or obstruct normal operations and maintenance.
 - ~~(j)~~—The nature and location of the facility or expansion will not adversely affect the water rights of any upstream, downstream, or adjacent communities or other water users;
 - ~~(k)~~(h) Adequate water supplies are available for facility needs.
 - ~~(l)~~(i) The nature and location of the facility or expansion will not unduly interfere with any existing easements for or rights-of-way, for other utilities, canals, mineral claims, or roads.
 - ~~(m)~~(j) The applicant is able to obtain needed easements for drainage, disposal, utilities, access, etc.
 - ~~(n)~~(k) Adequate electric, gas, telephone, water, sewage, and other utilities exist or shall be developed to service the site.
 - ~~(o)~~—The nature and location for expansion of the facility will not interfere with any significant wildlife habitat or adversely affect any endangered wildlife species, unique natural resource or historic landmark within the impact area;
 - ~~(p)~~(l) The nature and location or expansion of the facility, including expected growth and development related to the operation and provision of service, will not significantly deteriorate air quality in the impact area.
 - ~~(q)~~—The geological and topographic features of the site are adequate for all construction, clearing, grading, drainage, vegetation, and other needs of the facility construction or expansion
 - ~~(r)~~(m) The existing water quality of affected state waters will not be degraded below state and federal standards or established baseline levels.
 - ~~(s)~~(n) The benefits of the proposed developments outweigh the losses of any productivity of agricultural lands as a result of the proposed development.
- (2) The Permit Authority shall deny the permit if the proposed development does not meet all of the criteria in ~~subsection (1) of this Section~~ and Section 2-303.

Article 4 Administration, Enforcement, and Penalties

13-401 Administration, Enforcement, and Penalties

The provisions of these Regulations and any permit issued hereunder shall be administered and enforced according to the provisions of the Administrative and Permit Regulations adopted by this County.

~~13-402 Severability~~

~~———— If any section, clause, provision, or portion of these Regulations should be found to be unconstitutional or otherwise invalid by a court of competent jurisdiction, the remainder shall not be affected thereby.~~

Exhibit A

DESIGNATION OF AREA OF STATE INTEREST

Pursuant to Section 24-65.1-101, et seq., C.R.S. on _____, the Board of County Commissioners of Saguache County designated the following lands as a _____ area, an area of state interest: _____

_____.

No one may engage in development on said lands without a permit. Maps or other descriptive materials showing the precise boundary of the _____ area and procedures for obtaining a permit are available at

_____, which is located _____
_____.

Date: _____.

Chairman
Board of County Commissioners Saguache County

DESIGNATION OF ACTIVITY OF STATE INTEREST

Pursuant to Section 24-65.1-101, et seq., C.R.S. on _____, the Board of County Commissioners of Saguache County designated _____ as an activity of state interest. Such activities may not be conducted within the following area without a permit

: _____

_____.

Procedures for obtaining such a permit are available at _____ which is located _____.

Date: _____

_____ Chairman, Board of County Commissioners,
Saguache County

Exhibit B

Application for a Permit to Conduct a Designated Activity of State Interest or to Engage in Development in a Designated Area of State Interest

To: Permit Authority, Saguache County

Re: _____, as a matter of state interest.

From: _____
(Applicant's Name)

(Address)

(Telephone)

Legal Description of property to be designated: _____

Date Submitted: _____

Date Received: _____

Matter of State Interest

The applicant requests that a permit be issued for each of the items checked below:

1. A permit to engage in development in one or more of the following areas of state interest:

- Mineral Resource Areas
- Geologic Hazard Areas
- Significant Wildlife Habitat Areas
- Areas Containing or Having a Significant Impact Upon Natural Resources of Statewide Importance

2. A permit to conduct one or more of the following activities of state interest:

- Site Selection and Construction of Major New Domestic Water and Sewage Treatment Systems or Major Extension of Such Systems
- ~~Major Extensions of Existing Domestic Water and Sewage Treatment Systems~~

- () Site Selection and Construction of Major Facilities of a Public Utility
- () Efficient Utilization of Municipal and Industrial Water Projects

1. Proposed Activity or Development

General description of the specific activity or development proposed (attach additional sheets if necessary): _____

2. General Description

A general, nonlegal description and the popular name, if any, of the tract of land upon which the activity or development is to be conducted (attach additional sheets if necessary):

3. Legal Description

The legal description, including the acreage, of the tract of land upon which the development or the activity is to be conducted, by metes and bounds or by government survey description: (attach additional sheets if necessary) : _____

4. Owners and Interests

Set out below the names of those persons holding recorded legal, equitable, contractual and option interests and any other person known to the applicant having an interest in the property described in paragraph 4, above, as well as the nature and extent of those interests for each person, provided that such recorded interests shall be limited to those which are recorded in the County Recorder's Office of this jurisdiction, the land office of the State Board of Land Management for this State, the Office of the State Board of Land Commissioners of the Department of Natural Resources, or the Secretary of State's Office of this State (Attach additional sheets if necessary): _____

5. Submission Requirements

Submission requirements described in the regulations which have been adopted by this jurisdiction for each of the activities or areas checked in paragraph 1 above, are attached to this application. Those attachments are identified, by letter or number, and described

by title below: _____

6. Design and Performance Standards

The attached analyses show that each of the design and performance standards set forth in the regulations for each of the activities or areas checked in paragraph 1 above, will be met. The individual analyses are identified by reference to the appropriate paragraph or section numbers corresponding to each standard in the appropriate regulations adopted by this jurisdiction.

7. Master Plan

Does the activity or development comply with the master plan of this jurisdiction?

Yes _____ no _____ not applicable _____

If it does not comply, please explain how it does not comply. _____

8. Additional Information Required by Local Government

Attach any additional information required by this jurisdiction

9. Duration of Permits

The applicant requests a permit for a period of _____

10. Application Fee

An application fee of _____ , accompanies this application.

APPLICANT:

By _____
(Name)

(Title)

Note: Within ten (10) days following receipt of a completed application for a permit, the Permit Authority shall determine and set a fee in an amount necessary to cover the costs incurred in the review and approval of the permit application, including all hearings conducted therefore, and shall notify the applicant in writing of said fee and its amount. Not later than ten (10) days

following his receipt of such notice, the applicant shall present to the Permit Authority non-refundable certified funds in the amount as set. Until the fee is paid to the Permit Authority, the application for a permit shall not be further processed.

Exhibit C

Permit Issued to Conduct Designated Activity of State Interest or to Engage in Development in a Designated Area of State Interest in the County of Saguache, Colorado

Pursuant to Administrative and Permit Regulations heretofore adopted by the Board of County Commissioners of the County of Saguache, the County has received an application from _____ (hereinafter called "Applicant") for a permit involving the following matter(s) of state interest: _____

_____ and _____ has approved that application.

This permit authorizes the Applicant:

1. To: _____

2. On the following-described tract of land: _____

3. For the following period: _____

4. In accordance with the plans and/or specifications approved by the Permit Authority on [December 15, 1975], as well as the guidelines for administration adopted by the County for: _____

5. On the condition that the Applicant proceeds in conformity with all applicable federal and state statutes and regulations as well as all applicable local land use controls including, but not limited to, master plans, subdivision regulations, zoning ordinance and building code.

This permit shall not be effective until:

1. Applicant has filed the proper security with the Permit Authority, pursuant to provisions of the Administrative and Permit Regulations of the County in the amount of _____ (\$_____).
2. The designation of and guidelines for the appropriate matter(s) have been finally determined pursuant to Section 24-65.1-404, C.R.S.

This permit is valid for use only by the Applicant and may not be transferred. In the event that the Applicant fails to take substantial steps to initiate the above development or activity within twelve (12) months from the date of this permit or, if such steps are taken, in the event the Applicant fails to complete the development or activity with reasonable diligence, this permit may be revoked by the Permit Authority.

Date: _____ .

Chairman, Board of County Commissioners
Saguache County

Exhibit D

Maps: Mineral Resource Areas

[Maintained in the Office of the Saguache County Land Use Administrator]

Exhibit E

Maps: Geologic Hazard Areas

[Maintained in the Office of the Saguache County Land Use Administrator]

Exhibit F

Maps: Lands Historically Irrigated in Saguache County

[Maintained in the Office of the Saguache County Land Use Administrator]

Exhibit G

Maps: Significant Wildlife Habitat

- Bighorn Sheep Range
- Elk Range
- Mule Deer Range
- Occupied Habitat of the Gunnison Sage Grouse