

Comment #	Section	Subject	Date Captured	Comment	Staff Analysis	Proposed Action	Applied
35	11.14.6.7.6	tailings	1/30/2019	aqueous tailings should be banned in Santa Fe County.	The County is aware of the risk associated with aqueous tailings. Section 11.14.6.7.6 states that "Tailings shall be dry stacked unless the Administrator determines that another method is more effective to ensure compliance with 11.14.3 (Design Criteria)." This section establishes a presumption for dry tailings but allows the LUA to take into account the best available science in making a final determination.	No action.	No change.
36	11.14.6.7.6	tailings	1/30/2019	requiring dry stacked tailings is prohibitive. Other intermediary tailings methods should be accepted.	See above comment.	No action.	No change.
37	11.14.6.7.7	stockpiling	1/30/2019	stockpiling requirements may not be possible to achieve during operation but are good for closure. Static factor of 1.0 is a common standard for during operation.	Typically a static factor of 1.0 is a 50/50 chance of the foundation remaining in place or not. Factor of safety of 1.5 is appropriate.	No change.	No change.
38	11.14.6.8	Maintenance of Highwalls	1/30/2019	Is this requirement for operation, closure, or both?	This requirement is for operation	Remove second sentence because it suggests that highwalls can be maintained	Removed: "If permitted, highwalls shall be maintained using the most effective techniques identified by the best available science."
39	11.14.7.1	Performance financial guarantee	1/30/2019	Add that the Admin can consider historical evidence in determining cost of potential impacts. Add long term operation and management of facilities to performance financial guarantee.	These are good suggestions and staff will modify this section.	Add that the LUA can consider historical evidence. Include the cost of long term operation and management of facilities along with closure, reclamation, monitoring and all costs associated with an operator ceasing operations. Shall be updated annually to reflect changes in any of these costs.	11.14.7 Added: "including the cost to review and update the Financial Guarantee annually"; 11.14.7.1 Added: "to manage and close the facility,"

Comment #	Section	Subject	Date Captured	Comment	Staff Analysis	Proposed Action	Applied
40	11.14.7.1	financial assurance	1/30/2019	This subsection references irrevocable guarantees issued by a surety company. This appears to allow surety bonds, when the subsection 11.5.7.6 requires a guarantee be posted with a bank as an irrevocable [letter or credit or ILOC]. The FA terminology is nonstandard and should be clarified to explain what types of FA instruments would be accepted.	This is a good suggestion. This language places a limit on the Financial Guarantee.	Strike reference to surety company. Capitalize Financial Guarantee. Replace financial assurance with Financial Guarantee to show consistency throughout the document.	Removed: Surety company; assurance; Added: Guarantee and capitalized
41	11.14.7.2	financial assurance	1/30/2019	This subsection references cash deposit as acceptable instruments for roadway damage compensation. The subsection 11.5.7.6 requires a guarantee be posted with a bank as an irrevocable [letter of credit or ILOC]. The FA terminology is nonstandard and should be clarified to explain what types of FA instruments would be accepted.	It is the intention of this section to require cash deposits for roadway damage. Staff does not see any conflict.	No action.	No change.
42	11.14.8.3	Leach and Spent Ore Facilities	1/30/2019	Leach and spent ore are the same thing. Consider choosing one term.	They are the same. One of the terms can be put in (). Also should include "lean ore" in this section.	Put one in (). Add "lean ore" to this section.	11.14.4.20.3 Added: "(Spent Ore and Lean Ore)"; Removed other reference to spent ore.
43	11.14.8.3	Leach and Spent Ore Facilities	1/30/2019	what is meant by detoxify? Should This say dewater? Also, there might not be any need to cover facility if the spent ore is being removed. Or consider allowing it to remain in place.	Detoxify is commonly used in cyanide or chemical leaching. Neutralizing chemical. Difficult to do reclamation of leach pads in place with our requirements for terrain management.	No change.	No change.
44	11.14.8.4.2	cover systems	1/30/2019	The month of September is wetter on average than June, so this section should read "...the long-term average summer/early fall precipitation (July, August and September)..."	This is a good suggestion.	Add: "...the long-term average summer/early fall precipitation (July, August and September)..."	Removed: (June, July and August); Added: (July, August and September)

Comment #	Section	Subject	Date Captured	Comment	Staff Analysis	Proposed Action	Applied
45	11.5.6.6	reclamation	1/30/2019	If the reclamation costs are generated by an NM PE, they should be reviewed by a County PE. Also, reclamation requirements could cause double bonding with the state and federal governments.	The draft provides the LUA with the authority to contract with qualified professionals for any review.	No action.	No change.
46	11.5.6.6	reclamation	1/30/2019	This section seems to be referring to an irrevocable letter of credit (ILOC). Use of the term guarantee might cause confusion with other financial instruments (self-guarantees, corporate guarantees, etc.). MMD recommends using ILOC and stating as such.	Financial Guarantee is defined in the appendix of the SLDC and includes the option of an ILOC and other financial instruments. The LUA has the authority to choose which financial instrument she deems appropriate.	No action.	No change.
47	11.5.6.6; 11.14.7	financial assurance	1/30/2019	The proposed amendments do not discuss a way to release financial assurance (subsections 11.5.6.6 and 11.14.7). This is a very important aspect of the financial assurance process, setting up adequate financial assurance, then releasing it back to the operator once the reclamation work has been accomplished, and approved by the county.	7.22.8 (Releases and Financial Guarantee) details the requirements and procedures for releasing financial guarantees. This applies to Chapter 11 and should be referenced.	Add reference to SLDC 7.22.8.	11.5.6.6 Added: "7.22.8 (Releases and Financial Guaranty) details procedures for releasing and demanding on a Financial Guarantee."
48	11.6.1.6	applicant background	1/28/2019	Is applicant background called out elsewhere in the SLDC ?	No, it is not required elsewhere in the SLDC. Given the history of mining in the US, applicant background is relevant. Similar requirements exist in other federal, state, and local regulations.	No action.	No change.
49	11.6.1.6	applicant background	1/28/2019	How many of the eight review criteria are 'showstoppers'? That is, how many would result in denial of an application?	The review of the applicant's background is part of the application process. All requirements of the application are examined and considered as part of the discretionary review process.	No action.	No change.

Comment #	Section	Subject	Date Captured	Comment	Staff Analysis	Proposed Action	Applied
50	11.6.2; 11.7.2	review criteria	1/28/2019	will staff be doing a risk assessment based on the application? What standards and measures are being used to evaluate an application?	Risk assessment is not explicitly called out, but it is the purpose of the entire application process. Staff will review the application and make a recommendation per the requirements of these regulations. All requirements of the application are then examined and considered as part of the discretionary review process. The final decision is committed to the BCC.	No action.	No change.
51	11.7.1.7	cost estimate	1/30/2019	Clarify if requirement to submit a preliminary cost estimate for site improvements and reclamation represents the costs for Santa Fe County or the applicant to do the reclamation. Should the estimate be detailed or preliminary? may imply if reclamation is a detailed or preliminary design.	This is a cost estimate for the applicant to perform site improvement and reclamation.	No action.	No change.
52	11.7.1.8 and chapter-wide	environmental/social standards	1/24/2019	No mention of the following environmental impacts: temperature impacts, when noise levels occur and their duration, odors, nuclear radiation, electromagnetic or microwave intensity levels, invasive and noxious plants, native plants and wildlife including pollinators, soil biological health and microbiology of soil, wildfire, community cohesion, changes in demography associated with DCI, impacts on vulnerable people, disaster preparedness, economic diversity and employment, economic benefits and multiplier effects, impacts on tourism, spirit of place and impact on culture values and native sovereignty.	To the extent that the EIR does not explicitly require consideration of these impacts, the County has the authority to require consideration of these and other impacts if relevant to the proposed DCI (11.7.1.8).	No action.	No change.

Comment #	Section	Subject	Date Captured	Comment	Staff Analysis	Proposed Action	Applied
53	11.7.1.9.3	Reclamation	1/30/2019	Language potentially conflicts with 11.14.9. Add "to the extent practicable" to 11.14.9.	The County does not see conflict between these provisions. Both provisions require that reclamation of one phase begin prior to initiation of the next phase.	No action.	No change.
54	11.7.1.9.3 (b)	grading	1/30/2019	3:1 slope may cause confusion if not delineated. Consider delineating 3(H) to 1 (V) slope. Also, this standard may be difficult to meet for high walls in pits without backfilling them as is the preference in subsection 11.14.6.6.1.	"3:1" is used elsewhere in the SLDC and has not caused confusion. Staff suggests leaving it as is to keep consistency with other parts of the Code. The second comment is not an issue because backfilling is presumed. To the extent the Board determines that a highwall is allowed, they have the authority to adjust slope requirement.	No action.	No change.
55	11.7.1.9.3 c	revegetation	1/30/2019	Revegetation requirements mention that if irrigation is needed, the reclamation plan shall explain how the site will be managed in perpetuity. This may conflict with NMMA approval requirements for new mines with respect to a self-sustaining ecosystem (19.10.6.606.B(1) NMAC) and not having perpetual care (19.10.6.606.B(7) NMAC). Maybe perpetuity has a different meaning here, should perhaps be defined.	This sentence does not make sense in the context.	Strike the "in perpetuity" sentence	Removed: "If irrigation is necessary, the plan shall explain how the site will be managed in perpetuity."
56	11.7.1.9.8	Proof of responsible and established technology and practices	1/30/2019	"without any incidents" may be very difficult to achieve because of the nature of reclamation often earthwork and establishment of vegetation. Maybe, a better requirement would be to meet reclamation standards over a period of 5 to 10 years. Use Best Management Practices, applied in US and Canada.	We agree. This language is inconsistent with the intent of the paragraph.	Delete phrase beginning with "without any incidents" to the end of paragraph.	Removed: "without any incidents that would result in noncompliance with any of the standards of this Chapter and the SLDC. The burden of proof of harmlessness for any proposed technology lies with the proponent of the innovation, not the County or the general public."
57	11.8.3	Water Resources	1/30/2019	Add reference to NMAC 20.6.2	This was an oversight that will be addressed.	Add reference to NMAC 20.6.2	Added: "NMAC 20.6.2 and"

Comment #	Section	Subject	Date Captured	Comment	Staff Analysis	Proposed Action	Applied
58	11.8.4.1; 11.14.4.19	wildlife	1/24/2019	How could a mine not disturb wildlife habitat? habitat and wildlife corridors should be modified to mitigate/offset/compensate for impact on wildlife. Wildlife impact plan should apply to all DCIs, not just mines	11.14.4.19 requires a wildlife impact mitigation plan for mining. Staff determined to include wildlife impact plan in general regulations for DCIs without reference to 11.14.4.8 and 11.14.4.10.	Add to 11.7.1.9: Wildlife Impact Plan: first 1.5 sentence of 11.14.4.19.	11.7.1.9 added: "9. Wildlife Impact Mitigation Plan. The applicant shall submit a Wildlife Impact Mitigation Plan developed by a wildlife specialist approved by the Administrator. The Plan shall describe how any impacts on wildlife attributable to the DCI will be eliminated and/or mitigated to the greatest extent possible."
59	11.8.5.5	Cut and Fill Slopes	1/30/2019	Does this section refer to operations, closure or both? There are some circumstances where vertical slopes may actually be optimal. Add "properly designed" to retaining wall.	This is a performance standard and applies to operation. It does not currently apply to closure but staff believes that it should.	Add: "unless a properly designed retaining wall is used" "Administrator may vary from these requirements based on the report". Add performance standards to the closure requirements to the extent applicable.	11.8.5.5 Added: "properly designed"; "and the Board may impose conditions base don that report." 11.14.6 Added: "The following performance standards shall apply to both operation and closure of a mineral resource extraction and processing operation to the extent applicable."; 11.14.8 Moved all to 11.14.4.20 and Added: "The closure of a Mining operation shall comply with the approved Closure Plan (11.14.4.21)."
60	11.8.5.5	Cut and Fill Slopes	1/30/2019	May be no steeper than 2 (H) to 1 (V). Clarify that this is temporary terrain management standard so as not to conflict with 11.7.1.9.3 (b)	This is an operational standard. 11.7.1.9.3.b applies to reclamation. 2:1 should be kept as and fill slopes should be changed to 3:1 for consistency	Change fill slopes to 3:1; Add: "properly designed" and allow the Board to impose conditions.	11.8.5.5 Changed to: "Cut slopes shall be graded to a slope no steeper than 2:1, and f slopes shall be graded to a slope no steeper than 3:1; Added: "properly designed"; "and the Board may impose conditions based on that report."
61	11.8.5.7	Sediment and Erosion	1/30/2019	Conflict with 11.14.6.6.4. Add that this does not apply to sediment ponds.	This was an oversight that will be addressed.	Add: excluding sediment ponds pursuant to 11.14.6.6.4	Added: "excluding properly designed sediment ponds pursuant to section 11.14.6.6.4."
62	11.8.9	financial feasibility	1/18/2019	Incorrect citation for financial assurances section. Change to 11.5.6	This was an oversight that will be addressed.	Change citation	Changed citation to 11.5.6.
63	11.9.3.2; 11.10.3.2	setbacks	1/31/2019	300 ft. setback is too close for junkyards, feedlots, and landfills in the case where it is adjacent to a residences or potential residential areas.	The 300 ft. setback was established by the BCC in the SLDC. This setback is defined from the property boundary. The property boundary of a DCI may not be within 1/4 mile of a residential structure or an area subdivided for residential development.	Staff proposes clarifying language in 11.9.3.2.2 and 11.10.3.2: "The property boundary of a DCI shall not be located closer than one-quarter (1/4) mile from the property boundary of any existing dwelling or platted subdivision."	11.10.3.2 Added: "2. the property boundaries shall not be located closer than one-quarter (1/4) mile from any existing dwelling or land subdivided for residential development."
64	General	zoning designation	1/28/2019	is zoning already locked in? could a resident still apply for a DCI on their residential property?	The SLDC has established base zoning for the County. Any parcel can apply for a DCI Overlay Zone if they meet the requirements of the SLDC.	No action.	No change.

Comment #	Section	Subject	Date Captured	Comment	Staff Analysis	Proposed Action	Applied
65		Citations	1/30/2019	Several citations of 11.14.3 are incorrect (ex: 11.13.3 instead). Check all citations.	This was an oversight that will be addressed.	Change citation.	Changed reference to 11.13.3 to 11.14.3 throughout the document.
66	11.11	Sand and gravel	3/21/2019	Land Use staff have identified a proposal for the removal of historical mine waste in Madrid as a large-scale sand and gravel operation. This should be considered reclamation and subject to a different set of regulations.	See Comment Number 27	No action.	No change.
67	11.5.6	Costs	3/21/2019	The ordinance allows the County to charge applicants for the cost of retaining experts to review reports and studies submitted as part of the application process. Without knowing how much the County will spend on these experts, it is not possible to estimate the cost of submitting an application.	The County must retain experts to assist in the review of these highly technical reports and studies in order to make sound decisions that protect the County's residents and environment. The current fee ordinance caps the amount that the County can charge an applicant for the cost of retaining an expert to review a study or report at \$10,000. The Land Use Department may propose to amend the ordinance in response to the high cost of reviewing a DCI application, but such an amendment would need to be addressed through a separate process.	No action.	No change.
68	General	Timeframe	3/21/2019	Chapter 11 does not indicate how long it would take to process a DCI application.	Chapter 4 of the SLDC establishes the amount of time that the County may take to review and act on a land use application.	No action.	No change.
69	11.8.11.2	Annual Monitoring Report	3/21/2019	This section reads as if there is a hearing to suspend, revoke, or modify a permit every time a monitoring report is reviewed.	This was not the intention of the section. A hearing should only be required if some issue is found upon review of the monitoring report.	Add: "After reviewing the report, and if an issue is identified..."	

Comment #	Section	Subject	Date Captured	Comment	Staff Analysis	Proposed Action	Applied
70	11.11	Sand and Gravel	3/21/2019	Large-scale sand and gravel operations should not be subject to DCI regulations. The DCI regulations make it cost prohibitive to obtain a permit to operate a sand and gravel operation.	It is not within the scope of this process to add or remove types of DCIs from Chapter 11. Large scale sand and gravel operations have been regulated by the County for years, and such regulation is strongly supported by the public. No person raised this concern during the extended public participation process, and no evidence was presented to the County to support an exemption for this type of DCI. With respect to the alleged excessive cost of complying with the DCI regulations, it is common to hear complaints that regulations are too costly, but without financial data to support the complaints, which has not been submitted here, there is no rational basis to exempt them, particularly when the BCC previously affirmed that regulations are necessary to protect the County's residents and environment.	No action.	No change.

Comment #	Section	Subject	Date Captured	Comment	Staff Analysis	Proposed Action	Applied
71	General	Professional Engineer	3/21/2019	In several instances, the proposed regulations require a professional engineer to certify work that can be performed by another professional.	The requirement ensures that a professional engineer who is certified by the state is taking responsibility for the quality of plans, designs, and reports submitted in support of an application to conduct an activity with potentially substantial adverse effects on the County's residents and environment. Staff's technical expert recommended the requirement for a professional engineer in each instance in which it appears in the proposed regulations and after reviewing requirements for a Professional Engineer, staff confirmed that all requirements were necessary. Requiring a professional engineer to certify plans, designs, and reports is routine practice in government regulation of highly technical projects that involve substantial risks to the public health and safety. The professional engineer may work with other persons to conduct the actual work for some aspects of the project, but the requirement for a professional engineer ensures that the work is both reviewed and certified by a person with the requisite skill and expertise who can be held accountable.	No action.	No change.
72	11.4	Designation	3/21/2019	Truckstop facilities should be regulated as DCIs.	The goal of this planning process and resulting regulations is to address DCIs as currently defined in section 2.2.6 of the SGMP and Ch. 11 of the SLDC. If directed by the BCC per 2.2.6.7 of the SGMP, staff could investigate other potential DCIs under a separate process.	No action.	No change.

