

PARK COUNTY BOARD OF COMMISSIONERS  
AGENDA  
856 CASTELLO AVENUE  
FAIRPLAY, CO 80440  
**WEDNESDAY, FEBRUARY 12, 2020**  
**SPECIAL MEETING**

1:30 PM CALL TO ORDER

PLEDGE OF ALLEGIANCE

APPROVAL OF AGENDA

APPROVAL OF MINUTES

APPROVAL OF VOUCHERS

CONSIDERATION AND/OR DECISION ON THE FOLLOWING ITEMS:

**.I. APPROVE/DENY TPCD WEED SPRAYING CONTRACT**

Documents:

[Weed contract TPCD 2020.pdf](#)

**.II. APPROVE/DENY NOXIOUS WEED MANAGEMENT PLAN**

Documents:

[Weed Management Plan May 2019.pdf](#)

PUBLIC HEARING(S)

PUBLIC COMMENTS

EXECUTIVE SESSION IN REGARD TO LEGAL & PERSONAL MATTERS (CLOSED SESSION)

ADJOURN

ADMINISTRATIVE SESSION

**.I. DISCUSSION RELATED TO 1041 REGULATIONS ASSOCIATED WITH MINERAL RESOURCE AREAS**

Documents:

[Mineral Resource 1041 Feb.pdf](#)

TIMES ARE APPROXIMATE. ITEMS MAY BE HEARD EARLIER OR LATER THAN SHOWN ABOVE.

NOTE: Items May Be Added To These Agendas Up To 48 Hours Before The Scheduled Time. Items May Be Deleted Or Cancelled At Any Time. Please Check Website "[Parkco.Us](#)" for most Updated Agendas. If You Need Further Information, Please Contact The BOCC (Board of County Commissioners) Office At: 719-836-4201.

**CONTRACT BETWEEN PARK COUNTY AND THE TELLER-PARK  
CONSERVATION DISTRICT CONCERNING THE TELLER-PARK WEED  
MANAGEMENT PROGRAM**

This Contract is entered into this \_\_\_\_ day of \_\_\_\_\_, 2020, between PARK COUNTY, a political subdivision of the State of Colorado ("Park County") and the TELLER-PARK CONSERVATION DISTRICT ("TPCD"). The parties agree as follows:

1. The purpose of this Contract is to set forth the parties' understanding with respect to the Teller-Park Weed Management Program, including, but not limited to, the oversight of the individual(s) hired to spray the weed-infested areas.
2. A separate contract will be executed between Teller County and TPCD for services agreed upon between those entities.
3. In conjunction with the respective weed management committees for Park County, the TPCD shall establish the priority practices, priority weeds, and priority areas to be addressed through the program.
4. The TPCD shall select an individual to be hired as an employee to perform the spraying and related work, titled the Weed Management Specialist ("WMS").
5. The TPCD shall direct and supervise the WMS in accordance with their established priorities; shall be responsible for developing and monitoring an accountability system for the WMS; shall monitor the billing invoices and expenses incurred by the WMS; and shall provide an annual report about the progress of the weed management program to the Park County Board of County Commissioners.
6. TPCD shall maintain all required licenses and insurances for the program.
7. Spraying services performed upon request by the county will be billed to the Park County Road & Bridge Department, dollar amount not to exceed \$20,000.00, unless increased by Park County Road & Bridge for this year's contract.
8. The TPCD shall liaise with the US Forest Service, Colorado Parks and Wildlife, Colorado State Land Board, Colorado State Forest Service, Colorado Department of Transportation, Teller County Road & Bridge and Park County Road & Bridge personnel as necessary.
9. The term of this Contract shall commence on the date it is executed by all parties and shall end on December 31, 2020.

**TELLER-PARK CONSERVATION DISTRICT**

By \_\_\_\_\_

Title \_\_\_\_\_

**PARK COUNTY BOARD OF COUNTY COMMISSIONERS**

By \_\_\_\_\_

Title \_\_\_\_\_ ATTEST:

\_\_\_\_\_

County Clerk



# NOXIOUS WEED MANAGEMENT PLAN

Noxious Weed Advisory Commission Endorsement  
May 14, 2019

Board of County Commissioners' Approval  
                    , 2020

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# SECTION I

## INTRODUCTION

### 1.1 Overview

Several species of non-native invasive plants, categorized as “noxious weeds”, are known to exist in Park County. Without the natural controls that keep them in check, these weeds quickly dominate existing native and economic plant communities. Wildlife habitat deteriorates, water quality diminishes, erosion increases, fire regimes are altered, and recreation values are degraded. Native plant species play an integral role in all healthy ecosystems. They provide genetic material that strengthen our major food crops, provide food and shelter to animals, and enhance the landscape. In order to protect these ecosystems, invasive plant species must be controlled.

In the continuing effort to protect and restore the value of the land in the State of Colorado, the Colorado Noxious Weed Act<sup>1</sup> (Title 35, Article 5.5, of the Colorado Revised Statute, hereinafter “Act”) was developed. The objective of the Act is to curb the threat posed by noxious weeds to the natural resources of the State. In accordance with the resolution 2018-4 on December 12, 2018, the Park County Board of Commissioners established a local Noxious Weed Advisory Commission comprised of the Teller-Park Conservation Board of Supervisors whose primary function is the development of an integrated management plan for noxious weeds within the area governed by the County.

### 1.2 Purpose of the Plan

The purpose of this Park County Noxious Weed Management Plan (“Plan”) is to provide guidelines for managing the noxious weeds that represent a threat to the natural and agricultural ecosystems of Park County. The Plan implements the mandates of the Act and strives to strengthen, support, and coordinate noxious weed management efforts between private, municipal, county, state, and federal entities. It is ultimately the responsibility of all landowners to employ methods and strategies to manage noxious weeds found on their property.

### 1.3 Enactment Authority

The Colorado Weed Management Act, (now known as the Colorado Noxious Weed Act), § 35-5.5-101, *et seq.*, C.R.S., was signed into state law in 1990. This article declares that there is a need to ensure that all lands of the state of Colorado, whether in private or public ownership, are protected by and subject to the jurisdiction of a local government empowered to manage undesirable plants (noxious weeds), as designated by the State of Colorado and the local governing body (Park County, Park County Weed Advisory Board).

#### 1.4 Noxious Weed List

The Act designates undesirable plant species as determined by 8 CCR 1206-2, Rules Pertaining to the Administration and Enforcement of the Act, as noxious weeds within the State of Colorado. "Noxious weed" means an alien plant or parts of an alien plant that have been designated by rule as being noxious or has been declared a noxious weed by a local advisory board, and meets one or more of the following criteria:

- Aggressively invades or is detrimental to economic crops or native plant communities.
- Is poisonous to livestock.
- Is a carrier of detrimental insects, diseases, or parasites
- The direct or indirect effect of the presence of this plant is detrimental to the environmentally sound management of natural or agricultural ecosystems.

The Act further categorizes noxious weeds into three lists:

- "List A", which means rare noxious weed species that are subject to eradication wherever detected statewide in order to protect neighboring lands and the state as a whole.
- "List B", which means noxious weed species with discrete statewide distributions that are subject to eradication, containment, or suppression in portions of the state designated by the commissioner in order to stop the continued spread of these species.
- "List C", which means widespread and well-established noxious weed species for which control is recommended but not required by the state, although local governing bodies may require management.

This noxious weed list is updated annually and is available through Park County, Teller-Park Conservation District or the Colorado Department of Agriculture.

## SECTION II

### PLAN OF WORK

#### 3.1 Objectives

The objectives of this plan are to prevent the establishment of noxious weeds in Park County in concurrence with the management of existing populations. Countywide noxious weed management efforts will include:

- Prevention
- Inventory, Mapping, and Monitoring
- Control
- Restoration
- Education and Awareness

#### 3.2 Prevention

Prevention is the highest priority weed management technique. Prevention ensures that noxious weed species are not introduced into un-infested areas. Noxious weed proliferation is most likely to occur where soil has been disturbed either by man-made means, (such as road and trail cuts, construction sites, and overgrazing), or naturally in the case of wildfire, avalanche, mudslide, or flood. Strategies to prevent the introduction of noxious weeds include:

- Identifying and eradicating small infestations.
- Monitoring and evaluating to prevent recurrence.
- Promotion of the Colorado Weed-Free Hay and Forage Program.
- Revegetating and reclaiming disturbed sites with appropriate native plant species.
- Restricting the unlawful sale of invasive ornamental plants and seed packets.

Some ornamental plant species, available for purchase in the past, have now been designated as noxious weeds. These plants are capable of escaping yards and gardens. Other known methods of weed introduction include:

- Contaminated seed, feed grain, hay, straw, and mulch.
- Contaminated agricultural, construction, and recreation equipment.
- Animal fur, fleece, human clothing.
- Dried flower arrangements.

### 3.3 Inventory, Mapping, and Monitoring

Each year, the Board of County Commissioners of Park County contracts for limited mapping and monitoring of noxious weeds. Utilizing Global Positioning System technology (GPS), noxious weed infestations are noted and recorded. This inventory provides a partial database for enforcement and education efforts.

Mapping is employed to determine the location and extent of existing infestations. This information can be used to develop weed management strategies. Mapping is also useful to predict where new noxious weeds infestations are most likely to occur. The Colorado Department of Agriculture requires the use of the EDDMaps application to accomplish this inventory.

Monitoring of weed populations is used to establish baseline data and to record vegetation trends over time. The effectiveness of weed control efforts is determined by recording vegetation quantities prior to and following weed management strategies.

### 3.4 Control

The most effective way to control established noxious weeds is through Integrated Weed Management (IWM). IWM incorporates weed biology, environmental information, and available management techniques, to create a management plan that prevents unacceptable damage from weeds and poses the least risk to people and the environment. IWM is a combination of treatment options that, when used together, provide optimum control for noxious weeds; however, IWM does not necessarily imply that multiple control techniques have to be used or that chemical control options should be avoided. According to the Act, “it is the duty of all persons to use integrated methods to manage noxious weeds if the same are likely to be materially damaging to the land of neighboring landowners.” IWM methods include:

- **Cultural:** Establishing healthy native or other desirable vegetation. Methods include proper grazing management (prevention of overgrazing), re-vegetating or re-seeding, fertilizing, and irrigation.
- **Biological:** The use of an organism such as insects, diseases, and grazing animals to control noxious weeds; useful for large, heavily infested areas. Not an effective method when eradication is the objective but can be used to reduce the impact and dominance of noxious weeds.
- **Mechanical:** Manual or mechanical means to remove, kill, injure, or alter growing conditions of unwanted plants. Methods include mowing, hand-pulling, tilling, mulching, cutting, and clipping seed heads.
- **Chemical:** The use of herbicides to suppress or kill noxious weeds by disrupting biochemical processes unique to plants.



### 3.5 Restoration

More than 10% of Colorado's native plant species have been displaced by non-native weeds. Following the implementation of noxious weed control methods, native and beneficial plant species should be re-introduced.

Establishing desirable plant communities, after noxious weeds have been removed, requires timely cultivation and reseeding. Seeds from noxious weeds may lay dormant for several years. Revegetation with native and beneficial species deters the germination of weed seeds. Re-introducing native plants or seeds to reclaim disturbed land minimizes degradation of native ecosystems, reduces the need for herbicides, and conserves water resources. When selecting native plant seed, consider the following;

- Water availability and the vegetative requirements.
- Selection of plant species adapted to climate, soil, and topographical conditions of the designated area.
- Establish a vegetative cover that is diverse and capable of self-regeneration.
- Landscape for wildlife by choosing native plants that provide cover and forage.
- Avoid commercial seed packets containing non-native plant species

### 3.6 Education and Awareness

Education plays a vital role in the implementation of this Plan. Continuation and expansion of current educational programs, along with the development of new programs, is a priority of the Park County Weed Management Plan. The Noxious Weed Advisory Committee, along with Teller-Park Conservation District, will work to develop and coordinate public outreach and education to promote the benefits it offers to all citizens of Park County and to explain the impacts of noxious weeds on our county's resources. The communications component for this Plan seeks to reach six major groups of stakeholders:

- Rural property owners with regulated noxious weed infestations.
- Urban property owners with regulated noxious weed infestations.
- Land managers and property owners without regulated weeds.
- Local, county and state government agencies.
- Avoid commercial seed packets containing non-native plant species
- Community and non-profit groups focusing on parks, conservation and restoration issues.

The education component is accomplished by organizing and participating in a wide range of outreach activities. The education and outreach tools used include: informational handouts and brochures, formal presentations, technical training classes, media alerts and press releases, staffing booths at community and regional events, helping with community restoration events, and the Teller-Park Conservation website. Park the County welcomes opportunities to provide outreach and technical assistance with noxious weeds to community groups, homeowners, agencies, volunteers, students and others.

## **SECTION III**

### **PLAN EVALUATION**

The scope of work in the Park County Noxious Weed Management Plan will be reviewed, evaluated, and endorsed by the Park County Noxious Weed Advisory Commission and approved, by resolution, by the Board of County Commissioners of Park County, Colorado, before becoming final. The plan must be reviewed at least every three (3) years per § 35-5.5-107(4)(a), *et seq.*, C.R.S., and the management plan and any recommended amendments to the plan shall be transmitted to the Board of County Commissioners of Park County, Colorado, for approval, modification, or rejection.

**PARK COUNTY, COLORADO  
AREAS OF STATE INTEREST  
MINERAL RESOURCE AREAS**

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**PARK COUNTY, COLORADO  
AREAS OF STATE INTEREST  
MINERAL RESOURCE AREAS**

**DIVISION 1 GENERAL**

**Section 101 Purpose.** The purpose of these Regulations is to identify and designate certain areas of state interest and to enact guidelines for their administration, in a manner that is consistent with the statutory requirements and criteria in C.R.S. Section 24-65.1-101, *et seq.*

**Section 102 Authority.** These Regulations are authorized by, *inter alia*, 24-65.1-101, *et seq.*; 30-28-101, *et seq.*; 29-20-101, *et seq.*; and 24-32-111, C.R.S.

**Section 103 Applicability.**

- A. These Regulations for Areas of State Interest shall apply to the designation and regulation of any area of state interest wholly or partially in the unincorporated areas of Park County, that has been or may hereafter be designated by the Board of County Commissioners.
- B. These Regulations shall apply to all Matters of State Interest designated by the County whether located on private or public lands within the unincorporated areas of Park County.

**Section 104 Findings.**

- A. The Board of County Commissioners finds that:
  - 1. The notice and public hearing requirements of Section 24-65.1-404, C.R.S. have been followed.
  - 2. These Regulations are necessary because of the intensity of current and foreseeable development pressures on and within Park County, the dangers that would result from uncontrolled conduct of such activity or development in an area of state interest, and the advantages of conduct of such activity in a coordinated manner.

**Section 105. Designated Matters of State Interest.**

- A. **Areas of State Interest.** The following areas are designated to be of state interest and subject to the regulatory provisions of this Article 14.
  - 1. Mineral resource areas.

**Section 106 Exemptions**

- A. **Statutory Exemptions.** These Regulations shall not apply to any development in an Area of State Interest if any one of the following is true:
  - 1. As of May 17, 1974,
    - a. The specific development or activity was covered by a current building permit issued by the County; or
    - b. The specific development or activity was directly approved by the electorate of the state or the County, provided that approval by the electorate of any bond issue by itself shall not be construed as approval of the specific development or activity; or
    - c. The specific development or activity is on land which has been finally approved by the County, with or without conditions, for Planned Unit Development or land use similar to a Planned Unit Development; or

- d. The specific development or activity is on land which was either zoned or rezoned in response to an application which contemplated the specific development or activity; or
- e. The specific development or activity is on land for which a development plan has been conditionally or finally approved by the appropriate governmental authority.

**B. Specific Exemptions.** The regulatory provisions of this Article shall also not apply to any of the following.

- 1. Development (grading, excavation or construction) associated with one single-family dwelling unit and associated accessory structures permitted in the applicable zone district.
- 2. Development (land preparation, reclamation or cultivation) associated with farming or ranching operations.

**Section 107 Relationship to Other Regulations.**

**A. Inconsistencies or Conflict with Other Regulations and Plans.**

- 1. If any provision of these Regulations for Areas of State Interest is found to be inconsistent or in conflict with provisions of any other regulation or enactment, or the statutory criteria for administration of Matters of State Interest set forth in §§ 24-65.1-202 and 204, C.R.S., the more stringent standards or requirements shall control.

**B. Compliance with Other Applicable County, State and Federal Requirements Not Waived.** Compliance with these Regulations for Areas of State Interest does not waive the requirements to comply with any other applicable state, local or federal law or regulation.

**C. No Intent to Conflict.** These regulations shall not be applied to create an operational conflict with any state or federal laws or regulations.

- 1. **Coordinated Review.** The applicant may request that the County application and review process be coordinated with the applicable state or federal agency review process. The County will eliminate redundant application submittal requirements and will coordinate its review of the application with that of other agencies, as appropriate.
- 2. **Coordinated Permit Conditions.** To the extent practicable and appropriate, the County will coordinate its approval of the application, including the terms and conditions of such approval, with that of other agencies.

**Section 108 Severability.** If any section, subsection, sentence, clause or phrase of these regulations is held to be invalid or unconstitutional by a court of law, such decision shall not affect the validity of these regulations as a whole or any part other than the part declared invalid.

**Section 109 Duties of the Administrator.** Unless otherwise specifically provided, it shall be the duty of the Administrator or its designee to perform all functions set forth in these regulations.

**DIVISION 2 DESIGNATION PROCESS FOR AREAS OF STATE INTEREST**

**Section 201 Designation Process.** The designation process shall be conducted as set forth in C.R.S. Section 24-65.1-101, et seq.

## DIVISION 3 PERMIT APPLICATION AND REVIEW PROCESS

**Section 301 Permit Required.** No person may engage in development in a designated area of state interest without first obtaining either a Permit or a Finding of No Significant Impact under these Regulations.

- A. Compliance Required for Final Plat Approval.** If a development or activity subject to these Regulations is proposed as an integral part of a Subdivision or Planned Unit Development, the applicant shall comply with these Regulations prior to obtaining final plat approval.
- B. Compliance Required for Building Permit.** No Building Permit shall be issued by the County for an activity or development subject to these Regulations without the applicant having first obtained a Finding of No Significant Impact or a Permit under these Regulations, except for exempt development as described in Section 106.
- C. Permit Not A Site Specific Development Plan.** Permits issued under these Regulations shall not be considered to be a Site Specific Development Plan and no statutory vested rights shall inure to such Permit.

**Section 302 Permit Authority Established.** The Board of County Commissioners shall serve as the Permit Authority. The Permit Authority shall exercise all powers and duties granted it by these Regulations.

### Section 303 Pre-Application Conference and Materials.

#### A. Pre-Application Conference.

1. An application for permit to engage in an activity or development subject to these Regulations shall begin with a Pre-Application Conference between the applicant and the Administrator or staff. Participants in the Pre-Application Conference shall include appropriate staff to address potential issues raised by the Project.
2. At the conference, the Administrator shall explain the regulatory process, the application fee and requirements and begin to evaluate the level of permit review that will be required.

#### B. Materials.

At least three business days prior to the Pre-Application Conference, the applicant shall submit a brief explanation of the Project, including the following materials.

1. The applicant's name, address and phone number. If the applicant is not the owner of the property where the activity or development will occur, applicant shall also provide the name, address and phone number of the property owner and documentation that the property owner consents to the activity or development.
2. Map prepared at an easily readable scale showing:
  - a. Boundary of the proposed activity or development.
  - b. Relationship of the proposed activity or development to surrounding topographic and cultural features such as roads, streams and existing structures.
  - c. Proposed building(s), improvements and infrastructure.
  - d. Topographic information in intervals not less than forth (40) feet.
3. Written summary of the project that is sufficient for determining the Level of Permit Review that will be required for the application.

## Section 304 Levels of Permit Review and Determination of Level of Review.

- A. Levels of Permit Review.** There are two possible levels of permit review for a proposed project: Finding of No Significant Impact; or, Major Permit Review.
- B. Determination of Level of Permit Review.** The Administrator shall determine the appropriate level of permit review based upon the Pre-Application Conference and submittals.
1. **Finding of No Significant Impact (FONSI).** The Administrator may make a Finding of No Significant Impact, and a Permit under these Regulations will not be necessary, if the construction or operation of the activity, without mitigation, in its proposed location is unlikely to have any significant adverse impact to the County. The Administrator's decision shall take into consideration the approval standards set forth in Division 5, *Permit Approval Standards*.
  2. **Major Permit Review.** If the Administrator determines that a Finding of No Significant Impact is not appropriate based upon review of the Pre-Application submittals and the information obtained at the Pre-Application Conference, then the Project shall be subject to Major Permit Review.
- C. Notice of Determination of Level of Permit Review.** The Determination of Level of Permit Review shall be made by the Administrator in writing within ten business days following the Pre-Application Conference.
1. **Written Notice.** Within [*five (5)*] calendar days of the Determination of Level of Permit Review, the Administrator shall notify the applicant, the Board, the County Manager and the County Attorney, in writing, of the determination. The notice shall include a description of the project and the procedure for requesting reconsideration of the Administrator's determination.
  2. **Publication of Notice of Administrator's Determination of Level of Permit Review.** A notice of the Administrator's Determination of Level of Permit Review shall be posted on the County's web site not more than [*fourteen (14)*] calendar days after the date of determination. The notice shall describe the Project and the procedure for requesting reconsideration of the Administrator's determination.
- D. Reconsideration of Administrator's Determination of Level of Permit Review.**
1. **Call-up by the Board.** The Board may, at its discretion, review and amend the Administrator's determination at the next regularly scheduled meeting of the Board for which proper notice can be accomplished following the date of written notice of determination.
  2. **Request for Reconsideration.** Any affected party may request that the Board reconsider the Administrator's determination at the next regularly scheduled meeting for which proper notice can be accomplished following the request. The request shall be in writing, within seven (7) calendar days following the date of written notice of determination.
- E. Change in Level of Permit Review.** At any time prior to the final decision on an application, the Administrator may decide that information received subsequent to the Pre-Application Conference indicates that the nature and scope of the impacts of the Project are such that a different level of permit review is required.
1. If a different level of permit review is required, the Administrator shall immediately notify the applicant, the Board, the County Manager and the County Attorney in writing.
  2. The Administrator's decision to change the level of permit review shall be subject to the reconsideration provisions in *paragraph D* of this Section.



**Section 305 Consultant and Referral Agency Review.** The following provisions for referral review apply to all applications proposing to engage in development in an area of state interest.

- A. Consultant Review.** The County may retain legal and technical consultants to review all or a portion of the application.
- B. Referral Agency Review.** The Administrator may send a copy of the complete application to and seek review comments from any local, state or federal agency that may have expertise or an interest in impacts that may be associated with the Project.
- C. Applicant Responsible for Consultant and Referral Agency Review Fees.** The costs of consultant and referral agency review are the responsibility of the applicant.
  - 1. The County may require a deposit for payment of consultant and referral agency review fees, based upon estimated review costs, at the time of application and in addition to the application fees.
  - 2. The County may suspend the application review process pending payment of review fees.

**Section 306 Major Permit Review Process.**

- A. Outline of Process.** The Major Permit Review process shall consist of the following procedures:
  - 1. Pre-Application Conference
  - 2. Application
  - 3. Determination of Completeness
  - 4. Evaluation by the Administrator, Staff Review
  - 5. Public Hearing and Decision by the Board of County Commissioners
- B. Review Process.**
  - 1. **Pre-application Conference.** A pre-application conference shall be held in accordance with the provisions of Section 303, *Pre-Application Conference*.
  - 2. **Application.** The application materials required for an application for permit to engage in an activity of state interest or development in an area of state interest are set forth in Division 4, *Permit Application Submittal Requirements*.
  - 3. **Determination of Completeness.** An application shall not be accepted unless it is complete. Within thirty (30) calendar days of receipt of the application materials, the Administrator shall determine whether the application is complete based on compliance with the submittal requirements set forth in Division 4, *Permit Application Submittal Requirements*.
    - a. **Application is Not Complete.** If the application is not complete, the Administrator shall inform the applicant of the deficiencies in writing and shall take no further action on the application until the deficiencies are remedied. If the applicant fails to correct the deficiencies within sixty (60) calendar days, the application shall be considered withdrawn and returned to the applicant.
    - b. **Application is Complete.** If the application is complete, the Administrator shall certify it as complete and stamp it with the date of Determination of Completeness.
    - c. **Extension of Time for Determination of Completeness.** The Administrator may authorize an extension of time to complete review for Determination of Completeness, up to an additional thirty (30) working days. The extension of time for Determination of Completeness shall be based upon the following considerations.

- (1) **Scope of Application.** The scope of application is sufficient to require additional time for the Administrator to review the application for a Determination of Completeness.
  - (2) **Staff Workload.** The Department's workload due to the volume and scope of pending land use change applications justifies the need for an extension of time to review the application for a Determination of Completeness.
4. **Schedule Public Hearing.** Not later than [*thirty (30)*] calendar days after receipt of a complete application for a Permit, the Administrator shall set a date for public hearing by the Board.
5. **Notice of Public Hearing.**
  - a. **Notice by Publication.** No less than thirty (30) calendar days but no more than sixty (60) calendar days prior to the date of the public hearing, the applicant shall have published a notice of public hearing in a newspaper of general circulation in the area that the Project is located. The notice shall follow a form prescribed by the County.
  - b. **Notice to Adjacent Property Owners.** At least thirty (30) calendar days but no more than sixty (60) calendar days prior to the date of the public hearing, the applicant shall send by certified mail, return receipt requested, a written notice of the public hearing to the owners of record of all adjacent property. The notice shall include a vicinity map, the property's legal description, a short narrative describing the Project, and an announcement of the date, time and location of the scheduled hearing(s).
  - c. **Proof of Notice.** At the public hearing, the applicant shall provide proof of publication and payment for publication, and proof of notification of adjacent property owners.
6. **Review by Referral Agencies and Consultants.**
  - a. The Administrator may refer the application to consultants and referral agencies for review, pursuant to Section 305.
7. **Evaluation by Administrator, Staff Review.** The Administrator shall review the application to determine if the Project satisfies the applicable standards set forth in Division 5, *Permit Approval Standards*. The Administrator shall prepare a staff report discussing whether the standards have been satisfied, issues raised through staff and referral review, mitigation requirements and recommended conditions for approval to ensure that approval standards are satisfied, and additional information pertinent to review of the application.
  - a. **Staff Report.** [*Seven (7)*] calendar days prior to the date of a public hearing, the Administrator shall submit a staff report to the applicant and to the Board. A copy of the staff report shall also be available for public review prior to the hearing.
8. **Review and Action by the Board of County Commissioners.** The Board of County Commissioners shall consider the application at a public hearing, upon proper public notice.
  - a. **Conduct of Public Hearing.**
    - (1) The Board shall conduct the hearing in a manner to afford procedural due process to the applicant and any person who opposes the issuance of the Permit.
    - (2) The Board shall hear relevant testimony and receive relevant evidence, including the recommendations of the Administrator.

- (3) The Board may impose reasonable time limits on presenters and witnesses.
- b. **Decision by Board.** Following a public hearing, the Board of County Commissioners shall approve, approve with conditions or deny the application based upon compliance with the applicable standards in Division 5, *Permit Approval Standards*.
  - (1) **Approval of Application.** If the application satisfies the applicable standards, the application shall be approved.
  - (2) **Denial of Application.** If the application fails to satisfy the applicable standards, the application may be denied; or
  - (3) **Conditional Approval of Application.** The application may be approved with conditions determined necessary for compliance with applicable standards.

**Section 307 Technical Revisions and Permit Amendments.** Any change in the construction or operation of the Project from that approved by the Board shall require staff review and a determination of technical revision or permit amendment.

- A. Technical Revisions.** A proposed change shall be considered a technical revision if the Administrator determines that:
  - 1. There will be no increase in the size of the area affected or the intensity of impacts as a result of the proposed change(s); or
  - 2. Any increase in the area or intensity of impacts is insignificant.
- B. Permit Amendments.** Changes other than technical revisions shall be considered permit amendments. A permit amendment shall be subject to review as a new permit application.
- C. Staff Review of Proposed Changes.** The following information and materials shall be submitted by the permittee for staff review of the proposed changes.
  - 1. Documentation of the current permit approval.
  - 2. As-built drawings of the project, if available.
  - 3. Drawings and plans of proposed changes to the project.
  - 4. Statement of need for proposed changes.
  - 5. Description of additional or changed mitigation plans.
- D. Notice of Administrator's Determination.**
  - 1. **Written Notice.** Within [*five (5)*] working days of the date of determination, the Administrator shall notify the applicant, the Board, the County Manager and the County Attorney, in writing, regarding the determination of whether the change is a technical revision or permit amendment.
  - 2. **Publication of Notice of Director's Determination of Level of Permit Review.** A notice of the Administrator's determination shall be published once in a newspaper of general circulation in the County, not more than [*fourteen (14)*] calendar days after the date of determination.
- E. Reconsideration of Administrator's Determination of Whether Change is a Permit Amendment or a Technical Revision.**
  - 1. **Call-up by the Board of County Commissioners.** The Board may, at its discretion, review and amend the Administrator's determination of whether the change is a permit amendment or a technical revision at the next regularly scheduled meeting for which proper notice can be accomplished, following the date of written notice of the determination.
  - 2. **Request for Reconsideration.** Any Affected Party may, within seven (7) days of the date of written notice of determination, request that the Board reconsider the Administrator's determination at its next regularly scheduled meeting for which

proper notice can be accomplished. The Board may review and/or amend the Administrator's determination at its discretion.

## **DIVISION 4 PERMIT APPLICATION SUBMITTAL REQUIREMENTS**

**Section 401 Description of Submittal Requirements.** The following submittal requirements shall apply to any application for permit to engage in development of an Area of State Interest subject to these Regulations. The Administrator may waive one or more of the submittal requirements when the submittal information would not be relevant to a determination as to whether the proposed project complies with the applicable standards for approval.

**A. Professional Qualifications.** The professional qualifications for preparation and certification of certain documents required by these Regulations are as follows.

1. **Civil Engineer.** Improvement plans and reports for water supply, sanitation, drainage, utilities, soils, grading, roads, structures and other civil engineering required to satisfy the requirements of these Regulations shall be prepared and certified by a professional engineer qualified in the specific discipline and licensed by the State of Colorado.
2. **Surveyor.** All documents containing land survey descriptions shall be prepared and certified by a licensed Colorado Professional Land Surveyor.
3. **Geologist.** Geology reports shall be prepared by either a member of the American Institute of Professional Geologists or a member of the Association of Engineering Geologists.
4. **Other.** Other professionals retained by applicant to provide studies and analysis required by these Regulations shall demonstrate qualification in the specific field, to the satisfaction of the Board.

**B. Application Fees.**

1. The application shall be accompanied by an application fee in the amount(s) established by a Resolution of the Board of County Commissioners.
2. An estimate of the application fee will be provided by the County within ten (10) working days following the Pre-Application Conference and shall reflect the estimated cost of reviewing and processing the application package, including costs of copying, mailings, publications, labor and overhead, all hearings and meetings on the application package, and the retention of any consultants, experts and attorneys that the County deems advisable to aid the County during the permit application and approval process.
3. The application package must be accompanied by an initial payment of [*twenty-five thousand dollars (\$25,000)*] for Major Permit Review. The County will establish and administer a schedule for the payment of subsequent installments of the application fee. The installments shall be structured so that, throughout the application process, the County retains a minimum balance of at least *ten thousand dollars (\$10,000)*. If the balance falls below the minimum balance, the County may cease processing the application package pending receipt of additional installments bringing the balance to at least the minimum amount. The amount of the initial payment and the minimum balance required may be reduced upon a finding by the Administrator that the application processing and costs are likely to be less than the minimum amount set by these Regulations.
4. The County will deposit that portion of the application fee which is not necessary to cover current costs and expenses in an interest bearing escrow account. The

County will obligate, encumber or use such funds, from time to time, at its discretion, when necessary to cover the cost of processing the application. Interest earned on the account will belong to the applicant and will be applied by the County toward subsequent installments of the application fee.

5. The County will maintain accurate records of the manner in which the application fee is used and will make such records available for inspection by the applicant and the public at reasonable times as determined by the County.
6. Any portion of the application fee submitted by the applicant, or any interest earned on such fee pursuant to paragraph B4 of this section, which is not necessary to cover the cost of processing the application package will be reimbursed to the applicant after the hearing process has been completed.
7. The County will take no action on the application package until all fees and expenses related to the application review process have been paid.

**C. Application Form.** The application form for a Permit to conduct development in an Area of State Interest shall be obtained from the Planning department.

1. **Authorized Applicant.** Completed application forms and accompanying materials shall be submitted to the Administrator by the owner, or any agent acting through written authorization of the owner.
  - a. **Authorized Agent.** If the applicant is not the owner of the land, or is a contract purchaser of the land, the applicant shall submit a letter signed by the owner consenting to the submission of the application.
  - b. **Applicant is Not the Sole Owner.** If the applicant is not the sole owner of the land, the applicant shall submit a letter signed by all other owners or an association representing all the owners, by which all owners consent to or join in the application.

**D. Information Describing the Applicant.**

1. The names, addresses, email address, phone numbers, organization form, and business of the applicant and, if different, the owner of the project.
2. Authorization of the application by the Project owner, if different than the applicant.
3. Documentation of the applicant's financial and technical capability to develop and operate the Project, including a description of the applicant's experience developing and operating similar projects.
4. The names, addresses and qualifications, including areas of expertise and experience with projects directly related or similar to that proposed in the application package, of individuals who are or will be responsible for constructing and operating the Project.
5. Written qualifications of those preparing reports and providing certifications required by these Regulations.

**E. Information Describing the Project.**

1. Detailed plans and specifications of the Project.
2. Detailed map(s) showing the location of existing and proposed structures together with proposed and existing transportation corridors and zoning classification, within a 2000' radius.
3. Description of all conservation techniques to be used in the construction and operation of the project.
4. Discussion of the alternatives to the Project that were considered and rejected by the applicant, including the general degree of feasibility of each alternative.
5. Schedules for designing, permitting, constructing and operating the Project, including the estimated life of the Project.

6. The need for the Project, including existing and proposed facilities that perform the same or related function, and population projections or growth trends that form the basis of demand projections justifying the Project.

**F. Property Rights, Permits and Other Approvals.**

1. Description of property rights that are necessary for or that will be affected by the Project, and documentation establishing property rights and easement and right-of-way agreements connected with the property.
2. A list and copies of all other federal, state and local permits and approvals that have been or will be required for the Project, together with any proposal for coordinating these approvals with the County's permitting process.
  - a.
3. Description of the water to be used by the Project and alternatives, including: the source, amount and quality of such water; the applicant's right to use the water, including adjudicated decrees, and application for decrees; proposed points of diversion and changes in the points of diversion; and, the existing uses of the water. If an augmentation plan for the Project has been decreed or an application for such plan has been filed in court, the applicant shall submit a copy of that plan.
4. Copies of all official federal and state consultation correspondence prepared for the Project; a description of all mitigation required by federal, state and local authorities; and copies of any draft or final environmental assessments or impact statement required for the Project.

**G. Technical and Financial Feasibility of the Project.**

1. The estimated construction costs and period of construction for each development component, and the total mitigation costs for the Project.
2. Revenues and operating expenses for the Project.
3. The amount of any proposed debt and the method and estimated cost of debt service.
4. Details of any contract or agreement for revenues or services in connection with the Project.
5. Description of the persons or entity(ies) who will pay for or use the Project and/or services produced by the development and those who will benefit from any and all revenues generated by it.

**H. Socioeconomic Impact Analysis.** A comprehensive analysis of the socioeconomic impact of the Project. Descriptions in this section shall be limited to the Impact Area, and shall include an analysis of existing conditions, supported with data, and a projection of the impacts of the Project in comparison to existing conditions. The analysis shall include a description of how the applicant will comply with the applicable standards set forth in Division 5, *Permit Approval Standards* of these Regulations.

**1. Land Use.**

- a. Description of existing land uses within and adjacent to the Project.
- b. Description of provisions from local land use plans, comprehensive plans/master plans, and intergovernmental agreements that are applicable to the Project, and an assessment of whether the Project will be consistent with or further the objectives of those provisions.
- c. Description of impacts and net effect that the Project would have on existing and future land use patterns.

**2. Local Government Services.**

- a. Description of existing capacity of and demand for local government services including roads, schools, water and wastewater treatment, water supply, emergency services, transportation, infrastructure and other services necessary to accommodate development.

- b. Description of the impacts and net effect of the Project on the capability of local governments that are affected by the Project to provide services.
- 3. **Financial Burden on County Residents.**
  - a. Description of the existing tax burden and fee structure for government services, including assessed valuation, mill levy, rates for water and wastewater treatment, and costs of water supply.
  - b. Description of impacts and net effect of the Project on existing tax burden and fee structure for government services applicable to County residents.
- 4. **Local Economy.**
  - a. Description of the local economy, including revenues generated by the different economic sectors and the value or productivity of different lands.
  - b. Description of impacts and net effect of the Project on the local economy; the use of land for agricultural, development and recreational purposes; and the opportunities for economic diversification.
- 5. **Housing**
  - a. Description of existing seasonal and permanent housing including number, condition and cost of dwelling units.
  - b. Description of the impact and net effect of the Project on housing during both the construction and operation stages of the Project.
- 6. **Recreational Opportunities.**
  - a. Description of present and potential recreational uses in the area of the County where the Project will be located, including the number of recreational visitor days for different recreational uses and the revenue generated by types of recreational uses.
  - b. Map depicting the location of recreational uses in the area of the County where the Project will be located such as fishery stream segments, access points to recreational resources, hiking and biking trails, and wilderness areas.
  - c. Description of the impacts and net effect of the Project on present and potential recreational opportunities and revenues to the local economy derived from those uses.
- 7. **Areas of Paleontological, Historic or Archaeological Importance.**
  - a. Map and description of all sites of paleontological, historic or archaeological interest.
  - b. Description of the impacts and net effect of the Project on sites of paleontological, historic or archaeological interest.
- I. **Environmental Impact Analysis.** Description of the existing natural environment and an analysis of the impacts of the Project to the natural environment. Descriptions in this section shall be limited to the Impact Area. The analysis shall include a description of how the applicant will comply with the applicable approval standards set forth in Division 5, *Permit Approval Standards* of these Regulations.
  - 1. **Air quality.**
    - a. Description of the airsheds that will be affected by the Project, including the seasonal pattern of air circulation and microclimates.
    - b. Map and description of the ambient air quality and state air quality standards of the airsheds that will be affected by the Project, including particulate matter and aerosols, oxides, hydrocarbons, oxidants and other chemicals, temperature effects and atmospheric interactions.
    - c. Descriptions of the impacts and net effect that the Project would have on air quality during both construction and operation under both average and worst case conditions.

2. **Visual Quality.**
  - a. Map and description of ground cover and vegetation, forest canopies, waterfalls and streams, viewsheds, scenic vistas, unique landscapes and land formations or other natural features of visual importance.
  - b. Map and description of existing and proposed buildings, including structure design and materials to be used for the Project.
  - c. Descriptions of the impacts and net effect that the Project would have on visual quality.
3. **Surface Water Quality and Quantity.**
  - a. Map and description of all surface waters that will be affected by the Project, including:
    - (1) Description of provisions of the applicable regional water quality management plan that applies to the Project and assessment of whether the Project would comply with those provisions.
    - (2) Description of applicable state water quality standards for water bodies that will be affected by the Project.
  - b. Map and description of existing points of diversion for municipal, agricultural, industrial, and recreational uses of water within the County.
  - c. Descriptions of the immediate and long-term impact and net effects that the Project would have on the quantity and quality of surface water under both average and worst case conditions.
  - d. Description and net effects that the Project would have on municipal, agricultural, industrial, and recreational uses of water within the County, both under average and worst case conditions.
4. **Groundwater Quality and Quantity.**
  - a. Map and description of all groundwater, including any aquifers that will be affected by the Project. At a minimum, the following information shall be provided:
    - (1) Seasonal water levels in each subdivision of the aquifer affected by the Project.
    - (2) Artesian pressure in aquifers and a description of how the Project may affect adjacent communities and users on wells.
    - (3) Groundwater flow directions and levels.
    - (4) Existing aquifer recharge rates and methodology used to calculate recharge to the aquifer from any recharge sources.
    - (5) For aquifers to be used as part of a water storage system, methodology and results of tests used to determine the ability of the aquifer to impound groundwater and the aquifer storage capacity.
    - (6) Seepage losses expected at any subsurface dam and at stream-aquifer interfaces and methodology used to calculate seepage losses in the affected streams, including description and location of measuring devices.
    - (7) Existing groundwater quality and classification.
    - (8) Location of all water wells and their uses.
  - b. Description of the impacts and net effect of the Project on groundwater under both average and worst case conditions.
5. **Water Quantity**
  - a. Map and/or description of existing stream flows and reservoir levels.
  - b. Map and/or description of existing Colorado Water Conservation Board held minimum stream flows.



- c. Descriptions of the impacts and net effect that the Project would have on water quantity under both average and worst case conditions.
  - d. Statement of methods for efficient utilization of water.
- 6. Wetlands and Riparian Areas.**
  - a. Map and description of all floodplains, wetlands, and riparian areas that will be affected by the Project, including a description of each type of wetlands, species composition, and biomass.
  - b. Description of the source of water interacting with the surface systems to create each wetland (i.e., side-slope runoff, over-bank flooding, groundwater seepage, etc.).
  - c. Description of the impacts and net effect that the Project would have on the floodplains, wetlands and riparian areas.
- 7. Terrestrial and Aquatic Animals and Habitat.**
  - a. Map and description of terrestrial and aquatic animals that will be affected by the Project including the status and relative importance of game and non-game wildlife, livestock and other animals; a description of stream flows and lake levels needed to protect the aquatic environment; description of threatened or endangered animal species and their habitat.
  - c. Map and description of critical wildlife habitat and livestock range that will be affected by the Project including migration routes, calving areas, summer and winter range, and spawning beds.
  - d. Description of the impacts and net effect that the Project would have on terrestrial and aquatic animals, habitat and food chain.
- 8. Terrestrial and Aquatic Plant Life.**
  - a. Map and description of terrestrial and aquatic plant life that will be affected by the Project including the type and density, and threatened or endangered plant species and habitat.
  - b. Descriptions of the impacts and net effect that the Project would have on terrestrial and aquatic plant life.
- 9. Soils, Geologic Conditions and Natural Hazards.**
  - a. Map and description of soil, geologic conditions, and natural hazards, including soil types, drainage areas, slopes, avalanche areas, debris fans, mud flows, rock slide areas, faults and fissures, seismic history, and wildfire hazard areas.
  - b. Descriptions of the risks to the Project from natural hazards.
  - c. Descriptions of the impact and net effect of the Project on soil and geologic conditions in the area.
- J. Nuisance.** Descriptions of noise, glare, dust, fumes, vibration, and odor levels caused by the Project.
- K. Hazardous Materials Description.**
  - 1. Description of all hazardous, toxic, and explosive substances to be used, stored, transported, disturbed or produced in connection with the Project, including the type and amount of such substances and their location, the practices and procedures to be implemented to avoid accidental release and exposure, and any foreseeable impacts to the environment of such substances.
  - 2. Location of storage areas designated for equipment, fuel, lubricants, chemical and waste storage with an explanation of spill containment measures.
- L. Balance Between Benefits and Losses.**
  - 1. Description of foreseeable benefits to the County created by the Project.

2. Description of foreseeable losses of natural, agricultural, recreational, range or industrial resources within the County and loss of opportunities to develop those resources in the future.

**M. Monitoring and Mitigation Plan.**

1. Description of all mitigation for the Project.
  - a. Description of how and when mitigation will be implemented and financed.
  - b. Description of impacts that are unavoidable and cannot be mitigated.
2. Description of methodology used to measure impacts of the Project and effectiveness of proposed mitigation measures.
3. Description, location and intervals of proposed monitoring to ensure that mitigation will be effective.

**N. Additional Information May Be Necessary.** The Administrator may request that the applicant supply additional information related to the Project as may be necessary for the Board to make a determination on whether the Project satisfies approval standards.

**Section 402 Additional Submittal Requirements Applicable to Mineral Resource Areas.**

**A.** In addition to the submittal requirements in Section 401, the following submittal requirements apply.

1. Aerial photographs, if available, that reasonably portray the current condition of the area affected by the permit application. The area affected by the permit shall be outlined on the aerial photograph.
2. List of the owners of mineral rights that will be affected.
3. Type and location of mineral resources on and/or under the property.
4. Analysis of the commercial feasibility of extracting the mineral resource.
5. Map or maps portraying the geologic conditions of the area with specific attention to the designated mineral resource deposit. If appropriate or needed, subsurface geologic cross sections shall also be utilized to portray the geologic conditions at depth. If possible, the geologic maps shall be at the same scale and in the same format as the development plan maps.
6. For applications proposing development of a mineral resource area without the intention of exploration or extraction of minerals, the following information shall be submitted.
  - a. Evidence that the proposed development will not present an obstacle to extraction of the mineral resource on or under the subject property; or
  - b. Evidence that the proposed development will be of greater economic value than the minerals present.

**DIVISION 5 PERMIT APPROVAL STANDARDS**

**Section 501 Application of Standards.** Approval of a Permit to engage in activities of state interest or development in areas of state interest shall be based on whether the Project satisfies the approval standards. In determining whether the Project satisfies applicable standards, the Board shall take into consideration the construction, operation and cumulative impacts of the Project. A project cannot be segmented to avoid the requirements of these Regulations. If a project is to be phased over time or is composed of distinguishable elements, the impacts of all

phases or elements of the development must be considered together when determining whether the project satisfies the applicable approval standards.

### **Section 502 Basic Approval Standards.**

**A.** The following basic standards shall apply to *all* applications subject to review under these Regulations.

1. Prior to site disturbance associated with the Project, the applicant can and will obtain all necessary property rights, permits and approvals. The Board may, at its discretion, defer making a final decision on the application until outstanding property rights, permits and approvals are obtained.
  - a. The Project will not impair property rights held by others.
2. The applicant has the necessary expertise and financial capability to develop and operate the Project consistent with all requirements and conditions.
3. The Project is technically and financially feasible.
4. The Project is not subject to significant risk from natural hazards.
5. The Project is consistent with relevant provisions of applicable land use and water quality plans, and will encourage appropriate land use.
6. The Project will not have a significant adverse effect on land use patterns.
7. The Project will not have a significant adverse effect on the capability of local government to provide services, or exceed the capacity of service delivery systems.
8. The Project will not have a significant adverse effect on housing availability or cost.
9. The Project will not create an undue financial burden on existing or future residents of the County
10. The Project will not significantly degrade any current or foreseeable future sector of the local economy.
11. The Project will not have a significant adverse effect on the quality or quantity of recreational opportunities and experience.
12. The planning, design and operation of the Project will reflect principals of resource conservation, energy efficiency and recycling or reuse.
13. The Project will not significantly degrade the natural environment.

Appendix "A" includes the considerations that will be used to determine whether there will be significant degradation of the environment. For purposes of this section, the term environment shall include:

  - a. Air quality.
  - b. Visual quality.
  - c. Surface water quality.
  - d. Groundwater quality.
  - e. Wetlands and riparian areas.
  - f. Terrestrial and aquatic animal life.
  - g. Terrestrial and aquatic plant life.
  - h. Soils and geologic conditions.
14. The Project will not cause a nuisance.
15. The Project will not significantly degrade areas of paleontological, historic, or archaeological importance.
16. The Project will not result in unreasonable risk of releases of hazardous materials. In making this determination as to such risk, the Board's consideration shall include:
  - a. Plans for compliance with federal and state handling, storage, disposal and transportation requirements.

- b. Use of waste minimization techniques.
  - c. Adequacy of spill prevention and response plans.
17. The benefits accruing to the County and its citizens from the Project outweigh the losses of any natural, agricultural, recreational, grazing or commercial resources within the County, or the losses of opportunities to develop such resources.
  18. The Project represents the alternative that best complies with these Regulations.
  19. The Project is needed within the County and/or area to be served.

**Section 503 Additional Standards Applicable to Mineral Resource Areas.**

- A. In addition to the standards in Section 502, the following standards apply.
  1. Extraction and exploration of minerals shall be accomplished in a manner which causes the least practicable environmental disturbance. Surface area disturbance associated with the Project shall be reclaimed in accordance with the provisions of Article 32 of Title 34, C.R.S.
  2. Areas containing only sand, gravel, quarry aggregate or limestone used for construction purposes shall be administered as provided by Part 3 of Article 1 of Title 34, C.R.S.
  3. The proposed extraction and exploration of minerals would not cause significant danger to public health and safety.
  4. If the economic value of the minerals present is less than the value of another existing or requested use, the other use should be given preference. Other uses which would not interfere with the extraction and exploration of minerals may be allowed.

**DIVISION 6 FINANCIAL GUARANTEE**

**Section 601 Financial Guarantee Required.** Before any permit is issued under these Regulations, the Board shall require the applicant to file a guarantee of financial security deemed adequate by the Board and payable to the County. The purpose of the financial guarantee is to assure the following:

- A. That the Project is completed and, if applicable, that the Development Area is properly reclaimed.
- B. That the applicant performs all mitigation requirements and permit conditions in connection with the construction, operation and termination of the Project.
- C. That increases in public facilities and services necessitated by the construction, operation and termination of the Project are borne by the permittee.
- D. That shortfalls to County revenues are offset in the event that the Project is suspended, curtailed or abandoned.

**Section 602 Amount of Financial Guarantee.** In determining the amount of the financial guarantee, the County shall consider the following factors:

- A. The estimated cost of completing the Project and, if applicable, of returning the Development Area to its original condition or to a condition acceptable to the County.
- B. The estimated cost of performing all mitigation requirements and permit conditions in connection with the construction, operation, and termination of the Project, including:
  1. The estimated cost of providing all public services necessitated by the proposed activity until two (2) years after the proposed activity ceases to operate; and

2. The estimated cost of providing all public facilities necessitated by the proposed activity until all such costs are fully paid.

**Section 603 Estimate.** Estimated cost shall be based on the applicant's submitted cost estimate plus the Board's estimate of the additional cost to the County of bringing in personnel and equipment to accomplish any unperformed purpose of the financial guarantee. The Board shall consider the duration of the development or activity and compute a reasonable projection of increases due to inflation. The Board may require, as a condition of the permit, that the financial security be adjusted upon receipt of bids to perform the requirements of the permit and Regulations.

**Section 604 Form of Financial Guarantee**

- A. The financial guarantee may be in any form acceptable to the Board.
- B. At least ten percent (10%) of the amount of the financial guarantee must be in cash deposited with the County's treasurer and placed in an earmarked escrow account mutually agreeable to the Board and applicant.

**Section 605 Release of Guarantee.** The financial guarantee may be released only when:

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

**Section 606 Cancellation of the Financial Guarantee.** Any financial guarantee may be canceled only upon the Board's written consent, which may be granted only when such cancellation will not detract from the purposes of the security.

**Section 607 Forfeiture of Financial Guarantee**

- A. If the Board determines that a financial guarantee should be forfeited because of any violation of the permit, mitigation requirements, conditions or any applicable Regulations adopted by the Board, it shall provide written notice to the surety and the permittee that the financial guarantee will be forfeited unless the permittee makes written demand to the Board, within thirty (30) days after permittee's receipt of notice, requesting a hearing before the Board. If no demand is made by the permittee within said period, then the Board shall order the financial guarantee forfeited.
- B. The Board shall hold a hearing within thirty (30) days after the receipt of the demand by the permittee. At the hearing, the permittee may present for the consideration of the Board statements, documents, and other information with respect to the alleged violation. At the conclusion of the hearing, the Board shall either withdraw the notice of violation or enter an order forfeiting the financial guarantee.
- C. The deposit described above may be used by the Board in the event of the default or allowed default of the permit holder, only for the purposes of recovering on the surety or fulfilling the permit obligation of the permit holder. In the event that the ultimate reviewing court determines that there has been a default by the permit holder, that portion of any

moneys expended by the County from the escrow funds relating to such default shall be replaced in the escrow account by the Board immediately following such determination. The County may arrange with a lending institution, which provides money for the permit holder, that said institution may hold in escrow any funds required for said deposit. Funds shall be disbursed out of escrow by the institution to the County upon County's demand for the purpose specified in this section.

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

**Section 608 Substitute of Financial Guarantee.** If the license to do business in Colorado of any surety upon a security filed pursuant to this regulation is suspended or revoked by any state authority, then the applicant shall within sixty (60) days after receiving notice thereof, substitute a good and sufficient surety licensed to do business in Colorado. Upon failure of the permittee to make substitution within the time allowed, the Board shall suspend the permit until proper substitution has been made.

## **DIVISION 7 PERMIT ADMINISTRATION AND ENFORCEMENT**

### **Section 701 Enforcement and Penalties**

- A. Any person engaging in development in the designated Area of State Interest who does not obtain a Permit pursuant to these Regulations, who does not comply with Permit requirements, or who acts outside the jurisdiction of the Permit may be enjoined by the County from engaging in such development, and may be subject to such other criminal or civil liability as may be prescribed by law.
- B. If the County determines at any time that there are material changes in the construction or operation of the Project from that approved by the County, the Permit may be immediately suspended and a hearing shall be held to determine whether new conditions are necessary to ensure compliance with the approval standards or if the Permit should be revoked.

### **Section 702 Permit Suspension or Revocation**

- A. The Board may temporarily suspend the Permit for a period of thirty (30) calendar days for any violation of the Permit or the applicable Regulations. The permit holder shall be given written notice of the violation and will have a minimum of fifteen (15) calendar days to correct the violation. If the violation is not corrected, the Permit shall be temporarily suspended for thirty (30) calendar days.
- B. The County may revoke a permit granted pursuant to these Regulations if any of the activities conducted by the permittee violates the conditions of the Permit or these Regulations, or the County determines that the project as constructed or operated has impacts not disclosed in the application. Prior to revocation, the permittee shall receive written notice and be given an opportunity for a hearing before the Board. The Board may revoke the Permit or may specify a time by which action shall be taken to correct any violations for the Permit to be retained.

**Section 703 Transfer of Permits.** A Permit may be transferred only with the written consent of the Board. Consent shall be in the sole discretion of the Board. The Board shall ensure, in approving any transfer, that the proposed transferee can and will comply with all the requirements, terms, and conditions contained in the Permit, and these Regulations; that such requirements, terms, and conditions remain sufficient to protect the health, welfare, and safety of the public; and that an adequate guarantee of financial security can be made.

**Section 704 Inspection.** The Board may enter and inspect any property subject to these Regulations at reasonable hours for the purpose of determining whether the activity is in violation of these Regulations.

**Section 705 Judicial Review.** Any action seeking judicial review of a final decision of the Board shall be initiated within thirty (30) calendar days after the decision is made, in the District Court in and for the County of Park County, pursuant to Rule 106 of the Colorado Rules of Civil Procedure.

## **DIVISION 8 DEFINITION OF WORDS AND TERMS**

**Section 801 Definitions.** The words and terms used in these Regulations for Areas of State Interest shall have the meanings set forth below. Where there is a conflict between these definitions and the definitions contained in Article 16, *Definitions* of this Code, these definitions shall control for purposes of this Article 14.

**Administrator.** The County Manager or another person designated by the Board of County Commissioners. The County Manager may designate their authority to another person.

**Adverse.** Unfavorable, harmful.

**Affected Party.** Any person with an interest in the outcome of the permit decision for the Project.

**Building Restriction Line.** A line which identifies suitable building area locations.

**Code, or Land Use Code.** The [*title of county land use code*].

**Designation.** That legal procedure specified by Sections 24-65.1-401, 402 and 406, C.R.S., for designating Matters of State Interest. It also includes the revocation and amendment of such designations.

**Development.** Any construction or activity which changes the basic character or the use of the land on which the construction or activity occurs.

**Development Area.** Those geographic areas within the County which will be developed or altered directly by construction or operation of the Project.

**Efficient Use of Water.** The employment of methods, procedures, controls and techniques to ensure the amount of water and the purpose for which water is used in the County will yield the greatest benefit to the greatest number of people. Such benefits will include but are not limited to economic, social, aesthetic, environmental and recreational.

**Environment.** All natural physical and biological attributes and systems including the atmosphere, climate, geology, soils, groundwater, surface water, wetlands, vegetation, animal life, physical features, natural hazards, topography and aesthetics.

**Impact Area (Project).** Those geographic areas, including the Development Area, in which any impacts are likely to be caused by the Project.

**Matter of State Interest.** An area of or an activity of state interest or both as listed in §§ 24-65.1-201(1) and 203(1), C.R.S.

**Mineral Resource Area.** An area in which minerals are located in sufficient concentration in veins, deposits, bodies, beds, seams, fields, pools, or otherwise as to be capable of economic recovery. The term Mineral Resource Area includes any area in which there has been significant mining activity in the past, there is significant mining activity in the present, mining development is planned or in progress, or mineral rights are held by mineral patent or valid mining claim with the intention of mining.

**Mitigation.** An action that will have one or more of the following effects:

1. Avoiding an impact by not taking a certain action or parts of an action.
2. Minimizing impacts by limiting the degree or magnitude of the action or its implementation.
3. Rectifying the impact by repairing, rehabilitating or restoring the impact area, facility or service.
4. Reducing or eliminating the impact over time by preservation and maintenance operations.
5. Compensating for the impact by replacing or providing suitable biological and physical conditions and by replacing or providing suitable services and facilities.

**Natural Resources of Statewide Importance.** The term is limited to shorelands of major, publicly owned reservoirs and significant wildlife habitats in which the wildlife species, as identified by the division of wildlife of the department of natural resources, in a proposed area could be endangered.

**Net Effect.** Relating to mitigation, the impact of an action after mitigation.

**Permit.** A permit for development in Areas of State Interest or for an Activity of State Interest, issued by the Board of County Commissioners pursuant to this Article 14.

**Permit Authority.** The Board of County Commissioners, or its designee.

**Project.** The construction and operation of an activity or other Development proposed under these Regulations throughout its life cycle including all ancillary structures, facilities, improvements, and activities, and all integrated components thereof, and any proposed land use directly related to such project if such project is to be located wholly or partially within the County.

**Radioactivity.** A condition related to various types of radiation emitted by natural or man-made radioactive minerals that occur in deposits of rock, soil, and water.

**Regulations.** Regulations for Areas and Activities of State Interest set forth in this Article 14.



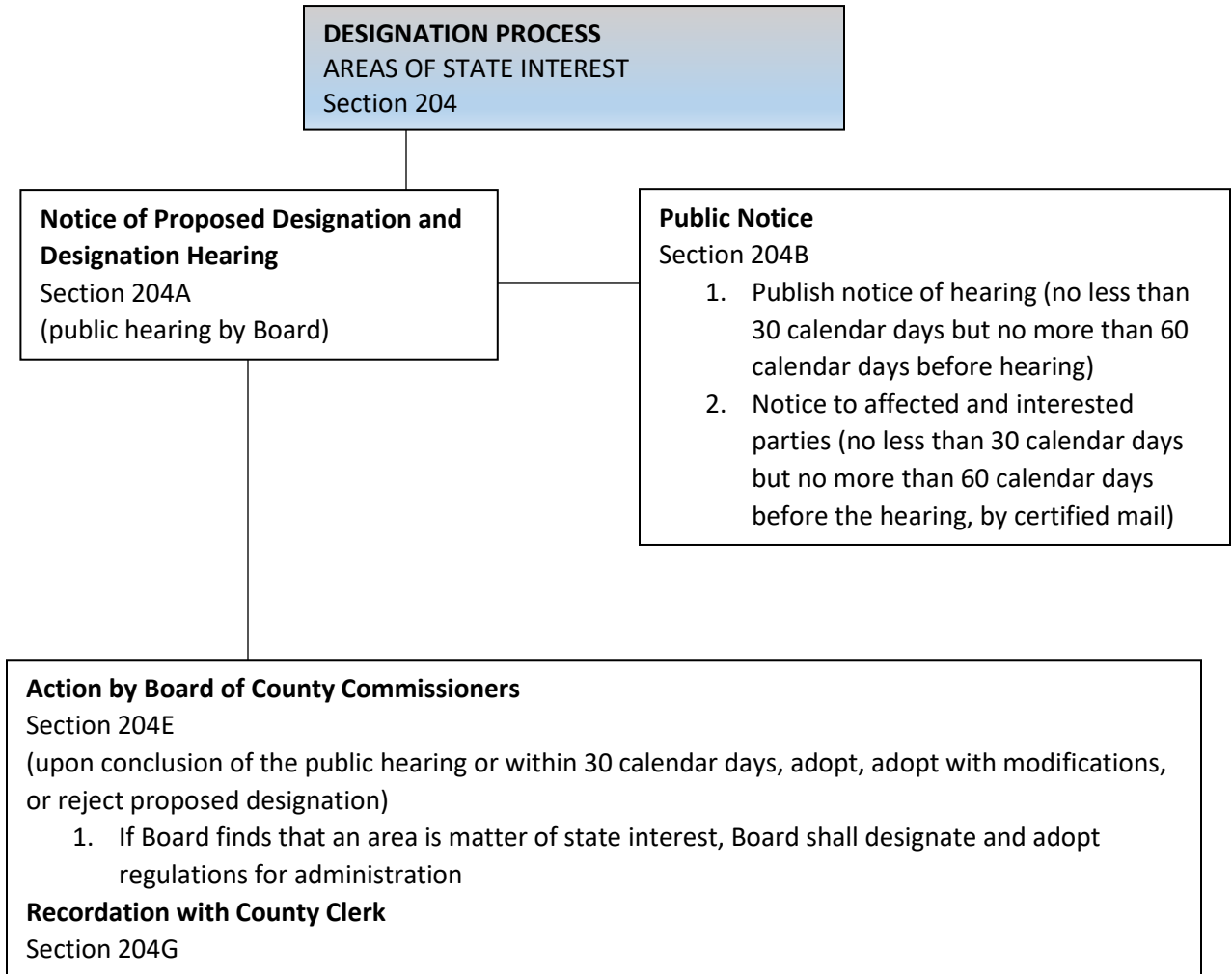
**Seismic Effects.** Direct and indirect effects caused by an earthquake or an underground nuclear detonation.

**Siltation.** A process that results in an excessive rate of removal of soil and rock materials from one location and rapid deposit thereof in adjacent areas.

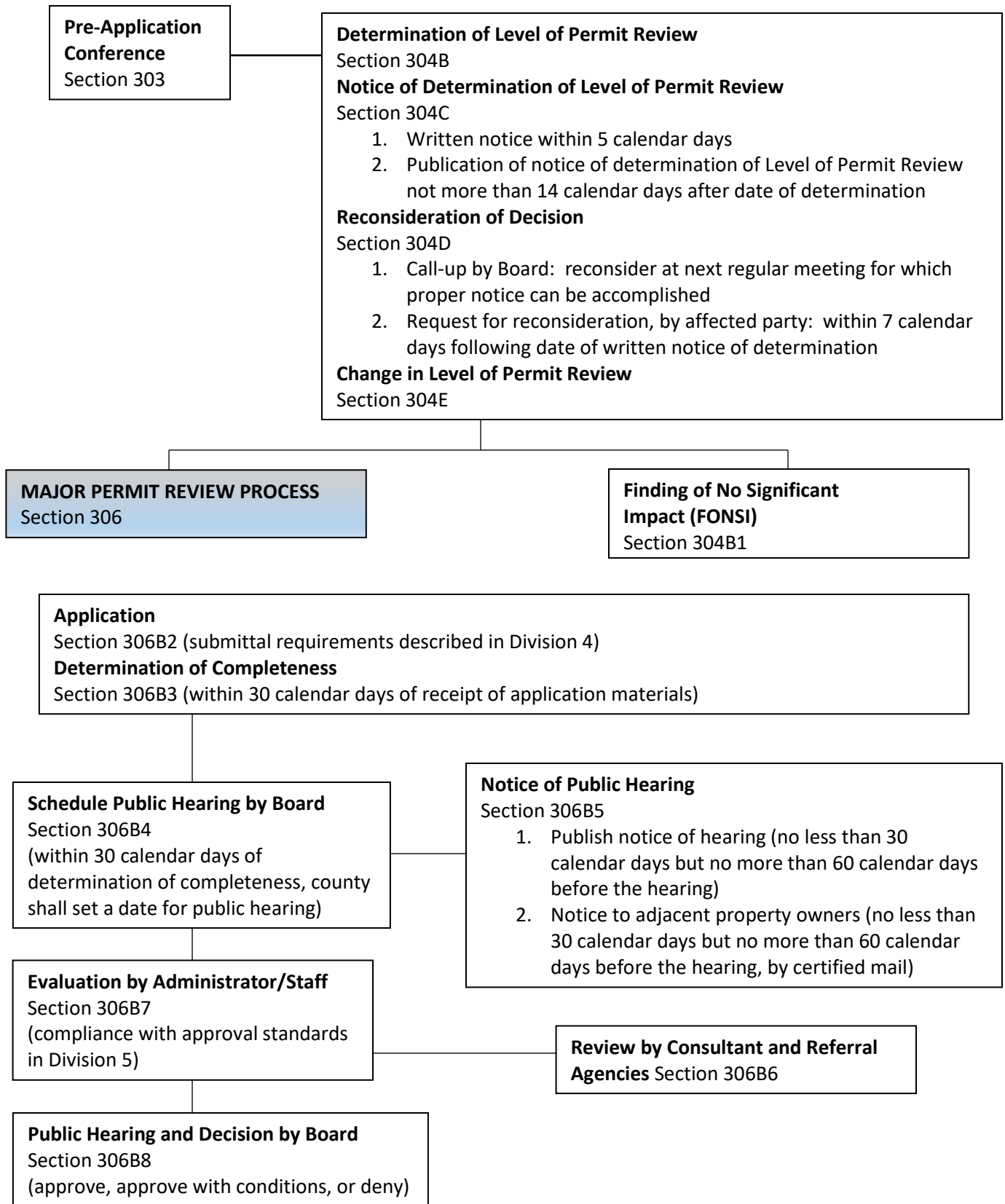
**Structure.** Any constructed or erected object which requires location on the ground or is attached to something located on the ground. Structures include but are not limited to buildings, decks, fences, signs, towers, cranes, flagpoles, antennas, smokestacks, earth formations and overhead transmission lines. Structures do not include paved areas.

## DIVISION 9 FLOWCHARTS

### Section 901 Designation Process Flowchart.



**Section 902 Major Permit Review Flowchart.**



## APPENDIX A

This Appendix provides examples of the types of concerns that the Board of County Commissioners will take into consideration in determining whether an application for a permit has complied with the approval standards contained in Division 5 of these Regulations.

- A. The determination of technical and financial feasibility may include but is not limited to the following considerations:
  - a. Amount of debt associated with the proposed activity.
  - b. Debt retirement schedule and sources of funding to retire the debt.
  - c. Estimated construction costs and construction schedule.
  - d. Estimated annual operation, maintenance and monitoring costs.
  - e. Market Conditions.
  
- B. The determination of risk from natural hazards may include but is not limited to the following considerations:
  - a. Faults and fissures.
  - b. Unstable slopes including landslides, rock slides and avalanche areas.
  - c. Expansive or evaporative soils and risk of subsidence.
  - d. Wildfire hazard areas.
  - e. Floodplains.
  
- C. The determination of the effects of the proposed activity on capability of local government to provide services or exceed the capacity of service delivery systems may include but is not limited to the following considerations:
  - a. Existing and potential financial capability of local governments to accommodate development related to the proposed activity.
  - b. Current and projected capacity of roads, schools, infrastructure, housing, and other services and impact of the proposed activity upon the capacity.
  - c. Changes caused by the proposed activity in the cost of providing education, transportation networks, water treatment and wastewater treatment, emergency services, or other governmental services or facilities.
  - d. Changes in short or long term housing availability, location, cost or condition.
  - e. Need for temporary roads to access the construction of the proposed activity.
  - f. Change in demand for public transportation.
  - g. Change in the amount of water available for future water supply in the County.
  
- D. The determination of the effects of the proposed activity on the financial burden of existing or future residents of the County may include but is not limited to the following considerations:
  - a. Changes in assessed valuation.
  - b. Tax revenues and fees to local governments that will be generated by the proposed activity.
  - c. Changes in tax revenues caused by agricultural lands being removed from production.
  - d. Changes in costs to water users to exercise their water rights.
  - e. Changes in costs of water treatment or wastewater treatment.
  - f. Effects on wastewater discharge permits.
  - g. Inability of water users to get water into their diversion structures.
  - h. Changes in total property tax burden.

- E. The determination of the effects of the proposed activity on any sector of the local economy may include but is not limited to the following considerations:
  - a. Changes to projected revenues generated from each economic sector.
  - b. Changes in the value or productivity of any lands.
  - c. Changes in opportunities for economic diversification.
  
- F. The determination of effects of the proposed activity on recreational opportunities and experience may include but is not limited to the following considerations:
  - a. Changes to existing and projected visitor days.
  - b. Changes to duration of kayaking and rafting seasons.
  - c. Changes in quality and quantity of fisheries.
  - d. Changes in access to recreational resources.
  - e. Changes to quality and quantity of hiking trails.
  - f. Changes to the wilderness experience or other opportunity for solitude in the natural environment.
  - g. Changes to hunting.
  - h. Changes to the quality of the skiing experience.
  
- G. The determination of effects of the proposed activity on air quality may include but is not limited to the following considerations:
  - a. Changes to seasonal ambient air quality.
  - b. Changes in visibility and microclimates.
  - c. Applicable air quality standards.
  
- H. The determination of visual effects of the proposed activity may include but is not limited to the following considerations:
  - a. Visual changes to ground cover and vegetation, waterfalls and streams, or other natural features.
  - b. Interference with viewsheds and scenic vistas.
  - c. Changes in appearances of forest canopies.
  - d. Changes in landscape character types or unique land formations.
  - e. Compatibility of building and structure design and materials with surrounding land uses.
  
- I. The determination of effects of the proposed activity on surface water quality may include but is not limited to the following considerations:
  - a. Changes to existing water quality, including patterns of water circulation, temperature, conditions of the substrate, extent and persistence of suspended particulates and clarity, odor, color or taste of water.
  - b. Applicable narrative and numeric water quality standards.
  - c. Changes in point and nonpoint source pollution loads.
  - d. Increase in erosion.
  - e. Changes in sediment loading to waterbodies.
  - f. Changes in stream channel or shoreline stability.
  - g. Changes in stormwater runoff flows.
  - h. Changes in trophic status or in eutrophication rates in lakes and reservoirs.
  - i. Changes in the capacity or functioning of streams, lakes or reservoirs.
  - j. Changes in flushing flows.
  - k. Changes in dilution rates of mine waste, agricultural runoff and other unregulated sources of pollutants.

- J. The determination of effects of the proposed activity on groundwater quality may include but is not limited to the following considerations:
  - a. Changes in aquifer recharge rates, groundwater levels and aquifer capacity including seepage losses through aquifer boundaries and at aquifer-stream interfaces.
  - b. Changes in capacity and function of wells within the impact area.
  - c. Changes in quality of well water within the impact area.
  
- K. The determination of effects of the proposed activity on wetlands and riparian areas may include but is not limited to the following considerations:
  - a. Changes in the structure and function of wetlands.
  - b. Changes to the filtering and pollutant uptake capacities of wetlands and riparian areas.
  - c. Changes to aerial extent of wetlands.
  - d. Changes in species' characteristics and diversity.
  - e. Transition from wetland to upland species.
  - f. Changes in function and aerial extent of floodplains.
  
- L. The determination of effects of the proposed activity on terrestrial or aquatic life may include but is not limited to the following considerations:
  - a. Changes that result in loss of oxygen for aquatic life.
  - b. Changes in flushing flows.
  - c. Changes in species composition or density.
  - d. Changes in number of threatened or endangered species.
  - e. Changes to habitat and critical habitat, including calving grounds, mating grounds, nesting grounds, summer or winter range, migration routes, or any other habitat features necessary for the protection and propagation of any terrestrial animals.
  - f. Changes to habitat and critical habitat, including stream bed and banks, spawning grounds, riffle and side pool areas, flushing flows, nutrient accumulation and cycling, water temperature, depth and circulation, stratification and any other conditions necessary for the protection and propagation of aquatic species.
  - g. Changes to the aquatic and terrestrial food webs.
  
- M. The determination of effects of the proposed activity on terrestrial plant life or habitat may include but is not limited to the following considerations:
  - a. Changes to habitat of threatened or endangered plant species.
  - 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 species, including noxious weeds.
  - d. Changes in threatened or endangered species.
  
- N. The determination of effects of the proposed activity on soils and geologic conditions may include but is not limited to the following considerations:
  - a. Changes to the topography, natural drainage patterns, soil morphology and productivity, soil erosion potential, and floodplains.
  - b. Changes to stream sedimentation, geomorphology, and channel stability.
  - c. Changes to lake and reservoir bank stability and sedimentation, and safety of existing reservoirs.
  - d. Changes to avalanche areas, mudflows and debris fans, and other unstable and potentially unstable slopes.
  - e. Exacerbation of seismic concerns and subsidence.

- O. The determination of the risks of a release of hazardous materials from the proposed activity may include but is not limited to the following considerations:
  - a. Plans for compliance with federal and state handling, storage, disposal and transportation requirements.
  - b. Use of waste minimization techniques.
  - c. Adequacy of spill prevention and response plans.