

Exhibit A:

Guidelines and Regulations for Areas and Activities of State Interest in Gilpin County

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Article 1. General Provisions.

1.1. Title and Citation.

These Regulations are titled Guidelines and Regulations for Areas and Activities of State Interest in Gilpin County ("these Regulations").

1.2. Purpose.

The purpose of these Regulations is to facilitate the identification, designation, and administration of areas and activities of state interest consistent with C.R.S. § 24-65.1-101, et seq.

1.3. Authority.

These Regulations are adopted pursuant to, inter alia, C.R.S. § 24-65.1-101, *et seq.* ("Areas and Activities of State Interest Act") and other such similar authority that may be granted by the Colorado General Assembly.

1.4. Permit Authority Established.

The Board of County Commissioners ("Board") of Gilpin County shall serve as the Permit Authority and perform all functions set forth in these Regulations.

1.5. Relationship of Regulations to Other County, State, and Federal Requirements.

- (A) Whenever the provisions of these Regulations are found to be inconsistent with any other applicable resolution, ordinance, code, regulation, or other enactment of the County, the enactment imposing the more restrictive standards or requirements shall control.
- (B) Whenever the provisions of these Regulations conflict with the statutory criteria for the administration of areas and activities of state interest in C.R.S §§ 24-65.1-202 and 204, the more stringent standards or requirements shall control.
- (C) Nothing herein exempts an Applicant from compliance with any other applicable local, state, or federal requirements.

1.6. 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.

1.7. Definitions.

The words and terms used in this Section governing Areas and Activities of State Interest shall have the meanings set forth below.

- (1) Board of County Commissioners (“Board” or “BOCC”): The Gilpin County Board of County Commissioners.
- (2) Components: Includes without limitation structures, dams, reservoirs, ponds, water bodies, streams, trenches, wells, pipes, conduits, tanks, pumps, inverters, transformers, buildings, trenches, trucks, or other methods of conveyance or infrastructure.
- (3) County: Gilpin County, Colorado.
- (4) Department: The Gilpin County Community Development Department.
- (5) Designation: That legal procedure specified by §§ 24-65.1-401, et seq, C.R.S., for designating areas and activities of state interest. It also includes the revocation and amendment of such designations.
- (6) Development: Any construction or activity which changes the character or use of land or water or, that increases the intensity or scope of a use.
- (7) Electric generating facilities: Includes without limitation fossil fuel, biofuel, solar, wind, nuclear, or hydropower electrical generating facilities with a generating capacity of one (1) megawatt or any addition or series of additions thereto increasing the existing design capacity of the facility to one (1) megawatt or greater of generating capacity.
- (8) Impact: Any alteration or change to the natural or human environment resulting directly or indirectly from development or cumulatively in combination with other past, present, and reasonably foreseeable future development.
- (9) Impact Area: The geographic areas of the County in which impacts are likely to be caused by the Project. Impact Areas may include areas within the boundaries of another political subdivision if the County had entered into an intergovernmental agreement providing for cooperative regulation of impacts that may occur.
- (10) Manager: The Gilpin County Manager, the acting Manager, or their designee.
- (11) Permit: A permit required under these Regulations, also known as a “1041 Permit.”
- (12) Permit Authority: The Gilpin County Board of County Commissioners, or its designee.

- (13) Person: Any individual, limited liability company, partnership, corporation, association, company, or other public or corporate body, including the federal government, and any political subdivision, agency, instrumentality, or corporation of the state.
- (14) Project: The proposed activity for which a Permit is sought under these Regulations, including all ancillary structures, facilities, improvements, and activities, and all integrated components that are required for the activity.
- (15) Public Utility: Those public utilities defined in C.R.S. § 39-4-101.
- (16) Significant: Deserving to be considered; important; notable and not trifling.
- (17) Significantly degrade: To lower in grade or desirability to a significant, as opposed to trifling, degree. "Cause significant degradation" has the same meaning.
- (18) Significantly deteriorate: To make inferior in quality or value to a significant, as opposed to trivial, degree. "Cause significant deterioration" has the same meaning.
- (19) Waterbody: Ephemeral, intermittent, and perennial streams and rivers, lakes, ponds, stormwater ditches, wetlands, riparian areas, or aquatic habitats. Man-made irrigation ditches are excluded from this definition.

Article 2. Process to Designate Matters of State Interest and Amend Regulations.

2.1. Designation Proposals.

Designations and amendments or revocations of designations of areas or activities of state interest may be initiated by the Board.

2.2. Moratorium Until Final Determination.

After an area or activity of state interest has been designated, no person shall engage in development in such area, and no activity shall be conducted until the designation and guidelines for such area or activity are finally determined pursuant to C.R.S. § 24-65.1-404(4).

2.3. Combined Hearing for Designation, Adoption of Guidelines, and Application for Permit.

If a person proposes to engage in development in an area of state interest or to conduct an activity of state interest not previously designated and for which regulations have not yet been adopted, the Board may hold a combined hearing to determine the designation, adopt the guidelines and regulations, and approve or deny the Permit.

2.4. Public Hearing to Consider Designation.

The Board shall hold a public hearing before designating and adopting guidelines and regulations for any matter of state interest or amending or repealing said designation or guidelines and regulations.

(A) Notice of Public Hearing.

(1) The Manager will publish the notice of the public hearing at least 30 days and not more than 60 days before the hearing, in a newspaper of general circulation in the County.

(2) Not less than 15 days before the hearing date the Manager may post notice of the public hearing on the City's website and other location for posting notices established by the City Council.

(3) The notice will include the time and place of the hearing, a general description of the designation requested, and the place at which relevant materials may be examined.

(B) **Board Considerations.** At the designation hearing, the Board shall take into account:

- (1) All testimony, evidence, and documents taken and admitted at the public hearing.
- (2) The intensity of current and foreseeable development pressures in the County.
- (3) Conformity with the County's adopted regulations, plans, and studies as they related to the intensity of current and foreseeable development pressures in the County.
- (4) The boundaries of the proposed area of state interest.

(C) **Record of Proceeding.**

- (1) The record of the designation proceeding will include:
 - (a) Notice of the hearing.
 - (b) Certificate of publication of the notice.
 - (c) Names and addresses of persons who presented written or oral statements.
 - (d) Written or taped record of oral proceedings and the minutes of the County Clerk.
 - (e) Exhibits and documents presented at the hearing.
 - (f) Written findings concerning each proposed matter of state interest and of the considerations set forth in Section 2.4(B).
 - (g) A map or maps depicting each area of state interest designated, if any.
- (2) A copy of the hearing record may be acquired through the Manager upon reasonable notice and payment of a fee to cover the costs of duplication of the record.

(D) **Adoption of the Designation.**

- (1) Within 30 days after completion of the designation hearing, the Board may adopt, adopt with modifications, or reject the proposed designation. If the Board rejects the designation, the Board may regulate the matter under any other available land use control authority or it may reject regulation of the matter entirely.

- (2) Each designation adopted by the Board shall:
 - (a) Specify the boundaries of the proposed area; and
 - (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.
- (3) A notice of the designation and map shall be sent to the County Clerk and Recorder for filing in the same manner as any document affecting real property.

2.5. Process to Amend These Regulations.

- (A) **Public Hearing by Board.** Any amendments to these Regulations regarding areas or activities of state interest shall be made pursuant to a public hearing.
- (B) **Public Notice of Public Hearing.** The Manager shall publish a notice of the Public Hearing at least 30 days and not more than 60 days before the hearing, in a newspaper of general circulation in the County. The notice will include the time and place of the hearing, a general description of the regulations to be adopted or amended, and the place at which relevant materials may be examined.
- (C) **Decision to Amend Regulations.** After completion of the Public Hearing, the Board will adopt, adopt with modifications, or reject the proposed amendments.
- (D) **Record of Proceedings.** The record of decision will include the following materials:
 - (1) Certificate of publication of the Public Hearing notice.
 - (2) The minutes of the Public Hearing.
 - (3) The adopted Regulations.

Article 3. Applicability and Designated Matters of State Interest.

3.1. Applicability

These Regulations apply to the regulation of designated activities of state interest and development in designated areas of state interest in effect as of the effective date of these Regulations or as the County may designate in the future, wholly or partially in the unincorporated areas of Gilpin County whether on public or private land. The Manager, in coordination with the County Attorney, shall determine the applicability of these regulations to proposed activities or development.

3.2 Designated Matters of State Interest.

Designations in effect as of the effective date of these Regulations are:

(A) Site selection and construction of major domestic water and sewage treatment systems and major extensions of existing domestic water and wastewater treatment systems.

(1) Domestic Sewage Treatment System includes without limitation:

(a) Any system, facility, or group of units with a design capacity of 2,000 gallons per day or more or the equivalent thereof, used for the treatment of domestic sewage or for the reduction and handling of solids and gases removed from such wastes, whether or not the facility or group of units is discharging into state waters, and all related components; or

(b) Any facility or on-site wastewater treatment system, regardless of design capacity, that discharges directly into state waters, and all related components.

(2) Domestic Water Treatment System includes without limitation any system for the provision of water for human consumption with a design capacity of 15 or more service connections or the equivalent thereof, whether such provision occurs directly, by exchange, or by other means through pipes, reservoirs, or other constructed conveyances, and all related components.

(B) Site selection and construction of major facilities of a public utility.

Major facilities of a public utility include without limitation electric generating facilities, transmission lines and facilities, substations, pipelines, storage areas, and battery and other energy storage systems of public utilities and their components.

(C) **Site selection of Airports.**

(D) **Site selection of arterial highways and interchanges and collector highways.**

(1) Arterial highway is any limited access highway that is part of the federal-aid interstate system or any limited access highway constructed under the supervision of the Colorado Department of Transportation ("CDOT").

(2) Collector highway is a major thoroughfare serving as a corridor or link between municipalities, unincorporated population centers or recreation centers, or industrial centers and constructed under guidelines and standards established by, or under the supervision of, CDOT. Collector highway does not include a city street or local service road or a county road designed for local service and constructed under the supervision of local government.

(E) **Site selection of rapid or mass transit terminals, stations, or fixed guideways.**

(1) Mass transit is a coordinated system of transit modes providing regular transportation for use by the general public.

(2) Rapid transit is the element of a mass transit system involving a mechanical conveyance on an exclusive lane, guideway, cable, rail track, or monorail constructed solely for that purpose.

(F) **Efficient utilization of municipal or industrial water projects.**

(1) A municipal water project is a project for public purposes, whether directly, by exchange, or by other means through pipes, reservoirs, or other constructed conveyances, and any of its components.

(2) An industrial water project is a project, and any of its components, for industrial uses that include without limitation fabricating or processing a product, for sanitation needs within a manufacturing facility, or snowmaking.

(G) **Areas containing or having significant impact upon wildlife habitat areas of statewide importance as designated on the "Wildlife Areas" map adopted by the County and as may be amended.**

(H) **Areas around interchanges involving arterial highways as designated on the "Areas Around Interchanges" map adopted by the County and as may be amended.**

3.3. Exempted Activities and Development

- (A) The permit requirements of these Regulations do not apply to a designated activity of state interest or development in a designated area of state interest subject to a Site Plan Development Permit or County Subdivision Regulations in the Gilpin County Zoning Regulations, and as they may be amended.
- (B) The permit requirements of these Regulations do not apply to temporary uses subject to the Gilpin County Zoning Regulations, and as they may be amended.
- (C) Where a designated activity of state interest or development in a designated area of state interest is subject to these Regulations and Special Use Review in the Gilpin County Zoning Regulations, these Regulations shall control.

3.4 Statutory Exemptions as of May 17, 1974 pursuant to C.R.S. § 24-65.1-107.

These Regulations shall not apply to any development in an area of state interest or any activity of state interest which meets any one of the following conditions *as of May 17, 1974*:

- (A) The development or activity is covered by a current building permit issued by the County.
- (B) The development or activity has been approved by the electorate of the County.
- (C) The development or activity is to be on land:
 - (1) Which has been conditionally or finally approved by the County for planned unit development or for a use substantially the same as planned unit development; or
 - (2) Which has been zoned by the County for the use contemplated by such development or activity; or
 - (3) With respect to which a development plan has been conditionally or finally approved by the County.

Article 4. Procedures for Permit Applications.

4.1. Permit or Finding of No Significant Impact Required.

No person may conduct a designated activity of state interest, or develop in a designated area of state interest located wholly or partially in Gilpin County whether on public or private land, without first obtaining a Permit or Finding of No Significant Impact (“FONSI”) under these Regulations.

4.2. Consultants to Assist in Review.

The Manager may engage technical or legal consultants to assist in the review of the pre-application materials, to assist in review of any FONSI request, determine if the application is complete, and to assist with review and processing of the complete application, consistent with the County’s procurement process. Costs of technical or legal consultants shall be paid by the Applicant as set forth in Section 5.1.

4.3. Pre-Application.

(A) **Pre-application Meeting Required.** Before submitting an application for a Permit or requesting a FONSI under these Regulations, the Applicant shall meet with the Manager.

(B) **Purpose of Meeting.** The purpose of the pre-application meeting is to allow the Applicant and the staff to review the proposal informally and to coordinate with or request review and comment from other relevant agencies before a substantial commitment of time and money is made. Topics of discussion may include without limitation:

- (1) The location and nature of the Project.
- (2) The content and scope of materials that will be responsive to the application submittal requirements and request for any waivers of any materials that would not be necessary in determining whether the application complies with these Regulations.
- (3) Any Permit terms and conditions for the Project that may be imposed by state or federal agencies.
- (4) Site-specific concerns and issues.
- (5) Projected impacts and potential mitigation.
- (6) Any additional requirements that must be satisfied before development of the Project can begin.

(7) A description of the alternatives considered for the Project and how the Project is the alternative that best complies with these Regulations and is the least detrimental practicable alternative.

(8) Whether the applicant is eligible for, and may be requesting, a FONSI.

(C) **Pre-application Materials.** At least 30 working days prior to the pre-application meeting, the Applicant shall provide the Manager with a written summary of the Project including:

(1) The Applicant's name, address, and phone number.

(2) Name and qualifications of the person(s) responding to these Regulations.

(3) Description of the Project, including a map prepared at an easily readable scale showing:

(a) Location of the Project and its Impact Area.

(b) Location of all physical features, buildings, improvements, infrastructure, and components of the proposed Project.

(c) Relationship of the Project to surrounding natural and man-made features such as roads, streams, wetlands, floodplains, and existing structures.

(d) Proposed buildings, improvements, and infrastructure.

(4) Information that is sufficient for determining the degree of adverse impacts associated with the Project.

(5) Any additional information requested by the Board.

4.4. **Finding of No Significant Impact.**

(A) **Manager Determination.** Based upon the pre-application materials and other information requested by the Manager, the Manager may issue a FONSI as follows:

(1) **Criteria for Issuance of FONSI.** The Manager may issue a FONSI if the Manager finds that the construction or operation of the activity in its proposed location, without mitigation, is likely to satisfy the criteria in Article 6 of these Regulations.

(2) **Notice of Manager's Determination of a FONSI.** Following the Manager's decision as to whether to issue a FONSI, the Manager will notify

the Applicant in writing of whether a FONSI will be issued and will copy the County Attorney and Board on the notification.

(3) **FONSI Approved and Activity Notice Required.** Where the Manager has issued a FONSI, no Permit is required under these Regulations, but the Applicant shall, prior to commencing the Project, file an Activity Notice with the Manager that contains the following information:

- (a) Written description of the Project.
- (b) Detailed construction schedule including a list of the contractors and any subcontractor(s) that will perform work on the Project.
- (c) Construction drawings and plans.
- (d) Traffic control plan and other best management practices to minimize the impact of the project during construction and operation.
- (e) List of all required permits and approvals.
- (f) The Manager may require the Applicant to submit additional material to supplement the Activity Notice as needed.
- (g) The Applicant shall publish the Activity Notice once in the County legal newspaper not more than 21 calendar days following the determination and post the notice on the Property where the activity will take place.

(4) **FONSI Request Denied.** If the Manager determines that a FONSI is not appropriate, the Manager will notify the Applicant in writing of said denial of FONSI and send a copy of the notification to the County Attorney and Board.

(B) **Permit Required if FONSI Request Denied.** If the Manager or Board determines that a FONSI is not appropriate, the Applicant must obtain a Permit under these Regulations.

4.5. Permit Application Submitted to Manager.

Where a Permit is required under these Regulations, the Applicant shall submit application materials to the Manager. The application materials are described in Article 5.

4.6. No Processing Until Application is Complete.

The Manager will not process an application until the Manager has determined that the application is complete pursuant to Section 4.7.

4.7. Completeness Determination.

The Manager shall determine whether the application is complete based on whether the materials submitted as part of the application are responsive to the requirements in Article 5 and the fees, as established in Section 5.1, have been paid. The Manager may, at the cost of the Applicant, engage consultants or legal counsel as necessary to determine if the application is complete consistent with the County's procurement process in effect at the time of application submittal.

(A) **Application Deemed Complete.** If the application is deemed complete, the Manager shall:

- (1) Notify the Applicant and the County Attorney in writing that the application is complete, and
- (2) Stamp the application with the date of completeness determination.

(B) **Application Deemed Not Complete.** If the application is not complete, the Manager shall:

- (1) Inform the Applicant of the deficiencies in writing and
- (2) Take no further action on the application until the deficiencies are remedied. If the Applicant fails to correct the deficiencies within 60 calendar days, the application will be considered withdrawn and returned to the Applicant unless the Manager determines that additional time is appropriate.

4.8. Referral of Application.

Following a determination that the application is complete, the Manager shall refer the complete application to any other local, state, or federal agencies that have expertise pertaining to or jurisdiction over the Project. The referral entities shall have 30 days to provide comment.

4.9. Board Hearing Scheduled and Notice Published.

(A) Not later than 30 days after the Application is deemed complete, the Manager shall set and publish notice of the date, time, and place for a public hearing on said Application.

(B) The Manager shall publish a notice of the hearing once in the County legal newspaper of record as determined by the Board, not less than 30 calendar days or more than 60 calendar days before the date set for the hearing. The notice shall include:

- (1) The time and place of the hearing.

- (2) The place at which materials relating to the matter to be designated and any guidelines and regulations for the administration thereof may be examined.
- (3) The telephone number or email address where inquiries may be answered.
- (4) A short description of the proposed Project, including the location, legal description, and area (size) of the land.
- (5) A short description of the proposed action requested.

(C) The Applicant shall provide written notice to property owners within 1,000 feet of the property lines of the parcel(s) of land which the Project is proposed, compiled by the Applicant using the most recent County ad valorem tax rolls. The Manager may extend the property owner notice area to provide additional notice to property owners who may be impacted by the Project. The Manager shall approve the written notice and the list of property owners before the Applicant sends such notice.

(D) The Applicant shall post notice on the property or within the activity area in a clearly visible location, near the entrance to the property to the greatest extent possible. The Manager shall approve the posted notice before the Applicant posts such notice.

4.10. Staff Report.

(A) No less than 3 working days prior to the hearing before the Board, the Manager shall prepare a staff report that summarizes the application and comments from consultants, legal counsel, referral agencies, and the public.

(B) The staff report shall identify any approval criteria that staff believes has not been satisfied and may recommend conditions to ensure that the Project will satisfy each criterion.

(C) The Manager shall provide a copy of the staff report to the Applicant and a copy will be made available to the public upon request.

4.11. Review and Decision by the Board.

At the close of the public hearing, the Board shall approve, conditionally approve, or deny the application. The burden of proof is on the Applicant to demonstrate that the Project complies with these Regulations, and the Board's decision shall be based on the information on the Hearing Record.

4.12. Record of Board Decision.

The Board's decision shall be made by resolution. A copy of the resolution shall be recorded in the Office of the County Clerk and Recorder. The County shall transmit a copy of the resolution to the applicant with contact information provided in the application or as may be updated.

4.13. Hearing Record.

The Hearing Record shall include the following:

- (A) The application package.
- (B) Written statements or documents commenting on the application and any such materials submitted during the hearing.
- (C) Any recording and transcript of the hearing.
- (D) Written minutes of the Board hearing.
- (E) The resolution of the Board granting or denying the application.

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Article 5. Permit Application Materials.

The Manager, in their sole discretion, may waive one or more of the application materials when the materials would not be relevant to an analysis as to whether the Project complies with the approval criteria because of the scale, nature, or intensity of the Project.

Unless waived, the following application materials are required. The Applicant may submit materials that have been prepared for state or federal permits or environmental reviews that are responsive to these requirements, in order to avoid unnecessary duplication.

5.1. Application Fee.

(A) Application Fee Required as part of Complete Application.

An Applicant for a Permit under these Regulations must submit the application fee along with all other Permit application materials required in this Article 5. The Manager shall not find that an application is complete without payment of the application fee.

(B) Application Fee Set by Manager. The Manager shall establish the estimated amount to cover costs of reviewing and processing the application, including costs of copying, mailings, publications, labor, overhead, and retention of consultants, experts, and attorneys that the County deems necessary to advise it on the application package. In determining the fee, the Manager may also consider, among other things:

(1) **Need for Additional Expertise.** Need for outside professional assistance for the County to review the application or to perform original study and research.

(2) **Need for Additional Staff.** Additional staff that will be required to review the application adequately.

(3) **Extraordinary Costs.** Extraordinary costs that will be incurred by the County during the review.

(C) Application Fee Payment. The Manager shall notify the Applicant in writing of the estimated fee. The Applicant shall deliver to the Manager non-refundable certified funds in the amount of the fee notice. The Manager shall not determine whether the application is complete until the application fee is paid.

(D) Application Fee Increase. The fee amount may be increased at any time if it is determined by the Manager that the fee is not sufficient to cover all costs associated with the application.

(E) **Fee Agreement.** Each Applicant is required, at the time of submittal of the application, to enter into a written escrow agreement to detail the financial requirements for processing the application. The amount of the funds required in the escrow agreement and/or bond shall be determined by the Manager.

(F) **Reimbursement of Unused Portion.** Any portion of the application fee submitted by the Applicant, or any interest earned on such fee that is not necessary to cover the cost of processing the application will be reimbursed to the Applicant.

(G) **No Action Until Fees are Paid.** The Manager will not deem the application complete and will take no action on the application until all fees and expenses related to the application review process have been paid by the Applicant.

5.2. Information Describing the Applicant.

(A) The names, contact information, organization form, and business of the Applicant, and if different, the owner of the Project.

(B) The names, addresses, and qualifications of individuals who are or shall be responsible for constructing and operating the Project, including areas of expertise and experience with projects directly related or similar to that proposed in the application package.

(C) Authorization of the application by the Project owner, 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.

5.3. Information Describing the Project.

(A) Detailed plans and specifications of the Project.

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

(C) Description and documentation of property rights, easements, and rights-of-way agreements that are necessary for the Project.

(D) Descriptions of three or more alternatives to the Project that were considered by the Applicant.

(E) The need for the Project, including 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.

5.4. Financial Feasibility of the Project.

- (A) The estimated construction costs and period of construction for each Project phase or component.
- (B) Revenues and operating expenses for the Project.
- (C) The amount of any proposed debt and the method and estimated cost of debt service.
- (D) Details of any contract or agreement for revenues or services in connection with the Project.
- (E) Description of the persons or entity(ies) who shall pay for or use the Project and/or services produced by the Project and those who shall benefit from revenues generated by it.
- (F) Cost of all mitigation measures proposed for the Project.
- (G) Evidence that the Applicant or owner of the Project has the ability to pay for the construction, operation, and mitigation of impacts of the Project.

5.5. Property Rights, Permits, and Other Approvals.

- (A) A list and copies of all other federal, State, and local permits and approvals that have been or shall be required for the Project, together with any proposal for coordinating these approvals with the County permitting process.
- (B) Copies of all official federal and State consultation correspondence prepared for the Project.
- (C) Description of mitigation or permit conditions imposed by federal or state authorities.
- (D) Copies of any draft or final environmental assessments or impact statement required for the Project.
- (E) Description and documentation of property rights, easements, and rights-of-way agreements that are necessary for or that will be affected by the Project.

5.6. Impact Area Map.

Map and description of the location of the Project and the Project's Impact Area, shown on USGS quadrangle map, that includes:

- (A) All existing and proposed structures and appurtenant facilities, shown by location and dimension, and identification of any structures proposed to be demolished.

- (B) Existing and proposed roads, railroad tracks, fences, rights-of-ways, and utility lines on or adjacent to the site, shown by location and dimension.
- (C) Public recreation access points.
- (D) The boundary of the watershed(s) in which the Project is located.
- (E) Existing and proposed topographic contours at vertical intervals sufficient to show the topography affecting the Project and storm drainage.
- (F) Natural and artificial drainageways, ditches, waterbodies, and hydrologic features on-site including intermittent and ephemeral water features, wetlands, riparian areas, and the 100-year floodplain boundaries.
- (G) All tributary water courses, wells, springs, stock water ponds, reservoirs, and ditches within watershed(s) affected by the Project.
- (H) Slopes and areas of subsidence.
- (I) Excavations and mines.
- (J) Vegetative cover, including type of flora and identification of species.

5.7. Surface Water Quality and Quantity Assessment and Mitigation.

Surface water quality and quantity impact assessment and mitigation plan that includes:

- (A) **Baseline.** Map and description of the existing condition of surface water quality and quantity for surface water bodies in the Impact Area, including surface water data as specified by the Manager, sufficient to evaluate Project impacts and ensure the adequacy of proposed monitoring and mitigation, such as applicable narrative and numeric water quality standards, any stream segments and waterbodies that are impaired, existing streamflow data, and existing or pending instream flow water rights.
- (B) **Impacts.** Assessment of the adverse impacts of the Project to surface water quality and quantity during both construction and operation of the Project. The impact assessment shall include changes to:
 - (1) Patterns of water circulation, temperature, conditions of the substrate, extent and persistence of suspended particulates and clarity, odor, color, or taste of water.
 - (2) Sediment and pollutions loading into waterbodies.
 - (3) Stormwater runoff flows.
 - (4) Flushing and channel maintenance flows.

(5) Dilution flows for abandoned mine waste, agricultural runoff, and other unregulated sources of pollutants.

(C) **Mitigation and Monitoring Plan.** A plan for mitigating adverse impacts to surface water quality and quantity and a monitoring plan that includes key indicators, map(s), and descriptions of sites that will be monitored to establish baseline conditions, to identify the Project's impacts on water resources, and to measure the effectiveness of, or proposed changes to, mitigation.

5.8. Groundwater Quality and Quantity Assessment and Mitigation.

Groundwater quality and quantity impact assessment and mitigation plan that includes:

(A) **Baseline.** Map and description of existing groundwater quality and quantity in the Impact Area sufficient to evaluate Project impacts and ensure the adequacy of proposed monitoring and mitigation. Baseline description shall include:

(1) Description of groundwater resources and soil permeability characteristics.

(2) Prior to Permit approval, an inventory of all affected water wells within a ½ mile of the Project. Current and historic uses, production rates, and water quality shall be described to establish a baseline from which the impacts of the Project can be measured. Site tests, including but not limited to percolation tests, groundwater resource tests, well tests, and drainage and discharge analysis, may be required.

(B) **Impacts.** Assessment of the adverse impacts of the Project to groundwater quality and quantity during construction and operation of the Project.

(C) **Mitigation and Monitoring Plan.** A plan for mitigating adverse impacts on groundwater quality and quantity, and a monitoring plan that includes key indicators, map(s), and descriptions of groundwater and water wells that will be monitored to establish baseline conditions, to identify the Project's impacts on these resources, and to measure the effectiveness of, or proposed changes to, mitigation.

5.9. Aquatic Life and Habitat Assessment and Mitigation.

Aquatic life and habitat impact assessment and mitigation plan that includes:

(A) **Baseline.** Map and description of existing conditions for aquatic life and habitat in streams in the Impact Area, sufficient to evaluate Project impacts and ensure the adequacy of proposed monitoring and mitigation, including elements such as:

- (1) Aquatic species composition and density, including any threatened or endangered species.
 - (2) Aquatic life habitat including riparian vegetation, stream bed and banks, spawning grounds, riffle and pool areas, off-channel habitat, nutrient accumulation and cycling.
 - (3) Aquatic food web.
- (B) **Impacts.** Assessment of the adverse impacts of the Project to aquatic life and habitat during both construction and operation of the Project, including elements such as changes in water temperature, depth and circulation, stratification, and any other conditions necessary for the protection and propagation of aquatic species.
- (C) **Mitigation and Monitoring Plan.** A plan for mitigating adverse impacts to air quality and a monitoring plan that includes key indicators, map(s), and descriptions of sites that will be monitored to establish baseline conditions, to identify the Project's impacts on these resources, and to measure the effectiveness of, or proposed changes to, mitigation.

5.10. Wildlife and Wildlife Habitat Assessment and Mitigation.

Wildlife and wildlife habitat impact assessment and mitigation plan that includes the following.

For development in a Wildlife Habitat Area, the Applicant shall consult with Colorado Parks and Wildlife ("CPW") in developing the Wildlife and Wildlife Habitat Impact Assessment required by this Section and shall provide documentation of such consultation.

- (A) **Baseline.** Map and description of the existing wildlife and wildlife habitat conditions in the Impact Area sufficient to evaluate Project impacts and ensure the adequacy of proposed monitoring and mitigation. This baseline may utilize data from sources such as the Gilpin County Wildlife Area GIS mapping overlays. The baseline assessment shall include elements such as:
- (1) Description of wildlife in the Impact Area including the status and relative importance of game and non-game wildlife, livestock, and other animals and threatened or endangered animal species.
 - (2) Description of critical wildlife habitat, livestock range, and unique habitat features in the Impact Area, including migration routes, calving areas, summer and winter range, grazing areas, and endangered species habitat.

(3) Description of species listed as threatened or endangered under the Endangered Species Act, listed by Colorado Parks and Wildlife as Species of Special Concern or Species of Greatest Conservation Need, or otherwise listed as species of concern by a federal or state agency and habitats for those species such as Peregrine falcon nesting, Bald Eagle habitat, and Preble's Meadow Jumping Mouse overall range.

(B) **Impacts.** Assessment of the adverse impacts of the Project to wildlife and wildlife habitat during both construction and operation of the Project including elements such as changes to migratory patterns or number of species or nuisance impacts to wildlife from Project such as noise, light, vibration, traffic, recreational uses, litter, and pets.

(C) **Mitigation and Monitoring Plan.** A plan for mitigating adverse impacts to wildlife and wildlife habitat, and a monitoring plan that includes key indicators, map(s), and descriptions of sites and species that will be monitored to establish baseline conditions, to identify the Project's impacts on wildlife and wildlife habitat, and to measure the effectiveness of, or proposed changes to, mitigation. Mitigation may include elements such as:

(1) Site design elements such as the amount of lot coverage, pervious surfaces, fencing, buffering and screening, lighting, and location of any structures or other facilities away from calving grounds.

(2) Operational elements such as restrictions on hours of operation, closures during mating season, trail maintenance and reclamation, prohibition of off-trail travel, litter control, and limitations on numbers of people using the facilities associated with the project.

(3) Applicable Colorado Parks and Wildlife Recommendations to Avoid and Minimize Impacts to Wildlife that apply to the wildlife species and associated High Priority Habitat in the Wildlife Habitat Area, and as may be updated. See https://cpw.state.co.us/Documents/Conservation-Resources/Energy-Mining/CPW_HPH-Map-Layers.pdf.

5.11. Vegetation, Riparian Areas, and Wetlands Impact Assessment and Mitigation.

An impact assessment and mitigation plan for vegetation, riparian areas, and wetlands that includes:

(A) **Baseline.** Map and description of all existing vegetation, riparian areas, and wetlands in the Impact Area sufficient to evaluate the Project impacts and ensure the adequacy of proposed monitoring and mitigation including elements such as:

- (1) Species composition, diversity, structure, function of vegetation, riparian areas, and wetlands including the type, density, and threatened or endangered status of plant species.
 - (2) Aerial extent of unique vegetation or habitat, wetlands, and riparian areas.
- (B) **Impacts.** Assessment of the adverse impacts of the Project to vegetation, riparian areas, and wetlands including elements such as:
- (1) Changes to threatened or endangered plant species.
 - (2) Changes to the structure and function of vegetation, riparian areas, and wetlands such as species composition, diversity, biomass, and productivity.
 - (3) Changes in advancement or succession of desirable and less desirable plant species, including noxious weeds.
 - (4) Transition caused by the Project from wetland to upland species.
- (C) **Revegetation and Weed Management Plan.** Plan for revegetation and weed management that provides for:
- (1) Removal of existing vegetation no more than 30 calendar days prior to commencement of initial site grading.
 - (2) Revegetation of areas that have been filled, covered, or graded as soon as practicable.
 - (3) Use of site-specific native seed mix and mulching to support vegetation growth.
 - (4) Topsoil from disturbed areas stripped and stockpiled on-site for redistribution over the completed final grade; stockpiling that conforms to best management practices and ensures that soil organisms in stockpiled soil remain viable until completion of the redistribution process.
 - (5) Ongoing weed control at all locations disturbed by the Project and along access roads during construction and operational phases.
- (D) **Mitigation and Monitoring Plan.** A plan for mitigating adverse impacts to vegetation, riparian areas, and wetlands, and a monitoring plan that includes key indicators, map(s), and descriptions of sites that will be monitored to establish baseline conditions; to identify the Project's impacts on vegetation, riparian areas,

and wetlands; and to measure the effectiveness of, or proposed changes to, mitigation.

5.12. Soils, Geologic Conditions, and Natural Hazards Assessment and Mitigation.

An impact assessment and mitigation plan for soils, geologic conditions, and natural hazards that includes:

- (A) **Baseline.** Map and description of soil, geologic conditions, and natural hazards in the Impact Area, including elements such as:
 - (1) Geotechnical assessment of all geologic hazards that have the potential to affect the Project and which may be de-stabilized or exacerbated by construction and operation of the Project.
 - (2) Description of soil types, drainage areas, floodplains, slopes, avalanche areas, debris fans, mud flows, rockslide areas, faults and fissures, seismic history, and wildfire hazard areas.
 - (3) Assessment of the risks to the Project from natural hazards.
- (B) **Impacts.** Assessment of the adverse impacts of the Project to soil, geologic conditions, and natural hazards; and risks to the Project from geologic and natural hazards.
- (C) **Mitigation and Monitoring Plan.** A plan for mitigating impacts to and from soil, geologic conditions, and natural hazards and a monitoring plan for soil, geologic conditions, and natural hazards that includes key indicators, map(s), and descriptions of sites that will be monitored to establish baseline conditions; the Project's impacts to and risks from soil, geologic conditions, and natural hazards; and effectiveness of, or proposed changes to, mitigation.

5.13. Air Quality Assessment and Mitigation.

Air quality impact assessment and mitigation plan that includes:

- (A) **Baseline.** Description of the existing air quality conditions in the Impact Area sufficient to evaluate Project impacts and ensure the adequacy of proposed monitoring and mitigation, including elements such as:
 - (1) Description of the air sheds to be affected by the Project, including the seasonal pattern of air circulation and microclimates.
 - (2) Map and description of the ambient air quality and state air quality standards of the air sheds to be affected by the Project, including particulate

matter and aerosols, oxides, hydrocarbons, oxidants and other chemicals, temperature effects and atmospheric interactions.

(B) **Impacts.** Assessment of the adverse impacts of the Project to air quality during both construction and operation of the Project

(C) **Mitigation and Monitoring Plan.** A plan for mitigating adverse impacts to air quality and a monitoring plan that includes key indicators, map(s), and descriptions of sites that will be monitored to establish baseline conditions, to identify the Project's impacts on air resources, and to measure the effectiveness of, or proposed changes to, mitigation.

5.14. **Visual Quality Assessment and Mitigation.**

Visual quality impact assessment and mitigation plan that includes:

(A) **Baseline.** Description of existing view sheds, scenic vistas, unique landscapes, or land formations.

(B) **Impacts.** Assessment of adverse impacts of the Project to visual quality during both construction and operation of the Project, and map and description of buildings, structure design and materials to be used for the Project, including elevations of proposed buildings and other structures. The impact assessment shall include elements such as:

- (1) Visual changes to ground cover and vegetation, waterfalls and streams, or other natural features.
- (2) Interference with viewsheds, ridgelines, and scenic vistas.
- (3) Changes in tree canopies.
- (4) Changes in landscape character types or unique land formations.
- (5) Compatibility of building structure, design, and materials with surrounding land uses.

(C) **Mitigation Plan.** A plan for mitigating adverse impacts to visual quality.

5.15. **Nuisance Assessment and Mitigation.**

Assessment of nuisances caused by the Project and nuisance mitigation plan that includes:

(A) **Nuisance Assessment.** An assessment of noise, glare, dust, fumes, vibration, and odor caused by construction or operation of the Project ("nuisances"), along with an indication of their significance.

(B) **Mitigation and Monitoring Plan.** A plan for mitigating nuisances caused by construction or operation of the Project and a monitoring plan that includes key indicators, map(s), and descriptions of sites that will be monitored to establish baseline conditions, to identify the Project's impacts, and to measure the effectiveness of, or proposed changes to, mitigation.

5.16. Land Use Assessment and Mitigation.

Land use impact assessment and mitigation plan that includes:

(A) **Baseline.** An assessment of the existing land uses within and adjacent to the Impact Area sufficient to evaluate Project impacts and ensure the adequacy of proposed mitigation, including elements such as:

- (1) Description of provisions from local land use plans that are applicable to the Project and an assessment of whether the Project shall comply with those provisions.
- (2) Description and map(s) of unique landforms or other geologic and hydrologic features in the County.
- (3) Description of how the proposed development will utilize existing easements, rights-of-way, or County roads.

(B) **Impacts.** An assessment of the adverse impacts of the Project to land use patterns and surrounding impacted communities.

(C) **Mitigation Plan.** A plan for mitigating adverse impacts to land uses.

5.17. Local Government Services Assessment and Mitigation.

Local government services impact assessment and mitigation plan that includes:

(A) **Baseline.** An assessment of the existing local government services within and adjacent to the Impact Area sufficient to evaluate Project impacts and ensure the adequacy of proposed mitigation, including:

- (1) **All Services and Facilities.** Description of the existing capacity of and demand for local government services including roads, schools, water and wastewater treatment, water supply, emergency services, transportation, infrastructure, housing, law enforcement, and other services necessary to accommodate future development in the County.
- (2) **Facilities that Perform Same Function.** Map and description of other facilities that that perform the same or related function as the Project, including description of agencies operating such facilities, the facilities'

capacity and existing service levels, location of intake and discharge points, discharge permit requirements, service fees and rates, debt structure, service plan boundaries, and reasons for and against connecting to those facilities and/or consolidating with those agencies.

(B) **Impacts.** Assessment of the adverse impacts of the Project to the demand for local government services and the capability of local governments to provide services. The impact assessment shall include elements such as:

- (1) Changes in projected capacity of local government services necessary to accommodate future development in the County.
- (2) Changes in short or long-term housing availability, location, cost, or condition.
- (3) Need for temporary roads to access the construction of the Project.
- (4) Change in demand for public transportation.
- (5) Change in the amount of water available for future water supply in the County.
- (6) Description of how the Project will affect urban development, urban densities, and site layout and design of stormwater and sanitation systems.
- (7) The area's existing financial and environmental capability to sustain growth and development from the Project.

(C) **Mitigation Plan.** A plan for mitigating adverse impacts to local government services.

5.18. Water Supply.

Description of the water to be used by the Project, including: the source, amount, and quality of water; the applicant's right to use the water, including adjudicated decrees and applications for decrees; proposed points of diversion and changes in the points of diversion; the existing uses of the water; and alternative water sources available to the applicant. If an augmentation plan for the Project has been decreed or an application for such plan has been filed in court, the applicant shall submit a copy of that plan.

5.19. Water Conservation and Efficiency.

A description of water conservation and efficiency techniques that the Project will utilize in the construction and operation of the Project, including a description of any recycling and reuse technologies that will be deployed.

5.20. Assessment of Financial Burden on County Residents.

An assessment of the financial burden to County residents from the Project that includes:

- (A) **Baseline.** Description of the existing tax base and fee structure for government services including but not limited to assessed valuation, mill levy, rates for water and wastewater treatment, and costs of water supply.
- (B) **Impacts.** Assessment of adverse impacts of the Project to the tax burden of residents within the County. The impact assessment shall include elements such as:
 - (1) Changes in assessed valuation and property tax burden, including the loss of tax base due to loss or changes to the quality of agricultural lands.
 - (2) Changes in tax revenues and fees to local governments.
 - (3) Cost of securing an adequate supply of water for the existing and future development needs.
 - (4) Changes in costs to water users to exercise their water rights.
 - (5) Increased costs to water or wastewater facilities to treat water or wastewater.
 - (6) Effects on water users' ability to get water into their diversion structures or from their water wells

5.21. Local Economic Impact Assessment and Mitigation.

Local economic impact assessment and mitigation plan that includes:

- (A) **Baseline.** Description of the baseline conditions of the local economy sufficient to evaluate the economic impacts of the Project and ensure the adequacy of proposed mitigation including elements such as revenues generated by the different economic sectors and the value or productivity of different lands.
- (B) **Impacts.** Assessment of adverse impacts of the Project on the local economy and opportunities for economic diversification that includes elements such as:
 - (1) Number, type, and description of jobs created and income potential from such jobs.
 - (2) Changes to projected revenues generated from each economic sector.
 - (3) Changes in the value or productivity of any lands.
 - (4) Changes in opportunities for economic diversification.
- (C) **Mitigation Plan.** A plan for mitigating adverse impacts to the economy of the County.

5.22. Recreational Opportunities Assessment and Mitigation.

Recreational opportunity impact assessment and mitigation plan that includes:

- (A) **Baseline.** Description of present and potential recreational uses in the Impact Area, including elements such as:
 - (1) Map depicting the location of public recreational sites and access points in the Impact Area.
 - (2) Description of recreational uses such as fishery stream segments; hiking, biking, and equestrian trails, and hunting access.
 - (3) The number of recreational visitor days for different recreational uses.
 - (4) The revenue generated by types of recreational uses.
- (B) **Impacts.** Assessment of the adverse impacts of the Project to present and potential recreational opportunities and revenues to the local economy derived from those uses.
- (C) **Mitigation Plan.** A plan for mitigating adverse impacts to recreational uses.

5.23. Areas of Paleontological, Historic, or Archaeological Importance Assessment.

An impact assessment and mitigation plan for areas of paleontological, historic, or archaeological importance that includes:

- (A) **Baseline.** Map and description of all areas of paleontological, historic, or archaeological in the Impact Area importance sufficient to evaluate Project impacts and ensure the adequacy of proposed monitoring and mitigation.
- (B) **Impacts.** Assessment of adverse impacts of the Project to all areas of paleontological, historic, or archaeological importance during both construction and operation of the Project.
- (C) **Mitigation and Monitoring Plan.** A plan for mitigating adverse impacts to areas of paleontological, historic, or archaeological importance and a monitoring plan that includes key indicators, map(s), and descriptions of sites that will be monitored to establish baseline conditions, to identify the Project's impacts on the resources, and to measure the effectiveness of, or proposed changes to, mitigation.

5.24. Roadway Capacity and Traffic Assessment and Mitigation.

In addition to access or road use permits required from the County Road and Bridge Department, an impact assessment and mitigation plan for roadways and traffic during construction and operation of the Project that includes:

- (A) **Baseline.** Map and description of baseline conditions of road segments in the Impact Area sufficient to evaluate Project impacts and ensure the adequacy of proposed monitoring and mitigation, including elements such as the existing physical condition of roads, trips generated by vehicle type at average and peak times, and the existing level of service.
- (B) **Impacts.** Assessment of adverse impacts of the Project to roadways and traffic during both construction and operation of the Project, including elements such as:
 - (1) Map indicating proposed trip routes for all traffic serving the Project.
 - (2) Vehicular traffic associated with the Project including vehicle types; sizes, weight, and numbers of axles; and the traffic volume, frequency (daily, weekly, total), and timing (times of day).
 - (3) Impacts to roads used to access the Project site, including changes to appurtenant infrastructure such as sidewalks, bike paths, curbs, and gutters.
 - (4) Changes to motorized and nonmotorized traffic patterns.
 - (5) Changes to trips generated and level of service including potential congestion and demand for parking.
 - (6) Changes to, and capacity to accommodate, rights-of-way dedications.
 - (7) Conformance with Gilpin County engineering standards.
- (C) **Mitigation Plan.** A plan for mitigating adverse impacts to roadways and traffic patterns including elements such as:
 - (1) Funding road maintenance and improvements.
 - (2) Installation of safety and traffic calming measures.
 - (3) Designing routes or other measures to avoid to the greatest extent possible residential areas, commercial areas, environmentally and visually sensitive areas, schools and other civic buildings, and already congested locations.

(4) Limiting traffic or instituting measures on public roads during seasons when heavy vehicle use, weather conditions, or water saturation may result in significant damage.

(5) Restricting on the weight of trucks so that they do not exceed County road or bridge weight capacity requirements.

(D) **Maintenance Plan.** A plan for the maintenance practices on the proposed travel route(s) during construction and operation of the Project, including dust suppression, snow and ice management, prevention of tracking of dirt and mud off-site onto roads and highways, sweeping of paved roads/shoulders, pothole patching, repaving, crack sealing, and chip sealing necessary to maintain an adequate surface of paved roads.

(E) **Maintenance Agreement.** The Applicant will enter into a Maintenance Agreement with the County whereby the Applicant provides for private maintenance or reimburses the County for such increased costs or provides a bond or other financial security in an amount acceptable to the County to cover the costs of mitigating impacts to public roads, rights-of-way and/or infrastructure.

5.25. Grading, Erosion, and Sediment Control Plan.

A plan for grading, erosion, and sediment control for construction and operation of the Project, including:

(A) A map depicting existing (solid lines) and proposed (dashed lines) contours at two-foot intervals or other contour intervals approved by the Manager.

(B) Narrative description and scaled drawings of specific erosion and sediment control measures, including approximate locations of drainage facilities and drainage patterns on-site and in the Impact Area; and wetlands or other water bodies receiving storm runoff from the site. Typical erosion control measures should be depicted using standard map symbols.

(C) Construction schedule, indicating the anticipated starting and completion time periods of the site grading and/or construction phases including the installation and removal of erosion and sediment control measures, and the estimated duration of exposure of each area prior to the completion of temporary erosion and sediment control measures.

(D) Estimated total cost of the required temporary soil erosion and sediment control measures, to determine performance guarantees for the proposed plan.

(E) Calculations made for determining rainfall runoff and sizing of any sediment basins, diversions, conveyance, or detention/retention facilities.

5.26. Hazardous Materials Management Plan.

- (A) Description of all 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, and any foreseeable impacts to the environment of such substances.
- (B) Location of storage areas designated for equipment, fuel, lubricants, chemical and waste storage with an explanation of spill containment measures.
- (C) Reportable quantities, emergency response plan, spill prevention, and counter measures plan due to the Proposed Project.

5.27. Alternatives Analysis.

A description of the alternatives considered for the Project and how the Project is the alternative that best complies with these Regulations and is the least detrimental practicable alternative.

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Article 6. Permit Approval Criteria.

A Permit may be approved if the proposed activity complies with the following criteria. In determining whether the proposed activity complies with the criteria, the Board shall take into consideration the construction and operation of the Project and the direct, indirect, and cumulative impacts of the Project.

6.1. Applicant Expertise.

The Applicant has the necessary expertise to develop and operate the Project consistent with all requirements and conditions.

6.2. Technical and Financial Feasibility.

The Project is technically and financially feasible. The following criteria shall be applied to determining whether this criterion is satisfied:

- (A) Amount of debt associated with the Project.
- (B) Debt retirement schedule and sources of funding to retire the debt.
- (C) Estimated construction costs and construction schedule.
- (D) Estimated annual operation, maintenance, mitigation, and monitoring costs.
- (E) Market conditions.
- (F) Anticipated revenue generation.

6.3. Necessary Property Rights, Permits, and Approvals.

The Applicant will obtain all necessary property rights, permits, and approvals for the Project prior to any site disturbance. The Board may defer making a final decision on the Application until outstanding property rights, permits, and approvals are obtained or the Board may grant the Permit conditionally requiring outstanding property rights, permits, and approvals to be obtained.

6.4. Impairment of Property Rights.

The Project will not impair property rights held by others.

6.5. Surface Water Quality and Quantity.

The Project will not significantly degrade surface water quality or quantity.

6.6. Groundwater Quality and Quantity.

The Project will not significantly degrade groundwater levels or groundwater quality.

6.7. Aquatic Life and Aquatic Habitat.

The Project will not cause significant deterioration of aquatic life or aquatic habitat.

6.8. Wildlife and Wildlife Habitat.

- (A) The Project will not cause significant deterioration of wildlife, wildlife habitat, or wildlife movement patterns.
- (B) Increases to human activity will not occur at critical times or locations that would significantly interfere with or disturb wildlife.
- (C) Development in Wildlife Habitat Areas will be conducted in a manner that will allow man to function in harmony with, rather than be destructive to, wildlife and wildlife habitat resources.

6.9. Vegetation, Riparian Areas, and Wetlands.

- (A) The Project will not cause significant deterioration of vegetation, riparian areas, or wetlands. This criterion applies whether or not the Corps of Engineers or EPA have jurisdiction over wetlands impacts.
- (B) Areas disturbed by Project construction activities will be adequately revegetated and maintained in conformance with the approved *Vegetation and Weed Management Plan* and will not result in intrusion of noxious weeds, other invasive species, and air or waterborne soil loss.

6.10. Soil and Geologic Conditions.

The Project will not significantly degrade soil and geologic conditions.

6.11. Risk from Natural Hazards.

The Project is not subject to significant risk from natural hazards and will not exacerbate risks of and from natural hazards.

6.12. Air Quality.

The Project will not significantly deteriorate air quality.

6.13. Visual Quality.

The Project will not significantly deteriorate visual quality.

6.14. Nuisance.

The project will not interfere with the use and enjoyment of property within the Impact Area.

6.15. Land Use Patterns.

- (A) The Project will not significantly degrade land use patterns, unique landforms, or other natural scenic characteristics.
- (B) Project shall preserve desirable existing community and rural patterns.
- (C) Project shall avoid demolition of businesses or residences to the maximum extent possible.

6.16. Local Government Services.

- (A) The Project shall not have a significant adverse effect on the current or future capability of local government(s) to provide services to the County or on the capacity of their service delivery systems.
- (B) New facilities or systems shall be constructed in areas which will result in the proper utilization of existing facilities and the orderly development of facilities or systems of adjacent communities.
- (C) Where facilities are new water or sewage treatment systems or expansions of existing systems, the Project shall not result in unnecessary duplication of water or sewage treatment services. The following criteria shall be applied to determining whether this criterion is satisfied:
 - (1) No existing water or sewage treatment system has the legal ability or capacity to serve the area to be served by the Project.
 - (2) Age of existing water systems, operational efficiency, state of repair, or level of treatment is such that replacement is warranted if applicable.
 - (3) Existing facilities cannot be upgraded or expanded to meet community needs or the requirements of the Colorado Department of Public Health and the Environment.

6.17. Capacity of the Area to Sustain Development Associated with the Project.

The growth and development anticipated as a result of the Project can be accommodated within the financial and environmental capacity of the area to sustain such growth and development.

6.18. Efficient Use of Water and Energy.

The Project shall be planned, designed, and operated in a manner that reflects principles of resource conservation and efficiency. The Project shall emphasize the most efficient use of water, including recycling and reuse methods.

6.19. Local Economic Impact.

The Project will not significantly degrade any sector of the local economy.

6.20. Recreational Opportunities.

The Project will not significantly degrade the quality or quantity of recreational opportunities and experience.

6.21. Financial Burden on County Residents.

The Project will not create an additional tax burden on existing or future residents in the County.

6.22. Areas of Paleontological, Historic, or Archaeological Importance.

The Project will not significantly deteriorate areas of paleontological, historic, or archaeological importance.

6.23. Traffic.

- (A) The Project will not significantly degrade roadway capacity or local traffic conditions. The volume of traffic to be generated by the Project will be compatible with the traffic-handling characteristics of any interchange, access road, and existing public roadways affected by the Project.
- (B) The Project will discourage traffic congestion and incompatible uses.
- (C) During Project construction, the level of service for each affected road segment will not be reduced over pre-project conditions.
- (D) The Project will encourage the smooth flow of motorized and nonmotorized traffic and will foster development of the area in a manner calculated to preserve the smooth flow of traffic.
- (E) Project will preserve desirable existing community patterns.

6.24. Road Improvements and Maintenance.

The owner will bear the cost of all road repairs and maintenance necessitated by construction and operation of the Project.

- (A) If the projected use of public roads by construction traffic will result in a need for increased roadway maintenance, the owner will enter into an agreement with the County whereby the owner assumes responsibility for the repairs and additional road and bridge maintenance or reimburses the County for repairs and maintenance.

(B) The owner will maintain financial assurance to secure the maintenance and repair obligations. The amount of such financial assurance will be determined and the form approved by the County.

6.25. Erosion and Sediment Control.

Erosion and sedimentation control measures will be implemented in conformance with the approved *Erosion and Sediment Control Plan* to prevent erosion and sediment runoff and ensure that disturbed areas and soil stockpiles are stabilized.

6.26. Hazardous Materials.

The Project will not result in an unreasonable risk of releases of hazardous materials. This determination will take into account elements such as the waste minimization techniques and applicable plans for compliance with federal and state handling, storage, disposal, and transportation requirements.

6.27. Best Alternative.

The Project represents the alternative that best complies with these Regulations and is the least detrimental practicable alternative.

6.28. Compliance with Required Plans/Studies/Reports.

The Project will comply with all plans and reports required under Article 5 of these Regulations.

Article 7. Issuance, Term, Extension, and Amendment of Permit.

7.1. Permit Issuance.

- (A) **Permit as Resolution.** The Permit shall be issued by the Board in the form of a Resolution
- (B) **Not a Site-Specific Development Plan.** The Permit shall not be deemed a site-specific development plan subject to the vesting and notice requirements of C.R.S. § 24-68-103.
- (C) **Recording.** A copy of the Permit shall be recorded with the County Clerk and Recorder.
- (D) **Validity of Permit.** The Permit is valid only for the construction and operation of the Project described in the Application package together with the conditions of approval, if any, imposed by the County.
- (E) **Zoning Regulations and Other Code Requirements Apply.** Permits issued under these Regulations shall not exempt the Proposed Project from also complying with zoning and other requirements of the Gilpin County Zoning Regulations and as may be amended. No building permit shall be issued and no construction shall begin until all requirements of the Development Standards and Regulations have been satisfied.

7.2. Term of Permit and Commencement of Construction.

- (A) 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.
- (B) If construction or other development of a permitted Project has not been initiated within 12 months of Permit issuance, or if construction of a permitted Project is delayed for more than 12 months from the schedule approved in the Permit, the Permit shall be void and of no force and effect unless the Board specifies in its resolution granting the Permit a different time period in which building permits or construction must be obtained or activities must commence.

7.3. Transfer of Permits.

A Permit may be transferred only with the written consent of the Board. Consent shall be in the sole discretion of the Board of County Commissioners. The Board shall 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 County 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.

7.4. Renewal.

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 shall comply with these Regulations.

7.5. Expansion or Segmentation of Project.

A project cannot be segmented to avoid the requirements of these Regulations. If a project is to be phased over time or is composed of distinguishable elements, the impacts of all phases or elements of the development must be considered together when reviewing the Project and determining if it satisfies these Regulations.

7.6. Technical Revisions and Permit Amendments.

Any change in the application, design, construction or operation of the Project from that approved by the Board shall require either a Technical Revision or Permit Amendment. The criteria for this determination shall be based on the additional size of the area affected and/or the intensity of impact of the Project.

(A) **Submittal Requirements.** To request a Technical Revision, the Applicant shall submit the following information and materials to the Manager:

- (1) Copy of the current Permit.
- (2) Written description of the proposed changes to the Project together with construction drawings and plans where construction is contemplated.
- (3) A revised blueline plan exhibit (24" x 36") with the proposed amendment highlighted. Font size shall be readable when reduced to an 11" x 17" size. No plans shall include copyright restrictions.

(B) **Determination of Whether Change Is a Technical Revision or Permit Amendment.** The Manager will make the determination whether a change is a Technical Revision or a Permit Amendment following receipt of the request and required submittals. Within 7 working days of the Manager's determination, the Manager will notify the Applicant and the Board, in writing, of the determination.

- (1) **Technical Review Amendment.** A proposed change to a Project will be considered a Technical Revision if the Manager determines that there will be no increase in the size of the impact area or the intensity of impacts of the Project. The Manager may determine that even though the proposed changes will increase the size of the impact area or the intensity of the impacts, the impact is insignificant so as to warrant a Technical Revision. A change to a condition of approval will not be treated as a Technical Revision.

If the Manager finds that a proposed change is a Technical Revision, then the Applicant shall follow the process for Notice in Section 7.6(C).

(2) **Permit Amendment.** Changes other than Technical Revisions require a Permit Amendment which is processed like an application for a Permit under these Regulations except that only those application submittal requirements and criteria that are relevant to the amendment will be applied.

(C) **Notice for Technical Revisions.**

(1) **Submittal of Activity Notice to Manager.** If the Manager finds that a proposed change to the construction or operation of a Project is a Technical Revision under Section 7.6(B), the Applicant shall file an Activity Notice with the Manager before proceeding with the proposed change. The submittal materials shall consist of:

(a) All information and materials required in Section 7.6(A) regarding the request for a Technical Revision.

(b) Schedule for commencement of the construction or operational change.

(c) Other materials deemed necessary by the Manager to provide adequate information about the Project.

(2) **Activity Notice Review and Order by Manager.** The Manager shall review the Activity Notice and determine whether additional information is required. The Manager shall issue a written Order approving a proposed change to construction or operation as a Technical Revision to the Project. The Manager may impose conditions deemed necessary to protect public health, safety, welfare, and the environment.

(3) **Public Notice.**

(a) **Publication.** Not less than 15 calendar days before commencement of construction or a change in operation of the Project, the Manager shall publish a copy of the Order approving the change to construction or operation of the Project and notice to the general public of the location where additional information may be obtained.

(b) **Posting.** Not less than 15 calendar days before commencement of construction or a change in operation of the Project, the Applicant will post a sign on the site of the Project giving notice to the general

public of the change to construction or operation the Project and where additional information may be obtained. The Manager shall approve the posted notice before the Applicant sends such notice.

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Article 8. Financial Guarantee.

8.1. Financial Guarantee Required.

Before any Permit is issued under these Regulations, the Board may (but shall not be required to) require the Applicant to file a guarantee of financial security deemed adequate by the Board and payable to the County. The purpose of the financial guarantee is to assure the following:

- (A) That the Project is completed and, if applicable, that the area impacted by the Project is properly reclaimed.
- (B) That the Permittee performs all mitigation and Permit conditions in connection with the construction, operation, and termination of the Project.
- (C) That increases in public facilities and services necessitated by the construction, operation, and termination of the Project are borne by the Permittee.
- (D) That the County can recover from the Permittee any additional expenses incurred by the County if the Project has been suspended or abandoned.

8.2. Amount of Financial Guarantee.

In determining the amount of the financial guarantee, the County shall consider the following factors:

- (A) The estimated cost of completing the Project and, if applicable, of returning the area impacted by the Project to its original condition or to a condition acceptable to the County.
- (B) The estimated cost of performing all Mitigation requirements and Permit conditions in connection with the construction, operation, and termination of the Project, including:
 - (1) The estimated cost of providing all public services necessitated by the proposed activity until two years after the proposed activity ceases to operate.
 - (2) The estimated cost of providing all public facilities necessitated by the proposed activity until all such costs are fully paid.

8.3. Estimate of Guarantee.

Estimated cost shall be based on the Applicant's submitted cost estimate plus the Board's estimate of the additional cost to the County of bringing in personnel and equipment to accomplish any unperformed purpose of the financial guarantee. The Board shall consider the duration of the development or activity and compute a reasonable projection of

increases due to inflation. The Board may require, as a condition of the Permit, that the financial security be adjusted upon receipt of bids to perform the requirements of the Permit and these Regulations.

8.4. Form of Financial Guarantee.

The financial guarantee may be in the form of a letter of credit or some other form acceptable to the Board.

8.5. Release of Guarantee.

The financial guarantee shall be released when:

- (A) The Permit has been surrendered to the Board before commencement of any physical activity on the site of the permitted Project; or
- (B) The Project has been abandoned and either the site has been returned to its original condition or to a condition acceptable to the County; or
- (C) The Project has been satisfactorily completed; or
- (D) A phase or phases of the Project have been satisfactorily completed allowing for partial release of the financial guarantee consistent with Project phasing and as determined appropriate by the Board, or the applicable guaranteed conditions have been satisfied.

8.6. Cancellation of the Guarantee.

Any financial guarantee may be canceled only upon the Board's written consent.

8.7. Forfeiture of Guarantee.

- (A) If the Board determines that a financial guarantee should be forfeited because of any violation of the Permit, mitigation requirements, conditions or any applicable regulations adopted by the Board, it shall provide written notice to the surety and the Permittee that the financial guarantee shall be forfeited unless the Permittee makes written demand to the Board, within 30 days after Permittee's receipt of notice, requesting a hearing before the Board. If no demand is made by the Permittee within said period, then the Board shall order the financial guarantee forfeited.
- (B) If a written demand is received, the Board shall hold a hearing within 30 days after the receipt of the demand by the Permittee. At the hearing, the Permittee shall present for the consideration of the Board statements, documents, and other information with respect to the alleged violation. At the conclusion of the hearing,

the Board shall either withdraw the notice of violation or enter an order forfeiting the financial guarantee.

(C) The deposit described above shall be used by the Board, in the event of the default of the Permittee, for the purposes of recovering on the surety or fulfilling the Permit obligation of the Permittee. That portion of any moneys expended by the County from the escrow funds relating to such default shall be replaced in the escrow account by the Permittee immediately following notice of such expenditure. The County may arrange with a lending institution, which provides money for the Permittee, that said institution may hold in escrow any funds required for said deposit. Funds shall be disbursed out of escrow by the institution to the County upon the County's demand for the purpose specified in this section.

(D) If the forfeiture results in inadequate revenue to cover the costs of accomplishing the purposes of the financial guarantee, the County Attorney's Office shall take such steps as deemed proper to recover such costs where recovery is deemed possible.

8.8. Substitute of Guarantee.

If the license to do business in Colorado of any business issuing or holding a financial guarantee pursuant to this regulation is suspended or revoked by any State authority, then the Applicant shall immediately, after receiving notice thereof, substitute a good and sufficient financial guarantee from a business licensed to do business in Colorado. Upon failure of the Permittee to make a substitution within the time allowed, the Board shall suspend the Permit and/or take such other enforcement action until proper substitution has been made.

Article 9. Enforcement and Penalties.

9.1. General.

(A) **Authority.** The provisions of these Regulations may only be enforced by the County.

(B) **Unlawful to Violate these Regulations.** Any person engaging in a development in the designated area or conducting a designated activity who does not obtain a Permit pursuant to these Regulations, who does not comply with Permit requirements, or who acts outside the jurisdiction of the Permit may be subject to such criminal or civil liability as may be prescribed by law. Each day during which such violation continues shall be deemed a separate offense.

(C) **Cumulative Remedy.** The County's authority to enforce or abate a violation of these Regulations and any other remedy shall be cumulative and in addition to any other remedy provided by law.

9.2. Inspection.

(A) **Inspection Authorized.** The County may inspect and examine the use, occupation, or development of every activity subject to these Regulations for the purpose of determining from time to time whether 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.

(B) **Remedial Action Authorized.** If a violation shall be found to exist, the County or its authorized representative may 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.

9.3. Correction of Violations.

(A) **Notification of Violation.** If the Manager identifies an activity in violation of these Regulations, the Manager may provide written notice of violation to the violating party. The notice shall state the nature of the violation and set a reasonable period of time to abate the violation.

(B) **Abatement of Violation.** If the violation is not abated within the prescribed period, the Manager may cause the violation to be abated by its employees or by

private contract, or by any other means provided by Colorado law. The costs of abating the violation shall be the responsibility of the violating party.

9.4. **Revocation or Suspension of Permits.**

(A) **Suspension.** If the Manager has reason to believe that a provision of any Permit has been violated by the Permittee, the Manager may temporarily suspend the Permit for a period of 30 days. Before imposing such a temporary suspension, the Manager shall give the Permittee written notice of the specific violation and shall allow the Permittee a period of at least 15 days to correct the violation. If the Permittee does not concur that there is a violation, they shall, within 15 days of their receipt of such notice, file a written request for a hearing to show cause to the Manager why temporary suspension should not be ordered. A public hearing in substantially the same manner and after substantially the same notice as for Permit hearings (Article 4, Section 4.9 through 4.13) shall be held within 30 days of the filing of the written request.

(B) **Revocation.** Prior to or subsequent to a temporary suspension, the Board may permanently revoke the Permit after conducting a public hearing in substantially the same manner and after substantially the same notice as for Permit hearings (Article 4, Section 4.9 through 4.13), if it finds:

- (1) A violation of a provision of the Permit; or
- (2) That the Applicant has failed to take substantial steps to initiate the permitted development or activity within 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.
- (3) In the event that the Manager or the Board determines that continued operation of the Project presents a significant imminent 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.

(C) **Applicant Pays Costs.** The Applicant is responsible for all costs incurred by the County in administering suspension or revocation proceedings, unless the Board finds the suspension or revocation unwarranted during the public hearing.

[END]