

**EAGLE COUNTY  
GUIDELINES AND REGULATIONS  
FOR  
MATTERS OF  
STATE INTEREST**

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## APPENDIX A

**Chapter 6**  
**GUIDELINES AND REGULATIONS FOR MATTERS OF STATE INTEREST**

**6.01 GENERAL PROVISIONS**

**6.01.01 Title and Citation.**

These Regulations are entitled and may be cited as the “Eagle County Guidelines and Regulations for Matters of State Interest.”

**6.01.02 Purpose and Findings.**

- (1) The general purpose of these Regulations is to facilitate the identification, designation, and administration of matters of state interest consistent with the statutory requirements and the criteria set forth in Section 24-65.1-101, et seq., C.R.S.
- (2) The specific purposes of these Regulations are:
  - (a) To promote the health, safety, and general welfare of the citizens and to protect the environment of Eagle County.
  - (b) To protect the beauty of the landscape and natural scenic characteristics, to preserve and protect important archeological and historic sites, to protect and enhance wildlife habitat, air and water quality, and to conserve natural resources.
  - (c) To ensure that new development will pay for itself to the maximum extent practicable, and to ensure that present residents of Eagle County will not have to subsidize new development through increased cost of public services and/or degradation of the quality of life.
  - (d) To plan for and regulate the site selection, construction, expansion, and operation of matters of state interest to facilitate the planned and orderly use of land as recommended by the Eagle County Master Plan.
  - (e) To regulate the use of land on the basis of the financial and environmental impact thereof on the community or surrounding areas within the development area and source development area.
- (3) The Board of County Commissioners of Eagle County finds that:

- (a) The notice and public hearing requirements of Section 24-65.1-404, C.R.S. have been followed.
- (b) These Regulations are necessary because of the intensity of current and foreseeable development pressures on and within Eagle County.

**6.01.03 Authority.**

These Regulations are authorized by, inter alia, Section 24-65.1-101, et seq.; Section 30-28-101, et seq.; Section 30-28-201, et seq.; Section 29-20-101, et seq.; and Section 24-32-111, C.R.S.

**6.01.04 Applicability.**

These Regulations shall apply to the designation and regulation of any area or activity of state interest wholly or partially in the unincorporated areas of Eagle County whether on public or private land that has been or may hereafter be designated by the Board of County Commissioners of Eagle County. Designations in effect as of the date of these Regulations are:

- (1) Site selection and construction of major new water and sewage treatment systems and major extension of existing domestic water and sewage treatment systems.
- (2) Efficient utilization of municipal and industrial water projects.

**6.01.05 Interpretation with Other Enactments and Plans.**

- (1) Whenever the provisions of these Regulations are found to be inconsistent with any other resolution, ordinance, code, regulation, other enactment or master plan of Eagle County, the enactment imposing the more restrictive standards or requirements shall control.
- (2) If these Regulations are found to be less stringent than the statutory criteria for administration of matters of state interest set forth in Section 24-65.1-202, C.R.S., the statutory criteria shall control.
- (3) If these Regulations are found to be more stringent than the statutory criteria for administration of matters of state interest set forth in Sections 24-65.1-202 and 24-94.1 204, C.R.S., these

Regulations shall control pursuant to the authority of Section 24-65.1-402(3), C.R.S.

- (4) Nothing in these Regulations exempts an applicant from compliance with any other applicable County requirements or other state, federal or local requirements.
- (5) No federal, state, or local approval to carry out a development or activity shall preempt or otherwise obviate the need to comply with these Regulations.

**6.01.06 Duties of the Board of County Commissioners.**

Unless otherwise specifically provided, it shall be the duty of the Board of County Commissioners to perform all functions set forth in these Regulations.

**6.01.07 Permit Authority Established.**

- (1) The Board shall serve as the Permit Authority.
- (2) The Permit Authority shall exercise all powers and duties granted it by these Regulations.

**6.01.08 Severability.**

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

**6.01.09 Definitions.**

The words and terms used in these Regulations shall have the meanings set forth below unless the context requires otherwise:

- (1) Adverse. Unfavorable, harmful, negative.
- (2) Affected Party. Any person with an interest in the outcome of the permit decision for the Project.
- (3) Aquifer Recharge Area. Any area where surface waters may infiltrate to a water bearing structure of permeated rock, sand or gravel. This definition also includes wells used for disposal of wastewater or other toxic pollutants.

- (4) Board. Board of County Commissioners, County of Eagle, State of Colorado.
- (5) Board of County Commissioners. Board of County Commissioners, County of Eagle, State of Colorado. (See also Permit Authority)
- (6) Collector or collection system. A network of pipes and conduits through which sewage flows to a sewage treatment plant.
- (7) County. Eagle County, Colorado.
- (8) Designation. That legal procedure specified by Section 24-65.1-101, et seq., C.R.S. and the revocation or amendment of such designation as carried out by the Board of County Commissioners.
- (9) Determination. The Director's decision whether a Project qualifies for a Finding of No Significant Impact (FONSI) or requires a Permit.
- (10) Development. Any construction or activity which changes the basic character or the use of the land on which the construction or activity occurs.
- (11) Director. Director of Community Development Department of Eagle County, the acting Director or his designee.
- (12) Distribution system. A network of storage facilities, tanks, pipes and conduits through which water is piped and stored or through which water is piped for exchange or trade.
- (13) Domestic water and sewage treatment system. A wastewater treatment plant, water treatment plant, water supply system, and any system of pipes, structures, and facilities through which water and wastewater is collected for treatment.
  - (a) Wastewater treatment plant means the facility or group of units, including the collection system, used for treatment of wastewater from sewer systems and for the reduction and handling of solids and gases removed from such wastes.
  - (b) Water supply system means the system of pipes, structures, distribution systems and facilities through which a water supply is obtained, collected, stored, treated and sold or distributed or the system of pipes as well as structures and facilities through which a water supply is obtained.

- (c) Water treatment plant means the facility or facilities within the water supply system that can alter the physical, chemical or bacteriological quality of the water.
- (14) Efficient utilization of water. The employment of methods and procedures to encourage use of water that will yield the greatest possible benefits including environmental, aesthetic, ecological, domestic, agricultural, industrial and recreational benefits.
- (15) Impact. Any alteration or change to the natural or human environment resulting directly or indirectly from development.
- (16) Impact Area. Those geographic areas in which impacts are likely to be caused by the Project. Impact Areas may include areas within the boundaries of another political subdivision if the County had entered into an intergovernmental agreement providing for cooperative regulation of impacts that may occur within the boundaries of both the County and the political subdivision.
- (17) Industrial uses. Manufacturing; mineral processing, exploration or extraction; snowmaking; commercial recreational services and operations; and other uses that are neither municipal, domestic, nor agricultural.
- (18) Matter of state interest. An area of state interest or an activity of state interest or both.
- (19) Major extension of existing domestic wastewater treatment system. Any modification of an existing sewage treatment plant to increase hydraulic capacity or upgrade treatment capability, or any extension of existing main collector sewer lines, or any increase in capacity of existing main sewer lines or any extensions to serve a total development density of ten (10) or more dwelling units or the equivalent thereof in other uses.
- (20) Major extension of existing domestic water treatment system.
  - (1) The expansion of existing domestic water treatment capacity or storage; or
  - (2) any extension of existing water supply systems to service an additional development density of ten (10) or more residential dwelling units (SFE) or the equivalent thereof in other uses.
- (21) Major new domestic wastewater treatment system. A new wastewater treatment plant, group of wastewater systems or collector system designed to treat the wastewater generated by ten (10) or more



residential dwelling units (SFE) or the equivalent thereof in other uses.  
(See Water and Sewer Projects.)

- (22) Major new domestic water system. A new water supply system or water treatment plant if such system or plant is designed to serve a total of ten (10) or more residential dwelling units (SFE) or the equivalent thereof. (See Water and Sewer Projects.)
- (23) Material Change. Any change in the Project as approved by the Permit Authority which significantly changes the nature of impacts considered by the Permit Authority in approval of the original Permit as determined by the Director.
- (24) Mitigation. Avoiding an impact; minimizing impacts by limiting the degree or magnitude of the action or its implementation; rectifying the impact by repairing, rehabilitating or restoring the impact area, facility or service; or compensation for the impact by replacing or providing for the replacement of biological or physical conditions, services or facilities.
- (25) Municipal and industrial water projects. Systems and all related components that provide water or may provide water in the future either directly or by exchange for municipal and industrial uses; provided, however, "systems and related components" for a snowmaking project are limited to (i) those through which water is diverted and/or stored for snowmaking, and (ii) permanent distribution systems and components that are not otherwise regulated by state or federal regulations.
- (26) Permit Authority. The Board of County Commissioners, or its designee.
- (27) Person. Any individual, partnership, corporation, limited liability company, association, company or other public or corporate body, including the federal government, and any political subdivision, agency, instrumentality, or corporation of the State or the United States government.
- (28) Project. The proposed development for which a Permit is sought under these Regulations.
- (29) Regulations. These regulations for matters of state interest and guidelines as the terms are used in Section 24-65.1-101, et seq.,  
  
C.R.S.
- (30) SFE. One single family dwelling unit, or the equivalent thereof, which

is defined by the in-house use of an average of 300 gallons of water per day or the generation of an average of 300 gallons of sewage per day (synonymous with EQR).

- (31) Significant. Deserving to be considered; important; notable and not trifling.
- (32) Water and Sewer Projects. The Site Selection and Construction of Major New Domestic Water and Wastewater Treatment Systems, Major Extensions of Existing Domestic Water and Wastewater Treatment Systems, and Efficient Utilization of Municipal and Industrial Water Projects, including any proposed land development directly related to such Project if such development is to be located wholly or partially within this County and if such development specifically generates the need for the Project.

## **6.02 DESIGNATION OF MATTER OF STATE INTEREST**

### **6.02.01 General.**

The designation process set forth in this section shall apply to the designation of any matter of state interest after the effective date of these Regulations. The designation process shall not apply to those matters of state interest designated by the Board of County Commissioners prior to the effective date of these Regulations, which designations shall remain in effect. Designations in effect are:

- (1) Site selection and construction of major new water and sewage treatment systems and major extension of existing domestic water and sewage treatment systems.
- (2) Efficient utilization of municipal and industrial water projects.

### **6.02.02 Designation Proposals.**

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

### **6.02.03 *Deleted reference to defunct Colorado Land Use Commission***

### **6.02.04 Public Hearing Required.**

- (1) The Board of County Commissioners shall hold a public hearing before designating and adopting regulations for any matter of state interest or amending or repealing said designation or regulations. Notice of the hearing shall be published not less than thirty (30) days nor more than sixty (60) days prior to the hearing.

### **6.02.05 Content of Notice of Public Hearing.**

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

- (d) A description of the area or activity proposed to be designated in sufficient detail to provide reasonable notice as to the property to be included in the designation or the type of activity to be designated.

**6.02.06 Matters to be Considered at Designation Hearings.**

- (1) At the designation hearing, the Board of County Commissioners shall consider such evidence as may appear appropriate including, at a minimum:
  - (a) The intensity of current and foreseeable development pressures.
- (2) The Board of County Commissioners shall hear testimony and receive evidence and shall include in any designation:
  - (a) The boundaries of the proposed area.
  - (b) Reasons why the particular area or activity is of state interest, the dangers that would result from uncontrolled development of any such area or uncontrolled conduct of such activity, and the advantages of development of such area or conduct of such activity in a coordinated manner.

**6.02.07 Record of Designation Proceeding.**

- (1) The Board of County Commissioners will collect and preserve the following record of the public hearing, at a minimum:
  - (a) Notice of the hearing.
  - (b) Certificate of publication of the notice.
  - (c) Names and addresses of persons who presented written or oral statements.
  - (d) Evidence of the identification of the matter of state interest proposed to be designated.
  - (e) Written findings concerning each of the matters referred to in section 6.02.06.
- (2) Any person may, at his own expense, provide for the recording and transcription of the hearing and a copy of the recording and transcript shall be furnished free of charge to the Board of County Commissioners and shall become part of the record.

**6.02.08 Adoption of Designation and Regulations.**

- (1) Within thirty (30) days after completion of the designation hearing, the Board of County Commissioners may adopt, adopt with modification, or reject the proposed designation. If the designation and/or regulation under Section 24-65.1-101, et seq., C.R.S., is rejected, the Board of County Commissioners may at its discretion regulate the matter under any other available land use control authority or it may reject the regulation of the matter entirely.
- (2) Such action shall be taken by resolution.
- (3) Whenever the Board of County Commissioners finally determines that any matter is a matter of state interest, it shall be the Board's duty to designate such matter and adopt regulations for the administration thereof.
- (4) Each designation order adopted by the Board of County Commissioners shall as a minimum:
  - (a) Specify the boundaries of the designated area or the boundary of the area in which an activity of state interest has been designated.

- (b) State reasons why the particular area or activity is of state interest, the dangers that would result from uncontrolled development of any such area or uncontrolled conduct of such activity, and the advantages of development of such area or conduct of such activity in a coordinated manner.
- (c) Specify the regulations applicable to the designated matter of state interest.

**6.02.09** *Deleted reference to defunct Colorado Land Use Commission*

**6.02.10** **Recording the Notice of Designation.**

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

**6.02.11** **Effect of Designation – Moratorium Until Final Determination.**

After a matter of state interest is designated pursuant to this Section 6.02, no person shall engage in development in such area and no such activity shall be conducted until the designation and regulations for such area or activity are finally determined as required by Section 24-65.1-404(4), C.R.S.

**6.02.12** **Exemptions.**

The portions of these Regulations or modification of existing permit authorized exclusively under Section 24-65.1-101, et seq., C.R.S. shall not

apply to any development in an area of state interest or any activity of state interest which meets any one of the following conditions:

- (1) As of May 17, 1974:
  - (a) The development or activity was covered by a current building permit issued by the County of Eagle; or
  - (b) The development or activity was approved by the electorate of the State or Eagle 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 development or activity is to be on land (1) that has been conditionally or finally approved by Eagle County for planned unit development or for use substantially the same as planned

unit development; or (2) that has been zoned by the appropriate local government for the use contemplated by such development or activity; or (3) for which a development plan has been conditionally or finally approved by the appropriate governmental authority.

(2) Other Exemptions:

As of the effective date of these Regulations, rights have vested pursuant to County regulations or statute to engage in the activity or pursue the development in an area of state interest.

(3) Exempt Water and Sewer Projects:

A Water and Sewer Project is exempt from these Regulations if it falls into one of the following categories:

- (a) The day to day operations of an existing Water and Sewer Project, or a minor change in the operation of an existing Water and Sewer Project, including retrofitting or upgrading technology, so long as the change in operation does not constitute a material change and does not cause negative impacts different from those of the existing Water and Sewer Project or otherwise exacerbate existing impacts.
- (b) The maintenance, repair or replacement of an existing component of a Water and Sewer Project if it does not constitute a material change and does not cause negative impacts different from those of the existing Water and Sewer Project or otherwise exacerbate existing impacts.

## **6.03 APPLICATION AND REVIEW PROCEDURES**

### **6.03.01 Permit or Finding of No Significant Impact (FONSI) Required After Designation.**

- (1) No person may engage in development wholly or partially within a designated area of state interest nor conduct a designated activity of state interest, not otherwise exempt, without first obtaining a Finding of No Significant Impact (FONSI) or a Permit under these Regulations.
- (2) When approval is sought to conduct more than one activity of state interest and/or engage in development in more than one area of state interest, the application may be completed for all such activities or developments and may be reviewed simultaneously.

### **6.03.02 Pre- Application Procedure.**

- (1) Before submitting an application for a Permit under these Regulations, the applicant shall meet with the Director.
- (2) At or before the pre-application meeting, the applicant shall provide the Director with:
  - (a) A written summary of the Project including:
    - (i) The applicant's name, address and phone number.
    - (ii) Map prepared at an easily readable scale showing:
      - a. Boundary of the proposed activity.
      - b. Relationship of the proposed activity to surrounding topographic and cultural features such as roads, streams and existing structures.
      - c. Proposed buildings, improvements and infrastructure.
    - (iii) Information that is sufficient for determining the nature of the Project and the degree of impacts associated with the Project.
- (3) Within ten (10) days of the pre-application meeting, the Director shall establish an estimate in an amount necessary to cover costs of determining whether a Finding of No Significant Impact (FONSI)



or a Permit is required. The estimate will include the costs of copying, mailing, publications, labor, overhead and retention of consultants, experts and attorneys that the County deems necessary to advise it in making the Determination.

**6.03.03**      **Determination.** Based upon review of the pre-application submittals and the information obtained at the pre-application meeting, the Director may determine that a Finding of No Significant Impact (FONSI) is warranted or that a Permit is required. Such determination may be made by the Director at such time as sufficient information is provided by the applicant after the pre-application meeting.

- (1)      Finding of No Significant Impact (FONSI). The Director may determine that a Finding of No Significant Impact (FONSI) should be issued if the construction or operation of the Project, without mitigation, in its proposed location is unlikely to have any significant adverse impact to the County in consideration of the Permit Application Approval Criteria in Section 6.04 of these Regulations. If the Director makes a FONSI, the applicant does not need to submit a permit application unless the Permit Authority deems that a Permit is necessary, following a reconsideration under section 6.03.03(4).
- (2)      Permit Required. If the Director determines that a Finding of No Significant Impact (FONSI) is not appropriate based upon review of the pre-application submittals and the information obtained at the pre-application meeting, then the applicant must obtain a Permit.
- (3)      Notice of Director's Determination of a FONSI.
  - (a)      Upon the Director's Determination of a FONSI, the Director shall notify the applicant by mail, and shall notify the Board, the County Administrator and the County Attorney of the Determination by e-mail or memorandum.
  - (b)      The Notice of Director's Determination of the FONSI shall be published once in the County legal newspaper not more than fourteen (14) days following the Determination. The notice shall describe the Project and the procedure for requesting reconsideration as set forth in section 6.03.03(4).
- (4)      Reconsideration of Director's Determination of a FONSI.
  - (a)      Call-up by the Board. Within fourteen (14) days after publication of the Director's Determination of a FONSI, the Board may decide to reconsider the Determination. Such reconsideration shall be made at

the next regularly scheduled meeting of the Board for which proper notice can be accomplished.

- (b) Request for Reconsideration by Affected Party. Any affected party seeking a reconsideration of the Director's Determination of a FONSI shall file a written request with the Board within fourteen (14) days of the date of publication in the newspaper of the Notice of the Director's Determination of the FONSI. The Board shall reconsider the Director's Determination of the FONSI at the next regularly scheduled meeting for which proper notice can be accomplished. The affected party may request a reasonable extension if necessary.

**6.03.04      Application Fee.**

- (1) If pursuant to section 6.03.03 a Permit is required, then within ten (10) days the Director shall establish an estimate in an amount necessary to cover costs of reviewing and processing the application, including costs of copying, mailings, publications, labor, overhead and retention of consultants, experts and attorneys that the County deems necessary to advise it on the application package.
- (2) Once the estimate is established, the Director shall notify the applicant in writing of said fee and its amount. Not later than ten (10) days following receipt of such notice, the applicant shall present to the Permit Authority non-refundable certified funds in the amount set. Until the fee is paid, the application for Permit shall not be further processed.
- (3) The amount of the payment under section 6.03.04(1) may be increased at any time if it is determined by the Director that the fee is not sufficient to cover all costs associated with the application.
- (4) The Permit Authority may in its sole discretion waive all or a portion of the fees if the applicant demonstrates a special need or such waiver of fees is found to be in the best interests of the citizens of Eagle County.

**6.03.05      Permit Application Procedure.**

If pursuant to section 6.03.03 a Permit is required, then the following permit application procedure shall apply:

- (1) Following the pre-application meeting described in section 6.03.02

and/or the Director's Determination under section 6.03.03, the applicant shall submit application materials to the Director. The application submittal requirements are described in section 6.03.06.

- (2) An application will not be considered unless it is complete. If the Director determines that the application is incomplete, the Director shall specify in writing the additional information that is required. An application is not complete unless the fee requirements in section 6.03.04 have been met. The Director shall note on the application the date the application is determined to be complete.
- (3) The Director shall determine the number of copies of the application required and the applicant shall provide such copies prior to the permit being formally scheduled for hearing.
- (4) The Director shall send a copy of the complete application to and seek review comments from the Planning Commission and may send a copy to any local, state or federal agency that may have expertise or an interest in impacts that may be associated with the Project.
- (5) Not later than thirty (30) days after receipt of a complete application for a Permit, the Permit Authority shall set and publish a notice of the date, time and place for the Permit Authority hearing on the application. Such notice shall be published once in the County legal newspaper, not less than thirty (30) days or more than sixty (60) days before the date set for the hearing. Notice shall be given to adjacent property owners.
- (6) No less than seven (7) days prior to the hearing before the Permit Authority, the Director shall prepare a staff report that summarizes the application and comments from review agencies, if any, and that identifies whether the permit application adequately demonstrates that the Project will comply with each of the applicable Permit Application Approval Criteria in sections 6.04.01, 6.04.02 and 6.04.03. The Director shall include in his report the reason why any approval criterion has not been satisfied and may recommend conditions to ensure that the Project will satisfy each criterion. A copy of the staff report shall be provided upon completion to the applicant and to the public upon request.

#### **6.03.06 Application Submittal Requirements.**

The Director may waive one or more of the submittal requirements when the submittal information would not be relevant to whether the Project

complies with the approval criteria. Additional materials may be required under sections 6.03.07 and 6.03.08 for a particular type of Project.

- (1) Information describing the applicant.
  - (a) The names, addresses, including email address and fax number, organizational form, and business of the applicant and, if different, the owner of the Project.
  - (b) The names, addresses and qualifications, including those areas of expertise and experience with projects directly related or similar to that proposed in the application package, of individuals who are or will be responsible for constructing and operating the Project.
  - (c) Authorization of the application package by the Project owner, if different than the applicant.
  - (d) Documentation of the applicant's financial and technical capability to develop and operate the Project, including a description of the applicant's experience developing and operating similar projects.
  - (e) Written qualifications of report preparers.
- (2) Information describing the Project.
  - (a) Plans and specifications of the Project in sufficient detail to evaluate the application against the Permit Application Approval Criteria in Section 6.04.
  - (b) Descriptions of alternatives to the Project considered by the applicant.
  - (c) Schedules for designing, permitting, constructing and operating the Project, including the estimated life of the Project.
  - (d) The need for the Project, including a discussion of alternatives to the Project that were considered and rejected; existing/proposed facilities that perform the same or related function; and population projections or growth trends that form the basis of demand projections justifying the Project.
  - (e) Description of all conservation techniques to be used in the construction and operation of the Project.

- (f) List of Adjacent property owners and their mailing addresses.
- (3) Property rights, other permits and approvals.
- (a) A list of all other federal, state and local permits and approvals that will be required for the Project, together with any proposal for coordinating these approvals with the County permitting process. Copies of any permits or approvals that have been granted.
  - (b) 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 statements required for the Project.
  - (c) Description of the water to be used by the Project and alternatives, including: the source, amount, the quality of such water; the applicant's right to use the water, including adjudicated decrees, applications 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 the court, the applicant must submit a copy of that plan.
  - (d) Description of property rights that are necessary for or that will be affected by the Project.
- (4) Description of the technical and financial feasibility of the Project.
- (a) The estimated construction costs and period of construction for each development component and the total mitigation costs for the Project.
  - (b) Revenues and operating expenses for the Project.
  - (c) The amount of any proposed debt and the method and estimated cost of debt service.
  - (d) Details of any contract or agreement for revenues or services in connection with the Project.
  - (e) Description of the persons or entity(ies) who 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.

(5) Socioeconomic impacts

A comprehensive socioeconomic impact analysis that addresses the manner in which the applicant will comply with the relevant Permit Application Approval Criteria in sections 6.04.01, 6.04.02, and 6.04.03. The impact analysis shall be limited to the impact area and shall include the following information:

(a) Land Use

- (i) Description of existing land uses within and adjacent to the impact area.
- (ii) Description of provisions from local land use plans that are applicable to the Project and an assessment of whether the Project will comply with those provisions.
- (iii) Description of impacts and net effect that the Project would have on land use patterns.

(b) Local Government Services

- (i) Description of existing capacity of and demand for local government services including but not limited to roads, schools, water and wastewater treatment, water supply, emergency services, transportation, infrastructure, and other services necessary to accommodate development within Eagle County.
- (ii) Description of the impacts and net effect of the Project to the capability of local governments that are affected by the Project to provide services.

(c) Housing

- (i) Description of existing seasonal and permanent housing including number, condition and cost of dwelling units.
- (ii) Description of the impact and net effect of the Project on housing during construction and operation stages

of the Project.

- (d) Financial Burden on County Residents
  - (i) Description of the existing tax burden and fee structure for government services including but not limited to assessed valuation, mill levy, rates for water and wastewater treatment, and costs of water supply.
  - (ii) Description of impacts and net effect of the Project on financial burdens of residents.
- (e) Local Economy
  - (i) Description of the local economy including but not limited to revenues generated by the different economic sectors, and the value or productivity of different lands.
  - (ii) Description of impacts and net effect of the Project on the local economy and opportunities for economic diversification.
- (f) Recreational Opportunities
  - (i) Description of present and potential recreational uses, including but not limited to the number of recreational visitor days for different recreational uses and the revenue generated by types of recreational uses.
  - (ii) Map depicting the location of recreational uses such as fishery stream segments, access points to recreational resources, hiking and biking trails, and wilderness areas.
  - (iii) 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.
- (g) Areas of Paleontological, Historic or Archaeological Importance
  - (i) Map and/or description of all sites of paleontological, historic or archaeological interest.

- (ii) Description of the impacts and net effect of the Project on sites of paleontological, historic or archaeological interest.

(h) Nuisance

Descriptions of noise, glare, dust, fumes, vibration, and odor levels caused by the Project.

(6) Environmental impacts.

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, 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 Permit Application Approval Criteria in sections 6.04.01, 6.04.02 and 6.04.03.

(a) Air Quality

- (i) Description of the airsheds to be affected by the Project, including the seasonal pattern of air circulation and microclimates.
- (ii) Map and/or description of the ambient air quality and state air quality standards of the airsheds to be affected by the Project, including particulate matter and aerosols, oxides, hydrocarbons, oxidants, and other chemicals, temperature effects and atmospheric interactions.
- (iii) Descriptions of the impacts and net effect that the Project would have on air quality during both construction and operation, and under both average and worst case conditions.

(b) Visual Quality

- (i) Map and/or description of ground cover and vegetation, forest canopies, waterfalls and streams or other natural features.
- (ii) Description of viewsheds, scenic vistas, unique landscapes or land formations.



- (iii) Map and/or description of buildings and structure design and materials to be used for the Project.
  - (iv) Descriptions of the impacts and net effect that the Project would have on visual quality.
- (c) Surface Water Quality
- (i) Map and/or description of all surface waters to be affected by the Project, including:
    - a. 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.
  - (ii) Existing data monitoring sources.
  - (iii) 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) Groundwater Quality
- (i) Map and/or description of all groundwater, including any aquifers. At a minimum, the description should include:
    - a. Seasonal water levels in each subdivision of the aquifer affected by the Project.
    - b. Artesian pressure in aquifers.
    - c. Groundwater flow directions and levels.
    - d. Existing aquifer recharge rates and methodology used to calculate recharge to the aquifer from any recharge sources.
    - e. For aquifers to be used as part of a water storage system, methodology and results of tests used to determine the ability of aquifer to impound groundwater and aquifer storage

capacity.

- f. 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.
  - g. Existing groundwater quality and classification.
  - h. Location of all water wells and their uses.
- (ii) Description of the impacts and net effect of the Project on groundwater.
- (e) Water Quantity
- (i) Map and/or description of existing stream flows and reservoir levels.
  - (ii) Map and/or description of existing Colorado Water Conservation Board held minimum stream flows.
  - (iii) Descriptions of the impacts and net effect that the Project would have on water quantity.
  - (iv) Statement of methods for efficient utilization of water.
- (f) Floodplains, Wetlands and Riparian Areas
- (i) Map and/or description of all floodplains, wetlands, and riparian areas to be affected by the Project, including a description of the types of wetlands, species composition, and biomass.
  - (ii) 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.).
  - (iii) Description of the impacts and net effect that the Project would have on the floodplains, wetlands and riparian areas.
- (g) Terrestrial and Aquatic Animals and Habitat

- (i) Map and/or description of terrestrial and aquatic animals including the status and relative importance of game and non-game wildlife, livestock and other animals; a description of streamflows and lake levels needed to protect the aquatic environment; description of threatened or endangered animal species and their habitat.
  - (ii) Map and description of critical wildlife habitat and livestock range to be affected by the Project including migration routes, calving areas, summer and winter range, and spawning beds.
  - (iii) Description of the impacts and net effect that the Project would have on terrestrial and aquatic animals, habitat and food chain.
- (h) Terrestrial and Aquatic Plant Life
- (i) Map and/or description of terrestrial and aquatic plant life including the type and density, and threatened or endangered plant species and habitat.
  - (ii) Descriptions of the impacts and net effect that the Project would have on terrestrial and aquatic plant life.
- (i) Soils, Geologic Conditions and Natural Hazards
- (i) Map and/or description of soils, geologic conditions, and natural hazards including but not limited to soil types, drainage areas, slopes, avalanche areas, debris fans, mud flows, rock slide areas, faults and fissures, seismic history, and wildfire hazard areas.
  - (ii) Descriptions of the risks to the Project from natural hazards.
  - (iii) Descriptions of the impact and net effect of the Project on soil and geologic conditions in the area.
- (7) Hazardous materials description.
- (a) Description of all hazardous, toxic, and explosive substances to be used, stored, transported, disturbed or produced in connection with the Project, including the type and amount of such substances, their location, and the practices and

procedures to be implemented to avoid accidental release and exposure.

- (b) Location of storage areas designated for equipment, fuel, lubricants, and chemical and waste storage with an explanation of spill containment structures.
- (8) Monitoring and Mitigation Plan.
- (a) Description of all mitigation that is proposed to avoid, minimize or compensate for adverse impacts of the Project and to maximize positive impacts of the Project.
    - (i) Describe how and when mitigation will be implemented and financed.
    - (ii) Describe impacts that are unavoidable that cannot be mitigated.
  - (b) Description of methodology used to measure impacts of the Project and effectiveness of proposed mitigation measures.
  - (c) Description, location and intervals of proposed monitoring to ensure that mitigation will be effective.
- (9) Additional Information may be necessary. The Director may request that the applicant supply additional information related to the Project if the Permit Authority will not be able to make a determination on one of the Permit Application Approval Criteria in Section 6.04 without the additional information.

**6.03.07 Additional Submittal Requirements Applicable to Municipal and Industrial Water Projects.**

- (1) Description of efficient water use, recycling and reuse technology the Project intends to use.
- (2) Map and description of other municipal and industrial water projects in the vicinity of the Project, including their capacity and existing service levels, location of intake and discharge points, service fees and rates, debt structure and service plan boundaries and reasons for and against hooking on to those facilities.
- (3) Description of demands that this Project expects to meet and basis for projections of that demand.

**6.03.08**      **Additional Submittal Requirements Applicable to Major New Domestic Water and Wastewater Treatment Systems and Major Extensions of Existing Domestic Water and Wastewater Treatment Systems.**

- (1) Description of existing domestic water and wastewater treatment facilities in the vicinity of the Project, including their capacity and existing service levels, location of intake and discharge points, service fees and rates, debt structure and service plan boundaries, and reasons for and against hooking on to those facilities.
- (2) Description of how the Project will affect urban development, urban densities, and site layout and design of stormwater and sanitation systems.
- (3) Description of other water and wastewater management agencies in the Project area and reasons for and against consolidation with those agencies.
- (4) Description of how the Project may affect adjacent communities and users on wells.

**6.03.09**      **Conduct of Permit Hearing.**

- (1) The Permit Authority 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 Permit Authority shall hear relevant testimony and receive relevant evidence and may impose reasonable time limits on presenters and witnesses.
- (3) Although the Colorado Rules of Civil Procedure do not apply to the hearing, all persons appearing at the hearing shall be afforded the right of cross-examination and a reasonable opportunity to offer evidence in rebuttal.
- (4) Any person may, at his own expense, provide for the recording of the hearing and transcription thereof, provided, however, that a copy of the transcript shall be furnished free of charge to the Permit Authority and become part of the record.

**6.03.10**      **Approval or Denial of the Permit Application by the Permit Authority.**

- (1) If information presented at the hearing leads the Permit Authority to find that additional information is necessary for it to determine whether

the Permit Application Approval Criteria in Section 6.04 have been met, the Permit Authority may continue the hearing for not more than sixty (60) days unless a longer period is agreed to by the applicant, or it may deny the Permit.

- (2) The Permit Authority may approve the application if it determines that the applicant has proven that the Project complies with all applicable provisions of these Regulations. If the Permit Authority determines that the applicant has failed to prove that the Project complies with any applicable provision of these Regulations, the Permit Authority, at its sole discretion, may either approve the permit application with reasonable conditions necessary to ensure compliance with the Regulations, or deny the Permit.
- (3) If the Permit Authority decides to approve the Permit with conditions, the Permit Authority shall make written findings that each condition is necessary to ensure that the Project will comply with the Permit Application Approval Criteria in sections 6.04.01, 6.04.02, and 6.04.03, and that each condition is necessitated by impacts caused by the Project.
- (4) The hearing record shall include the following:
  - (a) The application package.
  - (b) Written statements or documents in support of or in opposition to the permit application.
  - (c) Any recording and transcript of the hearing.
  - (d) Written minutes of the Permit Authority hearing.
  - (e) The resolution of the Permit Authority granting or denying the permit application.
- (5) The burden of proof shall be on the applicant to show compliance with provisions of these regulations governing areas or activities of state interest involved.

#### **6.03.11 Issuance of the Permit.**

- (1) The Permit shall be issued in writing by the Board.
- (2) The Permit may be issued for an indefinite period or for a term of years, depending upon the nature of the Project.

- (3) The Permit is valid only for the construction and operation of the Project described in the application package together with the conditions of approval, if any, imposed by the Permit Authority.
- (4) A copy of the Permit shall be certified by the Permit Authority and presented to the County Clerk and Recorder for recording in the same manner as any document relating to real property.

**6.03.12 Permit Amendment.**

- (1) Any change in the construction or operation of a Water and Sewer Project from that approved by the Permit Authority shall require a permit amendment, unless otherwise exempt.
- (2) A permit amendment will be subject to the following requirements and procedures:
  - (a) Permit Application Submittal Requirements.
    - (i) A copy of the current Permit and reasons for amendment
    - (ii) As-built drawings of the Project, if available.
    - (iii) Drawings and plans of proposed changes to the Project.
    - (iv) Additional or changed mitigation plans.
    - (v) Statement of need for amendment.
    - (vi) Site Plan.
    - (vii) Vicinity map.
    - (viii) Written report of how amendment satisfies the criteria in sections 6.04.01, 6.04.02 and 6.04.03.
  - (b) Permit Amendment Procedure.
    - (i) The applicant shall meet with the Director to discuss the proposed permit amendment.
    - (ii) Application submittal requirements shall be reviewed by the Director.

- (iii) Subsequent to the meeting, the Director shall determine whether the modified Project would satisfy the criteria contained in sections 6.04.01, 6.04.02 and 6.04.03, or whether additional conditions would be necessary to ensure compliance.
- (iv) If the Director deems that the modified Project would not satisfy applicable criteria, without additional conditions the proposed modification shall require a new Permit.
- (v) If the Director deems that the modified Project would satisfy applicable criteria without additional conditions, the Director shall make a Finding of No Significant Impact and a resolution for an amended Permit shall be presented to the Permit Authority for its consideration.

**6.03.13 Combined Designation and Permit Hearing.**

- (1) If a person proposes to engage in development in an area of state interest or to conduct an activity of state interest not previously designated and for which regulations have not yet been adopted, the Permit Authority may hold a combined hearing to determine the designation, adopt the regulations and approve or deny the Permit.
- (2) No Permit that is granted at the conclusion of the combined hearing shall be authority to engage in development or to conduct an activity until the identification; designation and regulations are finally determined and adopted.



## **6.04 APPROVAL CRITERIA AND FINANCIAL ASSURANCE**

### **6.04.01 Permit Application Approval Criteria for Matters of State Interest.**

A Permit to conduct a designated activity of state interest or to engage in development in a designated area of state interest shall be approved if the Project complies with the following general criteria and any additional applicable criteria in sections 6.04.02 or 6.04.03. If the Project does not comply with any one or more of these criteria, the Permit shall be denied or approved with conditions. In determining whether the Project complies with these criteria, or if conditions should be imposed, the Permit Authority may utilize the considerations in Appendix "A."

- (1) Documentation that prior to site disturbance for the Project the applicant will have obtained 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.
- (2) The Project will not impair property rights held by others.
- (3) The Project is consistent with relevant provisions of applicable land use and water quality plans.
- (4) The applicant has the necessary expertise and financial capability to develop and operate the Project consistent with all requirements and conditions.
- (5) The Project is technically and financially feasible.
- (6) The Project is not subject to significant risk from natural hazards.
- (7) The Project will not have a significant adverse effect on land use patterns.
- (8) The Project will not have a significant adverse effect on the capability of local governments affected by the Project to provide services, or exceed the capacity of service delivery systems.
- (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 shall reflect principals of resource conservation, energy efficiency and recycling or reuse.
- (13) The Project will not significantly degrade air quality.
- (14) The Project will not significantly degrade existing visual quality.
- (15) The Project will not significantly degrade surface water quality.
- (16) The Project will not significantly degrade groundwater quality.
- (17) The Project will not significantly degrade wetlands, and riparian areas.
- (18) The Project will not significantly degrade terrestrial or aquatic animal life or its habitats.
- (19) The Project will not significantly deteriorate terrestrial plant life or plant habitat.
- (20) The Project will not significantly deteriorate soils and geologic conditions.
- (21) The Project will not cause a nuisance.
- (22) The Project will not significantly degrade areas of paleontological, historic, or archaeological importance.
- (23) The Project will not result in unreasonable risk of releases of hazardous materials.
- (24) The benefits accruing to the County and its citizens from the Project outweigh the losses of any natural, agricultural, recreational, grazing, commercial or industrial resources within the County, or the losses of opportunities to develop such resources.

**6.04.02 Additional Criteria Applicable to Municipal and Industrial Water Projects.**

In addition to the general criteria set forth in section 6.04.01, the following additional criteria apply to municipal and industrial water projects:

- (1) The Project shall emphasize the most efficient use of water, including the recycling, reuse and conservation of water.

- (2) The Project will not result in excess capacity in existing water or wastewater treatment services or create duplicate services.
- (3) The Project shall be necessary to meet community development and population demands in the areas to be served by the Project.
- (4) Urban development, population densities, and site layout and design of storm water and sanitation systems shall be accomplished in a manner that will prevent the pollution of aquifer recharge areas.

**6.04.03 Additional Criteria Applicable to Major New Domestic Water and Wastewater Treatment Systems and Major Extensions of Existing Domestic Water and Wastewater Treatment Systems.**

In addition to the general criteria set forth in section 6.04.01, the following additional criteria apply to any development of major new domestic water and wastewater treatment systems or major extensions of existing domestic water and wastewater treatment systems:

- (1) The Project shall be reasonably necessary to meet projected community development and population demands in the areas to be served by the Project, or to comply with regulatory or technological requirements.
- (2) To the extent feasible, wastewater and water treatment facilities shall be consolidated with existing facilities within the area.
- (3) New domestic water and sewage treatment systems shall be constructed in areas which will result in the proper utilization of existing treatment plants and the orderly development of domestic water and sewage treatment systems of adjacent communities.
- (4) The Project shall be permitted in those areas in which the anticipated growth and development that may occur as a result of such extension can be accommodated within the financial and environmental capacity of the area to sustain such growth and development.

**6.04.04 Financial Guarantee Required.**

Before any Permit is issued, the Permit Authority may, at its discretion, require the applicant to file a guarantee of financial security deemed adequate by the Permit Authority and payable to the County. The purpose of the financial guarantee is to assure the following:

- (1) Faithful performance of the requirements of the Permit and

applicable regulations.

- (2) That the Project or activity is completed and, if applicable, that the development area is properly reclaimed.
- (3) That the applicant performs all mitigation requirements and Permit conditions in connection with the construction, operation and termination of the Project.
- (4) That increases in public facilities and services necessitated by the construction, operation and termination of the Project are borne by the permittee.
- (5) That shortfalls to County revenues are offset in the event that the Project is suspended, curtailed or abandoned.

**6.04.05 Amount of Guarantee.**

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

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

**6.04.06**      **Estimate.**

- (1) Estimated cost shall be based on the applicant's submitted cost estimate plus the Permit Authority'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 Permit Authority shall consider the duration of the development or activity and compute a reasonable projection of increases due to inflation. The Permit Authority may require, as a condition of the Permit, that the financial security be adjusted upon receipt of bids to perform the requirements of the Permit and these Regulations.
- (2) Revisions to the estimate may be required based on information available to the County.

**6.04.07**      **Form of Guarantee.**

- (1) The guarantee may be in the form of cash, federally-insured certificates of deposit, irrevocable letters of credit issued by a bank acceptable to the Board, or any other form, or combination of forms, established by the Board.
- (2) 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.

**6.04.08**      **Release of Guarantee.**

- (1) The financial guarantee may be released only when:
  - (a) The Permit has been surrendered to the Permit Authority before commencement of any physical activity on the site of the permitted development or activity.
  - (b) The development or activity has been abandoned and the site has been returned to its original condition or to a condition acceptable to the County in accordance with criteria adopted by the County for the matter of state interest for which the Permit is being granted.
  - (c) The Project has been satisfactorily completed.
  - (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 of County Commissioners.

- (e) The applicable guaranteed conditions have been satisfied.

**6.04.09 Cancellation of the Guarantee.**

Any security may be canceled only upon receipt of the Permit Authority's written consent, which may be granted only when such cancellation will not detract from the purposes of the security.

**6.04.10 Forfeiture of Guarantee.**

- (1) If the Permit Authority 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 Permit Authority within thirty (30) days after permittee's receipt of notice, requesting a hearing before the Permit Authority. If no demand is made by the permittee within said period, then the Permit Authority shall order the financial guarantee forfeited.
- (2) The Permit Authority shall hold a hearing within thirty (30) days after the receipt of the demand by the permittee. At the hearing, the permittee may present for the consideration of the Permit Authority statements, documents, and other information with respect to the alleged violation. At the conclusion of the hearing, the Permit Authority shall either withdraw the notice of violation or enter an order forfeiting the financial guarantee.
- (3) The deposit described above may be used by the Permit Authority of the County in the event of the default or alleged default of the permit holder, only for the purposes of recovering on the surety or fulfilling the permit 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.

- (4) 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 including costs and attorney fees.

**6.04.11 Substitute 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 of County Commissioners shall suspend the Permit until proper substitution has been made.

## **6.05 PERMIT ADMINISTRATION AND ENFORCEMENT**

### **6.05.01 Enforcement and Penalties.**

- (1) Any person engaging in a development in the designated area of state interest or conducting a designated activity of state interest who does not obtain a Permit pursuant to these Regulations, who does not comply with Permit requirements, or who acts outside the jurisdiction of the Permit may be enjoined by the County from engaging in such development or conducting such activities and may be subject to such other criminal or civil liability as may be prescribed by law.
- (2) 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 shall be immediately suspended and a hearing shall be held to determine whether new conditions are necessary to ensure compliance with Permit Application Approval Criteria or if the Permit should be revoked.

### **6.05.02 Permit Suspension or Revocation.**

- (1) The Permit Authority may temporarily suspend the Permit for a period of thirty (30) days for any violation of the Permit or these Regulations. Prior to any permit suspension, the Permit Authority shall provide the permit holder with written notice of the violation and will have a minimum of fifteen (15) days to correct the violation. If the violation is not corrected, the Permit shall be temporarily suspended for thirty (30) days.
- (2) The Permit Authority may, following notice and hearing, 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. No less than thirty (30) days prior to the revocation hearing, the Permit Authority shall provide written notice to the permittee setting forth the violation and the time and date for the revocation hearing. Public notice of the revocation hearing shall be published in a newspaper of general circulation not less than thirty (30) days or more than sixty (60) days prior to the hearing. Following the hearing, the Permit Authority 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.

### **6.05.03 Transfer of Permits.**

A Permit may be transferred only with the written consent of the Permit



Authority. The Permit Authority must ensure, in approving any transfer, that the proposed transferee can and will comply with all the requirements, terms, and conditions contained in the Permit and these Regulations; that such requirements, terms, and conditions remain sufficient to protect the health, welfare, and safety of the public; and that an adequate guarantee of financial security can be made.

**6.05.04**     **Inspection.**

The Permit Authority may enter and inspect any property subject to these Regulations at reasonable hours for the purpose of determining whether the Project is in violation of the provisions of these Regulations.

**6.05.05**     **Judicial Review.**

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

## APPENDIX "A"

*Following are considerations to help the applicant understand the types of things that the Permit Authority may consider on balance in determining whether a Project complies with the Permit Application Approval Criteria in sections 6.04.01, 6.04.02, and 6.04.03. These considerations are not criteria that the Project must satisfy; they serve solely as guidance. The considerations are in regular type and the actual criteria that the considerations relate to are in bold type.*

**6.04.01(5) The Project is technically and financially feasible.** The determination of technical and financial feasibility of the Project may include but is not limited to the following considerations:

- (a) Amount of debt associated with the Project.
- (b) Debt retirement schedule and sources of funding to retire the debt.
- (c) Estimated construction costs and construction schedule.
- (d) Estimated annual operation, maintenance and monitoring costs.

**6.04.01(6) The Project is not subject to significant risk from natural hazards.** The determination of risk from natural hazards to the Project may include but is not limited to the following considerations.

- (a) Faults and fissures.
- (b) Unstable slopes including landslides, rock slides and avalanche areas.
- (c) Expansive or evaporative soils and risk of subsidence.
- (d) Wildfire hazard areas.
- (e) Floodplains.

**6.04.01(7) The Project will not have a significant adverse effect on land use patterns.** The determination of effects of the Project on land use patterns may include but is not limited to the following considerations:

- (a) Whether the Project complies with and is consistent with applicable plans.
- (b) Likelihood that the Project will/will not cause or contribute to urban sprawl or "leapfrog" development.
- (c) Significant changes in the amount of impervious surfaces.

- (d) Contiguity of development associated with the Project to existing growth centers.
- (e) Changes to unique land forms.
- (f) Changes in the amount of character of open space.
- (g) Changes to traffic patterns, road capacity and congestion.

**6.04.01(8) The Project will not have a significant adverse effect on the capability of local governments affected by the Project to provide services, or exceed the capacity of service delivery systems.** The determination of the effects of the Project on local government services may include but is not limited to the following considerations:

- (a) Existing and potential financial capability of local governments to accommodate development related to the Project.
- (b) Current and projected capacity of roads, schools, infrastructure, housing, and other services necessary to accommodate development, and the impact of the Project upon the current and projected capacity.
- (c) Changes caused by the Project 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 Project.
- (f) Change in demand for public transportation.
- (g) Reduction in the amount of water available for future water supply in the County.

**6.04.01(9) The Project will not create an undue financial burden on existing or future residents of the County.** The determination of the financial effects of the Project 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 Project.
- (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) Changes in total property tax burden.

**6.04.01(10) The Project will not significantly degrade any current or foreseeable future sector of the local economy.** The determination of the effects of the Project on the 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 growth and diversification.

**6.04.01(11) The Project will not have a significant adverse effect on the quality or quantity of recreational opportunities and experience.** The determination of effects of the Project on recreational opportunities and experience may include but is not limited to the following considerations:

- (a) Changes to existing and projected visitor days.
- (b) Changes to duration of kayaking and rafting seasons.
- (c) Changes in quality and quantity of fisheries.
- (d) Changes in instream flows or reservoir levels.
- (e) Changes in access to recreational resources.
- (f) Changes to quality and quantity of hiking trails.
- (g) Changes to the wilderness experience or other opportunity for solitude in the natural environment.
- (h) Changes to hunting experiences.

**6.04.01(13) The Project will not significantly degrade air quality.** The determination of effects of the Project on air quality may include but is not limited to the following considerations.

- (a) Changes to seasonal ambient air quality.

- (b) Changes in visibility and microclimates.
- (c) Applicable air quality standards.

**6.04.01(14) The Project will not significantly degrade existing visual quality.** The determination of visual effects of the Project may include but is not limited to the following considerations:

- (a) Visual changes to ground cover and vegetation, waterfalls and streams, or other natural features.
- (b) Interference with viewsheds and scenic vistas.
- (c) Changes in appearances of forest canopies.
- (d) Changes in landscape character types of unique land formations.
- (e) Compatibility of building and structure design and materials with surrounding land uses.

**6.04.01(15) The Project will not significantly degrade surface water quality.** The determination of effects of the Project on surface water quality may include but is not limited to the following considerations:

- (a) Changes to existing water quality, including patterns of water circulation, temperature, conditions of the substrate, extent and persistence of suspended particulates and clarity, odor, color or taste of water.
- (b) Applicable narrative and numeric water quality standards.
- (c) Changes in point and nonpoint source pollution loads.
- (d) Increase in erosion.
- (e) Changes in sediment loading to waterbodies.
- (f) Changes in stream channel or shoreline stability.
- (g) Changes in stormwater runoff flows.
- (h) Changes in trophic status or in eutrophication rates in lakes and reservoirs.
- (i) Changes in the capacity or functioning of streams, lakes or reservoirs.
- (j) Changes in flushing flows.

- (k) Changes in dilution rates of mine waste, agricultural runoff and other unregulated sources of pollutants.

**6.04.01(16) The Project will not significantly degrade groundwater quality.** The determination of effects of the Project on groundwater quality may include but is not limited to the following considerations:

- (a) Changes in aquifer recharge rates, groundwater levels and aquifer capacity including seepage losses through aquifer boundaries and at aquifer-stream interfaces.
- (b) Changes in capacity and function of wells within the impact area.
- (c) Changes in quality of well water within the impact area.

**6.04.01(17) The Project will not significantly degrade wetlands and riparian areas.** The determination of effects of the Project on wetlands and riparian areas may include but is not limited to the following considerations:

- (a) Changes in the structure and function of wetlands and riparian areas.
- (b) Changes to the filtering and pollutant uptake capacities of wetlands and riparian areas.
- (c) Changes to aerial extent of wetlands and riparian areas.
- (d) Changes in species' characteristics and diversity.
- (e) Transition from wetland to upland species.
- (f) Changes in function and aerial extent of floodplains.

**6.04.01(18) The Project will not significantly degrade terrestrial or aquatic animal life or its habitats.** The determination of effects of the Project 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.

**6.04.01(19) The Project will not significantly deteriorate terrestrial plant life or plant habitat.** The determination of effects of the Project 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.

**6.04.01(20) The Project will not significantly deteriorate soils and geologic conditions.** The determination of effects of the Project on soils and geologic conditions may include but is not limited to the following considerations:

- (a) 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.

**6.04.01(21) The Project will not cause a nuisance.** The determination of nuisance effects of the Project may include but is not limited to the following considerations:

- (a) Increase in odors.
- (b) Increase in dust.
- (c) Increase in fumes.
- (d) Increase in glare.
- (e) Increase in heat.
- (f) Increase in noise.
- (g) Increase in vibration.
- (h) Increase in artificial light.
- (i) Increase in traffic impacts.

**6.04.01(23) The Project will not result in unreasonable risk of releases of hazardous materials.** The determination of the risk of release of hazardous materials caused by Project may include but is not limited to the following considerations:

- (a) Plans for compliance with federal and state handling, storage, disposal, and transportation requirements.
- (b) Use of waste minimization techniques.
- (c) Adequacy of spill prevention and response plans.

**6.04.02(1) The Project shall emphasize the most efficient use of water, including the recycling, reuse and conservation of water.** The determination of whether the Project emphasizes the most efficient use of water may include but is not limited to the following considerations:

- (a) Whether the Project uses readily available conservation techniques.
- (b) Whether the Project recycles water to the greatest extent allowed by law.

**6.04.02(2) The Project will not result in excess capacity in existing water or wastewater treatment services or create duplicate services.** The



determination of whether the Project will result in excess capacity or create duplicate services may include but is not limited to the following considerations:

- (a) Whether the Project creates overlapping or competing service areas.
- (b) Whether the Project differs significantly from the provider's facility plan.
- (c) Whether the Project impacts other water and wastewater permits.

**6.04.02 (3) The Project shall be necessary to meet community development and population demands in the areas to be served by the Project.** The determination of whether the Project meets community development and population demands may include but is not limited to the following considerations:

- (a) Relationship to reasonable growth projections and local land use plans.
- (b) Relationship to other water and wastewater provider's service area.

**6.04.02 (4) Urban development, population densities, and site layout and design of storm water and sanitation systems shall be accomplished in a manner that will prevent the pollution of aquifer recharge areas.** The determination of potential for pollution of the aquifer recharge areas by the Project may include but is not limited to the following considerations:

- (a) Proximity of urban development and population densities to aquifer recharge areas.
- (b) Proximity of stormwater and sanitation systems to aquifer recharge areas.
- (c) Changes in water quality in the aquifer recharge areas.

**6.04.03(1) The Project shall be reasonably necessary to meet projected community development and population demands in the areas to be served by the Project, or to comply with regulatory or technological requirements.** The determination of whether the Project is reasonably necessary may include but is not limited to the following considerations:

- (a) Relationship to reasonable growth projections and local land use plans.
- (b) Relationship to other water and wastewater provider's service area.
- (c) Whether the Project is not in compliance with regulatory or technological requirements or will not be in compliance in the near future.

**6.04.03(2) To the extent feasible, wastewater and water treatment facilities shall be**

**consolidated with existing facilities within the area.** The determination of whether consolidation is **feasible** shall include but is not limited to the following considerations:

- (a) Whether there is an opportunity for consolidation.
- (b) The environmental, financial and social feasibility of consolidation.

**6.04.03(3) New domestic water and sewage treatment systems shall be constructed in areas which will result in the proper utilization of existing treatment plants and the orderly development of domestic water and sewage treatment systems of adjacent communities.** The determination shall include but is not limited to the following considerations:

- (a) Relationship to reasonable growth projections and local land use plans.
- (b) Proximity to other water and wastewater provider's service area.

**6.04.03(4) The Project shall be permitted in those areas in which the anticipated growth and development that may occur as a result of such extension can be accommodated within the financial and environmental capacity of the area to sustain such growth and development.** The determination shall include but is not limited to the following considerations:

- (a) Relationship of the Project to approved land use plans for the area.
- (b) The environmental, financial and social impacts related to such development.