

CHAPTER 3

EFFICIENT UTILIZATION OF MUNICIPAL AND INDUSTRIAL WATER PROJECTS

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Article 1 General and Introductory Provisions

3.101 Designation of Activity of State Interest

The "Efficient Utilization of Municipal and Industrial Water Projects" is a designated matter of state and local interest in El Paso County as an activity of state interest. No person may engage in development, including construction, expansion, reoperation, or other significant change in use of a municipal and/or industrial water project wholly or partially within unincorporated El Paso County without first obtaining a permit pursuant to these Regulations.

3.102 Purpose and Intent

The purpose and intent of this Chapter shall be:

- (1) To protect the public health, safety, convenience, order, property and welfare of present and future inhabitants of El Paso County and the State of Colorado.
- (2) To ensure planned, orderly, efficient and economical land use development.
- (3) To provide for the needs of agriculture, existing businesses, residential communities, and recreation now and in the future in El Paso County and adjacent communities which are integral to the economy of El Paso County.
- (4) To ensure that municipal and industrial water projects are located to avoid conflict with County land use plans.
- (5) To regulate municipal and industrial water projects that could cause extensive water and air pollution or that would otherwise degrade or threaten environmental quality within the County or the beauty of its landscape and the integrity of its waterways, rivers and creeks.
- (6) To ensure that municipal and industrial water projects emphasize the most efficient use of water, including to the extent permissible under existing law, and when appropriate, the recycling, reuse, and conservation of water.
- (7) To ensure that new municipal and industrial water be concentrated in areas which would result in the proper utilization of existing treatment plants and the orderly distribution of water and sewage systems of adjacent communities.
- (8) To ensure that major extensions of municipal and industrial water systems be permitted only in areas in which the anticipated growth and development that may occur as a result of such extensions can be accomplished within the financial and environmental capacity of the area to sustain such growth and development.
- (9) To protect lands from development which would cause immediate or foreseeable material danger to significant wildlife habitat or threaten or endanger a wildlife species.
- (10) To preserve areas of historical and archaeological importance.
- (11) To regulate location of activities and developments which may result in significant changes in population density.

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- (12) To provide for planned development of services and facilities.
- (13) To regulate use of land and water resources on the basis of impact thereof on the community or surrounding areas, including existing and proposed development.
- (14) To provide planned and orderly use of land and water resources and protection of the environment in a manner consistent with constitutional rights and private property rights.
- (15) To ensure that new development will pay for itself to the maximum extent practicable and to ensure that the present residents of El Paso County will not have to unduly subsidize new development through increased cost of public services or degradation of the quality of life.

3.103 Definitions

- (1) *Efficient utilization of water:* The employment of methods, procedures, techniques and controls to encourage use of water that will yield the greatest possible benefits including social, economic, environmental, aesthetic, agricultural, commercial and recreational benefits, and that will promote, where feasible and appropriate, the conservation of water in particular uses, and that emphasizes, to the extent permissible under law, the recycling and reuse of water.
- (2) *Industrial:* Any development of natural resources, business or trade, commercial activity, processing, fabrication, alteration or manufacture of raw or semi-processed materials, manufactured goods or any components thereof, and commercial feedlots. "Industrial" includes the provision of water directly or indirectly by a private entity or individual for domestic, municipal or industrial uses. "Industrial" does not include agricultural crop production or livestock watering.
- (3) *Municipal and industrial water project:* A water supply system and all related components through which a water supply from either surface or subsurface, alluvial or groundwater, renewable or non-renewable sources is derived for municipal or industrial uses or both. A water supply system includes wells, diversion facilities, pumps, conduits, canals, pipes, ditches, storage tanks, reservoirs or other impoundments, through which a water supply is obtained directly or by trade, substitution, augmentation or exchange, and also includes those components for returning unconsumed flows back to the stream system. The filing of an application in court or with the Colorado Ground Water Commission to adjudicate the use of water and obtaining a decree or determination, in and of itself, shall not constitute the development of a water project.
- (4) *Municipal use:* use of water by the general public whether supplied by a municipality or by private or special district providers.
- (5) *Project or proposed project:* The site selection, construction, development, operation, reoperation, enlargement or expansion, conversion of an existing facility or structure to a municipal or industrial use, or material change of a development proposed under these Regulations throughout its life cycle including all ancillary structures, facilities, improvements, and activities, and all integrated components thereof. If a project is to be phased over time or is composed of distinguishable elements, the impacts of all phases or

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elements of the Project must be considered together when reviewing the project hereunder and determining if it satisfies these Regulations.

- (6) *Recycling*: the treatment of wastewater in a manner that will replenish its quality to the standard established by the Colorado Department of Public Health and Environment where permissible by Colorado water law.
- (7) *Source development area*: a geographic area or region wholly or partially within the unincorporated territory of the County which will be developed, altered, or affected in connection with the development of a municipal or industrial water project.

3.104 Applicability

- (1) This Chapter 3 applies to development of municipal and industrial water projects, wholly or partially within unincorporated El Paso County.
- (2) A municipal or industrial water project is exempt from this Chapter if it falls within one of the following categories:
 - (a) The maintenance, repair, replacement of an existing component or facility of a Project if it does not constitute a material change, does not cause negative impacts different from the existing Project, and does not otherwise exacerbate existing impacts.
 - (b) Replacement of an existing water diversion or storage structure without change in the point of diversion, type or place of use of the water, or yield.
 - (c) Irrigation facilities used for agricultural purposes.
 - (d) A proposed municipal water project with a new or increased diversion per year, or new or increased storage capacity, of less than 100 acre-feet.
 - (e) A proposed industrial water project with a new or increased diversion per year, or a new or increased storage capacity, of less than 100 acre-feet.

Article 2 **Permit Applications and Procedures**

The procedures concerning permit applications, notice and conduct of permit hearings, review of Permit Authority decisions, and the issuance and content of permits to engage in the designated activity of a municipal or industrial water project shall comply with the provisions set forth in Chapter 2 and the additional provisions of this Chapter.

3.201 Application Submission Requirements

In addition to the materials listed at Section 2.303, application for a permit to conduct a new municipal or industrial water project shall be accompanied by the following information in the number required by the Director:

- (1) Description of efficient water use, recycling and reuse technology the Project intends to use. Such description shall include estimated stream transit losses

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of water, reservoir evaporation losses, and power and energy requirements of the Project and alternatives to the Project.

- (2) Map and description of other municipal and industrial water projects and providers in the vicinity of the Project, including their capacity and existing service levels, location of intake and discharge points, service fees and rates, debt structure and service plan boundaries and reasons for and against hooking on to those facilities.
- (3) Description of the water to be used by the Project and alternatives, including: the source, amount, the quality of such water; the applicant's right to use the water, including adjudicated decrees or determinations and any substitute water supply plans, and applications for decrees or determinations; proposed points of diversion and changes in the points of diversion; the existing uses of the water; adequate proof that adequate water resources have been or can and will be committed to and retained for the Project, and that applicant can and will supply the Project with water of adequate quality, quantity, and dependability; and approval by the respective Designated Ground Water Management District if applicable. If an augmentation or replacement plan for the Project has been decreed or determined or an application for such plan has been filed in the court or with the Ground Water Commission, the applicant must submit a copy of that plan or application.
- (4) Loss of Agricultural Productivity.
 - (a) Information on any agricultural water rights in the region converted to provide water for the Project, now or in the future.
 - (b) Information on the amount of irrigated agricultural lands taken out of production, and a description of revegetation plans.
 - (c) Economic consequences of any loss of irrigated agriculture, including loss of tax base, in the region.
 - (d) Information as to loss of wildlife habitat, loss of topsoil, or noxious weed invasion, as a result of the transfer of water rights and subsequent dry-up of lands.
 - (e) Information on impacts to agricultural head gates and water delivery systems.

3.202 Review Criteria

A Permit to conduct the designated activity of a municipal or industrial water project shall be approved if the Permit Authority finds the application complies with the following criteria and those at Section 2.405. If the Permit Authority finds the application does not comply with any one or more of these criteria, the application shall be denied or may be approved with conditions.

- (1) **The criteria in Section 2.405.**
- (2) **The Project shall emphasize the most efficient use of water, including the recycling, reuse and conservation of water.** The determination of whether the Project emphasizes the most efficient use of water may include but is not limited to the following considerations:

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

CHAPTER 4

**SITE SELECTION AND CONSTRUCTION OF MAJOR NEW DOMESTIC WATER AND
SEWAGE TREATMENT SYSTEMS AND MAJOR EXTENSIONS OF EXISTING DOMESTIC
WATER AND SEWAGE TREATMENT SYSTEMS**

Article 1 General Provisions

- 4.101 Designation of Activities of State Interest
- 4.102 Purpose and Intent
- 4.103 Definitions
- 4.104 Applicability

Article 2 Permit Applications and Procedures

- 4.201 Application Submission Requirements
- 4.202 Review Criteria

Article 1 General Provisions

4.101 Designation of Activities of State Interest

Any activity wholly or partially within the unincorporated jurisdiction of El Paso County which falls within one or more of the following categories shall be considered to be site selection and construction of major new domestic water and sewage treatment systems and/or major extension of existing domestic water and sewage treatment systems, which activities are hereby designated as activities of state interest requiring a permit under these Regulations. No person may engage in construction, expansion, reoperation or other significant change in use of the following activities wholly or partially within unincorporated El Paso County without first obtaining a permit pursuant to these Regulations.

- (1) New water supply systems, new water treatment plants, or extensions of those systems or plants including water storage tanks, and line extensions that serve more than 25 year-round residents or provide equivalent amount of water service to domestic users.
- (2) Water service for commercial and/or industrial use equal to or greater than an amount equivalent to that in paragraph (1) above.
- (3) Domestic Sewage Systems. A project which is planned for or requires the creation of a major new sewage treatment system(s) or a major extension(s) of an existing sewage treatment system(s), which means any new collector sewer lines, return flow lines, pumping structure or treatment facilities proposed for:
 - (a) New wastewater treatment plants, extensions or expansions to existing plants, line extensions, or individual sewage disposal systems that have an average flow of more than 2,000 gallons per day;
 - (b) Wastewater lift stations that pump wastewater from areas too low to drain into available sewers receiving an average flow of more than 2,000 gallons per day;
 - (c) Wastewater interceptors, as defined at Section 4.103;
 - (d) Service for commercial and/or industrial use that serves an equivalent of more than 25 year-round residents, and that is not served at the time of permit application.
- (4) This designation does not include extensions of water or sewer lines for which construction plans have been or are subject to approval as part of a subdivision development under the LDC.

4.102 Purpose and Intent

The purpose and intent of this Chapter shall be:

- (1) To ensure that new domestic water and sewage treatment systems and/or major extensions of the same are constructed in areas which will result in the proper utilization of existing treatment plants and the orderly development of domestic water and sewage systems of adjacent communities.
- (2) To ensure that site selection and construction of major new domestic water and sewage treatment systems and/or major extensions of the same are conducted

in such a manner as to minimize environmental impacts associated with such development.

- (3) To ensure that site selection and construction of major new domestic water and sewage treatment systems and/or major extensions of the same are planned and developed in a manner so as not to impose an undue economic burden on existing or proposed communities.
- (4) To ensure that the impacts to County roads of site selection and construction of major new domestic water and sewage treatment systems and/or major extensions of the same are adequately mitigated.

4.103 Definitions

For the purpose of this Chapter, the following definitions will apply:

- (1) *Collector sewer line* means a sewage treatment system's pipe, conduit, ditch, natural water course, or combination thereof which is designed to accept and transport wastewater from privately owned service lines from individual structures and properties to the system's treatment plant. A collector sewer line for the purpose of this regulation includes common lateral sewers and interceptor sewers. Not included in this definition are privately owned individual on-site sewage disposal system lines and privately owned service lines.
- (2) *Domestic water and sewage treatment system* means a wastewater treatment plant, water treatment plant, or water supply system, including systems whose service area is, or will be, outside the unincorporated area of El Paso County.
- (3) *Interceptor* means a waste water interceptor sewer with an internal pipe diameter of equal to or greater than 24 inches intercepting wastewater from a final point in a collection system and conveying the waste directly to a treatment plant, or meeting other requirements of the CDPHE to be classified as an interceptor.
- (4) *Return flow* means a sewage treatment system's pipe, conduit, ditch, natural water course, or combination thereof, which is designed to transport wastewater, commonly known as effluent, from the system's treatment plant to a point of discharge. A point of discharge includes a natural water course, ditch, groundwater recharge area, injection well, evaporation basin, or water supply system's transmission line.
- (5) *Wastewater treatment plant* means the facility or group of units used for treatment of wastewater from sewer systems and for the reduction and handling of solids and gases removed from such wastes.
- (6) *Water distribution line* means a water supply system's pipe, conduit, ditch, natural water course, or combination thereof which is designed to transport water of a potable or non-potable quality, commonly referred to as treated or raw water, and having the characteristic that it allows customer service taps. A water distribution line for the purpose of this regulation is a line having a vertical cross sectional area equal to or greater than a twelve (12) inch diameter pipe or its equivalent.
- (7) *Water supply system* means the system of pipes, structures and facilities through which a water supply is obtained, treated and sold or distributed for human consumption or household use, including systems whose service area is, or will be, outside the unincorporated area of El Paso County.

- (8) *Water transmission line* means a water supply system's pipe, conduit, ditch, natural water course, or combination thereof which is designed to transport water of a potable or non-potable quality, commonly referred to as treated or raw water, and having the characteristic that it does not allow customer service tap. A water transmission line for the purpose of this regulation is a line having a vertical cross sectional area equal to or greater than a twelve (12) inch diameter pipe or its equivalent.
- (9) *Water treatment plant* means the facility or facilities within the water supply system, which can alter the physical, chemical or bacteriological quality of the water.

4.104 Applicability

These Regulations shall apply to the site selection for all major new domestic water and sewage treatment systems and the construction thereof as described at Section 4.101 and defined at Section 4.103. They shall also apply to the expansion or major extension of existing domestic water or sewage treatment systems.

Article 2 Permit Applications and Procedures

4.201 Application Submission Requirements

In addition to the materials listed at Section 2.303, applications for a permit to locate or construct a major new domestic water or sewage treatment system and/or major extension thereof shall be accompanied by the following information, in the number required by the Director:

- (1) Preliminary review and comment on the proposal by the appropriate agency of the Colorado Department of Natural Resources and the Colorado Department of Public Health and Environment within sixty (60) days of the date of submittal of the proposal for review.
- (2) Scope of Proposal
 - (a) Provide detailed plans of the proposal, including proposed system capacity and service area plans mapped at a scale acceptable to the Department.
 - (b) Provide a description of all existing or approved proposed domestic water or sewage treatment systems within the Project area.
 - (c) Describe the design capacity of each domestic water or sewage treatment system facility proposed and the distribution or collection network proposed in the Project area.
 - (d) Describe the excess capacity of each treatment system and distribution or collection network in the affected community or Project area.
 - (e) Provide an inventory of total commitments already made for current water or sewage services.
 - (f) Describe the operational efficiency of each existing system in the Project area, including the age, state of repair and level of treatment.

- (g) Describe the existing water utilization, including the historic yield from rights and use by category such as agricultural, municipal and industrial supply obligations to other systems.
- (3) Demonstration of Need
- (a) Provide population trends for the Project area, including present population, population growth and growth rates, documenting the sources used.
 - (b) Specify the predominant types of developments to be served by the proposed new water and/or sewage systems or extensions thereof.
 - (c) Specify at what percentage of the design capacity the current system is now operating:
 - (i) Water treatment system.
 - (ii) Wastewater treatment system.
 - (d) Specify whether present facilities can be upgraded to accommodate adequately the ten-year projected increase needed in treatment and/or hydraulic capacity.
- (4) Description of the water to be used by the Project and alternatives, including: the source, amount, the quality of such water; the applicant's right to use the water, including adjudicated decrees or determinations and any substitute water supply plans, and applications for decrees or determinations; proposed points of diversion and changes in the points of diversion; the existing uses of the water; adequate proof that adequate water resources have been or can and will be committed to and retained for the Project, and that applicant can and will supply the Project with water of adequate quality, quantity, and dependability; and approval by the respective Designated Ground Water Management District if applicable. If an augmentation or replacement plan for the Project has been decreed or determined or an application for such plan has been filed in the court or with the Ground Water Commission, the applicant must submit a copy of that plan or application.
- (5) Loss of Agricultural Productivity.
- (a) Information on any agricultural water rights in the region converted to provide water for the Project, now or in the future.
 - (b) Information on the amount of irrigated agricultural lands taken out of production, and a description of revegetation plans.
 - (c) Economic consequences of any loss of irrigated agriculture, including loss of tax base, in the region.
 - (d) Information as to loss of wildlife habitat, loss of topsoil, or noxious weed invasion, as a result of the transfer of water rights and subsequent dry-up of lands.
 - (e) Information on impacts to agricultural head gates and water delivery systems.

- (6) The financial impact analysis of site selection and construction of major new water and sewage treatment facilities and/or major extension of existing domestic water and sewage treatment systems shall include but need not be limited to the following items:
- (a) A review and summary of any existing engineering and/or financial feasibility studies, assessed taxable property valuations and all other matters of financial aid and resources in determining the feasibility of the proposed new facility, including:
 - (i) Service area and/or boundaries.
 - (ii) Applicable methods of transmitting, storing, treating and delivering water and collecting, transmitting, treating and discharging sewage, including effluent and/or sludge disposal.
 - (iii) Estimated construction costs and period of construction of each new or extension facility component.
 - (iv) Assessed valuation of the property to be included within the service area boundaries.
 - (v) Revenues and operating expenses of the proposed new or extension facility, including but not limited to historical and estimated property taxation, service charges and rates, assessments, connection and tap fees, standby charges and all other anticipated revenues of the proposed new facility.
 - (vi) Amount and security of the proposed debt and method and estimated cost of debt service.
 - (vii) Provide the details of any substantial contract or agreement for revenues or for services to be paid, furnished or used by or with any person, association, corporation or governmental body.

4.202 Review Criteria

A permit for the conduct of site selection and construction of major new domestic water and sewage treatment systems and/or major extension of existing domestic water and sewage treatment systems shall be approved if the application complies with the following criteria. If the Permit Authority finds that the application does not comply, the application shall be denied or may be approved with conditions:

- (1) **The criteria in Section 2.405.**
- (2) **There is sufficient existing and projected need to warrant and support the proposed Project.**
- (3) **New domestic water and sewage treatment systems or extensions shall be constructed in areas which will result in the proper utilization of existing treatment plants and the orderly development of domestic water and sewage treatment systems of adjacent communities.**
- (4) **Site selection and construction of major new water and sewage treatment facilities and/or major extensions of domestic water and sewage treatment systems will not create growth and development which is incompatible with and**

cannot be accommodated by the local financial capacity of the area or residents to be served.

- (5) **Site selection and construction of major new water and sewage treatment facilities and/or major extensions of domestic sewage treatment systems will not overburden the existing systems and current and projected future demand for the service can be met within existing and proposed capacity.**
- (6) **The activity will not create proliferation of special districts, or overlapping of the boundaries of special districts.**
- (7) **The proposed activity is the best alternative available for the provision of water and/or sewer service to the geographical area affected by the proposal.**
- (8) **Economic impacts including, but not limited to, taxable property, agriculture, NPDES permitted facilities, and recreation related to the proposed activity have been identified and will be compensated for or mitigated.**
- (9) **To the extent feasible, wastewater and water treatment facilities shall be consolidated with existing facilities within the area.** The determination of whether consolidation is feasible shall include but is not limited to the following considerations:
 - (a) Whether there is an opportunity for consolidation.
 - (b) The environmental, financial and social feasibility of consolidation.
- (10) **The Project shall emphasize the most efficient use of water, including the recycling, reuse and conservation of water.** The determination of whether the Project emphasizes the most efficient use of water may include but is not limited to the following considerations:
 - (a) Whether the Project uses readily available conservation techniques.
 - (b) Whether the Project recycles water to the greatest extent allowed by law.
- (11) **The Project will not result in excess capacity in existing water or wastewater treatment services or create duplicate services.** The determination of whether the Project will result in excess capacity or create duplicate services may include but is not limited to the following considerations:
 - (a) Whether the Project creates overlapping or competing service areas.
 - (b) Whether the Project differs significantly from the provider's facility plan.
 - (c) Whether the Project impacts other water and wastewater permits.
 - (d) Whether the activity will not create proliferation of special districts, or overlapping of the boundaries of special districts.

CHAPTER 5

SITE SELECTION AND CONSTRUCTION OF MAJOR FACILITIES OF A PUBLIC UTILITY

Article 1 General Provisions

- 5.101 Designation of Activity of State Interest
- 5.102 Purpose and Intent
- 5.103 Definitions
- 5.104 Applicability; Prohibitions
- 5.105 Relationship to Other Requirements

Article 2 Permit Application and Procedures

- 5.201 Application Submission Requirements
- 5.202 Review Criteria

Article 1 General Provisions

5.101 Designation of Activity of State Interest

- (1) The following activity of state interest is hereby designated: site selection and construction of major facilities of a public utility. No person may engage in development, including construction, expansion, reoperation, relocation or other significant change in use of such activity wholly or partially within unincorporated El Paso County without first obtaining a permit pursuant to these Regulations.
- (2) The issuance of a permit for this activity is contingent upon the subsequent approval of the major facility by the Public Utilities Commission, Colorado Department of Public Health and Environment, U.S. Environmental Protection Agency, or other regulatory agencies, where required by appropriate statute or regulation.

5.102 Purpose and Intent

The purpose and intent of these Regulations contained in this Chapter 5 are:

- (1) To regulate the site selection and construction of major facilities of a public utility to prevent significant deterioration or degradation of existing air and water quality in El Paso County;
- (2) To avoid or reduce conflicts with the El Paso County Master Plan;
- (3) To regulate the site selection and construction of major facilities of a public utility to preserve the health and welfare of the citizens of El Paso County; and
- (4) To avoid or reduce incompatible uses adjacent to County roads and County trails and to avoid unreasonable or burdensome expenditure of public resources by minimizing impacts by public utilities to said County roads and County trails.

5.103 Definitions

For the purpose of this Chapter, the following definitions shall apply:

- (1) *Appurtenant facilities* means any building, structure or other property which is incidental to, and customarily found in connection with, major facilities of public utilities and are operated and maintained for the benefit or convenience of the occupants, employees, customers or visitors of such major facilities.
- (2) *Major facilities of a public utility* means transmission lines, power plants, substations, pipelines, and storage areas of utilities as herein separately defined.
- (3) *Pipeline* means any pipeline and appurtenant facilities thereto, designed for, or capable of, transporting natural gas, manufactured gas, or other petroleum derivatives.

- (4) *Power plant* means any of the following:
- (a) Any fossil fuel, biofuel, or similar electrical energy generating facility or addition thereto with a generating capacity of fifty (50) megawatts or more, and any appurtenant facilities.
 - (b) Any solar or wind electrical energy generating facility or addition thereto with a generating capacity in excess of five hundred (500) kilowatts, and any appurtenant facilities.
 - (c) Any nuclear or hydropower electrical generating facility of five hundred (500) kilowatts or more.
- (5) *Public utilities* mean those utilities as defined by Section 39-4-101 and Section 40-1-103, C.R.S.
- (6) *Storage area* means any facility, including appurtenant facilities, designed to store eighty million (80,000,000) cubic feet or more of natural or manufactured gas, or thirty-five thousand (35,000) barrels or more of petroleum derivatives, or any expansion or series of expansions of an existing storage facility to accommodate eighty million (80,000,000) cubic feet or more of natural or manufactured gas, or thirty-five thousand (35,000) barrels or more of petroleum derivatives.
- (7) *Site selection and construction* means and includes the initial site selection and construction of a facility as well as any subsequent relocation, reconstruction or upgrade of such facility.
- (8) *Substation* means any facility designed to provide switching, voltage transmission, or voltage control required for the transmission of electricity at one hundred fifteen (115) kilovolts or more, but does not have as a primary purpose the transformation of voltage to fifty (50) kilovolts or less for distribution purposes.
- (9) *Transmission line* means any electric transmission line and appurtenant facilities used to transmit electricity.

5.104 Applicability; Prohibitions

- (1) This Chapter 5 shall apply to the site selection and construction of all major facilities of a public utility wholly or partially within the unincorporated territory of El Paso County.
- (2) No electric transmission line or pipeline shall be constructed, located, relocated, reconstructed, enlarged or upgraded within 105 feet of the centerline of any County road with a current or proposed classification as arterial or expressway, as set forth in the El Paso County Major Transportation Corridors Plan and in the El Paso County Engineering Criteria Manual, except to cross such road at or near a perpendicular angle or to provide service to an individual utility customer.
- (3) A permit under this Chapter 5 is required to construct, locate, relocate, reconstruct, enlarge or upgrade any electric transmission line and

appurtenant facilities used to transmit electricity at 115 kilovolts or more at any location within the unincorporated area of El Paso County.

- (4) A permit under this Chapter 5 is required to construct, locate, relocate, reconstruct, enlarge or upgrade any pipeline and appurtenant facilities of twelve (12) inches or more in diameter which creates a hoop stress of twenty (20) percent or more at their specified minimum yield strength.
- (5) This Chapter shall not apply to interstate natural gas pipeline facilities regulated preemptorily by the Federal Energy Regulatory Commission (FERC), or its successor, provided the following requirements and procedures are complied with by persons or entities proposing to site and construct the interstate natural gas pipeline facility whenever site selection and construction of such facility will be partly located within El Paso County.
- (6) The requirements of these Regulations shall not be deemed to waive the requirements of Section 40-5-101, et seq., C.R.S., if applicable, that a public utility obtain a certificate of public convenience and necessity.

5.105 Relationship to Other Requirements

- (1) Nothing in these Regulations shall be construed as enhancing or diminishing the power and authority of municipalities, counties or the Public Utilities Commission. Any order, rule or directive issued by any governmental agency pursuant to these Regulations shall not be inconsistent with or in contravention of any decision, order or finding of the Public Utilities Commission with respect to public convenience and necessity. The Public Utilities Commission and public utilities shall take into consideration and, when feasible, foster compliance with, adopted master plans of local governments, regions and the State.
- (2) Nothing in these Regulations shall be construed as enhancing or diminishing the rights and procedures with respect to the power of a public utility to acquire property and rights-of-way by eminent domain to serve public need in the most economical and expedient manner.

Article 2 Permit Application and Procedure

5.201 Application Submission Requirements

In addition to the materials listed at Section 2.303, all applications to locate or construct a major facility of a public utility shall be accompanied by the following information, in the number required by the Director:

- (1) Vicinity map showing the proposed site and the surrounding area. The Project area to be shown shall be defined as follows:
 - (a) If a power plant is proposed, the area within fifty (50) miles radius from the site;
 - (b) If new transmission lines or pipelines are proposed, provide a map showing all existing transmission lines and pipelines for a distance of two (2) miles radius beyond any reasonable alternative studied.

- (c) For upgrades of existing transmission lines or gas pipelines, a map showing all existing transmission lines and pipelines within one (1) mile on either side of the proposed alignment.
 - (d) For all other major facilities of a public utility, the area within ten (10) miles radius of the site if another major facility is proposed.
- (2) Type of facility - specify where applicable:
- (a) The voltages and lengths of transmission lines.
 - (b) Type of poles used, with graphic depictions.
 - (c) Power source and generating capacity.
 - (d) The functions and sizes of substations.
 - (e) The diameters and lengths of pipelines.
 - (f) The capacities of the storage tanks and types of petroleum derivative to be stored.
 - (g) Corridor locations and dimensions.
 - (h) Service area.
- (3) Resource area (e.g., source of power being generated or transmitted, source of petroleum derivative being transported).
- (4) Projected development schedule.
- (a) Specify timetable for planning (e.g., federal permits, other State permits, local zoning, etc.).
 - (b) Estimate beginning and completion of construction and beginning of operation of facility.
- (5) Hazards and emergency procedures:
- (a) Describe hazards, if any, of fire, explosion and other dangers to the health, safety and welfare of employees and the general public.
 - (b) Describe hazards, if any, of environmental damage and contamination due to solid waste, hazardous waste, petroleum products, hazardous, toxic, and explosive substances or materials used at, or activities taking place at, the proposed facility.
 - (c) Describe emergency procedures to be used in the event of fire, explosion or other event which may endanger the public health, safety and welfare.
- (6) The applicant shall supply an analysis of non-structural alternatives to the Project, such as conservation of energy use, no development or management

(different scheduling, conservation programs, facility design, land trades etc.), if applicable.

- (7) The applicant shall supply an analysis of structural alternatives to the Project, such as alternate locations and routes, alternative types of facilities, use of existing rights-of-way, and joint use of rights-of-way with other utilities and upgrading of existing facilities.
- (8) Detailed description of the need for the proposed development or activity, including but not limited to:
 - (a) The present population of the area to be served and the total population to be served when the project is operating at full capacity.
 - (b) The predominant type of users or communities to be served by the proposal.
 - (c) The percentage of the design capacity at which the current system is now operating.
 - (d) If the proposal is for construction of a new facility and the capacity of that facility exceeds a ten-year projected increase in demand, a detailed explanation of the excess service capacity and the cost of the excess capacity.
 - (e) The relationship of the proposal to the applicant's long-range planning and capital improvement programs.
 - (f) A description of the user needs and user patterns to be fulfilled by the proposed Project.
 - (g) A description of the relationship of the Project to other existing and planned utility facilities of a similar nature, other communication or energy generation and transmission facilities, local government capital improvement programs and special district expansion programs.
- (9) Environmental impact analysis.
 - (a) Land use:
 - (i) Specify how the proposed development will utilize existing easements or rights-of-way for any associated distribution or collector networks.
 - (b) Information regarding other utility facilities:
 - (i) A map showing each existing major facility of a public utility within the County of the type proposed for development.
 - (ii) The design capacity of each such facility, the excess capacity of each such facility and the percentage of capacity at which each such facility operates.

- (iii) Whether present facilities can be upgraded to adequately accommodate a ten-year projected increase in demand for services to be offered by the proposed project.
- (10) Applicants seeking a permit for the site selection and construction of a power plant shall submit, in addition to those requirements set forth above, a map locating and describing resource areas to be utilized as sources of energy.
- (11) Applicants seeking a permit for the site selection and construction of transmission lines or substations shall submit the following additional documents and information:
 - (a) Computer modeled electromagnetic field measurement within the proposed transmission line easement for that portion of the transmission line between substations or transition sites; and
 - (b) Measures taken to comply with the concept of prudent avoidance with respect to planning, siting, construction and operation of transmission lines, which may be those steps taken to comply with the Colorado Public Utilities Commission's Rule 18(i)1 or similar authority, for projects where other similar authority is applicable.

5.202 Review Criteria

A permit to conduct site selection and construction of a major facility of a public utility shall be approved if the Permit Authority finds the application complies with the following criteria. If the Permit Authority finds the application does not comply, the application shall be denied or may be approved with conditions.

- (1) The criteria in Section 2.405.
- (2) All reasonable alternatives to the proposed action, including use of existing rights-of-way and joint use of rights-of-way wherever uses are compatible, have been adequately assessed and the proposed action represents the best interests of the people of this County and presents the best utilization of resources in the impact area.
- (3) A satisfactory program to mitigate and minimize adverse impacts has been presented.
- (4) No electric transmission line or pipeline shall be constructed, located, relocated, reconstructed, enlarged or upgraded within 105 feet of the centerline of any County road with a current or proposed classification as arterial or expressway, as set forth in the El Paso County Major Transportation Corridors Plan and in the El Paso County Engineering Criteria Manual, except to cross such road at or near a perpendicular angle or to provide service to an individual utility customer.
- (5) Electric transmission lines and pipelines shall be located so as to discourage traffic congestion, incompatible uses, and expansion of the demand for government services beyond the reasonable capacity of the community or region, and to avoid unreasonable or burdensome expenditure of public resources.

- (6) Major facilities of a public utility shall be administered so as to minimize disruption of the service provided by the utility and preserve desirable existing community patterns.

CHAPTER 6

FLOODPLAIN NATURAL HAZARD AREAS

Article 1 General Provisions

- 6.101 Designation of Area of State Interest
- 6.102 Boundaries of Floodplain Natural Hazard Areas
- 6.103 Purpose and Intent
- 6.104 Definitions
- 6.105 Applicability
- 6.106 Relationship to Other Requirements

Article 2 Permit Applications and Procedures

- 6.201 Application Submission Requirements
- 6.202 Map Requirements
- 6.203 Review Criteria

Article 1 General Provisions

6.101 Designation of Area of State Interest

The following area of state interest is hereby designated: floodplain natural hazard areas. No person may conduct development, as defined in Section 6.104, within such area without first obtaining a permit pursuant to these Regulations. No person may engage in development, as hereinafter defined, within the floodplain natural hazard areas of El Paso County described on **Exhibit D** without first obtaining a permit pursuant to these Regulations.

6.102 Boundaries of Floodplain Natural Hazard Areas

The boundaries of all floodplain natural hazard areas on the maps listed at **Exhibit D** shall be established by flood elevations. In the event of a conflict over the location of any such boundary as shown on the maps, reference shall be made to the flood elevation, which shall take preference over the boundaries shown on the maps.

6.103 Purpose and Intent

The purpose and intent of this Chapter shall be to:

- (1) Promote the public health, safety and general welfare.
- (2) Regulate various floodplains constituting natural hazards of state interest, development of which are likely to cause the unreasonable or burdensome expenditure of public resources or which will pose a continuing and greater future danger to life and property without proper regulation of their use and occupation.
- (3) Protect floodplain areas from impact of increased stormwater discharge.
- (4) Minimize significant hazards to public health and safety or to property in flood hazard areas, to encourage open space activities such as agriculture and recreation, and to ensure that any combination of these activities is conducted in a mutually compatible manner.
- (5) Prohibit the placement of fill, materials and structures which would significantly obstruct flood flows and stormwater discharge to the potential damage of others or cause potentially damaging debris to be carried downstream.
- (6) Protect the public from the burden of avoidable financial expenditures for flood control and stormwater projects and flood relief measures.
- (7) Minimize damage to public utilities, roads, streets and bridges.

6.104 Definitions

As used in this Chapter, the following definitions shall apply:

- (1) *Development* means increasing or causing an increase in stormwater discharge, in quantity, duration or frequency at any point within the areas

described on the maps attached at **Exhibit D** in a manner that varies from pre-development conditions.

Development also means the act of increasing or causing an increase in stormwater discharge in quantity, duration or frequency at any point within the areas described on the maps attached at **Exhibit D**, either by physical development activity, which alters the land or floodplain characteristics, or which increases impervious surface areas, in a manner that varies such discharge from pre-development conditions and which adversely affects or causes any of the following effects within the unincorporated territory of El Paso County:

- (a) Stream bank erosion;
 - (b) Siltation;
 - (c) Increased stormwater control costs for downstream development, local governments or communities;
 - (d) Adverse impacts to the natural habitat of wetland animal and plant species;
 - (e) Adverse impacts to aquatic species;
 - (f) Adverse impacts on significant wildlife habitat or adverse impacts to threatened or endangered animal or plant species and/or their critical habitat; or
 - (g) Adverse impacts to:
 - (i) Open Space
 - (ii) Conservation easements
 - (iii) Regional or neighborhood parks
 - (iv) Public trails
 - (v) County infrastructure including roads and drainage structures.
- (2) *Debris-fan floodplain* means a floodplain that is located at the mouth of a mountain valley tributary stream as such stream enters the valley floor.
- (3) *Dry wash channel and dry wash floodplain* mean a small watershed with a very high percentage of runoff torrential rainfall.
- (4) *Floodplain* means an area adjacent to a stream, which area is subject to flooding as the result of the occurrence of an intermediate regional flood and which are thus so adverse to past, current, or foreseeable construction or land use as to constitute a significant hazard to public health and safety or to property. The term includes but is not limited to:

- (a) Mainstream floodplains;
 - (b) Debris-fan floodplains; and
 - (c) Dry wash channels and dry wash floodplains.
- (5) *Mainstream floodplain* means an area adjacent to a perennial stream, which area is subject to periodic flooding.
 - (6) *Mudflow* means the downward movement of mud in a mountain watershed because of peculiar characteristics of extremely high sediment yield and occasional high runoff.
 - (7) *Natural hazard area* means an area containing or directly affected by a natural hazard.
 - (8) *Siltation* means a process which results in an excessive rate of removal of soil and rock materials from one location and rapid deposit thereof in adjacent areas.
 - (9) *Thalweg* means the line defining the lowest points along the length of a river bed or valley.

6.105 Applicability

- (1) This Chapter applies to applications for permits to engage in development, as herein defined, in all designated floodplain natural hazard areas within El Paso County as described in **Exhibit D**.
- (2) Any person seeking to develop in or affecting any designated or regulated floodplain natural hazard area as defined herein, shall first obtain a Permit pursuant to these Regulations.

6.106 Relationship to Other Requirements

The requirements of this Chapter 6 are in addition to those contained in the Pikes Peak Regional Building Code, and specifically without limitation, Section 313 thereof, pertaining to floodplains, and the City-County Drainage Criteria Manual and the El Paso County Engineering Criteria Manual.

Article 2 **Permit Applications and Procedures**

6.201 Application Submission Requirements

In addition to the materials listed at Section 2.303, applications for a permit to engage in development in any designated floodplain natural hazard area shall be accompanied by the following information, maps, requirements and data in the number required by the Director:

- (1) A complete application form.
- (2) A plan certified by a professional engineer, registered in the State of Colorado, locating the proposed development with respect to the following:

- (a) The boundaries of the designated or regulated floodplain natural hazard area.
 - (b) Descriptions of any construction activity which would affect the hydraulic capacity of the floodplain.
 - (c) Section 404 of the Federal Clean Water Act permit, if applicable.
- (3) The following maps or drawings:
- (a) A map showing the stream and channel, the designated floodplain natural hazard area surrounding the channel, the area to be occupied or affected, in terms of altered stormwater runoff flows, by the proposed development and all available flood elevation studies, water surface elevations and base flood elevations.
 - (b) A map with surface view showing elevations or contours of the ground, pertinent structures, fill or storage elevations, size location and spatial arrangement of all proposed and existing structures on the site, location and elevation of streets, water supply systems, sanitary facilities and soil types.
 - (c) Drawings showing the profile of the bottom of the channel at the thalweg and the water surface profiles described in such Paragraph a., above. The elevations of fill and structures must be shown. The applicant shall submit the elevation (in relation to mean sea level) of the lowest floor, including the basement, of the structure and, where the lowest floor is below grade on one (1) or more sides, the elevation of the floor immediately above.
- (4) The applicant shall submit evidence that the applicant has made adequate coordination with upstream, downstream or adjacent persons or communities and organizations that might be adversely affected by any development, fill, encroachment or alteration or relocation of a watercourse, including but not limited to, the Fountain Creek Watershed, Flood Control, and Greenway District.

6.202 Map Requirements

- (1) Verification shall be provided identifying the source of the topography and the date it was produced.
- (2) All maps required to be submitted with a permit application shall be of a scale sufficiently detailed to allow the Development Services Director and/or the Permit Authority to determine whether the proposed development and the topographic features of the land meet the requirements of these regulations. In no event shall the scale of these maps be less than one (1) inch equaling one hundred (100) feet.
- (3) All required maps shall show existing topographic contours at no greater than two (2) foot intervals.

- (4) All maps prepared by private contractors or consultants shall meet the following standards of accuracy: Ninety (90) percent of the contour lines must be within one-half ($\frac{1}{2}$) contour interval and the remaining contour lines must be within one (1) contour interval.
- (5) All maps submitted by an applicant seeking a permit to develop a specific site shall show existing (dash line) and finished (solid line) elevation contours of the site at an interval of no greater than one (1) foot within a designated flood hazard area.

6.203 Review Criteria

A permit to engage in development in or affecting a designated floodplain natural hazard area shall be approved if the Permit Authority finds the application complies with the following criteria. If the Permit Authority finds the application does not comply, the application shall be denied or may be approved with conditions.

- (1) **The criteria in Section 2.405.**
- (2) **The proposed development will not increase or cause an increase in stormwater discharge, in quantity, duration or frequency at any point within the areas described on the maps attached at Exhibit D in a manner that varies from pre-development conditions.**
- (3) **The proposed development will not increase stormwater discharge in quantity, duration or frequency at any point within the areas described on the maps attached at Exhibit D, either by physical development activity, which alters the land or floodplain characteristics, or which increases impervious surface areas, in a manner that varies from pre-development conditions and which adversely affects or contributes to the following:**
 - (a) **Stream bank erosion**
 - (b) **Siltation**
 - (c) **Increased stormwater control costs for downstream development or local governments or communities;**
 - (d) **Adverse impacts to the natural habitat of wetland animal and plant species;**
 - (e) **Adverse impacts to aquatic species; or**
 - (f) **Adverse impacts on significant wildlife habitat or any adverse impacts to any threatened or endangered animal or plant species and/or their critical habitat.**
 - (g) **Adverse impacts to:**
 - (i) **Open Space**
 - (ii) **Conservation easements**

- (iii) **Regional or neighborhood parks**
 - (iv) **Public trails**
 - (v) **County infrastructure including roads and drainage structures.**
- (4) **Adequate mitigation measures have been proposed, including financial security to guarantee the same, to mitigate the following:**
 - (a) **Detention and/or retention of storm water;**
 - (b) **Erosion and sediment control for any development related land disturbance or construction;**
 - (c) **Any necessary measures including channel protection and engineered outfalls;**
 - (d) **Water quality controls, including water quality capture volume and determination of the need for temporary and/or permanent best management practices (BMP); and**
 - (e) **Adequate provision for maintenance of all drainage-related facilities required by the development.**

EXHIBIT A, Page 1

**ORDER OF
DESIGNATION OF ACTIVITY
OF STATE INTEREST**

Pursuant to Section 24-65.1-101, et seq., C.R.S., on June 6, 2013, the Board of County Commissioners of El Paso County designated the following as activities of state interest:

Efficient utilization of municipal and industrial water projects;

Site selection and construction of major new domestic water and sewage treatment systems and/or major extension of existing domestic water and sewage treatment systems; and

Site selection and construction of major facilities of a public utility.

Such activities may not be conducted within the unincorporated area of El Paso County without a permit pursuant to these regulations. Procedures for obtaining such a permit are available at the Development Services Department, 2880 International Circle, Colorado Springs, Colorado 80910.

Date: _____.

ATTEST:

County Clerk and Recorder

Chair
Board of County Commissioners
El Paso County, Colorado

[S E A L]

EXHIBIT A, PAGE 2

**ORDER OF
DESIGNATION OF AREA
OF STATE INTEREST**

Pursuant to Section 24-65.1-101, et seq., C.R.S., on June 6, 2013, the Board of County Commissioners of El Paso County designated the following lands as an area of state interest:

Floodplain natural hazard areas of El Paso County shown on **Exhibit D**.

No one may engage in development on said lands without a permit pursuant to these regulations. Maps or other descriptive materials showing the precise boundary of the area and procedures for obtaining a permit are available at the Development Services Department, 2880 International Circle, Colorado Springs, Colorado 80910.

Date: _____.

ATTEST:

County Clerk and Recorder

Chair
Board of County Commissioners
El Paso County, Colorado

[S E A L]

Exhibit B

**APPLICATION FOR A PERMIT TO CONDUCT A
DESIGNATED ACTIVITY OF STATE INTEREST
OR TO ENGAGE IN DEVELOPMENT IN A
DESIGNATED AREA OF STATE INTEREST**

To: Permit Authority, El Paso County

Re: _____, as a
matter of state interest.

From: (Applicant's Name)
(Address)
(Telephone)

Date Submitted:

Date Received and Accepted as Complete:

1. Matter of State Interest.

The applicant requests that a permit be issued for each of the items checked below:

A permit to conduct one or more of the following matters of state interest:

- () Efficient utilization of municipal and industrial water projects
- () Site selection and construction of major new domestic water and sewage treatment systems and/or major extension of existing domestic water and sewage treatment systems
- () Site selection and construction of major facilities of a public utility
- () Development in areas containing or having a significant impact upon floodplain natural hazard areas

2. Proposed Activity or Development.

General description of the specific activity or development proposed:

3. Location of Development:

A general, nonlegal description and the popular name, if any, of the tract of land upon which the activity or development is to be conducted:

4. Legal Description.

The legal description, including the acreage, of the tract of land upon which the development or the activity is to be conducted, by metes and bounds or by government survey description: (attach additional sheets if necessary):

5. Owners and Interests.

Set out below the names of those persons holding recorded legal, equitable, contractual and option interests and any other person known to the applicant having any interest in the property described in paragraph 4, above, as well as the nature and extent of those interests for each person, provided that such recorded interests shall be limited to those which are recorded in the El Paso County Clerk and Recorder's Office, the land office of the Bureau of Land Management for this State, the Office of the State Board of Land Commissioners of the Department of Natural Resources, or the Secretary of State's Office of this State (attach additional sheets if necessary):

6. Submission Requirements.

Submission requirements described in the Guidelines and Regulations for Areas and Activities of State Interest of El Paso County for each of the activities or areas checked in paragraph 1 above, are attached to this application. Those attachments are identified, by letter or number, and described by title below:

7. Additional Information Required:

Attach any additional information required by the Guidelines and Regulations, and as may be required by the Development Services Department Director..

8. Duration of Permit.

The Applicant requests a permit for a period of _____ years.

9. Application Fee.

The required application fee is submitted herewith.

APPLICANT:

By: _____
(Name)
(Title)

Exhibit C

**PERMIT
ISSUED TO CONDUCT A
DESIGNATED ACTIVITY OF STATE INTEREST
OR
TO ENGAGE IN DEVELOPMENT IN A
DESIGNATED AREA OF STATE INTEREST
IN
EL PASO COUNTY, COLORADO**

Pursuant to Guidelines and Regulations for Areas and Activities of State Interest of El Paso County heretofore adopted by the Board of County Commissioners, the County has received an application from _____ (hereinafter "Applicant") for a permit to conduct the following matter(s) of state interest:

and has approved that application.

This permit authorizes the Applicant:

1. To conduct the following activity / development: _____

2. On the following-described tract of land:

3. For the following period: _____; expiring _____, 20____

4. In accordance with the plans and/or specifications approved by the Permit Authority on _____, 20____, as well as the guidelines for administration adopted by the County for:

[insert matter of state interest]

5. On the condition that the Applicant proceeds in conformity with all applicable federal and state statutes, regulations and permits as well as all applicable local land use controls including, but not limited to, applicable comprehensive or master plans, subdivision regulations, zoning and building codes.

6. And on the following additional conditions:

This permit shall not be effective until the Applicant has filed the proper security with the Permit Authority, pursuant to provisions of the Administrative and Permit Regulations in the amount of (\$_____).

This permit is valid for use only by the Applicant and may not be transferred. In the event that the Applicant fails to take substantial steps to initiate the above development or activity within twelve (12) months from the date of this permit or, if such steps are taken, in the event the Applicant fails to complete the development or activity with reasonable diligence, this permit may be revoked by the Permit Authority.

Date: _____, 20__

EL PASO COUNTY PERMIT AUTHORITY

By: _____

Chair

Board of County Commissioners
El Paso County, Colorado

ATTEST:

County Clerk and Recorder

Exhibit D

MAPS OF EL PASO COUNTY FLOODPLAIN NATURAL HAZARD AREAS

The following maps are incorporated herein by reference:

- (1) Flood Insurance Rate maps published by FEMA and as contained within the Flood Insurance Study, El Paso County Colorado and Incorporated Areas, revised August 23, 1999, as such maps are from time-to time amended, supplemented or revised, and as the same are on file and available for public inspection at the offices of the Pikes Peak Regional Building Department, 2880 International Circle, Colorado Springs, Colorado.
- (2) Incorporated Outfalls Discharging Into Unincorporated El Paso County, April 30, 2013.