THE BOARD OF COUNTY COMMISSIONERS
OF SANTA FE COUNTY

ORDINANCE NO. 2019-2

AN ORDINANCE
AMENDING THE SUSTAINABLE LAND DEVELOPMENT CODE (SLDC), ORDINANCE NO. 2016-9, TO AMEND AND RESTATE CHAPTER 11 (DEVELOPMENTS OF COUNTYWIDE IMPACT), INCLUDING THE ADOPTION OF REGULATIONS FOR MINERAL RESOURCE EXPLORATION, EXTRACTION AND PROCESSING, AND THE ADDITION OF NEW DEFINITIONS TO APPENDIX A

BE IT ENACTED BY THE BOARD OF COUNTY COMMISSIONERS (BOARD) OF SANTA FE COUNTY (COUNTY):

1. The Board adopted and restated the SLDC on December 13, 2016, via Ordinance 2016-9.

2. Chapter 11 of the SLDC governs Developments of Countywide Impact, which include Landfills, Junkyards, certain Sand and Gravel Extraction operations, Large-Scale Feedlots and Factory Farms, Oil and Gas Drilling and Production, and Mining and Resources Extraction.

3. The Board has determined that it is in the public interest to amend and restate Chapter 11 in its entirety and to amend Appendix A of the SLDC to add the definitions set out below regarding mineral resource exploration, extraction and processing.

4. The Board further finds:

a. The applicability of Chapter 11 to all DCIs located within the unincorporated County boundaries, including DCIs located on federal lands, should be clarified.

b. Requirements and performance standards common to all DCIs should be clarified and consolidated.

c. To assure land use compatibility, an overlay zoning district should be established for all DCIs, excepting DCIs located on federal lands, prior to submission of an application for a DCI Conditional Use Permit (DCI CUP).

d. An application for a DCI CUP should include all state and federal permits required for operation of the DCI.

e. The regulations governing mineral resource exploration, extraction, and processing should be updated to reflect the current County structure and review procedures; to assure protection of the public health, welfare, and safety of all County residents; to protect the environment, water, air, wildlife, habitat, natural resources, and the cultural and historical resources of the County; and to assure sustainable reclamation of disturbed areas.

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f. The Board's Findings in support of this Ordinance are further set forth in Exhibit A to this Ordinance, Section 11.2.

5. Chapter 11 of the SLDC is hereby amended and restated in its entirety as set forth in Exhibit A to this Ordinance.

6. Appendix A of the SLDC is hereby amended to add the following definitions:

a. **Acid mine drainage** means water that is discharged from an area affected by mining exploration, mining, or reclamation, with a pH of less than 5.5 and in which total acidity exceeds total alkalinity as defined by the latest edition of *standard methods for the examination of water and wastewater.*

b. **Exploration:** The act of searching for or investigating a mineral deposit, including sinking shafts, tunneling, drilling core and bore holes, digging pits, making cuts and other works for the purpose of extracting samples prior to commencement of development or extraction operations and the building of roads, access ways and other facilities related to such work, but excluding activities that cause no, or very little, surface disturbance, such as airborne surveys and photographs, use of instruments or devices that are hand carried or otherwise transported over the surface to perform magnetic, radioactive or other tests and measurements, boundary or claim surveying, location work, or other work that causes no greater disturbance than is caused by ordinary lawful use of the area by persons not engaged in exploration.

c. **Impoundment** means any structure designed and used for storage or containment of mine process water, or impacted stormwater, or used for solids settling, excluding a tailings impoundment. A process water or stormwater transfer sump or a tank, below-grade tank, drum or pit bottom is not an impoundment.

d. **Leach stockpile** means stockpiles of ore and all other rock piles associated with mining disturbances that have been leached, are currently being leached or have been placed in a pile for the purpose of being leached.

e. **Mine Closure** means the cessation of commercial mining activities and final decommissioning of a mine prior to final reclamation.

f. **Mineral** means a non-living commodity that is extracted from the earth for use or conversion into a saleable or usable product, but does not include surface water or subsurface water, geo-thermal resources, oil and natural gas together with other chemicals recovered with them.

g. **Mineral Resource Extraction and Processing** means the process of obtaining a mineral from the earth's crust or from previously disposed or abandoned mining waste, including open-cut mining and surface operations, the disposal of refuse from underground and in situ mining, mineral transportation,

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concentrating, milling, evaporation, leaching and other processing, but excluding Sand and Gravel Mining as defined herein., the exploration and extraction of natural petroleum in a liquid or gaseous state by means of wells or pipes, the extraction of geothermal resources.

h. **Mining:** see "Mineral Resource Extraction and Processing."

i. **Mine Unit** means a component of a mining operation including but not limited to processing, leaching, excavation, open pit, storage, stockpile or waste units.

j. **Open pit** means the area within which ore and waste rock are exposed and removed by surface mining.

k. **DCI Permit Area** means the permit area defined in the Board's DCI CUP approval order. Except on federal lands, the DCI permit area shall be co-extensive with the DCI Overlay Zoning District Boundaries.

l. **Reclamation** means the employment during and after a mining or other DCI operation of measures designed to mitigate the disturbance of affected areas and permit areas and provide for the stabilization and revegetation of a permit area following closure that will minimize future impact to the environment from the operation and protect air, water and biological resources.

m. **Tailings** means finely crushed and ground rock residue and associated fluids discharged from an ore milling, flotation beneficiation and concentrating process.

n. **Tailings impoundment** means an impoundment that is the final repository of tailings.

o. **Waste rock** means all material excavated from a mine facility that is not ore or clean top soil.

7. The effective date of the amendments to the SLDC adopted by this Ordinance shall be thirty (30) days after this Ordinance is recorded by the County Clerk.

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PASSED, APPROVED, AND ADOPTED THIS 27th DAY OF August, 2019.

BOARD OF COUNTY COMMISSIONERS
OF SANTA FE COUNTY

By: Anna T. Hamilton
Anna T. Hamilton, Chair

ATTEST:

Geraldine Salazar
Geraldine Salazar
Santa Fe County Clerk

Date: 8/27/2019

Approved as to form:

R. Bruce Frederick
Santa Fe County Attorney

COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss

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PAGES: 55

I Hereby Certify That This Instrument Was Filed for Record On The 28TH Day Of August, 2019 at 08:53:15 AM And Was Duly Recorded as Instrument # 1895093 Of The Records Of Santa Fe County

Witness My Hand And Seal Of Office
Geraldine Salazar
Deputy Estrella Martinez County Clerk, Santa Fe, NM

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Exhibit A

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 developments that have potential for far-reaching effects on the community, place major demands on public facilities and the County's capital improvement plan and budget, and have the potential to affect the environment and public health, safety, and welfare beyond the impacts on immediately neighboring properties, including adverse noise, light, odor and vibration; explosive hazards; traffic congestion; and burdens on County emergency response services. For these reasons, the 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 long-term 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, 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 soil; 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 response services will be available at the time of approval of DCIs;

11.2.3. Prevents the occurrence of public nuisance and land use 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 pose a significant risk because

clean water is a precious resource in the County's unique high desert environment;

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 may 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. Environmental hazards resulting from DCI projects may 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, which should be minimized 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 the precautionary principle promotes this premise and 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 has independent and supplemental authority, in addition to the authority of the state, to regulate in the areas of public nuisance, land use and environmental protection with regard to DCIs.

11.3. APPLICABILITY; SEVERABILITY.

11.3.1. Applicability. Chapter 11 shall apply as follows:

11.3.1.1. General. Chapter 11 shall apply to all DCIs located anywhere within the unincorporated area of Santa Fe County, subject to Section 11.3.1.2 regarding federal land; provided, however, that Oil and Gas

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Drilling and Production shall be regulated under County Ordinance No. 2008-19 and not Chapter 11.

11.3.1.2. Federal Land.

1. **General**. Notwithstanding anything to the contrary in Section 1.6, the SLDC shall apply to all DCIs conducted on federal land that is not held in trust by the United States government for an Indian Tribe or member of an Indian Tribe; *provided*, however, that the provisions of the SLDC that require the establishment of an overlay zoning district, including but not limited Section 11.6, or conformance with the SGMP or any zoning or land use planning criteria shall not apply to any DCI conducted on federal land. No DCI Overlay Zoning District shall be required to be established on federal land prior to filing an application for a DCI CUP or, for mineral exploration, an application for a CUP. CUP applications for mineral exploration on federal land and DCI CUP applications involving DCIs located on federal land shall be approved subject to appropriate conditions in accordance with Section 4.9.6.6, Section 11.7, and the appropriate DCI-Subchapter, as applicable, except that the DCI shall not be required to conform to any County land use plan or zoning criteria, including the SGMP.

2. **CUP Application for Mineral Exploration.** Notwithstanding anything to the contrary in Chapter 11, Applicants desiring to conduct mineral exploration on federal land shall submit a CUP application in accordance with Chapter 4 of the SLDC, including Section 4.9.6, which shall include a reclamation plan modeled after the requirements of NMAC 19.10.4.402(D)(10), all required federal and state permits, and all of the submittals, orders, judgments, reports, submittals, filings, and all other materials relating to the consideration and permitting of the mineral exploration project by the federal land management and state regulatory agencies. CUP applications for mineral exploration shall be reviewed pursuant to the criteria set out in Chapter 4, as limited by Section 11.3.1.2.1.

3. **DCI CUP Application**. Applicants desiring to establish a DCI on federal land, excluding mineral exploration, shall submit a DCI CUP application in accordance with Section 11.7 and the appropriate DCI-specific Sub-Chapter below.

11.3.1.3. Mixed Land Ownership; Subsequent Patent. If a DCI is or will be located on both **private** land and federal land, all provisions of Chapter 11 shall apply to the portion of the DCI that is or will be located on private land, including Section 11.6 and the provisions of the SLDC relating to zoning and land use planning. In addition, all provisions of Chapter 11 shall also apply to federal land as of the date it is patented from governmental to private ownership.

11.3.1.4. Interpretation; Briefing on Applicability; Appeal.

1. **General.** Chapter 11 and other provisions of the SLDC applicable to DCIs shall be interpreted and applied in a manner that is consistent with the County's authority and so as to avoid preemption by federal or state law applicable to DCIs, including laws relating to environmental protection, federal land use, water law, and reclamation. In the event of an irreconcilable conflict between or other preemption by a provision of state or federal law and a provision of the SLDC, state law shall apply unless preempted by federal law, in which case federal law shall apply.

2. **Briefing.** Any Applicant for a DCI CUP contending that the County lacks jurisdiction over a DCI or that one or more specific provisions of the SLDC applicable to a DCI are preempted shall file a legal brief along with its Application. Within sixty (60) days of receiving the legal brief, the Administrator in consultation with the County Attorney shall render a decision in response to the Applicant's legal brief. If aggrieved by the Administrator's decision, the Applicant may appeal the decision directly to the Board within thirty (30) days. If no appeal is filed with the Board, the Administrator's decision shall be final as to the Applicant. If an appeal is filed, the Board's decision on appeal shall be immediately appealable to the District Court in accordance with Section 4.5.5 of the SLDC.

11.3.2. Severability. If the Board or a Court of competent jurisdiction determines that a provision of the SLDC is inapplicable to a particular DCI because of preemption or otherwise, the remaining provisions of the SLDC shall be severable therefrom and continue in full force and effect.

11.4. DESIGNATION. The following developments are DCIs:

11.4.1. Landfills;

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11.4.2. Junkyards;

11.4.3. Sand and gravel extraction and processing, except as specified in Section 10.19;

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.

11.5.1. Process. Except as provided in Section 11.3, a DCI shall require the prior establishment of a DCI Overlay Zoning District, a DCI Conditional Use Permit, and the issuance of grading and construction permits. Each DCI Overlay Zoning District shall be limited to a particular proposed development. An application of a DCI CUP shall not be considered until the Board has approved a DCI Overlay Zoning District and the Applicant has obtained all required state and federal environmental permits. All DCI CUPs shall be subject to conditions, including conditions regarding operations, maintenance, reclamation, and environmental protection.

11.5.2 Submissions. Application for proposed DCI Overlay Zoning Districts and DCI CUPs shall be submitted, reviewed, and subjected to public hearing in accordance with Chapter 11 and the provisions of the SLDC generally applicable to such submissions. In the event of a conflict between a requirement of Chapter 11 and another provision of the SLDC, the more stringent requirement shall apply.

11.5.3. Existing DCI Uses. A DCI established prior to January 1, 1981, that has been in continuous operation since its commencement may continue to operate in substantially the same manner as it did on January 1, 1981. A DCI that was approved by the County after January 1, 1981, but prior to the effective date of the SLDC on January 13, 2016, may continue to operate in accordance with the County permit, order or other formal County approval of the DCI. A significant change in the character, nature, extent, or size of any existing DCI, as determined by the Administrator, shall require approval of a DCI Overlay Zoning District and a DCI CUP.

11.5.4. Public Involvement. Any person may review applications, including supporting materials, and submit comments and information to the Hearing Officer, Planning Commission, and Board of County Commissioners regarding an application for a DCI Overlay Zoning District or DCI CUP.

11.5.5. Pre-application meeting. Prior to the submission of an application for a DCI Overlay Zoning District or a DCI Conditional Use Permit, the Applicant shall conduct a pre-application meeting in accordance with Section 4.4.4, and additionally, 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 or approved DCI Overlay Zoning District.

11.5.6. Costs, Fees, and Financial Assurance.

11.5.6.1 Cost of Compliance. The Applicant or Permittee, as applicable, shall be responsible for the full cost of compliance with Chapter 11 and other applicable provisions of the SLDC, including the cost of preparing required applications and other submittals, public notice, data collection, permit compliance, reporting, and the construction and maintenance of improvements required under the SLDC. All technical reports, plans, and other submittals required under Chapter 11 shall be prepared and carried out by a team of professionals qualified in the relevant areas of inquiry, including geology, hydrology, chemistry, biology, archeology, anthropology, cultural and historic sites, terrain management, environmental protection, engineering and reclamation. Where required in specific sections of Chapter 11, a professional engineer's certification and stamp shall be required.

11.5.6.2 Fees; Cost of County Review and Oversight. The Applicant or Permittee, as applicable, shall pay the full cost of technical review by such qualified outside consultants as may be retained by the County, the County's cost of conducting required or authorized DCI inspections, and such other costs or fees as may be required or allowed under the SLDC, County Ordinance No. 2015-10, or other ordinance, as the same may be amended or replaced from time to time.

11.5.6.3. Financial Assurance.

1. **General**. The performance of reclamation and periodic or other ongoing environmental protection requirements shall be assured by an irrevocable Financial Guaranty, as defined by the SLDC, that is provided by an company authorized to do business in New Mexico and that is enforceable by the County in the New Mexico First Judicial State District Court located in Santa Fe County. The amount of the Financial Guaranty shall be no less than one hundred twenty five (125) percent of the total cost of reclamation and other environmental performance requirements as estimated by a qualified New Mexico Professional Engineer. The Administrator may increase the amount of the Financial Guaranty in accordance with the appropriate Consumer Price Index, in accordance with an updated cost estimate (which shall be provided by the Permittee at the Permittee's expense within ninety (90) days after the Administrator's written request), or pursuant to subsection 3 below. The amount of the Financial Guaranty shall be increased no more frequently than every three (3) years. The Permittee shall provide the increased amount of Financial Guaranty within sixty (60) days after the Administrator provides written notice that such additional amount is required. The Administrator may release the Financial Guaranty, in whole or in part, upon the Permittee's satisfactory showing of compliance with the performance requirements in accordance with the SLDC, or, as the Administrator deems appropriate, in accordance with state or federal law applicable to the release of financial assurance for the performance of reclamation and other environmental requirements. The amount, form, term, form, periodic increase, and process

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for release of the Financial Guaranty shall be set forth in the order approving the DCI CUP or in a separate agreement between the Board and the Permittee.

2. **Existing Financial Assurance.**

a. **Non-Duplication.** The Administrator shall accept and shall not duplicate the financial assurance provided by the Permittee for the same DCI under federal or state law; provided, however, that if the Administrator determines that the form of such other financial assurance is insufficiently secure, inadequate in amount, is not enforceable in Santa Fe County, or does not guaranty the performance of requirements imposed by the DCI CUP or SLDC, the Administrator may require that a supplemental financial guaranty be provided to the County up to 125% of the estimated total cost of reclamation and other environmental performance requirements.

b. **Decreases in Existing Financial Assurance.** Whenever the Permittee applies to a state or federal agency for release of financial assurance, in whole or in part, the Permittee shall simultaneously provide a copy of such request, including all supporting documentation, to the Administrator and thereafter provide contemporaneous copies to the Administrator of all subsequent correspondence and decisions concerning such requested release. If a state or federal agency releases or otherwise decreases the amount of financial assurance required under state or federal law, in whole or in part, the Administrator may require the Permittee to increase the financial assurance provided to the County under Chapter 11 if the Administrator determines that (i) the amount of financial assurance originally required by the County was reduced in accordance with subsection 2(a) above and (ii) the reduction or elimination of that state or federal financial assurance causes the Permittee to be in violation of the financial assurance requirements of Chapter 11. Such a violation occurs if the reduction in state or federal financial assurance results in insufficient financial assurance with respect to a requirement imposed under Chapter 11 or the DCI CUP.

11.5.7. Compliance with Federal and State Laws and Regulations. All DCI CUPs shall require the permitted DCI to be commenced, operated, maintained, monitored and reclaimed in accordance with SLDC and all applicable federal and state laws and regulations.

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 that 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 and Request for Records. Representatives of the County may at any time and without notice conduct inspections of a DCI during normal business hours to verify compliance with the DCI CUP and the SLDC. During such inspection, the Permittee shall provide for review such monitoring and other data as the County inspector may request and provide complete access to the site subject only to health and safety considerations. The Permittee shall pay an annual inspection fee and, if the County retains a consultant to assist in conducting the inspection, the consultant's fee in accordance with County Ordinance No. 2015-10. The Permittee shall provide the Administrator with such records and data related to compliance with the DCI CUP and SLDC within thirty (30) days of the Administrator's written request for such records and data.

11.5.10. Expiration and Revocation; Continuing Obligations. The Administrator may recommend, and the Board may specify an expiration date for a DCI CUP based on the nature and expected duration of the DCI at issue. The minimum term shall be five (5) years. If the Permittee submits an administratively complete application for a new DCI CUP prior to the expiration date, the existing DCI CUP shall continue in full force and effect until the new application is approved, denied, or withdrawn, at which time the prior DCI CUP shall terminate. Upon the Board's approval of a new DCI CUP, the new CUP shall supersede and entirely replace the prior DCI CUP. If no new DCI CUP is approved, the reclamation, monitoring, environmental compliance, and Financial Guaranty requirements imposed under an expired or revoked DCI CUP shall survive expiration or revocation, as applicable, and continue in full force and effect until the Permittee has fully complied with all such requirements. The Board may revoke a DCI CUP prior to its expiration pursuant to Section 11.5.12.

11.5.11. Assignment. A DCI CUP shall not be assignable, and the Permittee shall not be relieved from its obligations under the DCI CUP, until and unless the Board approves an assignment of the DCI CUP to a qualified assignee. A Permittee desiring to assign a DCI CUP shall file an application with the Administrator, which shall include the same background information relevant to the proposed assignee as is required for the applicant of a new DCI CUP. The application shall demonstrate that all state and federal approvals of the assignment, as required, have been obtained and that the existing Financial Guaranty is fully assignable to the proposed assignee or the proposed assignee shall provide a comparable replacement Financial Guaranty to the County prior to the Board's full approval of the assignment. In approving an assignment, the Board may impose additional permit conditions or requirements, including an increase in the amount of the Financial Guaranty, or it may deny an assignment or refuse to consider an application for assignment if the Permittee is currently not in compliance with the DCI CUP or if the Board determines that the assignee has a demonstrated history of non-compliance with environmental regulation. Upon the Board's approval of an assignment, the Permittee-assignor shall be relieved of its obligations under the DCI CUP, which shall be assumed in full by the Permittee-assignee, except as otherwise provided in the Board's approval order.

11.5.12. Remedies for Non-Compliance.

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11.5.12.1. General. In addition to the remedies available under Chapter 14 of the SLDC, applicable statutes, and the common law, the Administrator may issue Notices of Violation ("NOVs") and Notices of Immediate Suspension in the event of the Permittee's material non-compliance, including: the Permittee's failure to comply with any requirement or limitation of the DCI Overlay Zoning District, DCI CUP or SLDC; failure to contain operations within the DCI Overlay Zoning District; failure to comply with any applicable state or federal law, regulation, or permit; failure to acquire or maintain required state or federal permits; or upon discovering a material misrepresentation in any application pertinent to the DCI. Non-compliance may lead to revocation of the DCI CUP by the Board.

11.5.12.2. NOVs and Notices of Immediate Suspension. The Administrator may provide to the Permittee a written NOV or Notice of Immediate Suspension (which may be combined with an NOV) as described below, for non-compliance. All such Notices shall fully describe the nature and character of the non-compliance and the evidence therefor.

1. **NOV with Opportunity to Cure**. The Administrator shall provide a NOV with an Opportunity to Cure to the Permittee and allow a reasonable time for the Permittee to cure the non-compliance in cases where the Administrator determines that the non-compliance does not pose an imminent threat to public health, welfare or safety and the Permittee can reasonably cure the non-compliance within fifteen (15) days or such additional reasonable period as the Administrator may allow. The NOV shall provide that the Permittee will be subject to a Notice of Immediate Suspension unless the Permittee cures the non-compliance within the period specified in the NOV, which period may be extended by the Administrator for good cause.

2. **Notice of Immediate Suspension.** The Administrator shall issue a Notice of Immediate Suspension if the Administrator determines that: the non-compliance poses an imminent threat to public health, welfare, or safety; the non-compliance cannot be cured within a reasonable time; upon discovering a material misrepresentation in any application pertinent to the DCI that calls into serious question the Permittee's environmental compliance history or the basis and assumptions on which the Board issued the DCI CUP; or if the Permittee failed to cure the non-compliance within the period specified in a prior NOV, in which case the Notice may provide one additional period to cure not to exceed sixty (60) days. Upon receipt of a Notice of Immediate Suspension, the DCI shall be closed to the public and the Permittee shall suspend all operations except that Permittee shall take all reasonable immediate action to eliminate or minimize any imminent threat to public health, welfare or safety in accordance with law and continue to comply with

all reclamation, safety, monitoring, and other environmental and reclamation requirements so long as such continued operations do not exacerbate the threat or otherwise endanger onsite personnel or the public. The Permittee shall not open its business to the public or resume normal operations until such time as the Administrator provides written notice to the Permittee authorizing the resumption of normal operations, which shall not be unreasonably withheld.

11.5.12.3. Permit Revocation; Appeal. If the non-compliance described in an NOV or Notice of Immediate Suspension is not timely cured or, in the Administrator's opinion, cannot adequately be cured, the Administrator may issue a Notice of Revocation to the DCI CUP Permittee. The Notice of Revocation shall include the pertinent background, numbered findings of fact, numbered conclusions of law, and otherwise fully describe the grounds for revocation of the DCI CUP. The DCI CUP shall thereafter automatically be revoked without further action by the County unless the Permittee files a notice of appeal with the Administrator within thirty (30) days of the Notice date. The notice of appeal shall address the statements in the Notice of Revocation and include any arguments, exhibits, or other material that the Permittee desires the Board to consider. The Board shall thereafter conduct a de novo review of the Administrator's decision in accordance with Section 4.7.2 of the SLDC between ninety (90) and one hundred and eighty (180) days after the notice of appeal, which time may be extended by agreement or order of the Board. The Administrator shall bear the burden of demonstrating the Permittee's non-compliance at the hearing by a preponderance of the evidence. Any person aggrieved by the final decision of the Board may appeal to the District Court in accordance with Section 4.5.5 of the SLDC. Upon revocation of a DCI CUP, the Permittee shall continue to comply with all reclamation, monitoring, environmental protection, and Financial Assurance requirements until such obligations are fully performed in accordance with the DCI CUP and the Board's revocation order.

11.6. DCI OVERLAY ZONING DISTRICTS.

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

11.6.1.1 Application Submissions; Checklist. The Application shall not be complete until all reports and other materials required under Section 11.6 have been submitted as determined by the Administrator. The Administrator shall provide an application checklist to assist the Applicant.

11.6.1.2. Requirements and Procedures. All submittals necessary to comply with the requirements and procedures set out in Chapters 4, 6, 7, 8 and 11 relating to Overlay Zoning Applications.

11.6.1.3. Noise Study. 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, which shall include the following:

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1. a map of the proposed DCI Overlay Zoning District showing its relationship to surrounding areas, existing topography, and key features. The proposed District area shall include all properties on which the DCI's operations, including reclamation, will be conducted;

2. the planning objectives of the proposed DCI, including the nature and character of the DCI, the expected duration of the DCI, the reclamation and post-closure monitoring that will be required given type of DCI;

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, infrastructure, structures, and parking facilities to be constructed within the proposed DCI Overlay Zoning District;

5. a viewshed analysis describing the visual impact of the proposed DCI Overlay Zoning District;

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 located in or within five (5) miles of the proposed boundaries of the DCI Overlay Zoning District;

8. a narrative describing the historic, cultural and archeological sites and artifacts, existing land uses, slopes between fifteen (15) percent and thirty (30) percent, and slopes greater than thirty (30) percent, rock outcroppings, wildlife, vegetation, habitat and habitat corridors located in or within five (5) miles of the proposed boundaries of the DCI Overlay Zoning District;

9. a narrative explaining how the proposed DCI Overlay Zoning District is consistent 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;

10. a narrative 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;

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

12. 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; and

13. such other documents and information as the Administrator may request in accordance with Chapter 11.

11.6.1.5. Studies, Reports and Assessments. All Studies, Reports and Assessments (SRAs) required in Chapter 6 and Table 6-1, including the following additional description and analysis:

1. Water Services Availability Report. The Water Service Availability Report (WSAR) shall be prepared in accordance with Section 6.5.5 and include a detailed description and analysis of the proposed DCI's potable and non-potable water demand, uses, and impacts. The WSAR shall include a description and analysis of the proposed DCI's total demand for and uses of both potable and non-potable water, the available water sources and water rights, the estimated impact of the proposed DCI on surface water and groundwater resources in terms of quantity and quality, and the estimated impact of other water users who depend on sources that are the same or interconnected with those of the proposed DCI. The WSAR shall demonstrate how the DCI's water demand will change over its lifetime through closure and final reclamation and further demonstrate how that changing demand will be met. The WSAR shall demonstrate the availability of potable and non-potable water to meet all projected demands for 99 years; *provided*, however, that if final reclamation and closure of the DCI is estimated to occur less or more than 99 years from the date operations commence, the WSAR shall demonstrate water availability through the date of final reclamation plus ten (10) years.

2. Traffic Impact Assessment. The Traffic Impact Assessment (TIA) shall be prepared in accordance with Section 6.6 and include:

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

b. the traffic routes that will be used by vehicles entering and leaving the proposed DCI;

c. a narrative explaining how traffic generated by the DCI will 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;

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

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

3. Fiscal Impact Assessment. The Fiscal Impact Statement (FIA) shall be prepared in accordance with Section 6.7 and include a detailed description and analysis of the cost of long-term environmental impact abatement and reclamation and the associated fiscal impact on the Applicant, County, and any other affected governmental body, including impacts on tax base and public services.

4. Environmental Impact Report. The Environmental Impact Report (EIR) shall be prepared in accordance with Section 6.3 and include a demonstration that the applicant identified and consulted with Indian Tribes and traditional communities located within five miles of the proposed DCI, identification of historic, cultural and archaeological resources in accordance with Section 7.16, and measures to avoid disturbance or disruption of such resources, sites, and practices. A separate report shall be prepared if required under Section 7.16.3 regarding registered cultural property. All work and reports involving historical, cultural and archeological sites, resources, and impacts shall be performed by a licensed professional archeologist or professional anthropologist, as appropriate, with expertise in the cultures of the region.

11.6.1.6. Applicant Background. The Applicant shall furnish the following background 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 Applicant's registered agent for purposes of service of process, if any;

3. the name and address of all persons and entities that own or control the Applicant, including but not limited to:
   a. general partners;
   b. persons or entities having a 49% or greater ownership interest in the Applicant, including individual stockholders; and
   c. parent or holding companies;

4. all subsidiaries of the Applicant;

5. as to the Applicant and all persons and entities identified in Section 11.6.1.6.3 and .4 (collectively, "Relevant Subjects"), provide the following:

   a. identify and describe all previous projects, properties, or

facilities worldwide that the Relevant Subjects own/ed, operate/d, or control/ed that are of the same general character and nature as the proposed DCI (collectively, "Other Projects");

identify and describe the nature and circumstances surrounding any situation in which the Relevant Subjects (individually or collectively) are or were subject to a penalty of any kind, notice of violation, demand by a financial guarantor, or enforcement action of any kind concerning the Other Projects in regards the Subjects' or the Projects' compliance with any zoning, land use, environmental, or reclamation law or regulation. Include copies of all notices of violations, citations, complaints, consent orders, settlement agreements, penalty assessments, and final judgments and final orders.

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

11.6.2. REVIEW CRITERIA. The Administrator, Hearing Officer, Planning Commission and Board shall consider the following criteria when making recommendations and determinations regarding a DCI Overlay Zoning District:

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

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

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

11.6.2.4. Whether adequate public facilities identified in the APFA either exist or have been funded;

11.6.2.5. Whether improvements identified in the APFA 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 WSAR, 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 adverse impacts of traffic identified in the TIA are or can be minimized and appropriately mitigated;

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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 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 adverse effect or impact on adjoining properties or resources, including property values, public health and 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 measures;

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

11.6.2.11. Whether the Applicant or Relevant Subjects have demonstrated a history of non-compliance with environmental laws or standards;

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

11.7. DCI CONDITIONAL USE PERMIT

11.7.1. Application Requirements. An application for a DCI Conditional Use Permit shall include the following, which shall be submitted in an appropriate sequence, as indicated:

11.7.1.1 Application Submissions Checklist. The Application shall not be complete until all materials required under Section 11.7 have been submitted as determined by the Administrator. The Administrator shall provide an application checklist to assist the Applicant.

11.7.1.2. Requirements and Procedures. All submittals necessary to comply with the requirements and procedures set out in Chapters 4 and 6 relating to CUP applications.

11.7.1.3. Final Order. A Final Order from the Board granting approval of the DCI Overlay Zoning District, Subject to Section 11.3.1.2.

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, if applicable.

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

11.7.1.6. Phasing Map. A map identifying the extent and location of each phase of the development, operation, closure, 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 State Plane New Mexico

Central FIPS 3002 Feet). All phases shall be contained within the DCI Overlay Zoning District, or, in the case of a Mineral Exploration, Extraction, and Processing DCI on federal land, within the permit area defined by the permit issued by the New Mexico Mining and Minerals Division.

11.7.1.7. Cost Estimate. A preliminary cost estimate prepared and sealed by a Professional Engineer to comply with all environmental protection, monitoring and reclamation requirements.

11.7.1.8. Sampling and Analysis Plan (SAP) and Baseline Conditions Report. The Application shall include a proposed SAP to govern the collection of relevant baseline data for the site. The proposed SAP shall generally be modeled after the SAP required under NMAC 19.10.6.602(D)(12) but modified as appropriate to suit the particular DCI at issue, the sources and types of surface disturbance and pollution relevant to that DCI, and the likely impacted resources, areas and populations. Within sixty (60) days after receiving the proposed SAP, the Administrator shall either approve it or provide the Applicant with a written list of deficiencies. In the event of a deficient proposed SAP, the Application will not be processed further until the Applicant has addressed the listed deficiencies to the Administrator's satisfaction. Upon approval of the SAP by the Administrator, the Applicant shall commence collecting baseline data in accordance with the SAP for at least 12 months or such longer period as the Administrator may require to address unique, site-specific factors. The Administrator shall accept a SAP approved by the New Mexico Mining and Minerals Division unless it is demonstrably inadequate to comply with all of the requirements of Chapter 11, in which case the Administrator shall require a supplemental SAP. The Application will not be presented to the Hearing Officer until all baseline data have been collected and presented in a Baseline Conditions Report (BCR).

11.7.1.9. Studies, Reports, and Assessments. All SRAs required in Chapter 6 and Table 6-1 for a DCI CUP, which shall conform to Section 11.6.1.5 and may consist of updated SRAs previously submitted in connection of a DCI Overlay Zoning District application. Where appropriate, the data, information and description required to be included in two or more reports may be combined in a single report or by reference to existing reports. The following is supplemental to the requirements imposed in Chapter 6 and the DCI-specific regulations of the SLDC:

1. **Environmental Impact Report.** The Applicant's EIR shall include a description and analysis of 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	Yes	Yes	Yes	Yes	Yes

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threatened species and species of concern					
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 degradation generally	Yes	Yes	Yes	Yes	Yes
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	Yes	Yes	Yes	Yes	Yes

quality					
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 response times	Yes	Yes	Yes	Yes	Yes
Sulfide and other reactive minerals	Yes[1]	No	No	No	Yes

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2. **Baseline Conditions Report (BCR).** The Applicant shall submit a BCR presenting the baseline data gathered pursuant to the SAP and describing the results.

[1] The Administrator may exempt the Applicant from this requirement if the Applicant demonstrates that it proposes to mine a natural sand and gravel deposit or formation. If the sand and gravel consists of previously extracted and stockpiled materials, then the requirement applies unless the Applicant demonstrates to the Administrator's satisfaction that the material it is not composed of and does not include previously extracted acid-generating ore, overburden, tailings, waste rock, or other material extracted in connection with a mineral resource extraction or processing operation.

11.7.1.10. 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 certified by a Professional Engineer and approved by the Administrator that demonstrates the technical and financial feasibility of the proposed DCI for all phases of development, operation, and reclamation, 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 provide or update the all information required under Section 11.6.1.6.

3. Reclamation Plan. The Applicant shall submit a reclamation plan designed and certified by a Professional Engineer with expertise in reclamation. The plan shall identify the phases of reclamation, if any, the estimated cost of each phase, the full cost of all phases, and the relationship between each phase of operation and reclamation, and demonstrate how the Permittee will comply with the reclamation standards specified below. The Professional Engineer, or another Professional Engineer with comparable expertise in reclamation and approved by the Administrator, shall oversee implementation of the plan.

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 proposed DCI. All other site conditions shall comply with the standards of this Chapter, the SLDC, and other applicable federal, state, and 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, and the method of reseeding. If no soil is present, the plan shall explain how revegetation will be accomplished.

4. Emergency Response and Preparedness Plan. The Applicant shall submit an Emergency Response and Preparedness Plan (ERP-P) designed

and certified by a Professional Engineer with expertise in emergency response and preparedness and approved by the Administrator 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, and the 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 designed and certified by a Professional Engineer with expertise in fugitive dust control and approved by the Administrator, 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 Board 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 an assessment and plan for greenhouse gas emissions prepared by a Professional Engineer with expertise in greenhouse gas emissions control and approved by the Administrator. The assessment shall identify and quantify the greenhouse gas emissions attributable to the proposed DCI. The plan shall demonstrate how the Applicant will offset those emissions.

7. Hazardous and Toxic Materials Plan. The Applicant shall submit a Hazardous and Toxic Materials Plan prepared by a Professional Engineer with expertise in the handling and storage of Hazardous Materials and approved by the Administrator. The plan shall identify the Hazardous Materials associated with each phase of the proposed DCI, including fuels, oils, explosives, hazardous and toxic chemicals, reactive chemicals and minerals, and biological toxins, along with a plan to handle, store, and dispose those materials in compliance with this Chapter, the SLDC, and other applicable federal, state, and local requirements.

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8. Wildlife Impact Mitigation Plan. The Applicant shall submit a Wildlife Impact Mitigation Plan developed by a professional biologist with expertise in wildlife impact mitigation approved by the Administrator. The plan shall describe how wildlife impacts attributable to the proposed DCI will be eliminated or mitigated to the greatest extent possible.

9. Stormwater Pollution Prevention Plan (SWPPP). The Applicant shall submit a temporary and permanent SWPPP prepared by a Professional Engineer with expertise in stormwater pollution prevention describing the potential for and nature of sediment pollution, erosion, and other contamination of stormwater runoff. The plan shall describe best practices for mitigating pollution of stormwater runoff.

11.7.2. Review Criteria. The Administrator, Hearing Officer, Planning Commission, and Board shall consider the following criteria when making a recommendation or decision regarding DCI Conditional Use Permit:

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

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

11.7.2.3. Whether the proposed DCI or a previous phase of an approved DCI could cause or has caused harm to any resource referenced in this Chapter or the SLDC, including soil, water, air, wildlife, environmental or natural resources, 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, regulations, and ordinances;

11.7.2.5. Whether any of the Relevant Subjects identified in Section 11.6.1.6 have demonstrated a history of disregard for and non-compliance with environmental laws, regulations, or standards; and

11.7.2.6. Whether the Applicant has demonstrated that the proposed DCI will comply with the requirements and standards of this Chapter, the SLDC, and other applicable federal, state, and local requirements and standards.

11.8. GENERAL PERFORMANCE STANDARDS.

11.8.1. Visual Resources. All DCI's shall meet the following standards for the protection of visual resources:

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 proposed 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 given the nature and operations of the DCI.

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. All Hazardous Materials shall be safely stored in accordance with applicable state and federal law in their original containers, within a tank that is designed to store the material, or within a lined impoundment designed and certified by a Professional Engineer with expertise in the handling and storage of Hazardous Materials. Hazardous Materials storage tanks and impoundments shall be set back a minimum of five hundred (500) feet from the property boundaries of the proposed DCI and a minimum of one thousand (1000) feet from all drinking water wells, water supplies, and water features, including rivers, streams, ponds, lakes, springs, arroyos, wetlands, and riparian areas. A greater setback from water supply wells may be required pursuant to a wellhead protection program.

11.8.3. Water Resources. DCIs shall not cause the degradation of groundwater quality to such an extent that the concentration of any contaminant in groundwater exceeds the standards set out NMAC 20.6.2.3103, and any contamination of groundwater above water quality standards shall be abated in accordance with NMAC 20.6.4. Water use at all DCIs shall strictly comply with all permit requirements imposed by the New Mexico Office of the State Engineer. The Board may consider the following factors in determining a DCI's 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 and flooding;

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;

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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;

11.8.3.11. The location of septic tanks and leach fields; and

11.8.3.12. The proximity, completion, and types of wells.

11.8.4. Wildlife and Environmental Resources. Wildlife shall be preserved and protected:

11.8.4.1. Any modification of the terrain shall avoid or minimize to the maximum extent feasible adverse impacts on wildlife habitat and shall result in no net loss of habitat as measured after the completion of reclamation.

11.8.4.2. The location and time of activities shall be limited to ensure no significant negative impacts to federally-listed or state-listed endangered or threatened species or to any other species of conservation concern; and

11.8.4.3. Wildlife corridors shall not be interrupted.

11.8.5. Terrain Management. In addition to the requirements of Section 7.17, the proposed 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 Certification.

11.8.5.4. Topsoil. In areas that must be disturbed by the DCI, topsoil shall first be stripped from and stockpiled onsite 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 slopes shall be graded to a slope no steeper than 2:1, and fill slopes shall be graded to a slope no steeper than 3:1, unless a retaining wall that is designed and certified by a Professional Engineer is used.

11.8.5.6. Surface Runoff. The volume of surface runoff shall not exceed the volume that occurred prior to commencement of the proposed DCI. Runoff shall be contained in a retention pond designed by a Professional Engineer.

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 proposed DCI, excluding properly designed sediment ponds pursuant to section 11.14.6.6.4. 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 proposed DCI shall meet the following standards for the control of fugitive dust:

11.8.6.1. Fugitive dust shall be reduced 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 local water resource protection standards and applied in accordance with the manufacturer's recommendations, and road hardening or paving;

11.8.6.2. Entry and exit aprons, steel grates, or other equivalent devices to remove bulk material from the tires of vehicle traffic shall be installed; and

11.8.6.3. Potable water shall not be used for dust control.

11.8.7. Greenhouse Gas Emissions. The proposed DCI shall offset all greenhouse gas emissions to ensure a net zero increase in the amount of emissions.

11.8.8. Fiscal Impact. The Applicant shall bear all costs associated with the proposed DCI, and the proposed DCI shall have no negative fiscal impact on the County.

11.8.9. Financial Feasibility. The Applicant shall demonstrate the financial capability to pay for all phases of the proposed DCI, reclamation, and remediation by posting a financial Guaranty as specified in Section 11.5.6.

11.8.10. Air Quality. Federal and state air quality standards shall not be exceeded.

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

11.8.11.1. The Permittee shall submit an annual monitoring report as detailed in the Permit in accordance with the findings of the EIR to the 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, the nature of operation during the previous year, the size and nature of disturbance of the area affected by operation, the structures and facilities constructed, the number of on-

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and off-site truck trips and sizes of trucks, the area developed and primarily affected by the DCI, the quantities and type of materials extracted, transported, and disposed, the status of reclamation, including the size and type of activities and estimated cost of reclamation to be completed, the results of air, soil and ground or surface water monitoring, an updated ERP-P, and any other information requested by the Administrator;

11.8.11.2. If the Permittee fails to timely submit a report required under this Section, the Administrator may take any enforcement action available to her, including but not limited to suspension or revocation of the DCI Conditional Use Permit; and

11.8.11.3. Reports shall be kept on file as a matter of public record.

11.9. REGULATIONS FOR LANDFILLS.

11.9.1. Purpose; Intent. This Section establishes operational, location, and general standards for landfills and associated activities, in addition to 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 pursuant to NMAC 20.9.3 (Solid Waste Facility Permits and Registrations). 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, remaining life, and need for a new solid waste 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.

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 water bodies.

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.

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

11.11.1. Purpose; Intent. This Section 11.10 establishes operational, location, and general standards for sand and gravel extraction and processing and associated extraction activities, in addition to 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 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 sand and gravel operation. A sand and gravel 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 a Large Scale Sand and Gravel Operation and shall be subject to this Chapter. A sand and gravel operation that affects ten (10) or fewer acres of land, extracts or processes less than twenty-thousand (20,000) tons of material, and does not utilize blasting shall not be subject to this Chapter, and shall be regulated under Section 10.19. One or more small, incremental increases of a sand and gravel operation that is subject to Section 10.19 that causes the operation to exceed the thresholds in this section are prohibited without a DCI Overlay Zoning District and DCI Conditional Use Permit. No person, including an applicant, operator, owner, or corporate officer, whether individually or on behalf of such person,

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who has been granted approval to operate a sand and gravel operation of less than ten (10) acres of land, less than twenty-thousand (20,000) tons of material, or that does not utilize blasting shall be granted approval to operate a new sand and gravel operation or to 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, process more than twenty-thousand (20,000) tons of material, or utilize blasting, except as authorized by a DCI Overlay Zoning District and DCI Conditional Use Permit.

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; or

11.11.3.3. Mineral Resource Extraction and Processing pursuant to Section 11.14.

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

11.11.4.1. Project description. The Applicant shall provide a detailed statement describing the operation, 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 onsite; and

5. a statement from a Professional Engineer indicating the type of material(s) to be excavated and their suitability for road and structural fill construction.

11.11.4.2. Blasting Plan.

1. 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 (Explosive Materials Code).

2. 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, and blasting schedule, and establish reasonable noise and vibration estimates not exceeding the standards set in Table 11.2.

3. The County may hire a qualified blasting firm to review the Applicant's blasting plan at the expense of the Applicant.

11.11.4.3. Closure Plan. The Applicant shall submit closure and post-closure plans with the 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 the EIR, and shall identify a Professional Engineer, approved by the Administrator, who shall be responsible for implementation of the plans. 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. Following the completion of closure, the Professional 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 comply with all applicable standards in perpetuity.

11.11.5. Operational Standards and Requirements.

11.11.5.1. 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 Administrator may recommend and the Board may impose further restrictions on hours of operation.

11.11.5.2. Setbacks. A sand and gravel 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.

11.11.5.3. Signs. In addition to the other applicable requirements of Section 7.9, a sand and gravel operation shall have no more than two (2) signs of four (4) square feet each.

11.11.5.4. Blasting.

1. A blasting permit shall be obtained before any blasting can occur.

2. Blasting shall be conducted only during the permitted hours of operation.

3. Blasting shall be conducted by a person who has been trained, examined, and certified by the Director of the Mining and Minerals Division of the Energy, Minerals and Natural Resources Department.

4. The Permittee 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 dollars ($1,000,000) for each occurrence.

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5. The Permittee shall monitor all blasting and record all noise and vibration levels, and report this information to the Administrator within five (5) working days of the blasting occurrence

6. The Permittee shall comply with the following standards:

a. ground vibration shall not exceed 0.50 inches per second Peak Particle Velocity at any property boundary, unless the adjoining property is owned by the operator and not leased to any other person.

b. 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

11.12. 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. This Section establishes operational, location, and general regulations and standards specific to Mineral Resource Exploration and Extraction and Processing. The purposes of Section 11.14 are as follows:

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 Exploration and Extraction and Processing, including the degradation of air quality, surface and groundwater 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 Exploration and Extraction and Processing; and

11.14.1.5. To assure that public roads and utilities required for Mineral Resource Exploration and Extraction and Processing are adequately funded, built, improved, and maintained;

11.14.1.6. To assure that Mineral Resource Exploration and 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 Exploration and 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 impacts associated with Mineral Resource Exploration and Extraction and Processing, remediation, 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 Applicants with notice of the process and issues that affect the County's review and decisionmaking regarding proposals to conduct Mineral Resource Exploration and Extraction and Processing; and

11.14.1.10. To provide for a fair and efficient system for the regulation of Mineral Resource Exploration and Extraction and Processing.

11.14.2. Applicability; Exploration Permits. Subject to Section 11.5.13, Section 11.14 applies to all Mineral Resource Exploration and Extraction and Processing in the County.

11.14.2.1. In the event of a conflict between any provision of Section 11.14 and any other provision of the SLDC, the more stringent provision shall apply. For proposed Mineral Resource Extraction and Processing operations that will occur on federal lands, the permit area defined in the permit issued by the New Mexico Mining and Minerals Division shall apply in lieu of the area defined by the DCI Overlay Zoning District. Mineral exploration on federal lands shall require a CUP in accordance with Section 11.3.1.2.

11.14.2.2. No Mineral Resource Exploration, Extraction, Processing shall be conducted prior to the establishment of a DCI Overlay Zoning District pursuant to Section 11.5, subject to Section 11.3.1.2 regarding federal lands. An Applicant may obtain an exploration permit by submitting an exploration and reclamation plan with its application for a DCI Overlay Zoning District. The Board may approve an

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exploration permit at the same time or after it approves a DCI Overlay Zoning District if the Applicant demonstrates compliance with Sections 11.8, 11.14.3 and 11.14.6 to the extent the Administrator determines these Sections should apply given the type, extent, and duration of the exploration, the amount of surface disturbance, and the threats posed to public health, welfare, safety and the environment. The Administrator may recommend, and the Board may impose reasonable conditions on exploration permits.

11.14.2.3. 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 CUP for Mineral Extraction and Processing shall not be issued unless the Applicant demonstrates compliance with the following design criteria:

11.14.3.1. Reclamation in accordance with a proposed reclamation plan shall be economically and technically feasible and will not require perpetual care.

11.14.3.2. Mineral Resource Extraction and Processing shall not cause or contribute to the contamination or depletion of any water resources.

11.14.3.3. All facilities shall be designed to withstand, at a minimum, the peak flow of a one thousand (1,000) year twenty-four (24) hour storm event with a twenty-five percent (25%) safety factor based on National Oceanic and Atmospheric Administration (NOAA) data for the area within the DCI Overlay Zoning District.

11.14.3.4. The mining operation shall be designed with water conservation as a primary concern.

11.14.3.5. The design shall assure that environmental standards imposed under the SLDC and applicable law are not exceeded in air, water, or soil; and if such standards are exceeded in any medium, the Permit shall be in non-compliance notwithstanding the Permittee's compliance with the control measures imposed in the DCI CUP; and

11.14.3.6. All designs, including any alterations to designs, shall be certified by a Professional Engineer.

11.14.4. Application Requirements. In addition to the requirements of Section 11.8, a DCI CUP application for Mineral Resource Extraction and Processing shall include the following:

11.14.4.1. Surface and Mineral Estates; Existing Land Uses. A map showing surface and mineral ownership and existing land uses within the DCI Overlay Zoning District, including the name, mailing address, and telephone number of each owner.

11.14.4.2. Right of Entry. Proof of the Applicant's right to conduct the proposed

mining operations within the DCI Overlay Zoning District.

11.14.4.3. State and Federal Permits and Related Materials. All relevant state and federal permits, including permits related to environmental protection, reclamation, and threatened and/or endangered species, and all reports, data, applications, modelling, orders, judgments, and other materials related to the state and federal permitting proceedings. The Applicant shall identify all federal or state requirements that, in the Applicant's opinion, satisfy the requirements the SLDC and shall specify which, if any, state or federal laws, regulations, or permit requirements conflict with any requirements in the SLDC.

11.14.4.4. Soil Classification Report. If onsite top soil is required to implement the reclamation plan, a Soil Classification Report shall describe the soils within the DCI Overlay Zoning District based on classifications published by the U.S. Soil Conservation Service.

11.14.4.5. Project Description. A complete description of the proposed mining operation, including:

1. a narrative description of the type and mineralization of ore body; the types and methods of proposed mineral extraction, stockpiling, and processing; the required mine units, facilities and infrastructure; the mining, stockpiling, processing, and engineering techniques; the target minerals; the total number of tons to be extracted; the total of tons to be stockpiled, stored, or impounded in each mine unit; the total number of acres of land that will be disturbed; and a breakdown of the disturbed acreage by type of disturbance, including each mine unit, road network, infrastructure, structure, etc.; and any other description necessary for a complete understanding of the proposed mining operation.

2. a map or maps of the DCI Overlay Zoning District or mine permit area, as applicable, at a scale approved by the Administrator that complies with the requirements of Section 11.5.8, which shall identify the mining sequence and accurately show the location of all mine units, structures, and other facilities, including but not limited to:

a. leach pads;

b. ore stockpiles, including leach stockpiles;

c. waste rock piles and dumps;

d. impoundments,

e. ponds;

f. diversions;

g. disposal systems;

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h. pits;

i. tailings impoundments;

j. mills and other processing facilities;

k. water treatment facilities;

l. storage areas;

m. borrow pits, topsoil, and topdressings storage;

n. staging areas; and

o. all other major facilities or structures;

3. reports and maps describing all of the environmental protection and mitigation measures to be implemented at the mine site, including the monitoring well network, terrain and stormwater management, impoundment and stockpile liners, leak detection systems and secondary containment, hazardous materials and waste management plan, air quality protection plan, nuisance and noise abatement plan, fire safety plan; and

4. a description of any abandoned or existing mines within five (5) miles of the DCI Overlay Zone District, including a map showing the location and type of pits, stockpiles, adits, shafts, processing facilities, and other mine facilities and works.

11.14.4.6. Sampling and Analysis Plan and Baseline Conditions Report. The Application shall include a proposed SAP to govern the collection of relevant baseline data for the site. The proposed SAP shall generally be modeled after the SAP required under NMAC 19.10.6.602(D)(12) but modified as appropriate to comply with Section 11.14. Within sixty (60) days after receiving the proposed SAP, the Administrator shall either approve it or provide the Applicant with a written list of deficiencies. In the event of a deficient proposed SAP, the Application will not be processed further until the Applicant has addressed the listed deficiencies to the Administrator's satisfaction. Upon approval of the SAP by the Administrator, the Applicant shall commence collecting baseline data in accordance with the SAP for at least 12 months or such longer period as the Administrator may require to address unique, site-specific factors. The Administrator shall accept a SAP approved by the New Mexico Mining and Minerals Division unless it is demonstrably inadequate to comply with all of the requirements of Section 11.14, in which case the Administrator shall require a supplemental SAP. The Application will not be presented to the Hearing Officer until all baseline data have been collected and presented in a Baseline Conditions Report (BCR). The SAP shall be designed to collect data and information related to the following items, which shall be compiled and analyzed in the BCR:

1. the climatological factors, including precipitation, prevailing winds, temperature, and current NOAA data defining the one thousand (1,000)

year, 24-hour storm event within the DCI Overlay Zoning District;

2. a topographic map showing the boundaries of the DCI Overlay Zoning District, location of all structures within one-half (1/2) mile of the boundaries of the DCI Overlay Zoning District, 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 11.5.8;

3. a description and map showing existing vegetation types, including cover, density, and productivity within the DCI Overlay Zoning District;

4. a description and map showing existing wildlife and habit for endangered/threatened/sensitive species of concern under state or federal law, including types, communities, and populations, and, if such corridors or habitat within the DCI Overlay Zoning District has been adversely impacted by existing or historical develop, a description and map identifying and describing such past impacts;

5. a description and map identifying and describing habitat state and federally listed sensitive, threatened or endangered plant species within the DCI Overlay Zoning District;

6. 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;

7. a description and map of the topsoil to be used for reclamation, including its physical and chemical characteristics, suitability for reclamation, and depth and characteristics of A, B, and C horizons, if applicable;

8. the geology and mineralogy of each ore body and surrounding rock, including cross-sections of overburden, mineralized zones, and ore bodies; and

9. surface water and groundwater within the DCI Overlay Zoning District:

> **a.** a description and maps showing the location and physical parameters of watersheds and surface water features, including rivers, streams, lakes, reservoirs, springs, watercourses, and riparian and wetland areas, classified as perennial, ephemeral, or intermittent, surface water flows and sources of flow, and seasonable variations in flow;
>
> **b.** a description, maps, and cross sections describing and characterizing the aquifers, aquifer parameters, water table elevation, groundwater flow, groundwater chemistry, interconnection with surface flows, amount of baseline

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contribution onsite, seasonable variations, and existing uses of each aquifer;

c. a description and map showing the location and physical parameters of man-made water diversion, storage, and conveyance features, including dams, acequias, ditches, head gates, sumps, and drains;

d. a description and map showing all wells and surface water diversions located within two (2) miles of the property boundaries of the DCI Overlay Zoning District and the owners of the corresponding water rights;

e. a description and map showing the surface and bedrock geology with cross sections clearly illustrating the geologic units and stratigraphy, structures, faults, fractures, and mineralized zones; and

f. a description, maps, and cross sections, as appropriate, describing and characterizing all existing manmade sources of pollution and any existing pollution, including: legacy mining features such as pits, shafts, adits, stockpiles, tailings, and dumps, including their geochemistry, potential to generate acid mine drainage or discharge or otherwise emit toxic contaminants; the nature and extent of any existing soil contamination; and the nature and extent of existing groundwater contamination

11.14.4.7. Existing Pollution and Sources of Pollution. The Application shall describe how the Applicant intends to address any existing pollution or sources of pollution identified in the BCR and how such existing features will affect the proposed operations, reclamation, and environmental monitoring and protection. The Applicant shall identify the parties actually responsible for such pollution, if known, and the parties who are currently legally liable for reclaiming, remediating, or abating the pollution and pollution sources, if any, including the legal authority for such liability. Notwithstanding any other provision of state or federal law, the Board may require the DCI CUP Permittee to reclaim, contain, or otherwise abate existing pollution and pollution sources as a condition of approving the DCI CUP.

11.14.4.8. Environmental Impact Report. In addition to the requirements of Section 11.7.1.9.1, the EIR shall include additional analyses, hydrologic and contaminant-transport modelling, maps, cross sections, and such other information as required to fully describe the environmental and site conditions expected to occur during and after the cessation of active mining operations, including during construction, operations, reclamation, closure, and post-closure using geological, meteorological, hydrological, geochemical, and mineralogical modeling for each baseline described in BCR, including:

1. the mineral composition of the rock, ore, and soil to be extracted, processed, stored, deposited, exposed, or disposed of within the DCI Overlay Zoning District;

2. the potential of the proposed mine units to contaminate air, soil and water through any means, including leaching, acid mine drainage, percolation, run-on and runoff, or surface exposure, a description of the types of contaminants, an explanation as to how contamination will be prevented, and a description of the nature, likely concentrations, and extent of any unpreventable contamination; and

3. hydrologic gradient maps showing the effect of the mine units, dewatering, intended discharges, and any intended alteration of the subsurface on the water table and any confined aquifers.

11.14.4.9. Stormwater Management Plan. A Stormwater Management Plan shall be included in the Application that complies with state and federal law. The Plan shall demonstrate how stormwater runoff will be managed to, among other things, prevent clean water from entering areas containing materials that have been extracted, processed, stored, deposited, exposed, or disposed of, and that captures and contains contaminated stormwater.

11.14.4.10. Erosion Management Plan. An Erosion Management Plan shall be included in the Application describing the proposed methods of controlling sediment transport. This Plan may be combined with the Stormwater Management Plan.

11.14.4.11. Wastewater Management Plan. A Wastewater Management Plan shall be included in the Application describing the proposed methods for managing domestic waste, including the location and design of septic tanks and leach fields.

11.14.4.12. Solid Waste Management Plan. A Solid Waste Management Plan shall be included in the Application describing the proposed methods for managing disposing of domestic and industrial solid waste in accordance with state and federal law, including the implementation of best practices for minimization and recycling. This Plan may be combined with the Wastewater Management Plan.

11.14.4.13. Extraction and Processing. A description and maps showing the proposed mining, stockpiling, and mineral processing methods and locations of all existing and proposed mine units and other facilities, including:

1. open pits 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

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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.

6. A mass balance table describing the quantity of each type of material mined or disturbed each year, including but not limited to soil, overburden, barren waste (less than 0.1% sulfur), waste, ore, tailings, and quantities of material disturbed for roads and site grading into and out of stockpiles.

11.14.4.14. Storage, Disposal, and Maintenance of Ore Stockpiles, 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 groundwater above applicable standards, signed and sealed by a Professional Engineer, taking into consideration the amount, intensity, duration, frequency of precipitation, and the watershed area, including the topography, geomorphology, soils, and vegetation. Liners with secondary containment and leak detection shall be required in accordance with Section 11.14.6.7. for all mine units that have the potential to discharge contaminants into groundwater and contaminate it above applicable standards.

11.14.4.15. Operating Plan. A plan describing the procedures for operating the facilities for Mineral Resources Extraction and Processing, including:

1. a schedule of anticipated periods of temporary cessation, including holidays or anticipated regular maintenance;

2. notification of appropriate regulatory authorities of temporary cessations, both scheduled and unscheduled;

3. a description of processes for containing leachate and runoff from materials that have been extracted, processed, stored, deposited, exposed, or disposed;

4. a description of processes and protocols for managing all fluids in the operation, including routine inspections of each facility;

5. a protocol for managing the facilities and fluids during emergencies and non-routine operations, temporary cessation, and closing, 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 Hazardous Materials, during emergency and non-routine operations

e. monitoring plan to identify and characterize Hazardous Materials generated or released during emergency and non-routine operations;

f. pump energy usage;

g. estimated cost to cease operations and manage facilities during emergencies or non-routine operations;

h. Health and Safety Plan complying with Mine Safety and Health Administration requirements; and

i. procedures to stabilize facilities and return to regular operations.

11.14.4.16. Blasting Plan. A plan created by a qualified blasting firm or engineer which is knowledgeable of State of New Mexico requirements and National Fire Protection Association NFPA 495 (Explosive Materials Code), which identifies the maximum weight of explosives to be 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 limits not exceeding the standards set in Table 11.2.

11.14.4.17. Monitoring Plan. In addition to the requirements of Section 11.8.11, 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.

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11.14.4.18. Wildlife Impact Mitigation Plan. The Applicant shall submit a Wildlife Impact Mitigation Plan developed by a professional biologist with expertise in wildlife impact mitigation and approved by the Administrator. The plan shall describe how wildlife impacts attributable to the proposed DCI will be eliminated or mitigated to the greatest extent possible.

11.14.4.19. Closure and Post-Closure Plans. The Applicant shall submit Closure and Post-Closure Plans, and shall update the plans annually. The plans shall be certified by a Professional Engineer approved by the Administrator. Following closure, a Professional 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 will comply with all applicable standards in perpetuity. The plans shall demonstrate compliance with the following standards:

1. Removal. Except as otherwise provided in the DCI CUP approval order, all buildings, structures, infrastructure, and facilities not required for reclamation and environmental protection shall be removed.

2. Secondary Containment Systems. Liner systems that are not required for reclamation, closure, and environmental protection shall be tested for any potentially contaminating materials, remediated to comply with Section 11.14.3, and removed.

3. Leach (Spent Ore and Lean Ore) Facilities. Materials in leach facilities shall be detoxified using rinse/rest cycles and chemical oxidation. Following detoxification, leach facilities shall be closed by covering the materials as specified in Section 11.14.9.4, ponds associated with a heap-leach facility shall be closed by folding in the synthetic liners and filling and contouring the pits with inert material, residual sludge, spent ore, and lean ore shall be removed and disposed in an approved facility, and piping shall be removed.

4. Cover Systems. Cover systems shall be installed on waste rock piles, leach and spent ore facilities, tailing impoundments, and any other unit that has the potential to yield a contaminant, which is capable of containing the contaminant in perpetuity:

a. 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 minimize erosion maintain slope and vegetation stability. Erosion rates shall be equal to or less than stable slopes in the surrounding area after the vegetation has reached near-equilibrium cover levels;

b. the cover system 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 (July, August and September), 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;

c. these design criteria may be modified only upon a demonstration 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 groundwater standards; and

d. the cover system shall include monitoring and reporting for surface and groundwater under and adjacent to the unit.

11.14.4.20. Reclamation.

1. a detailed description of the proposed post-mining land use within the DCI Overlay Zoning District, including the written approval of each surface owner for the proposed use;

2. a plan and cost estimate certified by a Professional Engineer with expertise in reclamation and approved by the Administrator, to reclaim the DCI Overlay Zoning District, 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, quantity of topsoil estimated to remain, the quantity of ore mined, and quantity of waste generated and placed in each storage facility; and

g. a plan for salvaging and storing topsoil for use in reclamation.

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11.14.4.21. Additional Information. Any additional information which the Administrator and the Board 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 to provide assistance in its review of the application in accordance with Ordinance No. 2015-10, as the same may be amended from time to time.

11.14.6. Performance Standards and Conditions. The following performance standards shall apply to both operation and closure of a Mineral Resource Extraction and Processing operation to the extent applicable:

11.14.6.1. 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 Saturday unless the Administrator recommends, and the Board determines that other hours of operation are more appropriate to meet the standards of this chapter and the SLDC.

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 Zoning 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 structure, including churches, public buildings, and schools not within the DCI Overlay Zoning District.

11.14.6.3. Compliance with Design Criteria. Mineral Resource Extraction and Processing shall comply with Section 11.14.3 during all phases of construction, operation, closure, post-closure, and reclamation.

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

11.14.6.5. Reclamation, Remediation, and Containment Associated with Prior Mining or Other Prior Uses. In Applicant shall submit a plan to reclaim, remediate, reuse, stabilize, and/or contain any existing pollution or sources of pollution above applicable standards identified under Section 11.14.4.8.

11.14.6.6. Terrain Management. Mineral Resource Extraction and Processing shall comply with the following standards:

1. open pits shall be backfilled unless the Administrator recommends and the Board determines that another method of open pit closure will be more effective to comply with Section 11.14.3;

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 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 Zoning District shall be managed to minimize erosion, including the construction of sedimentation ponds; and

5. all reclaimed landforms shall be geomorphologically stable and blend into the surrounding terrain.

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 that have the potential to generate water contamination, except for clean soil stored for the purpose of reclamation, shall be designed, constructed and managed by a Professional Engineer with expertise in liner systems and approved by the Administrator, and shall comply with Section 11.14.3 and the following guidelines, unless the Board determines that the guidelines should be modified to ensure compliance with Section 11.14.3:

1. a process solution collection system designed to: (1) be removed 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;

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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 design of the liner shall be 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 $1x10^{-7}$ 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;

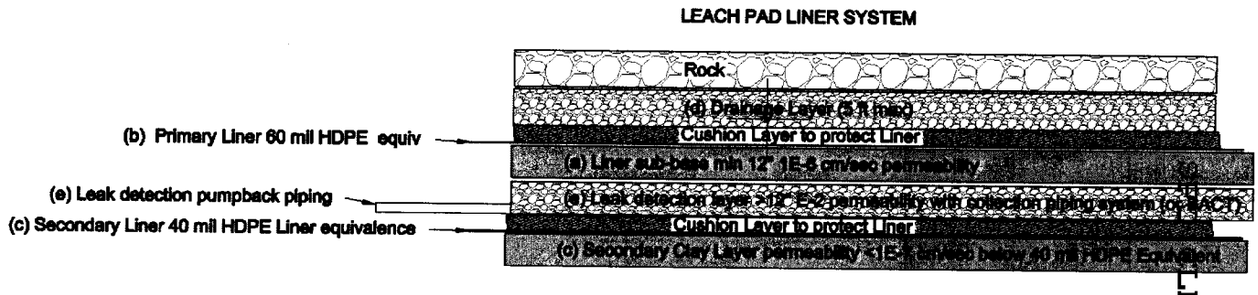
5. a pump back system installed between the primary and secondary liners for the purpose of keeping the secondary liner dry in the event of a leak. Pumped fluids shall be managed in a manner that is protective of human health and the environment and that satisfies Section 11.14.3 (Design Criteria);

6. tailings shall be dry stacked unless the Administrator recommends, and the Board determines that another method is more effective to ensure compliance with Section 11.14.3;

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 operations notify the Administrator, remove the material from the liner, and repair the leak. The Permittee shall not recommence operations until a Professional Engineer certifies that the leak has been identified and repaired, and the release, if any, 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 allowed unless the Administrator recommends, and the Board determines that highwalls are the most effective method to ensure compliance with Chapter 11.

11.14.6.9. Monitoring Plan. The Applicant shall retain a Professional Engineer or other qualified professional 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 plan, including a procedure for emergency notification if contamination is detected.

11.14.6.10. Blasting.

1. all blasting shall comply with the approved blasting plan;

2. blasting shall be conducted only during specified hours;

3. the Permittee shall provide the Administrator and all residents within five (5) miles of the property boundaries of the DCI Overlay Zoning District with the name of the blasting firm, or the blasting manager for the Permittee, and the blasting schedule;

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 Permittee shall submit a pre-blast survey to the Administrator no less than five (5) working days prior to a blasting event;

6. the blasting firm, or the Permittee, if applicable, shall have liability

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insurance of no less than five million dollars ($5,000,000) for each blasting event;

7. 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;

8. ground vibration during a blasting event shall not exceed 0.50 inches per second Peak Particle Velocity 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

9. 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 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

11.14.7. Financial Assurance. The County shall require the Applicant, prior to issuance of the DCI CUP, to provide Financial Assurance in accordance with Section 11.5.6.7 and the following provisions. The Administrator shall determine the amount and manner of Financial Guaranty under this section by conducting the appropriate study, and any additional investigation, and shall conduct an annual review, and may change the manner or amount of the Financial Guarantys. The Applicant, or Permittee if applicable, shall pay the cost of any such study and investigation, including the cost for the annual review. If the Permittee fails to maintain the Financial Guarantys required by the County, the DCI CUP shall be automatically suspended until the deficiency has been cured. The Administrator shall issue an annual report describing the status of the Financial Guaranties, including the claims filed and distributions made.

11.14.7.1 Performance Financial Guaranty. Subject to Section 11.5.6.7, the Applicant shall post an irrevocable Financial Guaranty in an amount determined by the Administrator, but no less than one hundred twenty-five percent (125%) of the cost to reclaim and close the mine site, conduct monitoring and operate and maintain all required environmental protection systems during operation and for one hundred (100) years after closure, to remediate any contamination, damage, and impacts arising from or related to Mineral Resource Extraction and Processing, and to remediate legacy contamination to the extent required in the DCI CUP approval order. The Financial Guaranty shall include the cost associated with hiring one or more local contractors to conduct remediation, reclamation, and closure. The Administrator may consider historical evidence in determining the required amount of the Financial Guaranty.

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 equal to or greater than the cost to construct, improve, expand, and maintain all County 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. The closure of the Mining Resource Extraction and Processing shall comply with the approved Closure Plan.

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 prior to the initiation of a 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 an unplanned period greater than five (5) calendar days, provided that the Permittee shall comply with Section 11.14.11 if the Administrator determines that the Permittee does not intend to continue the 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 property boundaries of the 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.

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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. Permanent Cessation. If the Administrator determines that Mineral Resource Extraction and Processing operations have permanently ceased for any reason, the Permittee shall comply with the closure and reclamation requirements of the DCI Conditional Use Permit.

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Tax Amount	$18.85	**Order Taker**	cwhite	
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Amount Due	$258.21	**Payment Amount**	$0.00	

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NOTICE OF PUBLIC HEARING ON AND GENERAL SUMMARY OF A SANTA FE COUNTY ORDINANCE TITLED "AN ORDINANCE AMENDING THE SUSTAINABLE LAND DEVELOPMENT CODE, ORDINANCE NO. 2016-9, TO AMEND AND RESTATE CHAPTER 11 (DEVELOPMENTS OF COUNTYWIDE IMPACT), INCLUDING NEW REGULATIONS FOR MINERAL RESOURCE EXPLORATION, EXTRACTION AND PROCESSING, AND ADD DEFINITIONS TO APPENDIX A."

Notice is hereby given that the Santa Fe County Board of County Commissioners (BCC) will conduct a public hearing to consider the proposed ordinance (Proposed Ordinance). The hearing will be conducted in the BCC Chambers located at 102 Grant Avenue, Santa Fe, NM 87501, no earlier than 4:00 p.m. on August 27, 2019.
General Summary of Proposed Ordinance. Chapter 11 sets out environmental protection, reclamation, and permitting requirements for all Developments of Countywide Impact (DCIs) except oil and gas operations, which are separately regulated under County Ordinance No. 2008-19. The Proposed Ordinance would amend and restate Chapter 11 of the Santa Fe County Sustainable Land Development Code (SLDC), Ordinance No. 2016-9. In addition to numerous non-substantive changes, including changes in section numbering throughout Chapter 11, the Proposed Ordinance would establish standard requirements for all DCIs (except oil and gas), including requirements relating to overlay zoning, performance standards, general provisions, and conditional use permit applications. The Proposed Ordinance would establish new regulations for mineral resource exploration, extraction and processing, require additional investigations and reports, add several definitions to Appendix A of the SLDC, and include new provisions concerning DCIs located on federal lands.

Prior Public Hearings. Prior hearings on the Proposed Ordinance were conducted by the County Planning Commission on March 21, 2019, and by the BCC on April 9, 2019. In response to comments at these prior public hearings, and upon further review, County staff revised the Proposed Ordinance.

Public Hearing. Any person may express their views on the Proposed Ordinance by testifying at the public hearing and/or submitting written comments at the hearing. In addition, written comments received by the County Growth Management Department no later than August 20, 2019, will be included in the hearing

record. Written comments may be hand-delivered to the Department at the street address above or mailed to the Department at P.O. Box 276, Santa Fe, NM 87504-0276.

Possible Action. After conducting the August 27th public hearing, the BCC may adopt the Proposed Ordinance, with or without changes, decline to adopt the Proposed Ordinance, continue the matter for further consideration, or take such other action or actions as may be consistent with the New Mexico Open Meetings Act.

Copies of Proposed Ordinance. Copies of the Proposed Ordinance may be inspected and copied at the Santa Fe County Clerk's Office, 102 Grant Avenue, Santa Fe, NM, or viewed on the County's website. **www.santafecountynm.gov** .

Journal: August 12, 19, 2019

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