



Notice of the Regular Meeting of the Ophir Planning and Zoning Commission
Ophir Town Hall, 36 Porphyry Street, Colorado, 81426
6:00PM, Wednesday, January 8th, 2025

Zoom Link: <https://us02web.zoom.us/j/6189461254?omn=82125746558>

Agenda:

1. Approve the Agenda
2. Staff Report
3. Business Items:
 - a. P&Z Commission Member Elections at January GA meeting
 - i. Phil Hayden
 - ii. Dan Forgrave
 - b. Town of Ophir Land Use Code (LUC) Revisions
 - i. Discussion on process and timeline
 - ii. Discussion and review of past comments, surveys, and notes
 - c. San Miguel County Draft Mining Recommendations
 - i. Consideration of providing comments
4. New Business
5. Adjourn

1. "Basement" definition is wrong and says average pre-existing grade. should just be pre-existing grade.
2. Sheds under 8ft total height should be allowed within 3 ft of the side setbacks and 5 ft of front and back. This intrusion into the setbacks could be limited to 100 sq ft. per building site
 - a. Comply with Fire code and
 - b. Parking
 - c. Septic
 - d. Requires Site plan and PZ Approval
3. Contractors cannot be LUC officer or building inspector on their own jobs.
 - a. 3rd party to be approved by PZ
4. Remove allowance for square footage under 5'-6" to be removed for floor area. Floor space is floor space.
 - a. Clarify that this is about sloped ceilings, not crawl spaces
5. Fences over 3' big should require a plan and inspection.
6. Require all new homes to offset energy use, on site, (1.5) Watts per square foot. And have Electric only appliances, heating and hot water
 - a. The idea is to have a payment to Ophir Green Fund (new) if not in compliance before CO is granted
 - i. Large enough payment to discourage noncompliance
7. No exterior heated surfaces allowed
8. During building, any dumpsters, porta-potties or materials can only be stored on town roads directly adjacent to permit holders lot and on the side that the driveway access will be built (corner lots do not get 2 sides). Temporary permission may be granted for short term storage outside of that zone
9. Summer parking ordinance: No non-wheeled (vehicular?) storage on maintained road surfaces at any time (no shipping containers). No vehicles, RV's or anything should be able to be parked on Maintained Road surfaces for more than 48 hours. (Right now I can park any rv or a car anywhere for as long as I want, including in front of your house).
10. Once plans are approved by P&Z you have 12 months to pull a permit on them
11. SEE LIGHTING STANDARDS DOCUMENT
12. SEE SHORT TERM RENTAL ORDINANCE
 - a. Can we add this to the LUC instead of as a separate ordinance?

Energy Section Additions

1. Require new building to be EV and PV ready
2. Require new building to be all electric ready
 - a. Panel sized correctly etc
3. 100% Totally Green offset if no on-site power produced
4. Prescriptive: 18% window to floor area ratio OR Performance path requirements... HERS score of 61
5. Change insulation requirement backstop to be 2018 code table (vs 2009)
6. Outdoor heating design temp requirement for Manual J calculations = 0 deg F or lower for Ophir
7. Address log homes – same as county
8. Require EPA-certified wood stoves

POTENTIAL SURVEY QUESTIONS RE LUC

Survey Questions. *Below are draft questions to include a town-wide survey about the LUC.*

1. Home Occupation/Business Licenses. Currently, the LUC allows Ophir residents to conduct limited businesses in the residential district. The restrictions on business activities are set out in detail at page 5 of the LUC under the definition of “Home Occupation.” Additionally, Ophir will soon collect Business License Fees from any businesses selling goods or services within the town of Ophir as set out in Ordinance 1996-3.
 - a. Which do you agree with most:
 - i. A Business License should be required for all Home Occupations operating within the town of Ophir, whether or not the goods or services are sold within town limits.
 - ii. Only business that sell goods or services within the town of Ophir should be required to get a business license.
 - b. Which do you agree with most:
 - i. If a Home Occupation uses the Ophir trash, composting & recycling services, the business owner should pay a fee for those services.
 - ii. All Home Occupations should be required to pay a fee for use of Ophir trash, composting & recycling because it’s too hard to determine whether or not a business activity actually uses that service.
 - iii. Home Occupations should not have to pay any additional fees for trash, composting & recycling.

2. Lock-Off Units. Currently, the LUC allows for single-family dwellings by right in the residential district. (*See LUC §402.*) There is no allowance in the LUC for multi-family dwellings or what is often referred to as lock-off units, but these units exist within Ophir and are often rented. Concerns about lock-offs include: (1) units are not in compliance with the building code and other codes relating to health and safety of residents, (2) rental of these units increases the number of residents in Ophir without Ophir gaining additional fees for water or trash, and (3) these units may over-tax septic systems. The upside to allowing lock-off units includes: (1) it provides affordable housing options in the community and (2) it provides a space for in-home caregivers.
 - a. Which do you agree with most:
 - i. Multi-family dwellings, including lock-off units, should not be allowed in Ophir, no exceptions.
 - ii. Multi-family dwellings, including lock-off units, should be allowed as caregiver units or in-law suites, but renting such units should be prohibited.
 - iii. Multi-family dwellings, including lock-off units, should be allowed with certain requirements that would address the concerns described above.

- b. If multi-family dwellings, including lock-off units, are allowed under the LUC, then these would be required to comply with building, health and safety codes, including septic system requirements based on occupancy. Which *additional* restrictions should apply (check as many as you like):
- i. Any home with a lock-off unit should pay twice the amount in fees for trash, composting and recycling.
 - ii. Any home with a lock-off unit should pay twice the amount in fees for water (until Ophir moves to a metered water system).
 - iii. Occupancy should be restricted to County R-1 Deed Restriction (i.e., any renter must be earning income in San Miguel County).
 - iv. Any home with a lock-off unit must provide sufficient off-street parking for all vehicles.
 - v. Any home with a lock-off unit should pay a yearly impact fee.
 - vi. All homeowners with a lock-off must contribute five dollars to the Ophir Dog Obedience School Scholarship Fund (awarded yearly based on need, for more information email NicoSloan@raddawg.com).
3. Trash, Compost & Recycling. Ophir's trash, compost and recycling facilities are often maxed out. Which do you agree with most:
- a. Fees for these services should be tied to the number of occupants in a home.
 - b. Homes should all pay the same rate for these services regardless of occupants.
4. Setbacks. Under the LUC, structures are not allowed within setbacks. Structures are defined as "anything constructed or erected, which requires location on the ground or attached to something having a location on the ground, but not including fences or walls used as fences less than six feet (6) in height." (*See* LUC p. 9.) Currently, side, rear and front yard setbacks are the same for principal and accessory buildings regardless of the structure's height. (*See* LUC §§ 405 & 406.) Which of the following do you agree with most:
- a. The LUC's setback provisions should be revised to provide scaled setback requirements, so that if a structure is 3 feet in height, the setback is shorter (for example 5.5 feet instead of 7.5 feet).
 - b. The LUC's setback provisions should not be revised.
5. Off-Street Parking Requirements. Currently, LUC's §305 requires all residential structures provide at least two off-street parking spaces for lot areas equal to, or less than 5,000 square feet and three spaces for lot areas greater than 5,000 square feet. Section 305.4 further provides that "No automobile trailers, boats, detached campers or any other object shall be parked or stored in off-street parking areas if it renders the parking space unusable." Residents have expressed concern about the number of vehicles and campers parked in the town and an interest in stricter enforcement of parking regulations to prevent on-street parking.
- a. Select which requirements would be most effective (can select more than one):

- i. Automobile trailers, boats and detached campers should not be allowed to be permanently parked in parking spaces.
 - ii. On-street parking should be prohibited year-round in the town of Ophir.
 - iii. Residents should be required to register vehicles with the Town of Ophir and any home with more than two vehicles should pay an additional fee.
 - iv. The Town of Ophir should conduct a town-ride review of properties to determine whether additional off-street parking is required.
6. Alleyways. It has been determined that none of the town's designated alleyways are necessary for emergency or utility access.
- a. Which of the following to you agree with most:
 - i. Ophir should abandon all alleyways.
 - ii. Ophir should maintain all alleyways.
 - b. If Ophir abandons its alleways, which of the following would you like done with the space:
 - i. Divide the alleyway between the bordering private properties and increase the setback distances.
 - ii. Divide the alleyway between the bordering private properties and keep setbacks the same.
 - iii. Preserve the alleyways as town-owned property
7. Accessory Buildings. Currently, uses allowed by right in the residential district are one single-family and two accessory buildings. (See LUC §402.) The maximum floor area for an accessory building is limited 250 square feet for a 5,000 square foot lot or .05 x lot area. (See LUC §408.2.) [Note to P&Z: I'd like to talk about this question - I'm not sure we should include it as I think it's very specific and under the current LUC this could be achieved through a SUP.]
- a. Which of the following do you agree with the most:
 - i. The LUC should include an exception that would allow a resident to build an accessory building on an undeveloped lot they own that is larger than the 250 square feet (such as a garage) as long as the building is not used as a dwelling and requires no plumbing.
 - ii. The LUC should not allow any exception for such a building.
8. Enforcement. The complaint-based enforcement of the LUC isn't working and P&Z is improving enforcement mechanisms in revising the LUC. One obstacle to this is that there are a handful of outstanding LUC violations that are in existence and have gone without penalty or correction. In order to move forward, Ophir needs to reset.
- a. For LUC violations that have been in existence for a long time, which of the following do you agree with most:
 - i. The property owner should have to apply for a variance or correct the violation within a six-month period of time.

- ii. The property owner should have to correct the violation within a six-month period of time.
 - iii. The property owner should be able to apply for a temporary variance that expires when they sell the property. At that point, the violation must be corrected.
- 9. Exterior Materials. LUC §303.4 sets out the exterior materials allowable. [*Not provide the full text of what's allowed*]. In the 2019 Master Plan Survey, Ophir residents expressed an interested in expanding the sorts of exterior materials allowed.
 - a. For siding and skirting, which do you agree with most:
 - i. Neutral, earthy, colored stains on siding should be allowed
 - ii. Only transparent stains should be allowed
 - b. For siding and skirting, which do you agree with most:
 - i. Non-reflective metal in neutral, earthy tones should be allowed
 - ii. Only rusted metal should be allowed
 - c. For siding and skirting, should there be a limit on how much surface area is covered in metal?
 - i. Yes
 - ii. No
 - d. For roofing, which do you agree with most:
 - i. Only non-reflective rusted metal should be allowed
 - ii. Non-reflective metal in neutral, earthy tones and rusted metal should be allowed
 - iii. All non-reflective metal should be allowed

Topics for GA Discussion: *The 2019 survey indicates Ophir residents are interested in more sustainable and conscientious development. The below items are ways the town can move this direction and I think these are best presented/discussed at a GA meeting, instead as survey questions. We don't need to discuss these topics in detail at the May P&Z meeting, I just want to run through them briefly.*

1. Prohibit Propane and Woodstoves as heat sources in new construction. Jared Polis's green energy plan includes a demand to move away from propane and wood burning for home heating. (See [here](#).) Heating our homes in Ophir is the largest part of our carbon footprint. To reduce our town's footprint, we could update the LUC to require all new construction have electric boilers for heat and prohibit propane and wood-burning stoves. Section 307 of the LUC would set out the grandfathered non-conforming uses and would apply if a home with propane or a woodstove were renovated.
 - a. Some points to discuss as P&Z and determine how to present to GA:

- i. This sort of move makes Ophir more reliant on the electric grid. Are there ways to protect residents if the grid fails? Part of this would be moving homeowners to solar power or considering a larger scale, town-wide alternative energy source.
 - ii. There may be some resistance to prohibiting woodstoves. An alternative approach to woodstoves is through permitting. We could limit the number of wood-burning stoves to the number currently in Ophir. One permit is issued per stove and we stay at that. If someone moves, this gives them the option to move their stove. Or we could sell a permit at a high-price point.
 - iii. OEC is in support of this sort of revision and is also interested in ways we could track the propane use. The town's largest carbon footprint is in how we heat our homes and we can't track propane or woodstove use.
 - iv. In addition, to encouraging greener new construction, are there ways we could encourage current homes to move toward more energy efficiency?
 1. Seek grant money for residents to move to solar power.
2. Add LEED Certification. Implement an "LEED for Homes" design, construction, and performance certification system. This would be a third-party certified evaluation, at the owner's expense. There would be an initial and final evaluation.
 - a. Initial Evaluation: Beginning with design, architects can perform an energy evaluation based on the size of the home, U values for the windows they will use, R value for insulation, air exchange units, heating, etc. Then they can have an initial evaluation with the third party, adjust accordingly. Then they know exactly how they need to build.
 - b. Final Assessment: This will be done on completion of home in order to reach certification.
 3. Geotechnical Survey. Add requirement that all new homes/additions have a geotechnical engineer conduct site-specific soil analysis and then follow the engineer's recommendations in construction.

Topics not included on Survey. *For reasons explained below, I don't think these topics need to be in the survey, but would like to run through them briefly with P&Z to make sure we're not missing things.*

1. Square Footage Exceptions. There were several public comments wanting to reduce how much below-grade construction and garages count toward square footage.
 - a. These suggestions are:
 - i. Currently garage space is counted the same way home space is counted and if Ophir revised the LUC to allow that 50% of garage space is counted toward a home's total square footage, then this might incentivize garage building, which could be good for moving toward electric cars.
 - ii. Currently, any floor area that is below pre-construction grade is counted as 50% of floor area, two residents suggested that 100% not count toward square footage.

- a. The reasons these aren't good options for the town are because of septic system requirements. As Ernie explained - San Miguel County building and planning department views any additional living space (below grade or otherwise), that could potentially be used as a bedroom (office, family room, game room, etc.), as a bedroom. So if you have a two bedroom house with an office, they will count it as three bedrooms. Currently, with the standard Ophir lot size, a three-bedroom size home, with a leach field and septic system designed to current code, will max out a lot property. I have several examples I can show. Additional square footage is not possible with our lot sizes and septic demands.
2. Affordable Housing. At this time, I don't think there's a sufficiently specific question to ask residents about affordable housing other than to mention it in connection with the lock-off discussion. The last two surveys asked general questions and didn't return any useful results.

MINING REGULATIONS

NOTE FOR WORK SESSION: Recall that the Solar Regulations include Section 6-1 which applies to the whole of Article 6 including this section. This section includes definitions of adverse, impact, mitigation, significant, and wetlands.

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SECTION 6-3: MINING

6-301 General Provisions

6-301 A. Purpose

The purpose of this Section 6-3 is to ensure that mining and mineral processing and related activities are conducted in a manner that protects public health, safety, welfare, and the environment and wildlife of San Miguel County.

6-301 B. Applicability

- I. This Section applies to any Mining Operation, Exploration, or Remediation as those terms are defined herein and that is located partially or wholly in unincorporated San Miguel County on private or public lands.
- II. If any provisions of this Section conflict with other provisions in the San Miguel County Land Use Code, the more stringent provisions shall control. Nothing herein exempts an Applicant from compliance with any other applicable local, state, or federal requirements.

6-301 C. Permit Required

A permit issued pursuant to this Section is required prior to site disturbance associated with a Mining Operation, Exploration, or Remediation that is unrelated to a proposed Mining Operation or Exploration.

6-301 D. Activity Notice for State and/or Federal Mine Remediation Projects

An Activity Notice, instead of a permit, is required for Mine Remediation conducted solely by state and/or federal agencies. The agency or its agent, employee, or contractor shall provide the County Planning Director with an Activity Notice at least sixty (60) days before conducting Reclamation activities. The Activity Notice shall include:

- I. A map identifying the site(s) where the Mine Remediation will occur.
- II. A written description of and schedule for the activities to be conducted including routes that may be used to transport materials or heavy equipment to and from the site and other information that will provide the County with sufficient notice about the impacts associated with the Mine Remediation.
- III. Description of the best management practices the agency will impose to avoid any unintended negative impacts to the environment associated with the Mine Reclamation, including but not limited to:
 - a. Minimize new surface impacts and the removal of vegetation to the greatest extent possible.
 - b. Revegetate all disturbed soils with native vegetation and control for noxious weeds.
 - c. Comply with best practices for erosion and sediment control and stormwater management.

- d. Obtain all required County Road and Bridge permits for access and hauling prior to commencement of work.
- e. Consider seasonal limitations on days and hours of operation to avoid sensitive species wintering timeframes. Avoid impacts to occupied and unoccupied Gunnison Sage-grouse habitat, golden eagle nest site, bald eagle roost site, and all other raptor nest sites.

6-301 E. Mining Operations, Exploration, and Remediation Permitted in Certain Zone Districts

- I. Mining Operations and Exploration on non-federal lands may be permitted pursuant to this Section 6-3 only in the following zone districts:
 - a. Forestry, Agriculture, and Open
 - b. Rangeland Grazing
 - c. Wright's Mesa
 - d. West End
 - e. High Country Area except for mining of construction materials.
- II. Mining Operations and Exploration on federal land may be permitted in all zone districts pursuant to this Section 6-3.
- III. Remediation not associated with Mining Operations or Exploration may be permitted pursuant to this Section 6-3 in all zone districts.

6-301 F. Permit Review Procedures

- I. Level of Review.
 - a. A permit application for a Mining Operation is subject to Two-Step Review (Planning Commission and Board review) as set forth in the LUC, Article 3, Section 3-6.
 - b. A permit application for Exploration is subject to Administrative Review as set forth in the LUC, Article 3, Section 3-4, unless it meets the conditions set forth in this Section 6-301 F.I.c.
 - c. A permit application for Exploration that includes one or more of the following conditions is subject to Two-Step Review (Planning Commission and Board review) as set forth in the LUC, Article 3, Section 3-6.
 - i. The Exploration includes proposed new roads, whether permanent or temporary.
 - ii. The Exploration involves three or more surface disturbances per acre that each total 1,600 square feet of disturbance or greater.
 - iii. The Exploration involves more than 5 acres of total surface disturbance including road improvements or construction.

- d. A permit application for Remediation that is not associated with a Mining Operation or Exploration is subject to Administrative Review as set forth in the LUC, Article 3, Section 3-4.

II. Additional Notice Requirements.

In addition to the notice requirements set forth in the LUC, Article 3, Section 3-9, applicants for approval of Mining Operations or Exploration shall also provide written notice of a pending application by mailing such notice first class, postage prepaid, no less than 20 days prior to the scheduled meeting date to all owners of real property within 1,500 feet of the nearest exterior boundary of the subject property, and to all municipalities within three miles of the nearest exterior boundary of the subject property.

6-301 G. Commencement of Project

If construction of a permitted Mining Operation or Exploration has not been initiated within three (3) years of permit issuance, or if construction of a permitted Mining Operation or Exploration does not satisfy the time benchmarks identified in the permit, whichever occurs sooner, the permit shall be void and of no further force and effect. Following a duly noticed public hearing, the Board may grant extension(s) of the approval for good cause shown.

6-301 H. County Notice of Temporary Cessation or Termination of a Permitted Activity

- I. Notice of Temporary Cessation. If a permittee files a Notice of Temporary Cessation with the Colorado Division of Reclamation, Mining, and Safety (“DRMS”) pursuant to Rule 1.13 of the Hard Rock, Metal, and Designated Mining Operations Rules (2 CCR 407-1) or Rule 1.13 of the Construction Materials Rules (2 CCR 407-4), the permittee shall provide a copy of the Notice of Temporary Cessation to the County Planning Director contemporaneously with filing with DRMS. In addition, the permittee must submit a narrative to the County describing:
 - a. Measures to be undertaken to comply with the applicable conditions in the County permit, including interim measures to be undertaken during the period of temporary cessation to secure the site and prevent adverse environmental impacts, e.g. stormwater management, vegetation control, dust control.
 - b. How the financial security provided to the County is adequate to cover the costs identified in the County permit.
- II. Notice of Resumption. The permittee shall provide the Notice of Resumption of Mining Operations, as required by DRMS to resume operations after a temporary cessation, to the County Planning Director contemporaneously with filing with the DRMS. In addition, the permittee must provide to the County:
 - a. A description of the measures to be undertaken to comply with applicable conditions in the County permit.
 - b. Demonstration that the financial security provided to the County is adequate to cover the costs identified in the County Permit.

- III. Notice of Termination Hearing. If a permittee receives a notice that the Colorado Mined Land Reclamation Board will hold a public hearing to determine whether the permitted operation should be terminated, the permittee shall provide a copy of the Notice of Termination Hearing to the County Planning Director within one (1) day of receipt of such notice.

6-301 I. Annual Report

A permittee shall submit a report to the County Planning Director annually, or at a different time interval as determined by the County in the permit, detailing any and all activities conducted by the permittee pursuant to the permit including but not limited to continued adequacy of the financial guarantee, and a satisfactory showing that the work is being conducted in conformance with all conditions of the County permit and applicable state and federal regulations.

6-301 J. Transfer of Permit

Any permit for a Mining Operation approved by the County may be transferred to another owner/operator only after a public hearing by the Board. Any permit for Exploration or Remediation may be transferred to another owner/operator only with prior written approval from the Planning Director. In approving a transfer, the County must ensure that:

- I. The proposed transferee will comply with all the requirements, terms, and conditions contained in the permit and Section 6-3.
- II. The permit requirements, terms, and conditions remain sufficient to protect the health, safety, and welfare of the public, environment, and wildlife; and
- III. The proposed transferee has provided documentation of any executed replacement financial guarantees required by relevant state and federal agencies, and provided a replacement financial guarantee to the County consistent with Section 6-309.

6-301 K. Definitions

Construction Material

Rock, clay, silt, sand, gravel, limestone, dimension stone, marble, or shale extracted for use in the production of non-metallic construction products.

Development

The work performed in relation to a deposit, following the exploration required to prove minerals are in existence in commercial quantities but prior to production activities, aimed at, but not limited to, preparing the site for mining, defining further the ore deposit by drilling or other means, conducting pilot plant operations, constructing roads or ancillary facilities, and other related activities.

Exploration

The act of searching for or investigating a mineral or construction material deposit. Exploration includes, but is not limited to, sinking shafts, tunneling, trenching, drilling core and bore holes and digging pits or cuts and other works for the purpose of extracting samples prior to commencement of development or extraction operations, and the building

of roads, access ways, and other facilities related to such work.

- a. The term Exploration includes both Mineral Exploration and Construction Material Exploration unless these Regulations specifically exclude one or the other.
- b. The term Exploration includes the expansion of an existing Exploration operation.
- c. The term does not include those activities that cause no or minimal surface disturbance, such as airborne surveys and photographs, use of instruments or devices which are hand carried or otherwise transported over the surface to make magnetic, radioactive, or other tests and measurements, boundary or claim surveying, location work, or other work which causes no greater land disturbance than is caused by ordinary lawful use of the land by persons not exploring.

Reclamation

The employment of procedures during and after a Mining Operation pursuant to a DRMS *Reclamation Plan* or during and after Exploration pursuant to DRMS approval of a Notice of Intent (“NOI”) to conduct Exploration that are reasonably designed to minimize as much as practicable the disruption from the Mining Operation or Exploration and that provide for the establishment of plant cover, stabilization of soil, the protection of water resources, or other measures appropriate to the subsequent beneficial use of areas impacted by the Mining Operation or Exploration.

Remediation

Procedures designed and conducted pursuant to a County Permit or designed and conducted solely by state and/or federal agencies to minimize as much as practicable the disruption from a Mining Operation or Exploration and to provide for the establishment of plant cover, stabilization of soil, the protection of water resources, or other measures appropriate to the subsequent beneficial use of such affected lands.

Impact Area

Those geographic areas in which impacts are likely to be caused by the Mining Operation, including haul routes.

Mineral

An inanimate constituent of the earth in a solid, liquid, or gaseous state which, when extracted from the earth, is useable in its natural form or is capable of conversion into a useable form as a metal, a metallic compound, a chemical, an energy source, or a raw material for manufacturing or construction material. For the purposes of this article, this definition does not include surface or subsurface water, geothermal resources, or natural oil and gas together with other chemicals recovered therewith, but does include oil shale.

Mining Operation

The activities associated with development, production, and/or extraction of a mineral from its natural occurrences or within refuse (“Mineral Mining Operation”) or the activities associated with the development, production, and/or extraction of construction material

from its natural occurrences (“Construction Material Mining Operation”), and the area within the County where the Mineral Mining Operation or the Construction Material Mining Operation will be conducted.

- a. The term Mining Operation includes both Mineral Mining Operations and Construction Material Mining Operations unless these Regulations specifically exclude one or the other.
- b. The term Mining Operation includes the expansion of an existing Mining Operation.
- c. The term includes, but is not limited to, open mining, in situ mining, in situ leach mining, surface operations, the disposal of refuse, land excavations, drill sites or workings, evaporation or settling ponds, leaching dumps, placer areas, tailings ponds or dumps; concentrating, milling, or other processing; work, parking, storage, or waste discharge areas; and areas in which structures, equipment, machines, tools, or other materials or property which result from or are used in such operations are situated or staged.

Surface Mobile Equipment

Wheeled, skid-mounted, track-mounted, or rail-mounted equipment capable of moving or being moved, and any powered equipment that transports people, equipment, or materials, excluding belt conveyors, at surface metal and nonmetal mines.

6-302 General Requirement for all Permit Applications

6-302 A. Waiver of Materials

Upon request of the applicant or at the pre-application conference, the Planning Director may waive one or more of the application materials when the information would not be relevant to a determination as to whether the application complies with the permit approval review criteria in Section 6-303.

6-302 B. Consultants and Referral Agency Costs

The costs of consultant and referral agency reviews are the responsibility of the applicant. The Planning Director may authorize all or a portion of the review of any phase of the application to be performed by a consultant or consultants of the County’s choosing and sent to referral agencies that the County deems appropriate for the application. Copies of any such referral agency comments received must be forwarded to the applicant for its response.

6-302 C. Federal or State Agency Materials

An applicant may submit materials that are or will be submitted to DRMS and/or federal land management agencies with jurisdiction over the Mining Operation, to satisfy, in whole or in part, the corresponding County application requirements.

6-302 D. Application Fee

All applications must include the application fee pursuant to the applicable Board

Resolution for Fee Schedule. The Board shall establish fees pursuant to the LUC, Article 3, Section 3-1410, and as set forth in the adopted fee schedule.

6-302 E. Confidential Materials

An applicant may work with the County Attorney to address how confidential information may be appropriately handled in the application materials.

6-303 Permit Application Materials for Mining Operations

The applicant for a Mining Operation shall submit the reports, plans, and assessments in this Section 6-303 to the Planning Director. Plans and specifications must be prepared by a Colorado-licensed Professional Engineer (“P.E.”) or as otherwise approved by the Planning Director. Maps must be prepared at a scale that is sufficient detail to evaluate the application against applicable review criteria. Shapefiles or other GIS data for any mapping created may be required by the County staff.

6-303 A. Information Describing the Applicant

- I. The contact information of the general office and the local office of the operator/applicant, including the physical address, email address, and telephone number.
- II. The contact information of the owner of the real property on which the Mining Operation is located, including the physical address, email address, and telephone number, and the source of the operator’s/applicant’s legal right to enter and initiate a Mining Operation.
- III. The name of the owner of the subsurface rights of the Mining Operation.
- IV. Names and addresses of adjoining surface owners of record.
- V. Authorization of the application package by the owner of the Mining Operation and the owner of the substance to be mined, if different than the applicant.
- VI. Written authorization of the application package by the owner of the real property on which the Mining Operation is located.
- VII. Documentation of the applicant’s technical capability to develop, operate, and restore the Mining Operation, and experience with similar Mining Operations.
- VIII. Description of whether the applicant has ever been the subject of a local, state, or federal enforcement action related to the construction, operation, or reclamation of a Mining Operation.
- IX. Written qualifications of those preparing the reports, plans, and studies in this application.

6-303 B. Site Description

Maps, plans, specifications, and description of the site to be used for the Mining Operation in sufficient detail to evaluate the application against applicable permit approval review criteria in Section 6-304, including without limitation:

- I. The total area to be involved in the Mining Operation.
- II. The vegetation and soil characteristics of the Mining Operation.
- III. Proposed areas of disturbance shown by location and description, including without limitation pit excavations, mine benches, impoundments, stockpiles, and waste rock disposal areas.
- IV. Proposed setbacks consistent with the review criteria in 6-304 E.
- V. Structures, fencing, equipment, and other planned site improvements such as on- and off-site haul roads and access routes, pits, offices, shop/maintenance buildings, plants, processing facilities, staging and storage areas, and any underground openings such as adits or ventilation facilities.
- VI. Key features of the Mining Operation, including location and dimension.
 - a. For Hardrock Mining Operations, key features include without limitation the pit boundary; ore stockpiles including leach stockpiles; waste rock fills, piles, and dumps; tailings impoundments; stream channels; disposal systems; buildings, processing plant; water treatment facilities; underground openings such as adits or ventilation facilities; ponds; impoundments; dewatering pumps; diversions; storage and staging areas; tail or waste disposal areas.
 - b. For Construction Materials Mining Operations, key features include without limitation the pit boundary; topsoil stockpiles; overburden stockpiles; product stockpiles; waste rock fills; stream channels; buildings; processing plant including mobile plants or equipment; scale houses; underground openings such as adits or ventilation facilities; ponds; impoundments; dewatering pumps; storage and staging areas; diversions or waste disposal areas.
- VII. Measures to minimize visual impacts, including without limitation berms and screening.
- VIII. Parcels and land uses within one (1) mile of the Mining Operation site boundary, identified by zoning, size, and use.
- IX. Boundaries and descriptions of any municipal watersheds, municipalities, and residential developments within one (1) mile of the Mining Operations.
- X. Fire, police, and emergency response service facilities nearest the Mining Operation.
- XI. Proposed and existing roads to be used as haul route(s) and access route(s) to the Mining Operation including adequate emergency access. Include all roads on-site and from boundaries of the site to the state highway.
- XII. Security measures to prevent uninvited access to or trespass upon the Mining Operation.
- XIII. Signs to be included on site, consistent with requirements in LUC, Article 5, Section 5-704, Sign Requirements, and including requisite warning signs on entrances.
- XIV. Proposed end use of the property following reclamation, if any.

6-303 C. Vicinity Map

Map of the location of the Mining Operation and significant features at minimum within one (1) mile of the Mining Operation, shown in a form acceptable to the Planning Director. Significant features include without limitation:

- I. Existing and proposed utility lines.
- II. Natural and artificial drainage ways, ditches, reservoirs and dams, streams, lakes, ponds, wetlands, and other waterbodies.
- III. Floodways and floodplains located in or within three (3) miles of the site.
- IV. Vegetative cover.
- V. Rock outcrops, soil types, geologic features, and hazards.
- VI. Any existing or abandoned mine within five (5) miles of the affected lands, including the location and type of pits, stockpiles, adits, shafts, processing facilities, and other mine facilities and works.
- VII. Any on-site and off-site features that influence the Mining Operation.

6-303 D. Identification of Alternatives

- I. Description of alternatives to the Mining Operation that were considered by the applicant and the reasons why they were rejected.
- II. Evidence that that Mining Operation represents the alternative that best complies with this Article and is the least detrimental practicable alternative.

6-303 E. Property Rights, Permits, and Approvals

- I. A list of the federal, state, and local permits or approvals that have been or will be required for the Mining Operation, together with any proposal for coordinating these permits or approvals with the County permitting process.
 - a. Copies of draft permit applications or draft permits as available.
 - b. Copies of approved permits and approvals.
- II. The applicant's right to use any water necessary for the construction and operation of the Mining Operation, including adjudicated decrees, applications for decrees, and judicially decreed augmentation plans.
- III. Copies of any draft or final environmental assessments or impact statements prepared for the Mining Operation. Final environmental assessments or impact statements shall be submitted to the County prior to any site disturbance.
- IV. Description and documentation of property rights, easements, and rights-of-way agreements that are necessary for or that will be affected by the Mining Operation.

6-303 F. Mining Plan of Operation

Maps, plans, specifications, descriptions, and timetables of the Mining Operation in

sufficient detail to evaluate the application against applicable permit approval review criteria in Section 6-303, including without limitation:

- I. Estimated dates that mining will commence and end, including seasonal operational periods.
- II. Primary, secondary, and incidental materials to be mined and their intended use(s).
- III. Phasing Plan: A plan for phasing active operations on the site, including the expected timing and sizes area(s) that will be utilized for active operations during various phases. The plan should include the timing for informing the County of changes to the Phasing Plan.
- IV. Major components of the Mining Operation such as haul roads and access routes whether on the property or not, pit, office, shop/maintenance buildings, plant, processing facilities, and any underground openings such as adits or ventilation facilities.
- V. Description of the method(s) of mining to be employed in each stage of the operation such as the types and uses of equipment, drilling, surface blasting, road or other access route construction, excavations, and other site disturbance activities, including a description of the technical feasibility of the proposed methods.
- VI. Proposed and existing water diversion structures and impoundments.
- VII. Source(s) of power to be used for the Mining Operation, including the location, construction method, infrastructure, and any necessary rights-of-way.
- VIII. Description of all energy and water conservation techniques to be used in the construction and operation of the Mining Operation.
- IX. If the Mining Operation will use Surface Mobile Equipment, a copy of the *Written Safety Program* as required by the Mining Safety and Health Administration (“MSHA”) or an explanation as to why the program is not necessary.
- X. If the deposit/ore/construction material will be processed on site, description of the nature of the process, facilities, and chemicals utilized including crushing, milling, concentrating, smelting, solvent extraction, and electrowinning.
- XI. Storage and disposal facilities including tailings, process water, and stormwater impoundments; drainage channels, leach pads, waste rock stockpiles, and slag and residue piles. The description will include the location, purpose, lining material, and storage or disposal capacity.
- XII. If tailings ponds are part of the Mining Operation, description of the design plans and drawings, treatment measures, the chemical types and quantities to be stored in the tailings ponds, spill containment and emergency response plans, and measures used to divert upland drainage away from the site both during and after operation.

An assessment of the technical and financial feasibility of the Mining Operation, the applicant's financial capability to pay for all phases of the Mining Operation, and the applicant's expertise in employing the technology required for the Mining Operation, including without limitation:

- I. The estimated construction costs for each phase of development.
- II. Revenues and operating expenses for the Mining Operation.
- III. Description of debt and equity at each phase of development, debt retirement schedule, and sources of funding to retire debt.
- IV. Detailed of any contract or agreement for revenues or services in connection with the Mining Operation.
- V. Estimated cost of proposed mitigation measures and permit conditions, estimated reclamation and remediation costs, and schedule, including providing the DRMS *Reclamation Plan*.

6-303 H. Public Road and Rights-of-Way Improvements and Maintenance Plan

In addition to access or road use permits required from the County Road and Bridge Department, a plan for improvements and maintenance of public roads, drainage structures, stormwater infrastructure, or other County rights-of-way, infrastructure, or facilities impacted by the construction and operation of the Mining Operation, including without limitation:

- I. A plan for the maintenance practices on the proposed travel and haul route(s) during construction and operation of the Mining Operation, including dust suppression; snow and ice management; sweeping of paved roads/shoulders; and any pothole patching, repaving, crack sealing, and chip sealing necessary to maintain an adequate surface of paved roads.
- II. A plan for the maintenance practices for any County rights-of-way, drainage structures, stormwater infrastructure, or other infrastructure or facilities impacted by the construction and operation of the Mining Operation.
- III. The applicant shall detail how the reclamation bond required by DRMS addresses the maintenance of County roads, if at all. Where impacts to roads, rights-of-way, and/or infrastructure are not covered by the reclamation bond, the applicant will enter into a Maintenance Agreement with the County whereby the applicant provides for private maintenance, 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.

6-303 I. Transportation Management Plan

A plan and map showing the proposed routes to be used by trucks and other equipment to haul materials to and from the Mining Operation and the proposed routes for otherwise accessing the Mining Operation, including without limitation private roads, County roads, state highways, federal roads, and roads maintained by adjacent counties. The

Transportation Management Plan must include, without limitation:

- I. Description of the existing conditions of all road segments in the Impact Area, including existing physical condition, trips generated by vehicle type on average and at peak times, and the existing level of service for those road segments.
- II. Description of all measures necessary to ensure the safety and quality of life of other users of the county transportation system, adjacent residents, and affected property owners.
- III. Description of vehicular traffic associated with Mining Operation during construction, operation, and reclamation phases including vehicle types, sizes, weight, and numbers of axles; the traffic volume, frequency (daily, weekly, total), and timing (times of day).
- IV. Restriction on the weight of trucks so that they do not exceed County road or bridge weight capacity requirements.
- V. Routes that are designed to avoid to the greatest extent possible residential areas, commercial areas, environmentally and visually sensitive areas, critical wildlife habitat, schools and other civic buildings, and already congested locations.
 - a. When a proposed route includes streets within a municipality, the applicant will consult with the applicable municipal government to establish appropriate routes and provide documentation in the application.
 - b. When a proposed route includes streets that include residential development with density of more than one (1) house per acre, the applicant should weigh the advantages of the identified route with alternatives that create less impacts to residential or tourist areas.
- VI. Operational measures to minimize impacts on the public such as limitations on time of day and week, vehicle fuel and emissions reduction technology, noise minimization, and traffic control safety measures.
- VII. Proposed techniques to prevent tracking dust, dirt, and mud and for dust suppression along haul routes.
- VIII. Procedures to be implemented if spillage occurs along haul routes.
- IX. Proposed phasing of construction to minimize interference with traffic movement.
- X. Documentation of access or road use permits required from the County Road and Bridge Department as well as any permits required from other local, state, or federal agencies.

6-303 J. Blasting Plan

If explosives will be used as part of the Mining Operation, the applicant shall provide any *Geotechnical Stability Exhibit* that may be required by DRMS and shall provide a *Blasting Plan*, prepared by a qualified rock blasting and explosives firm or engineer, that describes:

- I. Maximum weight of explosives to be detonated on each occurrence.
- II. Type of explosive agent.

- III. Maximum pounds per delay.
- IV. Method of packing and type of initiation device to be used for each hole.
- V. Estimated blasting schedule.
- VI. Measures to ensure that off-site areas will not be adversely affected by blasting.
- VII. License of the rock blasting and explosives firm or engineer that will conduct the blasting.

6-303 K. Air Quality Assessment and Mitigation Plan

- I. A map and/or description of the airsheds that will be affected by the Mining Operation, including without limitation:
 - a. The seasonal pattern of air circulation and microclimates
 - b. Any known existing air quality concerns such as particulate matter and aerosols, oxides, hydrocarbons, oxidants, and other chemicals, temperature effects, and atmospheric interactions.
 - c. Current air quality standards.
 - d. If necessary, the applicant must conduct pre-development baseline ambient air quality testing to develop baseline data.
- II. An assessment and plan for greenhouse gas emissions prepared by an expert in air quality emissions control. The assessment shall identify and quantify the greenhouse gas emissions attributable to the Mining Operation.
- III. Description of the direct, indirect, and cumulative impacts that the Mining Operation would have on air quality and greenhouse gas emissions both during construction and operation, and under both average and worst-case conditions. The description shall include modeling that provides for emission projections and air quality impact studies based upon proposed equipment use and projected phases, to be conducted by a third-party consultant.
- IV. Description of the proposed techniques that will be used to mitigate impacts of the Mining Operation on air quality and greenhouse gas emissions.
- V. A monitoring plan that includes at minimum:
 - a. Indicators that include all potential emissions from the Mining Operation, including dust from equipment and stockpiles.
 - b. Locations for and frequency of sampling and monitoring for air quality indicators.
 - c. Process for adding monitoring as needed to respond to emergency events.
 - d. Schedule for reporting monitoring results to the County.

6-303 L. Dust Suppression Plan

A plan for dust suppression within the Impact Area, including management practices such as:

- I. Minimizing the disturbed area.
- II. Avoiding the transport of dust off-site and onto adjacent properties, including dust originating from haul loads.
- III. Reducing vehicle speeds.
- IV. Instituting wind restrictions.
- V. Pre-wetting cut and fill surface areas.
- VI. Sprinkling access and haul roads and other exposed dust-producing areas with water or chemical stabilizers.
- VII. Revegetating disturbed areas.

6-303 M. Odor Management Plan

A plan to mitigate the emission of detectable odors by the Mining Operation and to ensure that the Operation will not create a public nuisance.

6-303 N. Noise Impact Assessment and Mitigation Plan

- I. An ambient background noise survey in the Impact Area at baseline and during all phases of the Mining Operation, prepared by a qualified consultant, that includes the measurement of existing noise levels on the site and at locations both on- and off-site that may be affected by the operation, ambient noise levels prior to beginning each phase of the operation, and sources of noise for each phase of the operation.
- II. Description of the direct, indirect, and cumulative impacts of the Mining Operation on noise in the Impact Area that may be affected by the Mining Operation.
- III. Description of proposed techniques that will be used to mitigate noise impacts.
 - a. Description should address specific site characteristics, including but not limited to:
 - i. Nature and proximity of adjacent development.
 - ii. Seasonal and prevailing weather patterns, including wind directions.
 - iii. Vegetative cover on and adjacent to the affected lands.
 - iv. Topography.
 - b. Proposed techniques should include best management practices such as:
 - i. Restrictions on hours of operation, enclosure of equipment and operations, buffering and screening, limitations on hours of truck traffic, and siting of operations away from sensitive uses and activities.
 - ii. Measures to control on-site noise generated by truck traffic used by the Mining Operation including restrictions on the use of jake

brakes on- or off-site except in emergencies, banging of tailgates or use of horns on-site, reduction of noise from or implementation of alternative back up beepers, and regulation of truck speeds.

- IV. A program for periodic noise monitoring that includes a schedule for reporting monitoring results to the County.

6-303 O. Vibration Impact Assessment, Monitoring, and Mitigation Plan

- I. Description of the direct, indirect, and cumulative impacts of vibrations at the boundary of the Impact Area, including without limitation all occupied and unoccupied Gunnison Sage-Grouse habitat according to the most recent maps prepared by Colorado Parks and Wildlife (“CPW”), BLM, U.S. Fish and Wildlife Service (“USFWS”).
- II. Description of the proposed techniques that will be used to mitigate impacts of vibration during construction and operation of the Mining Operation.
- III. A program for periodic vibration monitoring that includes a schedule for reporting monitoring results to the County.

6-303 P. Geologic and Natural Hazards Impact Assessment and Mitigation Plan

- I. Map and description of geological characteristics and hazardous conditions potentially affected by the Mining Operation including without limitation:
 - a. Description of drainage areas; expansive, evaporative or hydro-compactive soils; risk of subsidence; floodplains; slopes; avalanche areas; debris fans; mudflows; rockslide areas; faults and fissures; seismic history; wildfire hazard areas, and current wildfire fuel loads.
 - b. Geotechnical assessment of all geologic hazards that have the potential to affect the Mining Operation and which may be de-stabilized or exacerbated by the siting, construction, and operation of the Mining Operation.
- II. Description of the direct, indirect, and cumulative impacts of the Mining Operation on natural hazards, and the direct, indirect, and cumulative impacts created by natural hazards on the siting, construction, and operation of the Mining Operation.
- III. Description of proposed techniques that will be used to mitigate impacts of the Mining Operation on natural hazards and a description of proposed techniques to mitigate the impacts of natural hazards on the Mining Operation.

6-303 Q. Surface Water Quality and Quantity Impact Assessment and Mitigation Plan

- I. Map and description of the hydrologic features in the Impact Area, including without limitation intermittent and ephemeral water features, wetlands, riparian areas, springs, lakes, natural and artificial drainageways, ditches, wells, reservoirs, stock ponds, and the 100-year floodplain boundaries.
- II. Description of existing conditions for surface water quality affected by the Mining Operation, including without limitation current water quality data, water

body classifications, and water quality standards adopted by the Colorado Water Quality Control Commission.

- III. Description of existing flows and hydromorphology for hydrologic features in the Impact Area including without limitation flow data from streamflow gage(s); the hydrograph during representative wet, dry, and average years; and the rationale for establishing year types.
- IV. Description of the direct, indirect, and cumulative impacts that the Mining Operation would have on surface water quality and quantity, including without limitation:
 - 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. Compliance with applicable narrative and numeric water quality standards.
 - c. Increases in impervious surfaces, stormwater runoff, and concentrations of pollutants.
 - d. Disturbances to the prevailing hydrologic balance in the Impact Area.
- IV. Description of proposed techniques that will be used to mitigate impacts to water quality and quantity.
- V. A monitoring plan that includes at a minimum:
 - a. Key stream segments and other waterbodies to be monitored.
 - b. Key indicators of water quality and stream health, and threshold levels that will be monitored to detect changes in water quality and stream health.
 - c. Locations for and frequency of sampling and monitoring for key indicators of water quality and stream health, including but not limited to constituents regulated by the Water Quality Control Commission.
 - d. Locations for and frequency of sampling and monitoring to measure effectiveness of mitigation.
 - e. Schedule for reporting monitoring results to the County.

6-303 R. Groundwater Impact Assessment and Mitigation Plan

- I. Map and description of all aquifers and subsurface water-bearing fracture systems, in the Impact Area or within two (2) miles of the site boundary of the Mining Operation, whichever is farther, including without limitation:
 - a. Existing groundwater quality and classification.
 - b. Disturbances to the prevailing hydrologic balance in the Impact Area.
 - c. The general direction and rate of flow of groundwater in these aquifers and fracture systems using available data or information acceptable to the Planning Director. On a case-by-case basis, the County may require

hydrologic testing and analysis where available information is inadequate to describe or address potential impacts to groundwater resources.

- d. Location of all water wells and their uses. To the extent permission can be obtained, water wells both on- and off-site shall be measured and logged for quality and quantity of water prior to permit approval to establish a baseline from which the impacts of the Mining Operation can be measured.
- II. Description of the direct, indirect, and cumulative impacts that the Mining Operation would have on groundwater quality including without limitation the anticipated changes to aquifers or fracture systems from material storage, stockpiles, waste piles, disposal sites, solution containment facilities and other sites within the Mining Operation where such aquifers or fracture systems have the potential to be contaminated.
 - III. Description of proposed techniques that will be used to mitigate impacts to groundwater.
 - IV. A monitoring plan that includes at a minimum:
 - a. Key aquifers and other groundwater areas to be monitored.
 - b. Key indicators of groundwater quality, and threshold levels that will be monitored to detect changes in quality.
 - c. Locations for and frequency of sampling and monitoring for key indicators of groundwater quality.
 - d. Locations for and frequency of sampling and monitoring to measure effectiveness of groundwater quality mitigation.
 - e. Schedule for reporting monitoring results to the County.
 - V. If groundwater is exposed or water is required for operations, a copy of an applicable well permit from the Colorado Division of Water Resources.

6-303 S. Floodplains, Wetlands, Riparian Areas, and Fens Impact Assessment and Mitigation Plan

- I. Map and description of existing conditions for floodplains, wetlands, riparian areas, and fens affected by the Mining Operation including without limitation:
 - a. Structure, function, and aerial extent of floodplains, wetlands, riparian areas, and fens.
 - b. Flood attenuation, sediment capture, and ecosystem services provided by wetlands and riparian areas.
 - c. Floodplains, wetlands, riparian areas, and fen species composition and diversity.
 - d. Transition from wetland to upland species.

- e. Aerial extent, function, and channel connectivity of floodplains and wetlands.
- f. Alteration in hydrology that would allow succession to upland species.
- II. Description of the direct, indirect, and cumulative impacts that the Mining Operation would have on floodplains, wetlands, riparian areas, and fens.
- IV. Description of proposed techniques that will be used to mitigate impacts to floodplains, wetlands, riparian areas, and fens.
- V. A monitoring plan that includes at a minimum:
 - a. Key floodplains, wetlands, riparian areas, fens, and other waterbodies to be monitored.
 - b. Key indicators of quality and health, and threshold levels that will be monitored to detect changes.
 - c. Locations for and frequency of sampling and monitoring for key indicators of quality and health.
 - d. Locations for and frequency of sampling and monitoring to measure effectiveness of mitigation.
 - e. Schedule for reporting monitoring results to the County.

6-303 T. Wildlife and Wildlife Habitat Impact Assessment, and Mitigation Plan

The applicant shall consult with CPW in developing the Wildlife and Wildlife Habitat Impact Assessment required by this Section and shall provide documentation of such consultation.

- I. Map and description of existing wildlife and wildlife habitat conditions in the Impact Area, including without limitation:
 - a. Wildlife including the status and relative importance of game and non-game wildlife and any other species identified by the County or CPW during consultation.
 - b. Any species listed as threatened or endangered under the Endangered Species Act or listed by CPW as State Threatened or Endangered, Species of Special Concern, or Species of Greatest Conservation Need.
 - c. Critical wildlife habitat including migration corridors, calving areas (production areas), summer and winter range, mating grounds, nesting grounds, nest sites, aquatic species habitats, USFWS Critical Habitat, and endangered species habitat including all occupied and unoccupied Gunnison Sage-Grouse habitat, according to the most recent maps prepared by CPW, BLM, and USFWS.
- II. Description of the direct, indirect, and cumulative impacts that the construction and operation of the Mining Operation would have on wildlife and wildlife habitat in the Impact Area, including without limitation:

- a. Changes to wildlife species composition or density.
- b. Changes in the number of and habitat of threatened or endangered species.
- c. Changes in extent, quality, quantity, and fragmentation of wildlife habitat such as changes to migration corridors, calving areas (production areas), summer and winter range, mating grounds, nesting grounds, or any other habitat features necessary for the conservation, protection, and propagation of wildlife species.
- d. Alteration, conversion, or destruction of vegetation that serves as wildlife habitat (trees, shrublands, riparian areas).
- e. Consistency with or impacts to plans addressing the protection and preservation of the Gunnison Sage-Grouse, including but not limited to BLM *Gunnison Sage-Grouse Resource Management Plan ("RMP")* and *RMP Amendment(s)*, the USFWS *Recovery Implementation Strategy for the Gunnison Sage-Grouse*, and the CPW *Gunnison Sage-Grouse Rangewide Conservation Plan*, and as these plans may be amended in the future.

III. *Wildlife Mitigation Plan ("WMP")* prepared in consultation with CPW and proposed techniques that will be used to mitigate impacts to wildlife and wildlife habitat.

- a. WMPs shall describe proposed avoidance of impacts to wildlife and habitat during construction and maintenance activities, including by pausing or limiting operations or hauling during seasonally sensitive periods.
- b. The WMP shall include wildlife-friendly fencing in accordance with the best management practices in Section 6-303.P, Review Criteria for Wildlife and Wildlife Habitat.
- c. The WMP shall include a monitoring plan that includes at minimum:
 - i. Key species and type of habitat, and habitat areas to be monitored for those species.
 - ii. Indicators of wildlife and wildlife habitat health that will be monitored to detect changes in wildlife and wildlife habitat.
 - iii. Locations for and frequency of sampling and monitoring for indicators of the health of wildlife and wildlife habitat.
 - iv. Schedule for reporting monitoring results to the County.

6-303 U. Terrestrial Plants Impact Assessment and Mitigation

- I. Map and description of terrestrial plant life in the Impact Area, including:
 - a. The type and density of terrestrial plants in the area affected by the Project;

- b. Plant species listed as threatened or endangered under the Endangered Species Act, listed on the Rare Plant List from the Colorado Natural Heritage Program, or otherwise listed as species of concern by a federal or state agency.
- II. Assessment of direct, indirect, and cumulative impacts of the Project to terrestrial plant life that includes without limitation:
 - a. Changes to habitat of threatened or endangered plant species or species of concern.
 - b. Changes to the structure and function of vegetation, including species composition, diversity, biomass, and productivity.
 - c. Changes in advancement or succession of desirable and less desirable plant species, including noxious weeds.
- III. Description of proposed techniques that will be used to mitigate impacts to terrestrial plant life.
- IV. A monitoring plan that includes at minimum:
 - a. Key plant species and areas to be monitored for those species.
 - b. Indicators of plant health that will be monitored to detect changes.
 - c. Locations for and frequency of sampling and monitoring for indicators of the plant health.
 - d. Schedule for reporting monitoring results to the County.

6-303 V. Revegetation and Weed Management Plan

A plan for revegetation and weed control during construction and operation of the Mining Operation, including without limitation:

- I. Description of the species, character, and density of existing vegetation within areas disturbed by the Mining Operation.
- II. Soil test with baseline soil conditions prior to construction of Mining Operation. Soil test samples will be representative of the overall area through a minimum of five (5) sample spots in the area. Areas that have a clear difference in soil type, drainage, or plant growth will be avoided for sample collection.
- III. Summary of potential impacts on vegetation as a result of the Mining Operation.
- IV. Plan for revegetation and weed management during the construction and operation of the Mining Operation that provides for:
 - a. Removal of existing vegetation no more than thirty (30) calendar days prior to commencement of initial site grading.
 - b. Revegetation of areas that have been filled, covered, or graded as soon as practicable after construction of the Mining Operation.

- c. Use of site-specific native plant and seed mix and mulching to support vegetation growth in coordination with the San Miguel County Manager of Vegetation Control Management.
 - d. Topsoil from disturbed areas that is 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.
 - e. Weed control and monitoring at all locations disturbed by the Mining Operation and along access roads during the life of the Project.
- V. Plan for County-listed noxious weeds found on site that includes:
- a. Inventory and map showing the locations of County-listed noxious weeds.
 - b. Ongoing weed control at all locations disturbed by the project and along haul routes during construction and operational phases.

6-303 W. Visual Quality Impact Assessment and Mitigation Plan

- I. Map and description of the existing ground cover, vegetation, designated scenic byways, view sheds, scenic vistas, unique landscapes and land formations, and municipalities within three (3) miles.
- II. At least four (4) visual renderings of the proposed development from key vantage points, to be determined in consultation with the Planning Department.
- III. Description of the direct, indirect, and cumulative impacts of the Mining Operation on visual quality.
- IV. Description of proposed techniques that will be used to mitigate impacts to the visual quality of the surrounding area such as proposed visual buffering, natural topography, plantings, earth berms, or fencing.

6-303 X. Drainage, Stormwater, Erosion, and Runoff Management Plan

A plan for the management of drainage, stormwater control, erosion, and sediment runoff for construction and operation of the Mining Operation that includes the following.

- I. Narrative description and scaled drawings of specific erosion and sediment control measures, including approximate locations of drainage facilities and drainage patterns in the Impact Area; and wetlands or other waterbodies receiving stormwater runoff.
- II. Construction schedule indicating the anticipated starting and completion time for any temporary grading and/or construction phases, and the estimated duration of exposure of each area prior to the completion of temporary erosion and sediment control measures.
- III. Estimated total cost of the required temporary soil erosion and sediment control measures, to determine performance guarantees.

- IV. The *Drainage, Stormwater, Erosion, and Runoff Management Plan* shall include without limitation the following best practices:
- a. Stabilize all disturbed areas and soil stockpiles.
 - b. Institute structural and non-structural control measures for erosion and sediment control including without limitation wattles/sediment control logs, silt fences, earthen dikes, drainage swales, sediment traps, filter bags, subsurface drains, inlet protection, outlet protection, gabions, sediment basins, temporary vegetation, or mulching.
 - c. Impervious areas must drain to vegetated pervious buffer strips. Examples of potential techniques to be used in conjunction with vegetated pervious buffer strips include infiltration devices, grass depressions, constructed wetlands, sand filters, and dry ponds.
 - d. Stormwater runoff from all disturbed areas and storage areas must utilize or flow to one or more control measures to minimize erosion or sediment in the discharge.
 - e. Maintain preexisting vegetation for areas within fifty (50) horizontal feet of receiving waters to the greatest extent feasible.
 - f. Establish native ground cover that will help prevent erosion, promote infiltration, and support ecological function.
 - g. Minimize site compaction during construction or tilling and amending soil following construction to maintain the natural infiltration capacity of the soil.
- V. The applicant shall submit the *Stormwater Management Plan* approved by the Colorado Water Quality Control Division and terms and conditions included in the *DRMS Reclamation Plan* for stormwater management. If these documents are sufficient to satisfy County requirements, the Planning Director may waive the requirements of subsection IV above.

6-303 Y. Lighting Plan

A plan for installation of down-cast shielded lighting or some other form of lighting that mitigates light pollution and spill-over onto adjacent properties and a description of how that lighting complies with the requirements in the LUC, Article 5, Section 5-710, Exterior Lighting Requirements. The plan shall provide for the use of lighting necessary for public and occupational safety.

6-303 Z. Land Use Patterns

- I. Description of existing land uses within and adjacent to the Impact Area.
- II. Description of the direct, indirect, and cumulative impacts of the Mining Operations on the existing land use patterns and applicable land use plans.
- III. Description of proposed techniques that will be used to mitigate impacts on land use patterns.

6-303 AA. Local Government Services Impact Assessment and Mitigation Plan

- I. Map and description of the existing capacity and demand for services provided by the County, special districts, and other government entities providing services, such as roads, emergency services, schools, water and wastewater treatment, water supply, transportation, infrastructure, and other services necessary to accommodate Mining Operation.
- II. Description of the direct, indirect, and cumulative impacts of the Mining Operation on the capacity of the County, special districts, and other government entities providing services and infrastructure for delivering services.
- III. Description of proposed techniques that will be used to mitigate impacts on government services.

6-303 BB. Water Supply Plan

A plan describing the water to be used by the Mining Operation including:

- I. The amount of potable and non-potable water required for the Mining Operation, including for fire protection.
- II. The source and quality of the water supply, including amount, location, and capacity of well(s) and/or water lines, meters, and pipes to serve the proposed Mining Operation.
- III. Description of all water sources available to the applicant and the environmental impacts associated with each.
- IV. Description of the conservation and efficiency techniques to be implemented.
- V. The applicant must provide proof of adequate physical and legal supply to serve the Mining Operation to meet all projected demands through the date of final reclamation plus ten (10) years. Proof of adequate supply shall include a letter of approval from the Office of the State Engineer documenting that any proposed well water used for the supply is adequate to serve the Mining Operation.

6-303 CC. Economic Impact Assessment and Mitigation Plan

- I. Description of the local economy including without limitation revenues generated by the different economic sectors and the value or productivity of different lands.
- II. Description of the direct, indirect, and cumulative impacts of construction and operation of the Mining Operation on the local economy and opportunities for economic diversification.
- III. Description of the proposed techniques that will be used to mitigate impacts to the local economy and opportunities for economic diversification

6-303 DD. Housing Impact Assessment and Mitigation Plan

- I. Description of workforce associated with the Mining Operations including without limitation:

- a. An estimate of the number of workers associated with the construction and operational phase of the Mining Operation, including resident and non-resident workers.
- b. Estimated salary ranges of workers.
- II. Description of the direct, indirect, and cumulative impacts of construction and operation of the Mining Operation on overall housing availability, including without limitation an analysis of whether there are sufficient numbers of dwelling units at an appropriate cost to house workers, and the potential to displace existing residents.
- III. Description of the proposed techniques that will be used to mitigate impacts on housing.

6-303 EE. Areas of Paleontological, Historical, or Archaeological Importance Impact Assessment and Mitigation Plan

- I. Map and description of all sites of paleontological, historical, or archaeological importance affected by the Mining Operation, including without limitation:
 - a. Historical or archaeological landscapes, features, structures, and artifacts; historical and archaeological features, including purposes, functions, and use(s) of those features such as agricultural, grazing, recreation, or religious purposes.
 - b. State historic site survey and inventory form(s) completed by a qualified professional acceptable to the State Historic Preservation Officer for all paleontological, historical, or archaeological resources affected by the Mining Operation.
 - c. List of properties, structures, objects, districts, and sites listed on the National Register of Historic Places, eligible for inclusion on the National Register of Historic Places, listed on the State Register of Historic Properties, or listed on the San Miguel County Historic Register in the area affected by the Mining Operation.
- II. Description of the direct, indirect, and cumulative impacts of the Mining Operation on sites of paleontological, historical, or archaeological importance.
- III. Proof of compliance with the procedures for notification to the State Historical Society, State Archeologist, and to the applicable local historical societies/ organizations upon discovery of historical or archeological resources.
- IV. Description of the proposed techniques that will be used to mitigate impacts on sites of paleontological, historical, or archaeological importance.

6-303 FF. Agricultural Resources and Heritage Impact Assessment and Mitigation Plan

- I. Map and description of any existing agricultural resources and assets, including livestock and lands in the area affected by the Mining Operation.

- II. Description of the agricultural productivity of the land affected by the Mining Operation using classifications from the National Resources Conservation Service (“NRCS”), including whether the land is rated “prime farmland,” “prime farmland if irrigated,” or “not prime farmland.”
- III. Description of the direct, indirect, or cumulative impacts of the Mining Operation on agricultural resources including changes in the amount or productivity of agricultural lands, changes to the carrying capacity of livestock, changes in soil productivity, increased susceptibility to noxious weed invasion, and changes to irrigation and agricultural drainage ditches and systems.
- IV. Description of proposed techniques that will be used to mitigate impacts to agricultural resources.

6-303 GG. Recreational Resources Impact Assessment and Mitigation Plan

- I. Map and description of existing recreational resources and uses in Impact Area including without limitation fishery stream segments, access points to recreational resources, hiking and biking trails, hunting, and wilderness areas.
- II. Description of present and potential recreational uses including without limitation the number of recreational visitor days for different recreational uses in the Impact Area.
- III. Description of the impacts of the Mining Operation on recreational resources and uses including without limitation:
 - a. Changes to existing and projected visitor days to natural attractions or recreation areas.
 - b. Changes to duration or quality of kayaking or rafting seasons.
 - c. Changes in quality or quantity of fisheries.
 - d. Changes to quality and quantity of recreation trails or other resources.
 - e. Changes to the wilderness experience or other opportunity for solitude in the natural environment.
 - f. Changes to hunting.
 - g. Changes to the quality of the skiing or winter sports experience.
- IV. Description of proposed techniques that will be used to mitigate impacts to recreational resources and uses.

6-303 HH. Emergency Preparedness and Response Plan

A plan that addresses events such as explosions, fires and wildfires, toxic emissions, transportation of hazardous material, vehicle accidents, or spills. The plan must include proof of adequate personnel, supplies, procedures, infrastructure, and funding to immediately implement the emergency response plan for each phase of the Mining Operation.

6-303 II. Fire Protection Plan

A plan addressing fire protection that includes:

- I. Documentation of types of construction for all structures on site.
- II. Full disclosure of all types of chemicals to be used or stored on-site, their locations, and information regarding safe exposure levels, fire risks, and treatment and suppression techniques.
- III. A letter from the applicable fire protection district, department, or agency stating that the Mining Operation has been adequately designed to handle the storage of flammable or explosive solids or gases and that the methods comply with the national, state, and local fire codes and that the fire protection provider has adequate resources to provide fire protection.

6-303 JJ. Spill Prevention, Control, and Countermeasures Plan

A plan addressing spill prevention and countermeasures consistent with 40 CFR part 112 that includes:

- I. Baseline assessment of conditions of the soils within the Impact Area.
- II. Plan for monitoring conditions of the soil for the life of the Mining Operation and for sampling of the soil after the operation closes.
- III. Measures, procedures, and protocols for spill prevention, storage, and containment.
- IV. Measures, procedures, and protocols for reporting spills and storage to the County, state, and federal officials.
- V. Measures, procedures, and protocols for the clean-up of any spills or releases and description of the financial security for these provisions. Impacts resulting from spills and releases will be investigated and cleaned up as soon as practicable.

6-303 KK. Hazardous Materials Management Plan

A plan addressing hazardous materials management, spill prevention, and countermeasures within the Impact Area and along haul routes that includes:

- I. Description of treatment, storage, and disposal of mine waste that may retain hazardous chemicals, heavy metal residues, or radioactive material pursuant to all applicable state and federal requirements. Hazardous or radioactive mine wastes will not be used for backfilling.
- II. Treatment, storage, and disposal of non-hazardous mine waste in accordance with local, state, and federal requirements. Non-hazardous mine waste will be covered and graded to allow surface drainage and ensure long-term stability.
- III. Measures, procedures, and protocols for spill prevention, storage, and containment of hazardous materials such as fuel, chemicals, oil, grease, and blasting agents.
- IV. Elimination of use of chemical mining processes such as heap leach mining unless the use of such materials or chemical mining process is essential and will not have

an adverse impact upon public health, safety, welfare, and the environment.
Avoid transportation of such materials to the maximum extent feasible.

- V. Measures, procedures, and protocols for reporting spills and storage to the County, state, and federal officials.
- VI. Measures, procedures, and protocols for clean-up and contingency and description of the financial security for these provisions. Impacts resulting from spills and releases both on-site and along haul routes will be investigated and cleaned up as soon as practicable.

6-303 LL. Remediation Plan

- I. A copy of the DRMS *Reclamation Plan* and any other required federal or state permits.
- II. A plan for remediation of areas outside the boundaries of the DRMS *Reclamation Plan* or other federal or state reclamation site boundaries. The plan shall include a description of the proposed finish contours, grading, sloping, and revegetation.
- III. An analysis of estimated costs for remediation of areas that are not covered by a reclamation bond required by DRMS or by a federal permit on federal lands. This cost estimate must be updated every five years from establishment and submittal of the estimated costs.

6-304 Review Criteria for Mining Operations

6-304 A. Applicant Expertise

The applicant has the necessary expertise to develop and operate the Mining Operation consistent with all requirements and conditions.

6-304 B. Best Alternative

The proposed Mining Operation represents the alternative that best complies with this Section and is the least detrimental practicable alternative taking into account the direct, indirect, and cumulative impacts to the County.

6-304 C. Signage

All signage will comply with the LUC, Article 5, Section 5-704, Sign Requirements; and will include, in legible condition, warning signs at all entrances identifying emergency contact information.

6-304 D. Refuse Associated with Mining Operation

All refuse will be disposed of in a manner that will control unsightliness or deleterious effects from such refuse.

6-304 E. Surface Disturbance and Setbacks

- I. The Mining Operation will be located and constructed in a manner that minimizes site disturbance and the amount of cut and fill on the affected lands. The size of

structures and surface equipment for present and future operational needs will be minimized as much as possible without compromising safety concerns.

- II. All surface disturbance and activities associated with the Mining Operation shall be set back a minimum of two hundred (200) feet from all property lines and one quarter (1/4) mile from a Colorado designated Scenic Byway. Access and haul roads shall be set back a minimum of two hundred (200) feet from all permanent man-made structures. Setbacks may be increased or decreased during the review and evaluation of the application.

6-304 F. Necessary Property Rights, Permits, and Approvals

The Applicant will obtain all necessary property rights and federal, state, and local permits or approvals for the Mining Operation prior to any site disturbance. The County may defer making a final decision on the Application until outstanding property rights, permits, and approvals are obtained.

6-304 G. Technical and Financial Feasibility

The Mining Operation is technically and financially feasible. This determination may include, but is not limited to, the following considerations:

- I. Amount of debt associated with the Mining Operation.
- II. Debt retirement schedule and sources of funding to retire debt.
- III. Estimated construction costs and construction schedule.
- IV. Estimated annual operation, maintenance, and monitoring costs.
- V. Market conditions.

6-304 H. Conservation and Efficiency

The Mining Operation will be planned, designed, and operated in a manner that reflects principles of resource conservation, energy efficiency, and recycling or reuse.

6-304 I. Surface Mobile Equipment Safety

The Mining Operation will be conducted consistent with the MSHA *Written Safety Program*, if applicable.

6-304 J. Public Road and Rights-of-Way Improvements and Maintenance

- I. The owner/operator will bear the cost of all repairs and maintenance to roads, or other County rights-of-way or infrastructure not addressed in a DRMS reclamation bond and/or federal permit.
- II. Where not addressed in a DRMS reclamation bond and/or federal permit, the owner/operator shall enter into an agreement with the County whereby the owner/operator assumes responsibility for the repairs and additional maintenance or reimburses the County for repairs and maintenance, and the owner/operator will maintain financial security to secure the maintenance and repair obligation in an amount and form approved by the County.

- III. The applicant has obtained access and/or road use permits required from the County Road and Bridge Department, and easements have been established where necessary.
- IV. Staging activities and parking of equipment and vehicles will not obstruct the flow of traffic and will be located on-site and/or on private rights-of-way acquired by the applicant. Staging activities and parking of equipment and vehicles are prohibited on maintained County roads, except for temporary road closures during construction with prior notice to the County Road and Bridge Department.

6-304 K. Traffic Impacts and Highway Access

- I. Routes for truck and heavy equipment traffic are designed to accommodate heavy truck traffic.
- II. Routes for truck and heavy equipment traffic are designed to avoid residential, commercial, and environmentally-sensitive areas.
- III. All access routes to the Mining Operation are adequate for emergency and fire response.
- IV. The County Road and Bridge Department has issued all required access or road use permits. For projects accessing from state highways, or via roads in adjacent counties, proof of all required access or road use permits from those jurisdictions has been provided.

6-304 L. Blasting

- I. Blasting associated with the Mining Operation will not cause a hazard to public health, safety, welfare, or the environment.
- II. Prior to blasting, the operator will provide to the County a copy of the current blasting explosive license issued to the operator or contractor who will be conducting blasting activity. The license will be filed with the Planning Department.
- III. A schedule for blasting above ground, within three (3) miles of population centers, will be provided to the Planning Department a minimum of ten (10) days before the blasting is to occur.

6-304 M. Air Quality

The Mining Operation shall not cause significant degradation to air quality from emissions, dust, or odor in the Impact Area, including along all haul routes and shall minimize greenhouse gas emissions to the greatest extent feasible.

6-304 N. Noise and Vibration

- I. No noise or vibration from construction or operation of the Mining Operation will interfere with the use and enjoyment of real property nor cause a risk to public health, safety, welfare, or the environment.

- II. At minimum, noise levels caused by the Mining Operation will not exceed the following decibel levels:
 - a. Decibels measured at any residence, school, church, daycare, campground, or other noise-sensitive locations; or decibels measured from the property line of any wilderness areas, parks, recreation areas:
 - i. Fifty-five (55) decibels from 7:00 A.M. to 7:00 P.M.
 - ii. Fifty (50) decibels from 7:00 PM to 7:00 A.M. the following day.
- III. In addition to the above requirements, the Mining Operation will avoid disturbance of sage grouse breeding areas that may impair the acoustic component of the breeding display within one (1) mile of known lekking, nesting, and early brood-rearing areas sites at key times of day (approximately 6 pm to 6 am) during the breeding season (approximately March 1 – May 15).

6-304 O. Risks from Geologic and Natural Hazards

The Mining Operation will not be subject to significant risk from geologic and natural hazards and will not significantly exacerbate geologic and natural hazards.

6-304 P. Surface Water Quality and Quantity Impacts

- I. The Mining Operation will not have an adverse impact to surface water quality and quantity and will comply with all applicable state water quality standards and classifications established by the Water Quality Control Commission. This determination may include, but is not limited to, the following considerations:
 - a. Changes to existing water quality such as the patterns of water circulation; temperature; changes of the substrate; sediment loading; extent and persistence of suspended particulates, and clarity, odor, color, or taste of the water.
 - b. Flows in affected streams or other waterbodies compared to the natural hydrograph in average, dry, and wet years.
 - c. Changes in point and nonpoint source pollution loads.
 - d. Increase in erosion and stream channel or shoreline stability.
 - e. Changes in stormwater runoff flows.
 - f. Changes in the capacity or functioning of streams, lakes, or reservoirs.
 - g. Changes in dilution of existing mine waste, agricultural runoff, and other unregulated sources of pollutants.
- II. Impervious areas will drain to vegetated buffer strips. Examples of techniques to be used in conjunction with vegetation pervious buffer strips are infiltration devices, grass depressions, constructed wetlands, sand filters, and dry ponds. All fueling shall occur over impervious material.
- III. There will be no off-site discharge of fluids, except pursuant to an approved discharge permit.

- IV. Mineral Mining Operations will not be conducted within five hundred (500) feet of the high-water mark of any natural waterbody. No routine vehicle and machinery maintenance and storage shall occur within three hundred (300) feet of a waterbody. The Planning Director or Board may waive this standard if the impact to water quality after mitigation will be minimal at a location closer than five hundred (500) feet.

6-304 Q. Groundwater Impacts

The Mining Operation will not have an adverse impact to groundwater. This determination may include, but is not limited to, the following considerations:

- I. Changes in aquifer recharge rates, groundwater levels, and aquifer capacity including seepage losses through aquifer boundaries and at aquifer-stream interfaces.
- II. Changes in capacity and function of wells within the Impact Area.
- III. Changes in quality of well water within the Impact Area.

6-304 R. Floodplains, Wetlands, Riparian Areas, and Fens

The Project will not have an adverse impact to floodplains, wetlands, riparian areas, and fens. This standard applies whether or not the Corps of Engineers or EPA have jurisdiction over these areas. This determination may include, but is not limited to, the following considerations:

- I. Changes in the structure and function of floodplains, wetlands, riparian areas, and fens.
- II. Changes to the filtering and pollutant uptake capacities of floodplains, wetlands, riparian areas, and fens.
- III. Changes to aerial extent of floodplains, wetlands, riparian areas, and fens.
- IV. Changes to species composition and diversity.
- V. Transition from wetland or riparian to upland species.

6-304 S. Wildlife and Wildlife Habitat

- I. The Mining Operation will not have an adverse impact on wildlife or wildlife habitat. This determination may include, but is not limited to, the following considerations:
 - a. Changes that result in loss of oxygen or flushing flows for aquatic life and habitat.
 - b. Excessive exterior lighting.
 - c. Introduction of non-native vegetation.
 - d. Use of fertilizers, pesticides, or other chemicals.
 - e. Placement of structures near nesting or feeding areas.

- f. Resultant disturbance or harassment to individual animals, groups of animals, or wildlife species generally.
 - g. Changes in the number of threatened or endangered species.
 - h. Changes in species or habitat composition or diversity.
- II. The applicant shall consult with CPW on the development of any wildlife habitat mitigation and shall provide documentation of such consultation.
- III. Any non-security fencing will be wildlife-friendly fencing consistent with CPW guidance and consistent with the County LUC, Article 5, Section 5-407(A)(IX).

6-304 T. Terrestrial Plants

The Mining Operation will not have an adverse impact on terrestrial plants. This determination may include, but is not limited to, the following considerations:

- I. Changes to habitat of threatened, endangered, or rare plant species.
- II. Changes to the structure and function of vegetation, including species composition, diversity, biomass, and productivity.
- III. Changes in advancement or succession of desirable and less desirable species, including noxious weeds.

6-304 U. Vegetation and Weed Management

Surface disturbance by the Mining Operation 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.

6-304 V. Visual Quality

- I. The Mining Operation will minimize visual impacts to municipalities within three (3) miles, designated scenic byways, scenic vistas, and unique land formations.
- II. The Mining Operation will incorporate materials and design that complement surrounding visual quality and features of the surrounding human and natural environment, including appropriate screening and landscaping.

6-304 W. Drainage, Stormwater, Erosion, and Runoff

- I. The site disturbances associated with the Mining Operation will not have an adverse impact on drainage, stormwater control, erosion, and sediment runoff.
- II. The applicant will provide a copy of the Colorado Water Quality Control Division Stormwater Permit and *Stormwater Management Plan* to the County Planning Department prior to construction and retain a copy on-site.

6-304 X. Lighting

The Mining Operation will not cause light trespass nor light pollution and will comply with the LUC, Article 5, Section 5-710, Exterior Lighting Requirements.

6-304 Y. Land Use Patterns

The Mining Operation will be located and conducted in such a manner as to be compatible with surrounding land uses in the Impact Area.

6-304 Z. Effect on Local Government Services

The Mining Operation will not have an adverse impact to the current or future capability of local districts to provide services or on the capacity of their infrastructure for delivering services.

6-304 AA. Water Supply

- I. The quality, quantity, dependability, and availability of the proposed water supply will be adequate for all phases of the Mining Operation from site preparation through reclamation.
- II. The Mining Operation will implement water conservation and efficiency measures.

6-304 BB. Effect on Economy

The project will not significantly degrade any sector of the economy in the County. This determination may include, but is not limited to, the following considerations:

- I. Changes to projected revenues generated from each economic sector.
- II. Changes in the value or productivity of any lands.
- III. Changes in opportunities for economic diversification.

6-304 CC. Housing

The Mining Operation will not reduce the availability of housing nor cause the displacement of existing residents during construction or operation of the Mining Operation.

6-304 DD. Areas of Paleontological, Historical, or Archaeological Importance

The Mining Operation will not have an adverse impact on areas of paleontological, historical, or archaeological importance.

6-304 EE. Agricultural Resources

The Mining Operations will not have an adverse impact on the productivity of agricultural lands, the conduct of agricultural operations, the delivery of irrigation water, or irrigation drainage systems.

6-304 FF. Recreational Resources

The Mining Operations will not have an adverse impact on the quality or quantity of recreational experiences and opportunities.

6-304 GG. Emergency Preparedness/ Response and Fire Protection

The *Emergency Preparedness and Response Plan* and the *Fire Protection Plan* for the Mining Operation has been approved by the local fire district, County Sheriff, and emergency manager, and will be implemented in a manner that protects public health, safety, welfare, and the environment.

6-304 HH. Spill Containment and Control and Hazardous Materials Spill Prevention

- I. The Mining Operation will minimize risk to people and the environment from spills or releases.
- II. Mine waste water and hazardous materials will not have an adverse impact on the public health, safety, and welfare or the environment.
- III. Mine wastes that may retain hazardous chemicals, heavy metal residues, or radioactive material will be disposed of pursuant to applicable state or federal requirements. Hazardous or radioactive mine wastes will not be used for backfilling.
- IV. Non-hazardous mine wastes will be covered and graded to allow surface drainage and ensure long-term stability.
- V. If the applicant fails to comply with its obligations under the *Hazardous Materials Management Plan*, the County Designated Emergency Response Authority (DERA) or their designee may undertake prevention, control, countermeasure, containment, and clean-up measures. Applicant will pay all costs incurred by the County for any such measures.

6-304 II. Remediation

- I. The Mining Operation has or will be approved by DRMS, and if on federal lands, also by the BLM and/or USFS. County permit approval will be conditioned on County's receipt of the approved DRMS *Reclamation Plan* and applicable federal permits. No site disturbance is allowed until the County receives the DRMS *Reclamation Plan* and until the applicant provides documentation of applicable federal permit approvals.
- II. The Mining Operation will be remediated pursuant to the DRMS *Reclamation Plan* and any federal site reclamation requirements.
- III. The Operator shall submit to the County any notice of completion of reclamation sent to DRMS and/or federal agencies within fourteen (14) days of submission to DRMS and/or federal agencies.
- IV. The County may require an applicant to file financial security pursuant to Section 6-309 for remediation of areas outside the boundaries of a DRMS reclamation permit and/or federal permit that have been disturbed or affected by the Mining Operation, or for ongoing maintenances and repair to infrastructure such as roads, drainage facilities, water, sewer, and utility lines, or irrigation ditches not already addressed by a DRMS reclamation permit and/or federal permit.

6-304 JJ. Public Health and Safety

The Mining Operation will not cause significant danger to public health and safety.

6-304 KK. Compliance with State and Federal Regulations.

The Mining Operation will comply with all applicable state and federal laws and regulations.

6-304 LL. Compliance with Required Plans/Studies/Reports

The Mining Operation will be constructed, operated, maintained, and restored in compliance with all plans, studies, and reports required under Section 6-302 of these Regulations and as approved by the Board.

6-305 Permit Application Materials for Exploration

The applicant for a permit for Exploration shall submit the reports, plans, and assessments in this Section 6-305 to the Planning Director. All maps must be prepared at a scale that is sufficient detail to evaluate the application against applicable review criteria.

6-305 A. Information Describing the Applicant

- I. The contact information of the general office and the local office of the operator/applicant, including the physical address, email address, and telephone number.
- II. The contact information of the owner of the real property on which the Exploration is located, including the physical address, email address, and telephone number, and the source of the operator's/applicant's legal right to enter and initiate Exploration.

6-305 B. Exploration Description

Maps, plans, specifications, and description of the Exploration site and planning operations in sufficient detail to evaluate the application against applicable permit approval review criteria in Section 6-306, including without limitation:

- I. The location, by each quarter section, section, township, and range. Where federal or state lands are involved, specify the land management agency and contact information.
- II. Proposed areas of disturbance shown by location and description including all drill holes, mud pits, excavations, trenches, adits, shafts, tunnels, rock dumps, staging areas, and roads.
- III. The approximate dates of anticipated commencement and completion.
- IV. Narrative description of the methods to be used to conduct the prospecting operation, including the types and uses of equipment, drilling, surface blasting, road or other access route construction, excavations, and other site disturbance activities

- V. Proposed and existing roads to be used to access the Exploration site including adequate emergency access. Include all USFS, BLM, private, and County roads on-site and within the Impact Area.
- VI. Security measures to prevent uninvited access to or trespass upon the Exploration site.
- VII. Signage to be included on site, consistent with requirements in LUC, Article 5, Section 5-704, Sign Requirements, and including requisite warning signs on entrances.

6-305 C. Public Roads and Rights-of-Way Improvements and Maintenance Plan

- I. In addition to access or road use permits required from the County Road and Bridge Department, a plan for improvements and maintenance of public roads, drainage structures, stormwater infrastructure, or other County rights-of-way, infrastructure, or facilities impacted by the Exploration. The applicant will enter into a Maintenance Agreement with the County whereby the applicant provides for private maintenance, 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.
- II. Description of vehicular traffic associated with Exploration during construction, operation, and reclamation phases including vehicle types, sizes, weight, and numbers of axles; the traffic volume, frequency (daily, weekly, total); and timing (times of day).
- III. Operational measures to minimize impacts on the public such as limitations on time of day and week, vehicle fuel and emissions reduction technology, noise minimization, and traffic control safety measures.

6-305 D. Dust Suppression Plan

A plan for dust suppression within the Impact Area, including management practices such as:

- I. Minimizing the disturbed area.
- II. Avoiding the transport of dust off-site and onto adjacent properties, including dust originating from haul loads.
- III. Reducing vehicle speeds.
- IV. Instituting wind restrictions.
- V. Pre-wetting cut and fill surface areas.
- VI. Sprinkling access and haul roads and other exposed dust-producing areas with water or chemical stabilizers.
- VII. Revegetating disturbed areas.

6-305 E. Geologic and Natural Hazards Impact Assessment and Mitigation Plan

- I. Map and description of geological characteristics and hazardous conditions potentially affected by the Exploration including without limitation drainage areas; expansive, evaporative, or hydro-compactive soils; risk of subsidence; floodplains; slopes; avalanche areas; debris fans; mudflows; rockslide areas; faults and fissures; seismic history; wildfire hazard areas, and current wildfire fuel loads.
- II. Description of the direct, indirect, and cumulative impacts of the Exploration on natural hazards, and the direct, indirect, and cumulative impacts created by natural hazards on the siting, construction, and operation of the Exploration.
- III. Description of proposed techniques that will be used to mitigate impacts of the Exploration on natural hazards and a description of proposed techniques to mitigate the impacts of natural hazards on the Exploration.

6-305 F. Wildlife, Wildlife Habitat Impact Assessment, and Mitigation Plan

- I. Map and description of existing wildlife and wildlife habitat conditions in the Impact Area, including without limitation:
 - a. Wildlife including the status and relative importance of game and non-game wildlife and any other species identified by the County or CPW during consultation.
 - b. Any species listed as threatened or endangered under the Endangered Species Act or listed by CPW as State Threatened or Endangered, Species of Special Concern, or Species of Greatest Conservation Need.
 - c. Critical wildlife habitat including migration corridors, calving areas (production areas), summer and winter range, mating grounds, nesting grounds, nest sites, aquatic species habitats, USFWS Critical Habitat, and endangered species habitat including all occupied and unoccupied Gunnison Sage-Grouse habitat, according to the most recent maps prepared by CPW, BLM, and USFWS.
- II. Description of the direct, indirect, and cumulative impacts that the Exploration would have on wildlife and wildlife habitat in the Impact Area
- III. Description of proposed techniques that will be used to mitigate impacts to wildlife and wildlife habitat.
- IV. A program for monitoring that includes a schedule for reporting monitoring results to the County.

6-305 G. Terrestrial Plants Impact Assessment and Mitigation

- I. Map and description of the type and density of terrestrial plant life in the Impact Area, including without limitation any plant species listed as threatened or endangered under the Endangered Species Act, listed on the Rare Plant List from the Colorado Natural Heritage Program, or otherwise listed as species of concern by a federal or state agency.
- II. Assessment of direct, indirect, and cumulative impacts of the Project to terrestrial plant life.

- III. Description of proposed techniques that will be used to mitigate impacts to terrestrial plant life.

6-305 H. Revegetation and Weed Management Plan

A plan for revegetation and weed control during construction and operation of the Exploration, including without limitation:

- I. Description of the species, character, and density of existing vegetation within areas disturbed by the Exploration.
- II. Summary of potential impacts on vegetation as a result of the Exploration.
- III. Plan for revegetation and weed management during construction and operation of the Exploration.
- IV. Plan for County-listed noxious weeds found on site that includes:
 - a. Inventory and map showing the locations of County-listed noxious weeds.
 - b. Ongoing weed control at all locations disturbed by the project and along haul routes during construction and operational phases.

6-305 I. Drainage, Stormwater, Erosion, and Runoff Management Plan

A plan for the management of drainage, stormwater control, erosion, and sediment runoff for construction and operation of the Exploration that includes the following.

- I. The applicant shall submit the *Stormwater Management Plan* approved by the Colorado Water Quality Control Division and any terms and conditions included in the DRMS approval for stormwater management. If these documents are sufficient to satisfy County requirements, the Planning Director will waive the II-IV.
- II. Narrative description and scaled drawings of specific erosion and sediment control measures, including approximate locations of drainage facilities and drainage patterns in the Impact Area; and wetlands or other waterbodies receiving stormwater runoff.
- III. Construction schedule indicating the anticipated starting and completion time for any temporary grading and/or construction phases, and the estimated duration of exposure of each area prior to the completion of temporary erosion and sediment control measures.
- IV. Estimated total cost of the required temporary soil erosion and sediment control measures, to determine financial guarantees.

6-305 J. Water Supply Plan

A plan describing the water to be used by the Exploration including the amount of potable and non-potable water required for the Exploration, including for fire protection, and the source and quality of the water supply.

6-305 K. Emergency Preparedness and Response Plan

A plan that addresses events such as explosions, fires and wildfires, toxic emissions, transportation of hazardous material, vehicle accidents, or spills. The plan must include proof of adequate personnel, supplies, procedures, infrastructure, and funding to immediately implement the emergency response plan for each phase of the Exploration.

6-305 L. Remediation Plan

- I. Description of measures to be taken to remediate any affected land consistent with DRMS requirements and any other required federal or state permits.
- II. A plan for remediation of areas not included in the DRMS approval of Exploration. The plan shall include a description of the proposed finish contours, grading, sloping, and revegetation.
- III. An analysis of estimated costs for remediation of areas that are not covered by any bond required by DRMS or by a federal permit on federal lands.

6-306 Review Criteria for Exploration

6-306 A. Surface Disturbance and Setbacks

- I. The Exploration will be located and constructed in a manner that minimizes site disturbance and the amount of cut and fill on the affected lands.
- II. All surface disturbance and activities associated with the Exploration shall be set back a minimum of two hundred (200) feet from all property lines and one quarter (¼) mile from a Colorado designated Scenic Byway. Access and haul roads shall be set back a minimum of two hundred (200) feet from all permanent man-made structures. Setbacks may be increased or decreased during the review and evaluation of the application.

6-306 B. Necessary Property Rights, Permits, and Approvals

The Applicant will obtain all necessary property rights and federal, state, and local permits or approvals for the Exploration prior to any site disturbance. The County may defer making a final decision on the Application until outstanding property rights, permits, and approvals are obtained.

6-306 C. Compatibility with Surrounding Land Uses

The Exploration will be located and conducted in such a manner as to be compatible with surrounding land uses.

6-306 D. Public Road and Rights-of-Way Improvements and Maintenance

- I. The owner/operator will bear the cost of all repairs and maintenance to roads, or other County rights-of-way or infrastructure not addressed in a DRMS reclamation bond and/or federal permit. The owner/operator shall enter into an agreement with the County whereby the owner/operator assumes responsibility for the repairs and additional maintenance or reimburses the County for repairs and maintenance, and the owner/operator will maintain financial security to

secure the maintenance and repair obligation in an amount and form approved by the County.

- II. The applicant has obtained access and/or road use permits required from the County Road and Bridge Department, and easements have been established where necessary. For projects accessing from state highways, or via roads in adjacent counties, proof of all required access or road use permits from those jurisdictions has been provided.
- III. Routes for truck and heavy equipment traffic are designed to accommodate heavy truck traffic.

6-306 E. Risks from Geologic and Natural Hazards

The Exploration will not be subject to significant risk from geologic and natural hazards and will not significantly exacerbate geologic and natural hazards.

6-306 F. Wildlife and Wildlife Habitat

The Exploration will not have an adverse impact on wildlife or wildlife habitat.

6-306 G. Terrestrial Plants

The Exploration will not have an adverse impact on terrestrial plants.

6-306 H. Vegetation and Weed Management

Surface disturbance by the Exploration 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.

6-306 I. Drainage, Stormwater, Erosion, and Runoff

- I. The site disturbances associated with the Exploration will not have an adverse impact on drainage, stormwater control, erosion, and sediment runoff.
- II. The applicant will provide a copy of the Colorado Water Quality Control Division Stormwater Permit and *Stormwater Management Plan* to the County Planning Department prior to construction and retain a copy on-site.

6-306 J. Water Supply

- I. The quality, quantity, dependability, and availability of the proposed water supply will be adequate for all phases of the Exploration from site preparation through reclamation.
- II. The Exploration will implement water conservation and efficiency measures.

6-306 K. Emergency Preparedness/ Response and Fire Protection

The *Emergency Preparedness and Response Plan* and the *Fire Protection Plan* for the Exploration has been approved by the local fire district, County Sheriff, and emergency

manager, and will be implemented in a manner that protects public health, safety, welfare, and the environment.

6-306 L. Remediation

- I. The Exploration can or will be approved by DRMS, and if on federal lands, also by the BLM and/or USFS as appropriate. County permit approval will be conditioned on County's receipt of DRMS approval of a Notice of Intent ("NOI") to conduct either prospecting (for Mineral Exploration) or exploration (for Construction Material Exploration) and applicable federal permits. No site disturbance is allowed until the County receives a copy of the DRMS-approved NOI and until the applicant provides documentation of applicable federal permit approvals.
- II. The Exploration will be remediated pursuant to a DRMS-approved NOI and all DRMS and if on federal lands, federal site reclamation or remediation requirements.
- III. The operator shall submit to the County any notice of completion of mineral exploration or construction material exploration within fourteen (14) days of submission to DRMS.
- IV. The County may require an applicant to file financial security pursuant to Section 6-307 for remediation of areas outside the boundaries of the DRMS-approved NOI and/or federal permit which have been disturbed or affected by the Exploration, or for ongoing maintenances and repair to infrastructure such as roads, drainage facilities, water, sewer, and utility lines, or irrigation ditches not already addressed by an NOI and/or federal permit.

6-306 M. Public Health and Safety

The Exploration will not cause significant danger to public health and safety.

6-306 N. Compliance with State and Federal Regulations.

The Exploration will comply with all applicable state and federal laws and regulations.

6-306 O. Compliance with Required Plans/Studies/Reports

The Exploration will be constructed, operated, maintained, and restored in compliance with all plans, studies, and reports required under Section 6-304 of these Regulations and as approved by the Board.

6-307 Permit Application Materials for Remediation not associated with Mining Operations or Exploration

6-307 A. General Application Material Requirements

- I. The applicant for Remediation not associated with Mining or Exploration shall submit the application materials required in this Section to the Planning Director.
- II. All detailed plans and specifications must be prepared by a Colorado-licensed

Professional Engineer (“P.E.”) or as otherwise approved by the Planning Director.

- III. All maps must be prepared at a scale that is sufficient detail to evaluate the application against applicable review criteria.
- IV. The applicant shall provide shapefiles or other GIS data for any mapping created for this application at the request of County staff.

6-307 B. Information Describing the Applicant

- I. The contact information of the general office and the local office of the operator/applicant, including the physical address, email address, and telephone number.
- II. The contact information of the owner of the real property on which the Mining Operation is located, including the physical address, email address, and telephone number, and the source of the operator’s/applicant’s legal right to enter and initiate a Mining Operation.
- III. Names of addresses of adjoining surface owners of record.
- IV. Authorization of the application package by the owner of the Mining Operation and the owner of the substance to be mined, if different than the applicant.
- V. Written authorization of the application package by the owner of the real property on which the Mining Operation is located.

6-307 C. Information Describing the Remediation

- I. Description of the total area of disturbance, vegetation, and soil characteristics.
- II. Description of proposed activities including without limitation timelines and the methods to be used to conduct the activities.
- III. If hauling materials to an off-site repository, identification of the location and haul route, volume (estimated number of trips), and spill-prevention plan.

6-307 D. Road Maintenance and Transportation Management Plan

- I. Description of the existing traffic conditions on haul routes and access routes that will be utilized during Remediation, a description of how the Remediation will impact road conditions, and a description of any measures to avoid, minimize, or mitigate impacts to roads and traffic flow.
- II. A plan for the maintenance practices on the proposed travel routes for construction traffic, including dust suppression, snow and ice management, sweeping of paved roads/shoulders, pothole patching, repaving, crack sealing, and chip sealing necessary to maintain an adequate surface of paved roads.
- III. The applicant will enter into a Maintenance Agreement with the County whereby the applicant provides for private maintenance, 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 County public roads, rights-of-way, and/or infrastructure.

6-307 E. Drainage, Stormwater, Erosion, and Runoff Management Plan

A plan for the management of drainage, stormwater control, erosion, and sediment runoff for construction and operation of the Remediation that includes the following.

- I. Narrative description and scaled drawings of specific erosion and sediment control measures, including approximate locations of drainage facilities and drainage patterns in the Impact Area; and wetlands or other waterbodies receiving stormwater runoff.
- II. Construction schedule indicating the anticipated starting and completion time for any temporary grading and/or construction phases, and the estimated duration of exposure of each area prior to the completion of temporary erosion and sediment control measures.
- III. A copy of the *Stormwater Management Plan* approved by the Colorado Water Quality Control Division.

6-308 Review Criteria for Remediation Not Associated with a Mining Operation or Exploration.

6-308 A. Road Maintenance and Transportation

- I. Traffic during Reclamation will not significantly degrade roads or local traffic conditions. Routes for truck and heavy equipment traffic are designed to accommodate heavy truck traffic and to avoid residential, commercial, and environmentally-sensitive areas.
- II. The County Road and Bridge Department has issued all required access or road use permits. For projects accessing from state highways, or via roads in adjacent counties, proof of all required access or road use permits from those jurisdictions has been provided.
- III. The owner/operator will bear the cost of all repairs and maintenance to roads or other County rights-of-way or infrastructure not addressed in a DRMS reclamation bond and/or federal permit

6-308 B. Drainage, Stormwater, Erosion, and Runoff Management

- I. The site disturbances associated with the Mining Operation will not have an adverse impact on drainage, stormwater control, erosion, and sediment runoff.
- II. The applicant will provide a copy of the Colorado Water Quality Control Division Stormwater Permit and *Stormwater Management Plan* to the County Planning Department prior to site disturbance.

6-308 C. Public Health and Safety

Reclamation will not cause significant danger to public health and safety.

6-308 D. Compliance with State and Federal Regulations.

Reclamation will comply with all applicable state and federal laws and regulations.

6-309 Financial Security

6-309 A. Financial Security Required

The County shall require the permittee to file a guarantee of financial security (“guarantee”), in a form and amount acceptable to the County prior to any site disturbance.

6-309 B. Amount of Guarantee

- I. The amount of the guarantee will be based on the applicant’s submitted cost estimate and the County’s estimate of any additional costs to bring in personnel and equipment to accomplish any unperformed obligations under the guarantee.
- II. In determining the amount of the guarantee, the County will also consider:
 - a. Estimated cost of remediating or restoring lands not subject to state or federal jurisdiction.
 - b. Estimated cost of performing all mitigation requirements and permit conditions.
- III. The guarantee will be set forth as a permit condition and will specify as follows:
 - a. The guarantee may be adjusted upon receipt of bids or other cost estimates to perform the requirements of the permit and these Regulations.
 - b. The guarantee may be increased at any time that the County determines that the guarantee is insufficient to cover the purposes of the guarantee.
- IV. The County shall review the guarantee for adequacy no less than annually. If the County determines that the guarantee is insufficient to perform its purpose, the County shall provide the permittee with written notice to increase the guarantee.
 - a. The permittee shall post the additional guarantee within sixty (60) days from the date of the written notice. If the amount of the increased guarantee has not been provided within sixty (60) days from the date of the written notice, the County may schedule a duly noticed public hearing before the Board for possible revocation of the permit.
 - b. If the permittee disagrees with the notice to increase the guarantee, the County shall schedule a duly noticed public hearing before the Board on the matter and consider the permittee's rationale.

6-309 C. Release of Guarantee

The County may cause the guarantee to be released upon the request of the permittee, based on one or more of the following conditions:

- I. The permittee has surrendered the permit to the County before the commencement of any physical activity or disturbance associated with the Mining Operation.

- II. The County determines that the Mining Operation has permanently ceased operations or has been abandoned and areas impacted by the Mining Operation have been returned to their original or other acceptable condition.
- III. The County determines that the Mining Operation has been completed in compliance with the permit.
- IV. The County determines that a phase or phases of the Mining Operation have been completed in compliance with the permit allowing for partial release of the guarantee consistent with Mining Operation phasing.
- V. The County determines that applicable guaranteed conditions have been satisfied.

6-309 D. Forfeiture of Guarantee

- I. If the County determines that a guarantee should be forfeited because of any violation of the permit or these Regulations, the County shall provide written notice to the surety and to the permittee by mailing the notice to the last known address provided by the permittee that the guarantee will be forfeited unless the permittee requests a duly noticed public hearing before the Board within thirty (30) calendar days after permittee's receipt of notice. If a request for a hearing is not made by the permittee, the County shall order the guarantee forfeited.
- II. If the permittee requests a duly noticed public hearing, the Board shall hold a hearing after the receipt of the request. At the public hearing, the permittee may present statements, documents, and other information for the County's consideration with respect to the alleged violation. At the conclusion of the hearing, the County shall either withdraw the notice of violation or enter an order forfeiting the guarantee.
- III. If the forfeiture results in inadequate revenue to cover the costs of accomplishing the purposes of the guarantee, the County's Attorney shall take such steps as deemed proper to recover such costs where recovery is deemed possible including costs and attorney fees.

6-309 E. Substitute Guarantee

If the state-issued business license of the surety upon a guarantee filed pursuant to this Section is suspended or revoked, within thirty (30) calendar days after receiving notice thereof the permittee shall substitute a good and sufficient surety licensed to do business in Colorado. The County Attorney may extend the period for receiving the substitute guarantee if the permittee submits a written request detailing the need for such extension. If the permittee fails to make a substitution in accordance with this Section, the County shall suspend the permit until proper substitution has been made.

6-310 Enforcement and Penalties

6-310 A. General

- I. Any owner/operator of a Mining Operation, Exploration, or Remediation who does not obtain a permit pursuant to this Section, who does not comply with permit requirements, or who acts outside the jurisdiction of the permit, shall be in violation of these Regulations.
- II. If the County discovers that applicable state and/or federal regulations pertaining to a Mining Operation, Exploration, or Remediation have not been adequately enforced by the regulatory body, the Board may require the Mining Operation, Exploration, or Remediation to comply with those regulations. If such regulations are not complied with, the Board may order such mining activity to cease and desist.
- III. The County will enforce and remedy violations of these Regulations consistent with the LUC, Article 1.
- IV. 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.
- V. If the violation is not abated within the prescribed period, the County may cause the violation to be abated by San Miguel County 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. If the violating party fails to pay, the costs shall become a lien against the land and/or against the assets of the owner/operator.

6-310 B. Inspection

- I. The Planning Director or their designee may enter and inspect any property subject to these Regulations at any time for the purpose of determining compliance with these Regulations.
 - a. The Planning Director or their designee shall first make a reasonable effort to locate the owner, operator, or other person having charge or control of the premises, or portion thereof desired to be inspected, and request consent to enter and inspect the premises.
 - b. If the owner, operator, or other person having charge or control of the premises to be inspected fails to respond within ten (10) business days, or consent is unreasonably withheld, the Planning Director or their designee may enter the property to be inspected after providing 24-hour notice of the time and location of the inspection.
- II. If the Planning Director or their designee discovers a violation of these Regulations, the Planning Director or their designee may charge the violator for the actual cost to the County of any follow-up inspections and testing to determine that the violation has been remedied.
- III. Persons performing such field inspections for the County will be deemed licensees for liability purposes pursuant to C.R.S. § 13-21-115.

—END—

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