

**Santa Fe County Sustainable Land Development Code (SLDC)
Chapter 11 – Developments of Countywide Impact (DCIs)**

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CHAPTER ELEVEN – DEVELOPMENTS OF COUNTYWIDE IMPACT (DCIs)

11.1. PURPOSE. Developments of Countywide Impact (DCIs) are those that have potential for far-reaching effects on the community. DCIs are developments that would place major demands on public facilities, the County’s capital improvement plan and budget, and/or have the potential to affect the environment and public health, safety, and welfare beyond the impacts on immediately neighboring properties. DCIs have the potential to create serious adverse noise, light, odor and vibration; explosive hazards; traffic congestion; and burdens on County emergency response services. Therefore, special regulation of DCIs is necessary:

11.1.1. To protect the health, safety and welfare of the citizens, residents, and businesses of the County from the potentially harmful or hazardous impacts of DCIs;

11.1.2. To ensure short and long-term compatibility (both on-site and off-site) of DCIs and the County at large;

11.1.3. To preserve the quality of life, the economy, infrastructure, environment, natural and cultural resources, and natural landscapes;

11.1.4. To promote sustainability by protecting against the degradation of air, surface water, groundwater, and soils; and

11.1.5. To protect environmentally sensitive lands and visual and scenic qualities.

11.2. FINDINGS. The Board of County Commissioners hereby finds, declares and determines that this Ordinance:

11.2.1. Promotes the health, safety, and welfare of the County, its residents, and its environment by regulating public nuisance and land use impacts and effects resulting from DCIs;

11.2.2. Promotes the purposes of planning and land use regulation by assuring that adequate public facilities and services such as roads, fire, police, stormwater detention and emergency and response services will be available at the time of approval of DCIs;

11.2.3. Prevents the occurrence of adverse public nuisance and land use effects and impacts resulting from the abandonment of DCIs;

11.2.4. Protects the County’s priceless, unique, and fragile ecosystem, the preservation of which is of significant value to the citizens of the County and state;

11.2.5. Protects the County’s unique and irreplaceable historic, cultural, archaeological, and eco-tourist sites and scenic vistas, in addition to water and other natural resources;

11.2.6. Ensures the health, safety, and welfare of the County and its residents, and protects the natural and ecological resources of Santa Fe County as follows:

11.2.6.1. Water pollution and depletion by DCIs poses a significant risk because clean water is a precious resource in the County’s unique high desert environment that requires protection;

11.2.6.2. New Mexico has an interest in strengthening protection to historic, archaeological and cultural resources by issuing new rules and new statutes, if necessary, to put into place greater, and in some cases absolute protection, for highly sensitive and significant historical, cultural and archaeological sites and landscapes;

11.2.6.3. Under the Wildlife Conservation Act (NMSA 1978, § §17-2-37 through 17-2-46), species of wildlife indigenous to the state that may be found to be threatened or endangered by DCIs require such police power regulation over DCIs so as to maintain and, to the extent possible, enhance wildlife population within the carrying capacity of the habitat;

11.2.6.4. Because DCIs may presently or in the future cause irreparable harm to the County's water supply and pollution of water and air, and may cause cancer, lung disease, and respiratory diseases, DCIs must disclose potential community health effects, and these effects must be scrutinized and thoroughly mitigated before DCIs are permitted;

11.2.6.5. Pursuant to the New Mexico Public Health Act, NMSA 1978, §24-1-1, the Department of Health has the authority to "investigate, control, and abate the causes of disease... sources of mortality and other conditions of public health." Environmental hazards resulting from DCI projects may potentially cause adverse health effects;

11.2.6.6. Air, soil, and water contamination may occur during different stages of DCIs, and such contamination could affect human health. This ordinance seeks to minimize that contamination to the greatest extent possible;

11.2.6.7. All New Mexicans have an equal right to live in a safe and healthy environment, and implementation of precautionary principles promotes this premise as well as reduces potential effects on public health resulting from exposure to environmental toxins;

11.2.6.8. The burden of proof of harmlessness for any proposed technological innovation lies with the Applicant, not the general public;

11.2.6.9. DCIs could have a negative effect on tourism, landscapes and communities; and

11.2.6.10. The County of Santa Fe has independent and supplemental authority, in addition to the authority of the state, to regulate public nuisance, land use and environmental impacts and effects stemming from DCIs throughout the County, which is consistent with state law and has not been preempted in any manner.

11.3. SCOPE. This Chapter shall apply to all applications for any of the DCIs listed herein, including any applications that are pending on January 13, 2016, the effective date of the Sustainable Land Development Code (SLDC), that have not been approved. However, this Chapter shall not apply to an operation that would be a DCI but which was issued a permit with vested rights before that date. To have vested rights, generally:

11.3.1. The County issued the permit before January 13, 2016, the original effective date of the SLDC; and

11.3.2. The permittee made a substantial change in position in reliance on the issuance of the permit.

11.4. DESIGNATION. The following activities are designated as DCIs:

11.4.1. Landfills;

11.4.2. Junkyards;

11.4.3. Sand and gravel extraction and processing except as specified in Section 11.10.2;

11.4.4. Concentrated animal feeding operations;

11.4.5. Oil and gas drilling and production; and

11.4.6 Mining and resource extraction.

11.5. GENERAL PROVISIONS. Any application for a DCI must meet all regulations, standards, and provisions of the SLDC. The regulations, standards and provisions described in this Chapter are specific to a DCI Overlay Zoning District or DCI Conditional Use Permit. Where conflict arises between SLDC regulations and the DCI standards and provisions of this Chapter, the more stringent regulations, standards or provisions shall prevail. All DCIs shall comply with the following general provisions:

11.5.1. No DCI is permitted by right in the County. Operation of a DCI shall require the establishment of a DCI Overlay Zoning District except where zoning is prohibited, issuance of a DCI Conditional Use Permit, and issuance of grading and construction permits. No DCI Overlay Zoning District shall be used for any DCI operation other than the specific operation proposed in obtaining the DCI Overlay Zoning District.

11.5.2. Existing DCI Uses. An operation that would be a DCI under this Chapter that existed prior to adoption of the Land Development Code (January 1, 1981) and that has been in continuous operation since its commencement, may continue to operate in substantially the same manner of operation. An operation that would be a DCI under this Chapter that was approved by the County after January 1, 1981, but prior to January 13, 2016, the original effective date of the SLDC, may continue to operate in accordance with the Final Order approving the operation, provided however, that any change in the manner or size of the operation shall obtain approval for a DCI Overlay Zoning District and a Conditional Use Permit from the County.

11.5.3. Application Procedures. An Applicant requesting a DCI shall submit an application for a DCI Overlay Zoning District followed by an application for a DCI Conditional Use Permit in accordance with the procedures in Chapter 4. These two applications cannot be submitted and run concurrently.

11.5.4. Public Involvement. Any person may review applications, submit comments or information to be considered by the Hearing Officer, Planning Commission, and Board of County Commissioners regarding an application for a DCI Overlay Zoning District or DCI Conditional use Permit, including a Study, Report, or Assessment, or part thereof.

11.5.5. Pre-application meeting. Prior to the submission of an application for a DCI Overlay Zoning District and a Conditional Use Permit, the Applicant shall conduct a pre-application meeting in accordance with Section 4.4.4 with the additional requirement that the Applicant shall give notice to all residents, land owners, and applicable Registered Organizations and Community Organizations that are located within five (5) miles of the boundaries of the proposed DCI Overlay Zoning District.

11.5.6. Costs, Fees, and Financial Assurances. The Applicant and/or Permittee shall be responsible to pay for all costs associated with the DCI. The County is entitled to full reimbursement by the Applicant/Permittee for all costs associated with the DCI, including but not limited to:

11.5.6.1. All costs associated with preparing or reviewing a permit application, including but not limited to County costs and the cost of contracting with qualified professionals to conduct baseline assessments and studies, and/or to review application materials;

11.5.6.2. All costs associated with the annual reporting requirements of this Chapter and the SLDC including but not limited to the contracting of qualified professionals to conduct studies, prepare reports, and review application materials;

11.5.6.3. All costs associated with the inspection of DCI facilities;

11.5.6.4. All costs associated with improvements to existing and construction of new public facilities based on the findings of the Adequate Facilities Public Assessment (APFA) and the Traffic Impact Assessment (TIA) including but not limited to an annual maintenance fee calculated at the end of each fiscal year by a certified professional engineer to reimburse the County for all additional spending on the maintenance of public facilities attributable to the DCI;

11.5.6.5. All costs of any additional contracting with qualified professionals that the Administrator finds necessary to review a permit application and/or to ensure compliance with a DCI permit and/or Overlay Zoning District; And

11.5.6.6. All costs associated with reclamation and/or potential remediation of affected areas shall be guaranteed in the form of a financial guarantee with the following characteristics:

1. only financial guarantees will be accepted;
2. the financial guarantee shall amount to no less than one hundred twenty five (125) percent of the estimated total cost of reclamation performed by a licensed New Mexico Professional Engineer. The Land Use Administrator may increase the bond amount requirement following the annual review, and the Applicant or Permittee shall post the additional amount no later than thirty (30) days after notice;
3. the financial guarantee shall be posted with a New Mexico-based bank with a local Santa Fe branch;
4. the financial guarantee shall be irrevocable and shall be updated and revised at least every five years to reflect revised estimates of the cost of reclamation;

If the Permittee fails to maintain the financial guarantee, the Administrator may take any enforcement action available to her, including but not limited to suspension of the Permit.

11.5.7. Compliance with Federal and State Laws and Regulations. All DCIs shall demonstrate compliance with applicable federal and state laws and regulations prior to the commencement of any activity authorized by a DCI Conditional Use Permit.

11.5.8. Maps. All maps shall be prepared in CAD or GIS format compatible with the Santa Fe County ESRI GIS System, NAD1983 State Plane New Mexico Central FIPS 3002 US Feet. The applicant shall coordinate with the County to provide electronic, paper, and pdf copies of the

CAD and GIS files. The scale of the pdf and paper maps may vary provided each map clearly illustrates the applicable features on letter or tabloid sized paper and can be reproduced using the GIS and CAD data. All topographic maps shall be submitted with two (2) foot contours.

11.5.9. Inspection. Representatives of the County may at any time, and at the expense of the Permittee, conduct inspections and/or review of monitoring data to ensure compliance with the permit and the standards of this Chapter and the SLDC.

11.5.10. Permit Expiration. The Board may determine that it is reasonable and necessary to ensure compliance with the standards of this Chapter and the SLDC given site specific conditions, to require that a permit expire at the end of a certain period of operation, after which the Permittee must obtain a new permit to continue operations. Expiration of a permit does not relieve the Permittee of any obligation under the SLDC.

11.5.11. Transfer. A Permittee shall not transfer a DCI Conditional Use Permit to any other person or entity without the approval of the Board. The Board may deny a transfer based on the criteria of section 11.6.2.11. All financial assurances must remain in place at all times including throughout and after any transfer process.

11.5.12. Suspension, Modification, or Revocation of a DCI Conditional Use Permit.

11.5.12.1. The Land Use Administrator may suspend, modify or revoke a DCI Conditional Use Permit for any of the following reasons:

1. failure to comply with a standard or condition in the DCI Conditional Use Permit;
2. conduct of the DCI outside the authorized boundaries of the DCI Conditional Use Permit;
3. the suspension, revocation, cancellation, or similar action of any federal, state, or local permit required as a condition of approval of the DCI Conditional Use Permit;
4. it is found that the Applicant or Permittee misrepresented any material statement submitted to the County in support of or pursuant to the permit; or
5. other conduct, whether or not within the scope of the DCI Conditional Use Permit, that damages or commits waste to private or public property.

11.5.12.2. The Land Use Administrator shall serve a written Notice of Suspension, Modification or Revocation to the Permittee either by certified mail at the address provided in the application or by personal delivery to the Permittee either at the Permittee's address or at the DCI's location. The Notice shall provide the following:

1. a statement of the reason for the suspension, modification or revocation with reference to the SLDC or the DCI Conditional Use Permit;
2. a brief description of the reason for the suspension, modification or revocation; and
3. a statement that the Permittee's failure to resolve the reason for the suspension, modification or revocation within fifteen (15) days of receipt of the Notice shall

result in suspension or revocation of the DCI Conditional Use Permit.

11.5.12.3. If the Permittee fails to resolve the reason for the suspension, modification or revocation within the fifteen (15) days of receipt of the Notice, or if the Permittee disagrees with the Notice and so informs the Land Use Administrator in writing:

1. the matter shall be scheduled for a hearing before a Hearing Officer, which hearing shall be noticed in accordance with Section 4.6.4 of the SLDC and shall be scheduled as soon as is practicable but in no event longer than thirty (30) days after the Permittee's receipt of the Notice;

2. during the hearing, the Land Use Administrator bears the burden to demonstrate by a preponderance of the evidence that the DCI Conditional Use Permit should be suspended, modified or revoked;

3. the Permittee may call witnesses and submit evidence disputing the the Land Use Administrator's reason for the suspension, modification or revocation;

4. within fifteen (15) working days of the hearing, the Hearing Officer shall make written findings of fact and rulings of law and recommend to the Planning Commission and Board to either revoke, suspend, modify, or not revoke or suspend the DCI Conditional Use Permit;

5. the matter shall be scheduled for a hearing before the Planning Commission and Board, which hearing shall be noticed in accordance with Section 4.6.4 of the SLDC and shall be scheduled as soon as practicable, and after hearing, the Board may:

a. affirm the recommendation of the Hearing Officer to either revoke, suspend, modify, or not revoke or suspend the DCI Conditional Use Permit; or

b. issue a decision to not revoke, modify or suspend the DCI Conditional Use Permit but impose additional conditions in the DCI Conditional Use Permit.

6. Any person aggrieved by a final decision of the Board pursuant to this Section may appeal to District Court in accordance with NMSA 1978, § 39-3-1.1 (as amended), and Rule 1-074 NMRA;

7. If the Permittee fails or refuses to comply with an order of the Board, the Land Use Administrator may seek a court order enjoining the DCI, in addition to any other remedies available to the County pursuant to NMSA 1978, §§ 3.17.1, 3.18.17 and 3.21.1; and

8. The remedies described in this section shall not be construed as the exclusive remedies available to the County.

11.6. DCI OVERLAY ZONING DISTRICTS.

11.6.1. Application Requirements. Any application for a DCI Overlay Zoning District shall include the following:

11.6.1.1 Application Submissions Checklist. All materials required by the Land Use

Administrator on the application submissions checklist.

11.6.1.2. Requirements and Procedures. All submittals necessary to comply with the requirements and procedures described in Chapter 4 of the SLDC.

11.6.1.3. Noise Study. The applicant shall submit a Noise Study in accordance with section 7.21.4.

11.6.1.4. A DCI Overlay Plan and Report. A DCI Overlay Plan and Report shall include the following:

1. a map of the proposed DCI Overlay Zoning District, including its relationship to surrounding areas, existing topography and key features
2. the planning objectives and the character of the development to be achieved through the overlay, and the phases in which the DCI will occur;
3. the approximate location of all neighboring development areas, subdivisions, residential dwellings, neighborhoods, traditional communities and community centers, and other non-residential facilities and structures within five (5) miles of the proposed DCI Overlay Zoning District;
4. the location, arrangement, size, height, floor area ratio of any existing and proposed buildings, structures and parking facilities and activities in the proposed DCI Overlay Zoning District;
5. a viewshed analysis describing the visual impact of the proposed DCI Overlay Zoning District on the County;
6. the proposed traffic circulation plan, including number of daily and peak hour trips of vehicles including heavy equipment to and from the proposed DCI Overlay Zoning District, and the proposed traffic routes to and from the proposed DCI Overlay Zoning District to the nearest intersection with an arterial road or highway;
7. the location of all fire, police, and emergency response service facilities, roads shown on the capital improvement plan, floodways, floodplains, wetlands or other natural resource areas, historic, cultural and archeological sites and artifacts slopes between fifteen (15) percent and thirty (30) percent and greater than thirty (30) percent, and wildlife vegetation habitats and habitat corridors, located in the proposed DCI Overlay Zoning District or within five (5) miles of the proposed boundaries;
8. a statement explaining how the proposed DCI Overlay Zoning District complies with the vision, goals, objectives, policies and strategies of the County's Sustainable Growth Management Plan (SGMP) and any Area, District and Community Plan within the proposed boundaries;
9. a statement explaining how the proposed DCI Overlay Zoning District relates to and is compatible with adjacent and neighboring areas within five (5) miles of the proposed boundaries and how the proposed DCI Overlay Zoning District will not adversely affect other land uses in the County or the ability to successfully implement the visions, goals, objectives, policies and/or strategies of any County

planning document;

10. the identification of federal, state, and local laws and regulations potentially applicable to the proposed DCI;

11. A detailed schedule for each phase of the proposed DCI including timing of each phase, boundaries and description of each phase of development, operation, and reclamation;

12. The Applicant shall consult with affected tribal governments and group(s) and a licensed professional archeologist in developing a Cultural Resource Protection Plan that avoids the disturbance of cultural and archeological resources. The applicant must consult with any tribal group who, after receiving notice, determines that the proposed DCI will disturb indigenous cultural or archeological sites; and

13. all application requirements in this Chapter.

11.6.1.5. Studies, Reports and Assessments. All Studies, Reports and Assessments (SRAs) required in Chapter 6 of the SLDC and the following additional information:

1. Water Services Availability Report. A Water Service Availability Report (WSAR) demonstrating that the DCI will not infringe on other water rights, impair wells, or adversely affect the quality or quantity of ground or surface waters;

2. Traffic Impact Assessment. A Traffic Impact Assessment (TIA) identifying:

a. the estimated number and weight of vehicles both loaded and unloaded that will enter and leave the DCI and their impact on the surrounding road network;

b. the traffic routes that will be used by vehicles entering and leaving the DCI, that avoid, to the maximum extent possible, residential areas, commercial areas, environmentally and visually sensitive areas, scenic byways, schools, governmental buildings, villages, towns, and municipalities, and other congested locations;

c. the estimated time and frequency of vehicles entering and leaving the DCI; and

d. a plan to prevent the loss of transported materials and minimize or eliminate fugitive dust during transportation; and

3. Fiscal Impact Assessment. A Fiscal Impact Statement (FIA) shall identify the cost of long-term environmental impact abatement and restoration and the associated fiscal impact on the applicant, County, and any other affected governmental body including impacts on tax base and public services.

11.6.1.6. Applicant Background. The Applicant shall furnish the following information under oath:

1. name and address, including all aliases, the date and state or province and country of incorporation;

2. name and address of the registered agent, if any;
3. all partners or limited partners of a partnership Applicant; all officers, directors or executives of a corporate Applicant; all stockholders holding more than five percent of the stock of a corporate Applicant; and any other person with an ownership interest in the Applicant;
4. all entities owned (partially or wholly) or controlled in any manner by any person or entity identified in paragraph 11.6.1.7.2;
5. any mining or resource extraction operation or facility that the Applicant previously operated in this or any other county, city, state, or country;
6. whether the Applicant, including any person or entity identified in Section 11.6.1.7.2, has ever had any license, permit, development order or any other type of zoning or land use approval suspended or revoked, the reason for such suspension or revocation, and the name of the person or entity under which the Applicant operated that was subject to the suspension or revocation;
7. all convictions of criminal statute of any jurisdiction, including ordinances, forfeiture of bond and pleadings of nolo contendere on any charges except minor traffic violations by persons identified in Section 11.6.1.7.2; and
8. all civil suits under the laws of any jurisdiction related to alleged harm or impact to the environment, including air and water quality, or public resources.

11.6.1.7. Additional Information. Such other information as the Administrator may require to determine compliance with the standards for the approval of the DCI Overlay Zoning District.

11.6.2. REVIEW CRITERIA. The Hearing Officer, Planning Commission and Board of County Commissioners shall consider the following criteria when making recommendations and determinations for approval, conditional approval or denial of a DCI Overlay Zoning District:

11.6.2.1. Whether the proposed DCI Overlay Zoning District is consistent with the SGMP and any applicable Area, District and Community Plans;

11.6.2.2. Whether the proposed DCI Overlay District is consistent with applicable federal and/or state regulations;

11.6.2.3. Whether the environmental effects and impacts identified in the Environmental Impact Report (EIR) are avoided or if unavoidable, the environmental effects and impacts identified in the Environmental Impact Report are mitigated to the greatest extent possible, and whether that mitigation is adequate;

11.6.2.4. Whether adequate public facilities identified in the Adequate Public Facilities and Services Assessment either exist or have been funded;

11.6.2.5. Whether improvements identified in the Adequate Public Facilities and Services Assessment can be provided by the applicant, or by the County pursuant to the capital improvements plan, and when such facilities will be available;

11.6.2.6. Whether water is available for each phase of the proposed DCI as set forth in the

Water Service Availability Report, whether the proposed water use is reasonable given local conditions and community needs, and whether the Applicant includes methods to lessen impacts on water resources;

11.6.2.7. Whether the impacts of traffic identified in the Traffic Impact Assessment are mitigated;

11.6.2.8. Whether the proposed DCI Overlay Zoning District is compatible with adjoining uses given the size, design and operational characteristics of the proposed DCI, or can be made compatible through reasonable effort and/or conditions of approval;

11.6.2.9. Whether the proposed DCI overlay Zoning District or proposed DCI may cause a public nuisance or have an effect or impact on adjoining uses or resources, including property values, public safety, cultural, historic and archaeological resources, emergency services, wildlife and vegetation, noise, roads and highways, vibration, odor, glare, fire protection, access, visual resources, air and water quality and quantity, which cannot be mitigated to acceptable levels through reasonable effort;

11.6.2.10. Whether the proposed DCI will be detrimental to the safety, health, prosperity, order, comfort and convenience of the County;

11.6.2.11. Whether the Applicant, which includes all partners or limited partners of a partnership Applicant, all officers, directors or executives of a corporate Applicant, and all stockholders holding more than five percent of the stock of a corporate Applicant, and any person with an ownership interest in the Applicant, has complied with federal, state or local laws, regulations, development orders, conditions of approval and other requirements in previous activities by the Applicant, the persons identified in this paragraph, or entities they own or control; and

11.6.2.12. Whether the applicant proves that the proposed DCI will comply with the standards of this Chapter and the SLDC or any other relevant federal, state, or local standards.

11.7. DCI CONDITIONAL USE PERMIT

11.7.1. Application Requirements. Any application for a DCI Conditional Use Permit shall include the following:

11.7.1.1 Application Submissions Checklist. All materials required by the Land Use Administrator on the application submissions checklist.

11.7.1.2. Requirements and Procedures. Submittals necessary to comply with the requirements and procedures described in Chapter 4 of the SLDC.

11.7.1.3. Final Order. A final Order from the Board granting approval of the DCI Overlay Zoning District;

11.7.1.4. Demonstration of Compliance. A demonstration of compliance with all conditions imposed in the Final Order from the Board granting approval of the DCI Overlay Zoning District;

11.7.1.5. State and Federal Permits. All required state and federal permits;

11.7.1.6. Phased Plan. A plan identifying each phase of the development, operation, and reclamation of the proposed DCI, including a map with the GPS coordinates for each aspect of the phase in GIS format based on the standard Santa Fe County GIS spatial reference (NAD_1983_StatePlane_New_Mexico_Central_FIPS_3002_Feet).

11.7.1.7. Cost Estimate. A preliminary cost estimate prepared and sealed by a New Mexico professional engineer for all site improvements and reclamation; and

11.7.1.8. Studies, Reports, and Assessments. Studies, Reports, and Assessments as specified in Chapter 6 shall be updated, and shall address additional potential impacts specified in this section and any additional requirements specific to the applicable DCI subsection. The following additional information is required for the SRAs for a DCI Conditional Use Permit:

- 1. Environmental Impact Report.** The Applicant shall submit an updated Environmental Impact Report (EIR) to include the applicable potential impacts identified in Table 11-1 using the best available science.

Table 11-1 Potential Impacts.

POTENTIAL IMPACTS	SAND AND GRAVEL EXTRACTION	LANDFILLS	JUNKYARDS	CONCENTRATED ANIMAL FEEDING OPERATIONS	MINERAL RESOURCE EXTRACTION AND PROCESSING
Federal and State endangered and threatened species and species of concern	Yes	Yes	Yes	Yes	Yes
Connectivity and protection of significant wildlife habitat areas	Yes	Yes	Yes	Yes	Yes
Stormwater runoff, surface water flows and levels	Yes	Yes	Yes	Yes	Yes
Surface water contamination, and degradation generally	Yes	Yes	Yes	Yes	Yes
Wetland and riparian area viability	Yes	Yes	Yes	Yes	Yes
Groundwater levels and availability, groundwater depletion	Yes	Yes	Yes	Yes	Yes
Groundwater contamination, and	Yes	Yes	Yes	Yes	Yes

degradation generally					
Water well contamination	Yes	Yes	Yes	Yes	Yes
Erosion, siltation, and dust	Yes	Yes	Yes	Yes	Yes
Soils bearing strength and stability for development	No	Yes	No	Yes	Yes
Wildfire hazard	Yes	No	Yes	No	Yes
Earthquake and landslide hazard	No	Yes	No	Yes	Yes
Flooding hazards and floodwater contamination	Yes	Yes	Yes	Yes	Yes
Archaeological and historic resources	Yes	Yes	Yes	Yes	Yes
Landscape scenic quality	Yes	Yes	Yes	Yes	Yes
Conservation and open space areas, scenic roads, and recreation trails, including visual impacts and noise	Yes	Yes	Yes	Yes	Yes
Agricultural crop lands and pasture lands	Yes	Yes	No	Yes	Yes
Nuisance, hazard, traffic, character, and visual impacts to residential uses	Yes	Yes	Yes	Yes	Yes
Nuisance, hazard, and visual impacts to commercial and public or institutional uses	Yes	Yes	Yes	Yes	Yes
Adequacy of roads for intended use	Yes	Yes	Yes	Yes	Yes
Water system availability and capacity	Yes	Yes	Yes	Yes	Yes
Fire protection and emergency medical service availability and	Yes	Yes	Yes	Yes	Yes

response times					
Sulfide and other reactive minerals	Yes	No	No	No	Yes

2. Sampling and Analysis Plan. The Applicant shall not commence the EIR until a licensed New Mexico Professional Engineer has prepared Sampling and Analysis Plans (SAPs) for Surface Water, Ground Water, Soils, Geochemistry, Vegetation, Terrain, and Cultural and Archaeological Resources that ensure the collection of sufficient information to adequately characterize each impact. Each SAP shall describe the sampling methodology, including the number, density, and sample locations, the collection method, including recording, mapping, and field data evaluation, and the methods for stabilizing, shipping, and analyzing the samples, including the chain of custody procedures. The applicant shall revise and submit a SAP if the Administrator determines that the SAP is not adequate or more samples or data are necessary.

11.7.1.9. Additional Plans, Reports and Assessments. The following additional plans, reports and assessments:

1. Technical and Financial Feasibility Assessment. The Applicant shall submit a Technical and Financial Feasibility Assessment that demonstrates the technical and financial feasibility of the proposed DCI for all phases of development, operation, and closure, including a description of debt and equity at each phase, the debt retirement schedule, estimated reclamation costs and schedule, sources of funding to retire debt, estimated construction costs and schedule, estimated annual costs, and proof that the applicant possesses the right and expertise to use the technology in the proposed DCI.

2. Applicant Background Report. The Applicant shall update and submit all information required in section 11.6.1.6 (Applicant Background).

3. Reclamation Plan. The Applicant shall submit a reclamation plan designed and certified by a New Mexico registered professional engineer with technical expertise in reclamation and approved by the Administrator which complies with the reclamation standards specified below. The same professional engineer, or another professional engineer with comparable expertise in reclamation and approved by the Administrator, shall oversee implementation of the Reclamation Plan at the operator’s expense. The plan shall demonstrate how reclamation of one phase will begin prior to initiation of the next phase and how reclamation will result in sustained conditions meeting all of the standards of this Chapter and the SLDC. The plan shall identify the phases of reclamation, if any, and estimate the cost of each phase and the full cost of reclamation. The reclamation plan shall comply with the following standards:

a. General. Land areas shall be reclaimed to a condition suitable for new land uses. Wildlife habitat conditions shall be restored in a manner comparable to or better than the habitat conditions that existed prior to the DCI. All other site conditions shall comply with the standards of this Chapter, the SLDC, and all other relevant federal, state, and/or local requirements;

b. Grading. Disturbed areas shall be re-graded to blend into and conform to the general natural form and contours of the adjacent areas. All slopes shall be graded to 3:1 or less; and

c. Revegetation. The plan shall describe the vegetation prior to any grading of the site and shall demonstrate how the site will be returned to its original or better vegetated condition using NMSU Seed Certification and Noxious Weed Certification. The plan shall identify all soil types and depths, and the best practice methods for salvaging, storing, and replacing disturbed soils. If no soil is present, the plan shall explain how revegetation will be accomplished. If irrigation is necessary, the plan shall explain how the site will be managed in perpetuity.

4. Emergency Response and Preparedness Plan. An Applicant shall submit an Emergency Response and Preparedness Plan (ERP Plan) which includes:

a. a description and plan of response to emergencies that may be associated with the operation of the proposed DCI, including explosions, fires, gas or water pipeline leaks or ruptures, hazardous material spills, vehicle accidents, and the failure of berms, retaining walls, dams or ponds;

b. fire prevention, response, and health and safety plans;

c. the names, addresses, and 24-hour telephone numbers of at least two (2) persons responsible for emergency response; and

d. a printed map with latitude/longitude UTM graticules along the edges. The maps shall be produced and available in GIS format based on the standard Santa Fe County GIS spatial reference. Additionally, all digital data shall be provided to the County for use in its GIS databases and mapping.

5. Fugitive Dust Control Plan. The applicant shall submit a fugitive dust control plan, including the chemical and physical characterization of the dust, the control measures to be implemented to reduce the dust, and the sources of water to be used for dust control, provided however that the Administrator shall not approve a dust control plan which proposes to use potable water for dust control.

6. Greenhouse Gas Emissions Assessment and Plan. The Applicant shall submit a Greenhouse Gas Emissions study and plan prepared by a New Mexico registered professional engineer with demonstrable technical expertise in emissions modelling. The study shall indicate the added greenhouse gas emissions attributable to the proposed DCI and the plan shall demonstrate how the applicant proposes to offset those attributable emissions.

7. Hazardous and Toxic Materials Plan. The Applicant shall submit a Hazardous and Toxic Materials Plan prepared by a New Mexico registered professional engineer with demonstrable technical expertise in the handling and storage of hazardous materials. The plan shall indicate the types of hazardous or toxic materials associated with each phase of the proposed DCI including but not limited to any fuels, oils, explosives, hazardous and/or toxic chemicals, reactive chemicals

and/or minerals, and/or biological toxins along with a detailed plan for the handling, storage, and disposal of those materials meeting the standards of this Chapter and the SLDC.

8. Proof of Responsible and Established Technology and Practices. The Applicant shall provide written documentation that the proposed DCI activity will utilize established practices and technology that have been utilized in the United States or Canada for at least 10 years and successfully reclaimed within the last 10 years 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.

11.7.2. Review Criteria. The Hearing Officer, Planning Commission, and Board of County Commissioners shall consider the following criteria when making recommendations and determinations for approval, conditional approval, conditional approval or denial of a DCI Conditional Use Permit:

11.7.2.1. Whether the proposed DCI is consistent with the DCI Overlay Zoning District;

11.7.2.2. Whether the proposed DCI is consistent with the SGMP and any applicable Area, District and Community Plan;

11.7.2.3. Whether any previous phase of the DCI resulted in or the proposed DCI could result in harm to any resource referenced in this Chapter and the SLDC, including soil, water, air, roads, facilities, structures, cultural, historic, or archaeological sites, adjoining uses, or public or private property;

11.7.2.4. Whether the proposed DCI complies with all federal, state and local laws and regulations;

11.7.2.5. Whether the Applicant, which includes all partners or limited partners of a partnership Applicant, all officers, directors or executives of a corporate Applicant, and all stockholders holding more than five percent of the stock of a corporate Applicant, and any person with an ownership interest in the Applicant, has complied with federal, state or local laws, regulations, development orders, conditions of approval and other requirements in previous activities by the Applicant, the persons identified in this paragraph, or entities they own or control; and

11.7.2.6. Whether the applicant proves that the proposed DCI will comply with the standards of this Chapter and the SLDC or any other relevant federal, state, or local standards.

11.8. PERFORMANCE STANDARDS.

11.8.1. Visual Resources. The DCI shall meet the following standards for the protection of visual resources in the County:

11.8.1.1. General. The view from all public roads, rivers, parks, and adjoining residential areas shall be screened;

11.8.1.2. Buildings. All buildings shall be designed, scaled, and located to reduce the visibility of the DCI from off-site;

11.8.1.3. Vegetation - General. Vegetation in the DCI Overlay Zoning District shall be preserved to the maximum extent possible; and

11.8.1.4. Vegetation - Screening. Vegetation that screens any part of the proposed DCI shall be preserved.

11.8.2. Hazardous and Toxic Materials. Any hazardous and/or toxic materials, including all materials identified in the Hazardous and Toxic Materials Plan, shall be contained within a tank or structure with a lined impoundment designed by a New Mexico registered professional engineer with expertise in the storage of hazardous materials and lined impoundments. The tank or structure and lined impoundment shall be set back a minimum of five hundred (500) feet from the property boundaries of the DCI and a minimum of one thousand (1000) feet from a private domestic well or water body, including stream, pond, lake, spring, seasonal watercourse, wetland, and riparian area, and a minimum of one thousand (1000) feet from any well or spring that supplies water for a public water system, or any greater distance required by a wellhead protection program.

11.8.3. Water Resources. The DCI shall not degrade water quality beyond the applicable standards of the New Mexico Water Quality Act (NMAC 20.6.4), exceed the right to use water, cause any detriment to existing water rights, or act in contradiction to the conservation of water in the County. The Administrator shall consider factors including but not limited to the following in determining impact on water resources:

11.8.3.1. Chemical, physical and biological characteristics including water circulation, temperature, substrate, suspended particulates, clarity, odor, color and taste of water, concentration of heavy metals or any other regulated constituents, and concentration of nutrients, including phosphorus and nitrates;

11.8.3.2. Erosion or sedimentation;

11.8.3.3. Sediment and other pollutant loading;

11.8.3.4. Filtration, pollutant uptake and storage capacity of wetlands and riparian areas;

11.8.3.5. Stream channel morphology, shoreline stability, and structure and function of a water body, including stream, pond, lake, spring, seasonal watercourse, wetland, and riparian area;

11.8.3.6. Surface and subsurface flow patterns;

11.8.3.7. Nutrient levels and eutrophication rates;

11.8.3.8. Capacity, aerial extent, and functioning of a water body, including stream, pond, lake, spring, seasonal watercourse, wetland, and riparian area.

11.8.3.9. Flushing flows, stormwater runoff, and other nonpoint sources of pollutants;

11.8.3.10. Groundwater recharge and discharge patterns in the watershed; and

11.8.3.11. Any wells.

11.8.4. Wildlife and Environmental Resources. The DCI shall meet the following standards for the protection of wildlife and environmental resources in the County:

11.8.4.1. Any modification of the terrain shall be environmentally sound and not result in

net loss of wildlife habitat;

11.8.4.2. The DCI shall be limited to locations and times of year that ensure no significant negative impacts to federally or state listed endangered or threatened species or to any other species of conservation concern; and

11.8.4.3. The DCI shall not interrupt a wildlife corridor.

11.8.5. Terrain Management. The DCI shall meet the following terrain management standards:

11.8.5.1. Organic Materials. Fill areas shall be prepared by removing organic materials, such as vegetation and any other material, which is detrimental to the proper compaction of the site or not otherwise conducive to the stability of the site;

11.8.5.2. Vegetation. Existing vegetation shall not be removed more than thirty (30) days prior to the commencement of grading. Areas that have been filled, covered, or graded shall be revegetated as soon as practicable.. Site specific native seed mixtures shall be used, with the exception of landscaped areas, if any. Mulching shall be used to support vegetation growth;

11.8.5.3. Noxious Weeds. All seed mixtures, mulch, and erosion control and revegetation materials shall comply with the NMSU Seed and Noxious Weed Certifications;

11.8.5.4. Topsoil. The topsoil shall be stripped and stockpiled on site for redistribution over the completed final grade. Stockpiling shall conform to best practices and shall ensure that soil organisms in stockpiled soil remain viable until completion of the redistribution process;

11.8.5.5. Cut and Fill Slopes. Cut and fill slopes shall be graded to a slope no steeper than 2:1, or fifty (50) percent, unless a retaining wall is used. The County shall require the submission of a detailed engineering report and analysis prepared by a professional engineer relative to the safety of such cuts and fills;

11.8.5.6. Surface Runoff. The volume of surface runoff shall not exceed the volume that occurred prior to commencement of the DCI. Runoff shall be contained in a retention pond designed and sized by a New Mexico professional engineer; and

11.8.5.7. Sediment and Erosion. Sediment shall not be transported or deposited into any water body, including stream, pond, lake, spring, seasonal watercourse, wetland, and riparian area, or any property outside the property boundaries of the DCI. Best management practices, including grading, fencing, landscaping, soil stabilization, and backfilling, shall be used to reduce the rate and volume of run-off, reduce erosion, and prevent the transport and deposition of sediment.

11.8.6. Fugitive Dust. The DCI shall meet the following standards for the control of fugitive dust:

11.8.6.1. The Permittee shall reduce fugitive dust to the maximum extent possible, including the use of wet suppression through manual or mechanical application, fabric fencing, truck tarps, chemical dust suppressants meeting federal, state, and county water resources protection standards and applied in accordance with the manufacturer's recommendations, and road hardening or paving;

11.8.6.2. The Permittee shall install entry/exit aprons, steel grates, or other equivalent devices to remove bulk material from the tires of vehicle traffic; and

11.8.6.3. The Permittee shall not use potable water for dust control.

11.8.7. Greenhouse Gas Emissions. The proposed DCI results in net zero greenhouse gas emissions. The Greenhouse Gas Emissions Plan shall demonstrate how any emissions attributable to the DCI will be offset.

11.8.8. Fiscal Impact. All costs associated with the proposed DCI are borne entirely by the applicant and the proposed DCI shall have no negative fiscal impact on the County.

11.8.9. Financial Feasibility. The applicant demonstrates an ability to pay for all phases of the proposed DCI including reclamation and remediation by posting a financial guarantee as specified in 11.5.7 (Costs, Fees, and Financial Assurances).

11.8.10. Air Quality. The proposed DCI complies with all federal and state air quality standards.

11.8.11. Annual Monitoring Report. The DCI shall meet the following monitoring standards:

11.8.11.1. The Permittee shall submit an annual monitoring report to the Land Use Administrator no later than January 31st of each year after approval of the DCI Conditional Use Permit. The report shall describe the phase of operation, if applicable, of the nature of operation during the previous year, the size and nature of disturbance of the area affected by operation, the structures or facilities constructed, the number of on- and off-site truck trips and sizes of trucks, the area developed and primarily effected by DCI operations, quantities and type of materials extracted, transported, or disposed, the status of reclamation including the size and type of activities and the estimated cost of reclamation to be completed, the results of air, soil and ground or surface water monitoring, an updated ERP, and any other information requested by the Administrator;

11.8.11.2. The Permittee shall present the report at a public hearing in front of the Board of County Commissioners;

11.8.11.3. After reviewing the report, the Land Use Administrator shall determine whether the DCI Conditional Use Permit should be revised, suspended, or revoked. If the Administrator determines that the permit should be revised, she shall require the Permittee to cease operations and file a new application for a DCI Conditional Use Permit. The Administrator may suspend or revoke the DCI Conditional Use Permit in order to ensure the Permittee's compliance with this requirement, the Permit, or this Chapter;

11.8.11.4. Reports shall be kept on file as a matter of public record; and

11.8.11.5. If the Permittee fails to timely submit any report required under this section, the Administrator may take any enforcement action available to her, including but not limited to suspension of the Permit.

11.9. REGULATIONS FOR LANDFILLS.

11.9.1. Purpose; Intent. The purpose of this Section is to establish operational, location, and general standards for landfills and associated activities, in addition to those requirements in sections 11.1 through 11.7, to mitigate negative impacts on the surrounding properties.

11.9.2. Applicability. This Section applies to any place of business or establishment which is maintained, operated or used for the disposal of solid waste located within the County.

11.9.3. Operational Standards and Requirements.

11.9.3.1 Solid Waste Permit. The Applicant shall obtain a Solid Waste permit from the New Mexico Environmental Improvement Board per Title 20, Chapter 9, Part 3 of the New Mexico Administrative Code (NMAC). The permit shall be submitted with the application for a DCI Conditional Use Permit.

11.9.3.2. Setbacks.

1. refuse and salvage material shall not be placed or stored either temporarily or permanently closer than three hundred (300) feet from the property boundaries and five hundred (500) feet from all public road rights-of-way, public recreational easements, and any water bodies and/or seasonal water courses.

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.

11.9.3.3. Analysis of Landfills in the County. The Applicant shall submit an analysis of the existing capacity, the remaining life, and the need for a new solid waste disposal facility in the County.

11.9.3.4. Hours of Operation. A landfill shall not be open to the public earlier than 8 a.m. nor remain open later than 5 p.m.

11.10. REGULATIONS FOR JUNKYARDS.

11.10.1. Purpose; Intent. The purpose of this Section is to establish operational, location, and general standards for junkyards and associated activities, in addition to those requirements in sections 11.1 through 11.7, to mitigate negative impacts on the surrounding properties.

11.10.2. Applicability. This Section applies to any place of business or establishment which is maintained, operated or used for storing, keeping, buying or selling junk or scrap, or for the maintenance or operation of a motor vehicle graveyard located within the County.

11.10.3. Operational Standards and Requirements.

11.10.3.1. Hours of Operation. A junkyard shall not be open to the public earlier than 8 a.m. nor remain open later than 5 p.m.

11.10.3.2. Setbacks. The refuse and salvage material shall not be placed or stored either temporarily or permanently closer than three hundred (300) feet from the property boundaries and five hundred (500) feet from all public road rights-of-way, public recreational easements, and water bodies.

11.11. REGULATIONS FOR LARGE-SCALE SAND AND GRAVEL EXTRACTION.

11.11.1. Purpose; Intent. The purpose of this Section 11.10 is to establish operational, location, and general standards for sand and gravel extraction and processing and associated extraction activities, in addition to those requirements in sections 11.1 through 11.7, to mitigate negative impacts on the surrounding properties, conserve of natural resources, and reclaim the land.

11.11.2. Applicability. This Section applies to any sand and gravel extraction and processing activity including any removal, stockpiling, or processing of construction materials, including but not limited to, stone, sand, gravel, aggregate, or similar naturally occurring construction materials. Any screening, crushing, gravel recycling, washing or stockpiling of aggregate, in concert with extraction, constitutes a gravel operation. An operation that affects ten (10) or more acres of land, extracts or processes more than twenty-thousand (20,000) tons of material, or utilizes blasting is considered Large Scale Sand and Gravel Operations and is subject to this section. Sand and Gravel operations affecting ten (10) or fewer acres of land, extracting or processing less than twenty-thousand (20,000) tons of material, or not utilizing blasting are not applicable to this Chapter and are regulated under Section 10.19 (Small Scale Sand and Gravel Extraction). One or more small, incremental increases of an approved sand and gravel extraction or processing operation that effectively avoid the requirements of this section are prohibited. No applicant, operator or owner, whether individually or as an agent or corporate officer of any business entity, who has been granted an approval to operate a sand and gravel extraction or processing operation of less than ten (10) acres of land or less than twenty-thousand (20,000) tons of material shall be granted approval to operate or expand that operation or another sand and gravel extraction or processing operation on the same, contiguous, or nearby property, if the combined operations would affect more than ten (10) acres of land, or process more than twenty-thousand (20,000) tons of material, unless as authorized pursuant to a DCI issued under this section.

11.11.3. This Section does not apply to:

11.11.3.1. Excavation of a basement and footing for a building;

11.11.3.2. Excavation for retaining walls;

11.11.3.3. Mineral Resource Extraction and Processing subject to section 11.13.

11.11.4. Operational Standards and Requirements.

11.11.4.1. Hours of Operation. Hours of operation are limited to the period between sunrise or 7:00 a.m. whichever is latest, and sunset or 6:00 p.m., whichever is earliest, Monday through Saturday. The Board may further restrict hours of operation.

11.11.4.2. Setbacks. A sand and gravel excavation or processing operation shall not be located closer than five hundred(500) feet from property boundaries, public road rights-of-way, public recreational easements, and waterbodies and/or seasonal water courses, and One half (1/2) mile from residential structures, shall maintain an additional minimum buffer of one hundred (100) feet of natural vegetation between the operation and the annual high water mark of any waterbody.

11.11.4.3. Signs. Within addition to other applicable requirements of section 7.9 (Signs) of the SLDC, a sand and gravel extraction or processing operation shall have no more than two (2) signs of four (4) square feet each.

11.11.4.4. Blasting Permit. If a proposed operation intends to do any blasting, a blasting permit must be obtained before any blasting can occur.

1. a blasting plan must be included in an application for a blasting permit.

2. the plan shall be created by a qualified blasting firm which is knowledgeable of State of New Mexico requirements and National Fire Protection Association (NFPA) 495.

3. blasting may only be conducted during the permitted hours of operation.
4. the blasting plan shall identify the maximum number of holes to be shot each occurrence, the type of explosive agent, maximum pounds per delay, method of packing, type of initiation device to be used for each hole, blasting schedule and establish reasonable noise and vibration estimates not exceeding the standards set in Table 11.2.
5. the applicant shall notify the Administrator and, upon request, the owners and lessees of adjoining properties of the proposed blasting no less than ten (10) working days prior to a blast, and shall provide the name of the qualified blasting firm and proof of insurance of no less than one million (1,000,000) dollars for each occurrence.
6. the County may hire a qualified blasting firm to review the applicant's blasting plan at the expense of the applicant.
7. the operator shall require that any blasting be conducted by someone who has been trained and examined and who holds certification issued by the Director of the Mining and Minerals Division of the Energy, Minerals and Natural Resources Department.

11.11.4.5. Blasting.

1. the Applicant shall monitor all blasting and record all noise and vibration levels, and report this information to the Land Use Administrator within five (5) working days of blasting and shall comply with the following ground vibration and noise levels:
2. ground vibration shall not exceed 0.50 inches per second Peak Particle Velocity (PPV) at any property boundary, unless the adjoining property is owned by the operator and not leased to any other person.
3. noise levels shall not exceed the values specified in Table 11-2:

Table 11-2 Maximum Allowable Noise Levels.

Lower frequency limit of measuring system, Hz + 3dB	Maximum level in dB
0.1 Hz or lower—flat response	134 peak
2.0 Hz or lower—flat response	133 peak
6.0 Hz or lower—flat response	129 peak

11.11.5. Application Requirements. In addition to other applicable requirements in this Chapter, the applicant shall provide:

11.11.5.1. Project description. The Applicant shall provide a detailed statement describing the project including:

1. the amount and type of materials to be excavated;
2. the duration of the excavation activity and reclamation activity;
3. the proposed method of excavation;
4. the amount of fill to remain on site; and
5. a statement from a New Mexico professional engineer indicating the type of material(s) to be excavated and their suitability for road and structural fill construction.

11.12. REGULATIONS FOR CONCENTRATED ANIMAL FEEDING OPERATIONS. Reserved.

11.13. REGULATIONS FOR OIL AND GAS DRILLING AND PRODUCTION. *See* County Ordinance No. 2008-19.

11.14 REGULATIONS FOR MINERAL RESOURCE EXTRACTION AND PROCESSING.

11.14.1. Purpose; Intent. The purpose of this section 11.14 is to establish operational, location, and general standards for mineral resource extraction and processing, in addition to those requirements in sections 11.1 through 11.7, in order to:

11.14.1.1. To protect the health, safety and welfare of the citizens of the County, including their quality of life, economy, cultural heritage, history and traditions, infrastructure and natural resources, including air, water, wildlife and scenic beauty;

11.14.1.2. To protect the citizens and environment of the County from harmful, hazardous, and toxic effects and nuisances resulting from mineral resource extraction and processing, including the degradation of air quality, surface and ground water quality and quantity, visual quality, soil erosion and land subsidence, noise and vibration, fire and explosion hazards, traffic, road impact safety and deterioration, and other potential effects;

11.14.1.3. To protect wildlife, wildlife corridors, wildlife habitat, and native biological diversity;

11.14.1.4. To protect the scenic quality of the County, which is critically important to its economy, from the potentially adverse effects of mineral resource extraction and processing; and

11.14.1.5. To assure that public roads and utilities required for mineral resource extraction and processing are adequately funded, built, improved, and maintained;

11.14.1.6. To assure that mineral resource extraction and processing are compatible with other uses in the County, including traditional patterns of land use and development, recreational uses, and existing or planned urban or metropolitan areas;

11.14.1.7. To assure that the remediation and reclamation and closure of areas used or affected by mineral resource extraction and processing complies with the requirements and standards of the SLDC and this Chapter;

11.14.1.8. To assure that sufficient Financial Assurance is provided to cover all potential costs of mineral resource extraction, processing and reclamation, and to protect the County's taxpayers from bearing any cost related to mineral resource extraction and processing;

11.14.1.9. To provide the applicant with notice of the process and issues that affect the County's review and decision regarding proposals to conduct mineral resource extraction and processing; and

11.14.1.10. To provide for a fair and efficient system for the regulation of mineral resource extraction and processing.

11.14.2. Applicability. This Section applies to all mineral resource extraction and processing in the County.

11.14.2.1. All requirements of this Chapter shall apply to mineral resource extraction and processing except when this Section establishes a more stringent requirement, in which case the more stringent requirement shall be applicable.

11.14.2.2. Mineral resource extraction and processing on state or federal land shall be subject to this Chapter except to the extent prohibited by law. The applicant bears the burden to demonstrate that a provision of this Chapter is prohibited, provided that such provision shall be construed and applied to avoid such effect.

11.14.2.3. A person may not engage in exploration for mineral resources without first obtaining approval of a DCI Overlay Zoning District and obtaining the Administrator's approval prior to initiating the exploration. A person may obtain the Administrator's approval by submitting an application describing the location and nature of the exploration, and attaching a copy of each permit or other approval required by law or regulation. The Administrator may approve an application for mineral resource exploration if the person demonstrates that the proposed exploration meets the provisions, standards and criteria of sections 11.5, 11.8, 11.14.3 and 11.14.6, to the extent applicable. The Administrator may impose reasonable conditions on approval of an application to explore for mineral resources. Exploration is defined as the process of gathering information to assess the mineral potential of a specific area, including trenching, stripping, grooving, assay core drilling, development of access infrastructure, prospecting, mapping, and conducting a survey of any type.

11.14.2.4. No application for a permit to extract or process any uranium mineral or other radioactive mineral shall be considered until the County adopts a regulation for such activity that protects the public health, safety, and welfare, and the environment.

11.14.3. Design Criteria. A DCI Conditional Use Permit for mineral extraction and processing shall not be issued unless the Applicant demonstrates compliance with these design criteria:

11.14.3.1. Mineral resource extraction and processing shall not cause or contribute to the contamination or depletion of a water resource, in perpetuity;

11.14.3.2. All facilities shall be designed to withstand, at a minimum, a one thousand (1,000) year storm event based on National Oceanic and Atmospheric Administration (NOAA) data for the area within the DCI Zone Overlay District;

11.14.3.3. All aspects of the mineral resource extraction and processing operation shall be designed with water conservation as a primary concern;

11.14.3.4. Active or continuous treatment of water, air, or soil shall not be used for any purpose including to address any noncompliance with a standard, requirement, or criterion of the SLDC or this Chapter;

11.14.3.5. Compliance with any control measure to protect air, water, or soil, including any standard, requirement, or criterion of the SLDC or this Chapter, shall not be used to demonstrate compliance with these design criteria; and

11.14.3.6. All designs, including any alterations to designs, shall be certified by a licensed New Mexico professional engineer.

11.14.4. Application Requirements. In addition to the general requirements for DCI Conditional Use Permits, an application for mineral resource extraction and processing shall contain the following:

11.14.4.1. Applicant. The name, mailing address and telephone number of the applicant;

11.14.4.2. Surface and Mineral Estates. A map showing surface and mineral ownership of the mineral resource extraction and processing and the land in the DCI Overlay Zone District, including the name, mailing address, and telephone number of each owner of each surface and mineral estate as shown by the most recent county assessor's property tax schedule;

11.14.4.3. Right of Entry. Proof of the applicant's right to enter onto and conduct mineral resource extraction and processing in the DCI Overlay Zone District;

11.14.4.4. State and Federal Permits. All relevant state and federal permits including but not limited to permits related to the protection of threatened and/or endangered species; and

11.14.4.5. Historic Land Use. A description of the present and historic land use in the DCI Overlay Zone District and within five (5) miles of its boundaries, including any existing or previous mineral resource extraction and processing, the land use in the area adjacent to the DCI Overlay Zone District and the area of proposed mineral resource extraction and processing, and the land capability, productivity and soils based upon classifications published by the U.S. Soil Conservation Service.

11.14.4.6. Project Description.

1. a description of the type and method of proposed mineral extraction and processing, including mining and engineering techniques and commodity to be produced, and other minerals that would be incidentally extracted, processed, and exposed;

2. a description of any abandoned or existing mines within five (5) miles of the DCI Overlay Zone District's boundaries;

3. a map at a scale approved by the Administrator that complies with the requirements of Section 11.5.8 (Maps);

4. a description, map, and schedule of construction and operation, including the location and number of acres of land involved, for all facilities, including but not

limited to:

- a. leach pads;
- b. stockpiles;
- c. dumps;
- d. impoundments;
- c. ponds;
- d. diversions;
- e. disposal systems;
- f. pits;
- g. tailings disposal facilities;
- h. mills;
- i. water treatment facilities;
- j. air emission equipment;
- k. storage areas;
- l. topsoil and topdressings storage; and
- l. other facilities or structures.

11.14.4.7. Baseline Data Report. A baseline data report describing the existing environment of the DCI Overlay Zone District as specified below. The data shall be collected over a period of not less than twelve (12) consecutive months as applicable. Prior to collecting a category of baseline data, the applicant shall submit Sampling and Analysis Plans (SAPs) described in section 11.7.2.2. The baseline data report shall include the following:

1. the climatological factors, including precipitation, prevailing winds, temperature, and NOAA data defining the one thousand (1,000) year storm event for the DCI Zone Overlay District;
2. a topographic map showing the boundaries, the location of all structures within one-half (1/2) mile, and all man-made features, at a scale of 1-inch equals 2000 feet (1:24,000) or as approved by the Administrator, and in paper and GIS formats following the requirements of Section 11.5.7 (Maps);
3. a description and map showing existing vegetation types, including cover, density, and productivity, and, if the vegetation on site has been adversely impacted by previous activities, a description and map based on information from adjacent areas;
4. a description and map showing existing wildlife, including types, communities,

and populations, and, if the wildlife on site has been adversely impacted by previous activities, a description and map based on information from adjacent areas;

5. state and federally listed sensitive, threatened or endangered plant species on the site and immediately adjacent properties;

6. state and federally listed sensitive, threatened or endangered wildlife species on the site and immediately adjacent properties;

7. a description and map showing cultural and archaeological sites and traditional cultural properties, including sites on or eligible for listing on the National Register of Historic Places or the State Register of Cultural Properties, including a statement demonstrating that the applicant adequately consulted with each potentially affected tribe;

8. the topsoil, including its physical and chemical characteristics, its suitability for reclamation, and depth and characteristics of A, B, and C horizons if applicable;

9. the ore body and surrounding rock, and the geology and minerology, including cross-sections of overburden, mineralized zones, and ore bodies; and

10. surface water and ground water:

a. a description and map showing the location and physical parameters of watersheds and surface waters, including streams, lakes, reservoirs, springs, watercourses, and riparian and wetland areas, classified as perennial, ephemeral, or intermittent;

b. a description and map showing the location and physical parameters of ground water, including depth, total dissolved solids, water chemistry, flows and gradients, transmissivity and storage capacity;

c. a description and map showing the location and physical parameters of man-made water features such as acequias, irrigation canals, sumps, and drains;

d. a description and map showing wells within two (2) miles of the boundaries of the DCI Overlay Zone District;

e. a description and map showing the surface and bedrock geology with cross sections clearly illustrating the lithologic units, structures, faults and fractures, mineralized zones, and water table, including whether a unit, structure, fault, fracture, or zone is water bearing, the amount of water contained in such unit, variation in amount during the sampling period, flow and gradient, transmissivity, storage capacity, and collection areas; and

f. a description and map showing the ownership of water rights in surface and ground water in the DCI Overlay Zone District.

11.14.4.8. Contaminated Baseline and Legacy Uses. In the event that baseline conditions do not meet the standards of this Chapter and the SLDC, the applicant shall be required, as a condition of permit approval, to submit and follow a phased plan approved by the

Administrator to improve or remediate conditions to acceptable standards prior to or concurrent with the commencement of mining activity. Additionally, should any part of the Overlay District include a legacy mine or historic mining site, the Board may include as a permit condition, the reclamation of that site on a phased schedule prior to or concurrent with the commencement of the proposed mining activity. The Applicant shall bond for 125% percent of the cost of remediating contaminated baseline condition and reclaiming the legacy mine or historic mine site.

11.14.4.9. Environmental Impact Report. In addition to the requirements of section 11.7.1.8 (Studies, Reports, and Assessments), the applicant shall submit a report describing the environmental conditions expected to occur during and after mineral resource extraction and processing, including construction, operation, reclamation, post-reclamation, and conditions during and after a one thousand (1,000) year storm event based on National Oceanic and Atmospheric Administration (NOAA) data for the area within the DCI Overlay Zoning District. The report shall describe these environmental conditions using geological, meteorological, hydrological, geochemical, and mineralogical modeling for each baseline described in Section 11.14.4.7 (Baseline Data Report), including:

1. the characteristics of each material to be extracted, processed, stored, deposited, exposed, or disposed, including waste rock, raw and spent ore, tailings, pits, walls, and underground workings;
2. the potential and nature of geochemical alteration of each material to be extracted, processed, stored, deposited, exposed, or disposed that could result in the leaching, acid generation, emission, or release of an air or water contaminant;
3. the nature and extent of sulfide mineralization and acid generation related to each material to be extracted, processed, stored, deposited, exposed, or disposed; and
4. the hydrologic effect, including any geochemical alteration, sulfide mineralization, and acid generation associated with mineral resource extraction and processing, including construction, operation, reclamation, and post-reclamation, as demonstrated by cross sections and 3D models showing the location of pads, stockpiles, ponds, pits, walls, and underground workings, and other related features, potential fracturing in the geologic subsurface and their relation to the water table, hydrology, and mineralization.

11.14.4.10. Stormwater. A description of the proposed method for management and disposal of stormwater runoff from disturbed and undisturbed ground that prevents clean water from entering any area containing a material that has been extracted, processed, stored, deposited, exposed, or disposed, and that captures any water that contacts a material that has been extracted, processed, stored, deposited, exposed, or disposed.

11.14.4.11. Sediment. A description of the proposed method for reduction and control of sediment transport.

11.14.4.12. Wastewater. A description of the proposed method for disposal of domestic waste, including the location and design of septic tanks and leachfields.

11.14.4.13. Solid Waste. A description of the proposed method for management and disposal of domestic and industrial solid waste, including the implementation of best practices for minimization and recycling.

11.14.4.14. Extraction and Processing. A description and map showing the proposed mining method, milling method, disposal of waste rock and tailings and existing and proposed facilities, including:

1. open pit and underground mining facilities, including location, depth, size, acreage, and geology;
2. material handling and processing facilities, including crushing, milling, concentrating, smelting and solvent extraction and electrowinning;
3. ancillary facilities, including sumps, tanks, pipelines, transportation, and offices. The description shall include the location, purpose, construction material, and dimensions and capacity;
4. storage and disposal facilities, including tailing, process water, and stormwater impoundments, drainage channels, leach pads, waste rock stockpiles, and slag and residue piles. The description shall include the location, purpose, liner material, and storage or disposal capacity; and
5. process and domestic water, including the location, construction method and material, dimension and capacity of wells, meters and pipes.

11.14.4.15. Storage, Disposal, and Maintenance of Ore, Tailings, Waste Rock, and High Walls. A plan for handling each material extracted, processed, stored, deposited, exposed, or disposed, and each facility proposed for such use, in a manner that will not cause or contribute to the contamination of surface or ground water in perpetuity, signed and sealed by a licensed New Mexico professional engineer, taking into consideration the amount, intensity, duration, and frequency of precipitation, the watershed area, topography, geomorphology, soils, and vegetation.

11.14.4.16. Operating Plan. A plan describing the procedures for operating the facilities for mineral resources extraction and processing developed based on the findings of section 11.14.4.10 (Environmental Impact Report), including:

1. a schedule of anticipated periods of temporary closure including but not limited to holidays or anticipated regular maintenance;
2. notification of appropriate regulatory authorities of temporary closures, both scheduled and unscheduled;
3. a description of water treatment processes;
4. a description of processes for containing leachate and runoff from materials that have been extracted, processed, stored, deposited, exposed, or disposed;
5. a description of processes and protocols for managing fluids in the operation, including routine inspections of each facility;
6. a protocol for managing the facilities and fluids during emergencies and non-routine operations, including:

- a. emergency by-pass and containment procedures for each facility, including treatment facilities damaged or unable to keep up with demand;
- b. procedures to cease operations during emergencies and non-routine operations;
- c. labor requirements, including management and security, to cease operations and manage facilities during emergency and non-routine operations;
- d. identification of potential hazards, including the generation and release of toxic and hazardous materials, during emergency and non-routine operations
- e. monitoring plan to identify and characterize toxic and hazardous materials generated or released during emergency and non-routine operations;
- f. pump energy usage and utility rates;
- g. estimated cost to cease operations and manage facilities during emergencies or non-routine operations;
- h. health and Safety Plan; and
- i. procedures to stabilize facilities and return to regular operations.

11.14.4.17. Blasting Plan. A plan created by a qualified blasting firm which is knowledgeable of State of New Mexico requirements and National Fire Protection Association (NFPA) 495, which identifies the maximum weight of explosives detonated on each occurrence, the type of explosive agent, maximum pounds per delay, method of packing, type of initiation device to be used for each hole, blasting schedule and noise and vibration estimates not exceeding the standards set in Table 11.2.

11.14.4.18. Monitoring Plan. In addition to the requirements of Section 11.8.11 (Annual Monitoring Report), the applicant shall submit a Monitoring Plan, including Quality Assurance/Quality Control (“QA/QC”) procedures, describing the collection and evaluation of data to ensure compliance with the standards of this Chapter and the SLDC, including:

1. representative samples of each material extracted, processed, stored, deposited, exposed, or disposed;
2. representative samples of ground and surface water, including each point of potential contact with a material that could leach, generate, or release a water contaminant;

3. hydrological tests to evaluate changes in flow, gradient, and water table; and
4. monitoring of operations to detect leaks and ensure proper function of facilities.

11.14.4.19. 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 and shall be based on the findings of sections 11.14.4.8 (Baseline Data Report) and 11.14.4.10 (Environmental Impact Report). Compliance with the approved Wildlife Impact Mitigation Plan shall be a condition of the Permit.

11.14.4.20. Closure Plan. The Permittee shall submit a closure and post-closure plan addressing the closure requirements at the time of application, and shall update the plan no later than one (1) year prior to the commencement of closure. The plans shall be based on the findings of section 11.14.4.10 (Environmental Impact Report) and shall identify a New Mexico licensed professional engineer responsible for implementation of the plans and approved by the Administrator. Following the completion of the facility closure, the engineer shall prepare a final report describing the actions taken by the permittee, the results of closure and post-closure monitoring, and a certification that the DCI Overlay Zoning District after closure will compliance with all applicable standards in perpetuity.

11.14.4.21. Reclamation.

1. a detailed description of the proposed post-mining land use within the DCI Overlay Zone, including the written approval of each surface owner for the proposed use;
2. a plan, stamped by a professional engineer with demonstrable experience in mine reclamation, to reclaim the DCI Overlay Zone, including:
 - a. a description of the methods to be used;
 - b. a description and map showing the schedule and acres to be reclaimed;
 - c. a topographic map of the anticipated surface configuration after the completion of reclamation including cross sections on one hundred (100) foot centers showing the existing ground and the proposed reclaimed surface;
 - d. a description of the potential for the generation of water contaminants after reclamation and how contaminants will be eliminated;
 - e. a description of the measures for siting, designing, constructing, and managing facilities to ensure the success of reclamation;
 - f. a mass balance table showing for each phase and year of operation, the quantity of topsoil salvaged and replaced, the quantity of topsoil estimated

to remain, the quantity of ore mined, and the quantity of waste generated and placed in each storage facility; and

g. a plan for salvaging and storing topsoil from the mine site for use in reclamation.

11.14.4.22. Additional Information. Any additional information which the Administrator deems necessary to review the application.

11.14.5. Application Review. The Administrator may contract with, and the applicant shall pay for, any consultant retained by the County, in its discretion, to provide assistance related to its review of the application.

11.14.6. Performance Standards and Conditions.

11.14.6.1. Hours of Operation. Hours of operation are limited to the period between sunrise or 7:00 a.m. whichever is latest, and sunset or 6:00 p.m., whichever is earliest, Monday through Friday. The Administrator may further restrict hours of operation.

11.14.6.2. Setbacks. Mineral resource extraction and processing, and all related equipment, structures, and facilities:

1. shall be no closer than three hundred (300) feet to the boundaries of the DCI Overlay Zone District and five hundred (500) feet from all public road rights-of-way, public recreational easements, and one hundred (100) year flood zones;
2. shall be no closer than one thousand (1,000) feet to the seasonal high water mark of any water body or seasonal watercourse, including a minimum one hundred (100) foot buffer zone of natural vegetation measured from the annual high water mark of a surface water, including a perennial, ephemeral, and intermittent body; and
3. shall be no closer than one half (1/2) mile to any Traditional Community Zoning District, Planned Development District Zoning District, or single-or multi-family dwelling, park, recreational use, or institutional structures including but not limited to churches, public buildings, and schools not within the DCI Overlay Zoning District.

11.14.6.3. Compliance with Design Criteria. Mineral resource extraction shall comply with section 11.14.3 (Design Criteria) during all phases of construction, operation, closure, reclamation, and post reclamation.

11.14.6.4. Hazardous Materials. All facilities containing a hazardous material, including ponds tanks, pits, and piles, shall be covered to prevent any contact with wildlife. The handling, storage, use, and disposal of hazardous materials shall conform to the highest standards of care, industry best practices, and the applicable law.

11.14.6.5. Remediation of Contaminated Baseline and Legacy Uses. In the event that baseline conditions do not meet the standards of this Chapter and the SLDC and/or if any part of the Overlay District include a legacy mine or historic mining site, the Permittee shall follow the plan and/or phased schedule detailed in section 11.14.4.9 as a condition of the Permit.

11.14.6.6. Terrain Management.

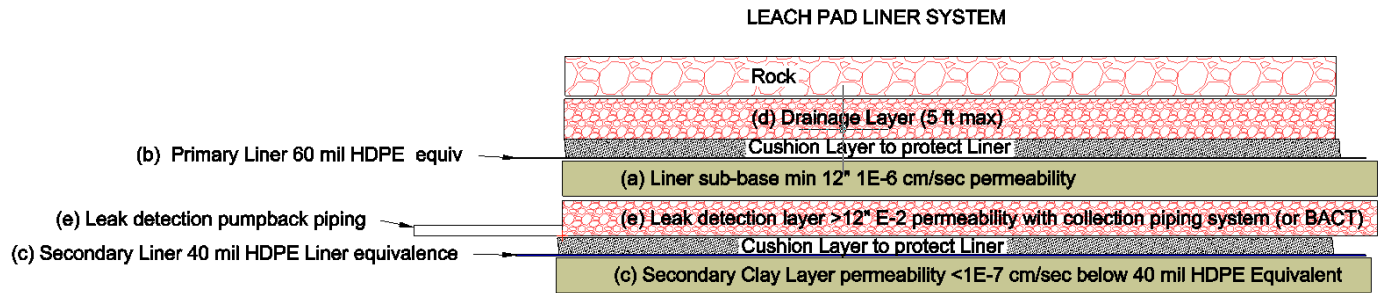
1. open pits shall be backfilled unless the Administrator determines that another method of open pit closure will be more effective to comply with section 11.14.3 (Design Criteria);
2. surface water run-on and run-off from undisturbed areas shall be controlled to prevent contact with and contamination by disturbed areas and process and waste materials;
3. surface water run-on and run-off from disturbed areas and process and waste materials off shall be controlled to prevent contact with undisturbed areas using the most effective techniques identified in the best available science; and
4. land surfaces in the DCI Overlay Zone District shall be managed to minimize erosion, including the construction of sedimentation ponds.

11.14.6.7. Facilities for Storage, Processing, and Disposal of Ore, Spent Ore, Waste Rock, Tailings, and Other Geological Materials. Facilities for the storage, processing, and disposal of ore, spent ore, waste rock, tailings, and other geological materials shall be designed to comply with Section 11.14.3 (Design Criteria), and additionally, shall include:

1. a process solution collection system designed to: (1) remain functional for five (5) years after the operational life of the facility; (2) integrate with an overliner protection structure that protects the primary liner from damage during loading and minimizes the potential for penetration of the primary liner; (3) transmits fluids out of the drainage layer of the facility; and (4) maintains a hydraulic head less than the thickness of the drainage layer, provided that the drainage layer shall not exceed five (5) feet in thickness. Any penetration of the primary liner by the collection system through which a pipe or other fixture protrudes shall be constructed in accordance with the liner manufacturer's requirements, and shall be disclosed in the construction plans and as-built drawings;
2. a primary liner consisting of a continuous flexible-membrane of suitable synthetic material or other impermeable substance that provides the same or greater level of containment, including permeability, as a sixty (60) millimeter HDPE geomembrane liner system. The liner system's tensile strength, tear and puncture resistance and resistance to degradation by ultraviolet light shall be compatible with the maximum expected design loads, exposures and conditions. The liner shall be designed and certified by a New Mexico licensed professional engineer with experience in liner system construction and installation based on the following factors:

- a. type, slope and stability of the foundation;
 - b. overliner protection and provisions for hydraulic relief within the liner system;
 - c. load, and the means of applying the load on the liner system;
 - d. the compatibility of the liner material with any process solution to which it may be exposed; and
 - e. the liner's ability to remain functional in perpetuity;
3. a liner system sub-base placed upon a stable foundation. The prepared sub-base shall consist of a minimum of twelve (12) inches of soil that has a minimum re-compacted in-place coefficient of permeability of 1×10^{-7} cm/sec. The top surface of the sub-base shall be smooth and free of sharp rocks or any other material that could penetrate the overlying synthetic liner;
4. an electronic grid leak detection system installed between the primary and secondary liners for the purpose of detecting the loss of process solution;
5. a pump back system installed between the primary and secondary liners for the purpose of keeping the secondary liner dry in the event of a leak. Pumped fluids shall be managed in a manner that is protective of human health and the environment and that satisfies Section 11.13.3 (Design Criteria);
6. tailings shall be dry stacked unless the Administrator determines that another method is more effective to ensure compliance with Section 11.13.3 (Design Criteria);
7. a stockpile and its foundation shall be designed with a minimum static factor of safety of 1.5 and seismic factor of safety of 1.1; and
8. if a leak is discovered in the liner system, the permittee shall cease mining resource extraction and processing, notify the Administrator, remove the material from the liner, and repair the leak. The Permittee shall not recommence the mining resource extraction and processing until a registered professional engineer certifies that the leak has been correctly identified and properly repaired, and any release has been remediated and the Administrator concurs after review of the certification.

Figure 11.1 Liner System Example. The following figure provides a graphic illustration of a potential liner system based on the standards described above.



11.14.6.8. Maintenance of Highwalls. Highwalls shall not be permitted unless the Administrator determines that highwalls are the most effect method to ensure compliance with Section 11.13.3 (Design Criteria). If permitted, highwalls shall be maintained using the most effective techniques identified by the best available science.

11.14.6.9. Monitoring Plan. The applicant shall pay a New Mexico registered professional engineer with expertise in site monitoring and approved by the Administrator to implement the Monitoring Plan. The Administrator shall specify the frequency of data collection and reporting for each element of the Monitoring Plan, including a procedure for emergency notification if the contractor detects any contamination.

11.14.6.10. Blasting.

1. all blasting shall comply with the blasting plan approved by the Administrator;
2. blasting shall be conducted only during the permitted hours of operation;
3. the permittee shall provide the Administrator and all residents within five (5) miles of the boundary of the DCI Overlay Zoning District with a blasting schedule and shall provide the name of the blasting firm;
4. the blasting shall be conducted by a person trained, examined, and certified by the Director of the Mining and Minerals Division of the Energy, Minerals and Natural Resources Department;
5. the blasting firm shall have insurance of no less than one million dollars (\$1,000,000) for each blasting event;
6. the permittee shall monitor each blasting event, record the noise and vibration levels, and report this information to the Administrator no later than five (5) working days after the blasting event;
6. ground vibration during a blasting event shall not exceed 0.50 inches per second Peak Particle Velocity (PPV) at any boundary of the DCI Overlay Zoning District, unless the adjoining property is owned by the permittee and not leased to or occupied by another person; and
7. the noise level during a blasting event shall not exceed the following values:

Table 11-2. Maximum Allowable Noise Levels.

Lower frequency limit of measuring	Maximum level in dB
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system, Hz + 3dB	
0.1 Hz or lower—flat response	134 peak
2.0 Hz or lower—flat response	133 peak
6.0 Hz or lower—flat response	129 peak

11.14.6.11. Additional Conditions.

1. the Administrator may take any action that she deems necessary, in her discretion, including but not limited to ordering the cessation of mineral resource extraction and processing, imposing further conditions or requirements, or revoking the DCI Conditional Use Permit, if, based on the available information, she determines that the operation has caused or is causing water contamination or failed to comply with a performance or other standard, or requirement of the SLDC, this Chapter, the Permit, or any law, regulation, or ordinance; and
2. if the Administrator determines that baseline conditions do not meet the standards and requirements of this Chapter and the SLDC, she shall require the applicant to remediate conditions to the applicable standard and requirement prior to the commencement of mineral resource extraction and processing, provided however, that the reclamation of historic mining sites may be conducted concurrent with the commencement of the mineral resource extraction and processing on a schedule specified in the DCI Conditional Use Permit.

11.14.7. Financial Assurance. The County shall require the applicant, prior to issuance of the DCI Conditional Use Permit, to provide financial assurance in any amount and manner to comply with and fulfill the intent of the SLDC and this Chapter, including Section 11.5.6 (Cost, Fees, and Financial Assurances), and the following provisions. The Administrator shall determine the amount and manner of financial assurance under this section by conducting the appropriate study, and any additional review, investigation, and revisions to the study, and may require additional or change the manner of financial assurance. The applicant shall pay the cost of any such study, review, investigation, or revision. If the applicant or permittee, as applicable, fails to maintain the financial assurance in the amount and manner required by the County, the DCI Conditional Use Permit shall be automatically suspended until the deficiency has been cured. The Administrator shall issue an annual report describing the status of each financial assurance, including the claims filed and distributions made.

11.14.7.1 Performance Financial Guarantee. The Applicant shall post an irrevocable financial guarantee issued by a surety company authorized to conduct such business in New Mexico, in an amount determined by the Administrator, but no less than one hundred twenty five (125) percent of the cost to conduct monitoring during operation and for one hundred (100) years after closure, and to remediate contamination, damage, and impacts arising from or related to mineral resource extraction and processing, including the cost associated with hiring one or more local contractors to conduct remediation, reclamation, and closure.

11.14.7.2. Cash Deposit to Trust for Roadway Damage Compensation. The applicant shall fund an irrevocable road damage trust in an amount determined by the Administrator to be the cost to construct, improve, expand, and maintain all public roads affected by the

mineral resource extraction and processing. The County shall be the sole beneficiary of the trust, and shall name the trust administrator who shall receive the initial deposit.

11.14.8. Closure. Closure shall comply with Section 11.14.3 (Design Criteria), including the following standards:

11.14.8.1. Removal. All facilities not required to ensure compliance with the standards and requirements of the SLDC, this Chapter, and the DCI Conditional Use Permit shall be removed.

11.14.8.2. Secondary Containment Systems. Liner systems shall be tested for any potentially contaminating materials and remediated to comply with section 11.13.3 (Design Criteria).

11.14.8.3. Leach and Spent Ore Facilities. Prior to facility closure, materials in leach and spent ore facilities shall be detoxified using rinse/rest cycles and chemical oxidation. Following detoxification, leach and spent ore facilities shall be closed by covering the materials as specified in section 11.14.9.4 (Cover Systems). Any ponds associated with a heap-leach or spent ore facility shall be closed by folding in the synthetic liners and filling and contouring the pits with inert material. Residual sludge or spent ore in a facility shall be removed and disposed in an approved facility. All piping shall be removed.

11.14.8.4. Cover Systems. At closure, a permittee shall install a cover system on waste rock piles, leach and spent ore facilities, tailing impoundments, and any other unit that has the potential to yield any contaminating materials. The cover system shall be capable of containing the contaminating materials in perpetuity:

1. the cover system shall be constructed of thirty-six (36) inches of earthen materials that are capable of sustaining plant growth without perpetual care and have erosion resistant characteristics. The pile shall be shaped to be geomorphologically stable. Erosion rates shall be equal to or less than stable slopes in the surrounding area after the vegetation has reached near-equilibrium cover levels;
2. cover systems shall have the capacity to store within the fine fraction at least ninety-five (95) percent of the long-term average winter precipitation (December, January and February) or at least thirty-five (35) percent of the long-term average summer precipitation (June, July and August), whichever is greater. The water holding capacity shall be determined by multiplying the thickness of the cover by the incremental water holding capacity of the fine fraction of the cover. The incremental water holding capacity of the fine fraction of the cover shall be determined by field or laboratory tests or published estimates;
3. the cover system design criteria may be reduced or modified only after the permittee demonstrates that an alternate cover system, including a composite or layered cover incorporating a liner, will provide an equal or greater level of protection for surface and ground water standards; and
4. the cover system shall include monitoring and reporting for surface and ground water under and adjacent to the unit.

11.14.9. Reclamation. Reclamation shall begin as soon as practicable after the commencement of mineral resource extraction and processing, and shall continue concurrently with such operation until reclamation is completed. Reclamation of a phase shall begin at a minimum prior to the initiation of the subsequent phase.

11.14.10. Temporary Cessation. The Permittee shall comply with this section if it temporarily ceases the mineral resource extraction and processing for a period greater than twenty-four (24) consecutive hours, provided that the Permittee shall comply with Section 11.11 (Termination) if the Administrator determines that the Permittee does not intend to continue such operation within a reasonable period of time.

11.14.10.1. The Permittee shall meet the following standards in the event of temporary cessation:

1. no later than twenty-four (24) hours after the cessation, the permittee shall notify the Administrator in writing, including the reason for cessation, estimated duration of cessation, and actions taken to comply with the standards of this section. The Permittee shall post the notice at the main entrance to the operation, and shall mail the notice by certified mail to all residents, land owners and lessees, owners and lessees of non-residential structures, and Registered Organizations and Community Organizations that are registered for notification of applications for DCI Overlay Zoning Districts or DCIs under sections 2.2.2 and 2.2.3 of the SLDC, that are located within one (1) mile of the boundaries of the proposed DCI Overlay Zoning District;
2. maintain all structures and facilities;
3. comply with all conditions of the DCI Conditional Use Permit, including monitoring and reporting;
4. comply with all applicable standards and requirements of the DCI Conditional Use Permit; and
5. secure the operation to prevent unauthorized access.

11.14.10.2. A Permittee that recommences mineral resource excavation and processing after a temporary cessation shall give written notice of such action in the same manner as specified in Section 11.14.10.1.

11.14.10.3. A Permittee who ceases mineral resource excavation and processing for a continuous period of more than three (3) years or more than twice in a three (3) year period shall not recommence such operation until it obtains a new DCI Conditional Use Permit.

11.14.11. Termination. If the Administrator determines that mineral resource extraction and processing has terminated, the Permittee shall comply with the closure and reclamation requirements of the DCI Conditional Use Permit.