

GUIDELINES AND REGULATIONS FOR
AREAS AND ACTIVITIES OF STATE INTEREST
MORGAN COUNTY
STATE OF COLORADO

ADOPTED: 1994
AMENDED: 2021

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CHAPTER 1 ADMINISTRATIVE REGULATIONS

Article 1 Introductory and General Provisions

1-101 Title and Citation

These regulations may be cited as the "Morgan County Guidelines and Regulations for Areas and Activities of State Interest" or the "Morgan County §1041 Regulations."

1-102 Purpose and Findings

(1) The purpose and intent of the regulations in this Chapter 1 is to facilitate identification, designation, and administration of matters of state interest consistent with the statutory requirements and criteria set forth in Section 24-65.1-101, et seq., C.R.S., and the Guidelines for Identification and Designation of Areas and Activities of State Interest approved by the Colorado Land Use Commission.

(2) The Board of County Commissioners, Morgan County, State of Colorado, finds that:

(a) The notice and public hearing requirements of Section 24-65.1- 404, C.R.S. have been followed;

(b) These Regulations are necessary because of the intensity of current and foreseeable development pressures on and within this County;

(c) These Regulations were adopted after taking into consideration applicable guidelines adopted and issued by the Colorado Land Use Commission;

(d) These Regulations apply to the entire unincorporated territory of Morgan County;

(e) These Regulations interpret and apply to any regulations adopted for specific areas of state interest and specific activities of state interest which have been or may be designated by the Board of County Commissioners of Morgan County.

1-103 Authority

These Regulations are authorized by, inter alia, Section 24-65.1-101, et seq., C.R.S.; Section 30-28-101, et seq. C.R.S.; Section 30-28-201, et seq., C.R.S.; Section 29-20-101, et seq., C.R.S.; and Section 24-32-111, C.R.S. These Regulations are necessary for the preservation of the public health, safety, and welfare.

1-104 Applicability

These Regulations shall apply to all proceedings concerning identification and designation of any developments in any area of state interest or any activity of state interest which has been or may hereafter be designated by the Board of County Commissioners of Morgan County, and the control of development in any such area or activity.

1-105 Exemptions

The portions of these Guidelines and Regulations authorized exclusively under Section 24-65.1-101, et seq., C.R.S., shall not apply to any development in an area of state interest or any activity of state interest which meets any one of the following conditions as of May 17, 1974:

- (1) The specific development or activity is covered by a current building permit issued by Morgan County;
- (2) The specific development or activity has been approved by the electorate of Morgan County;
- (3) The specific development or activity is to be on land which has been conditionally or finally approved for planned unit development or for a use substantially the same as planned unit development;
- (4) The specific development or activity is to be on land which has been zoned by Morgan County in response to an application which specifically contemplated said use; or
- (5) The specific development or activity is to be on land with respect to which a development plan has been conditionally or finally approved by Morgan County.

1-106 Relationship of Regulations to Other County, State and Federal Requirements

(1) Whenever these Guidelines and Regulations are found to be inconsistent with any other resolution, ordinance, code, regulation, or other enactment of Morgan County, the enactment imposing the more restrictive standards or requirements shall control.

(2) In the event these Guidelines and Regulations are found to be less stringent than the statutory criteria for administration of matters of state interest set forth in Section 24-65.1-202, C.R.S., the statutory criteria shall control.

(3) In the event these Guidelines and Regulations are found to be more stringent than the statutory criteria for administration of matters of state interest set forth in Sections 24-65.1-202 and 24-65.1-204, C.R.S., these regulations shall control pursuant to the authority of Section 24-65.1-402(3), C.R.S.

(4) Where these regulations overlap with the County's requirements for zoning special or conditional use review or for review pursuant to C.R.S. § 30-28-110(1), these regulations shall control, and a separate review process under special or conditional use or statutory review shall not be required, unless expressly stated to the contrary in these regulations. Where these regulations overlap with other applicable County requirements, including but not limited to County floodplain regulations, all applicable regulations shall be followed and all required County permits or approvals shall be obtained.

(5) These Guidelines and Regulations are intended to be applied in addition to, and not in lieu of, all other regulations of Morgan County, including, without limitation, Morgan County Zoning Regulations, and Morgan County Subdivision Regulations, and Morgan County Comprehensive Plan,

as they may be amended from time to time.

(6) Permit requirements included in these Regulations shall be in addition to and in conformance with all applicable state and federal laws, rules and regulations.

(7) In the event that any political subdivision, agency, instrumentality or corporation of the State of Colorado or the United States government or an entity regulated by such a designated governmental unit, seeks to conduct a designated area or activity of state interest in Morgan County, the intent of these regulations is that the Board of County Commissioners shall exercise its authority pursuant to these regulations and state statute to the maximum extent allowable, consistent with federal and state law and regulations;

1-107 Duties of the Board of County Commissioners

Unless otherwise specifically provided, it shall be the duty of the Board of County Commissioners of Morgan County to perform all functions set forth in these regulations pertaining to matters of state interest. The Board of County Commissioners shall also be generally empowered to hear appeals from any person aggrieved by any decision of the Planning Administrator made in the course of administering these regulations.

1-108 Severability

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

1-109 Definitions

The words and terms used in these Guidelines and Regulations for administration of areas and activities of state interest shall have the meanings set forth below unless the context requires otherwise:

(1) Applicant: Any individual, partnership, corporation, association, company, or other public or corporate body, including the federal government or any federal entity, and includes any political subdivision, agency, instrumentality, or corporation of the state, seeking a development permit under these Regulations.

(2) Board of County Commissioners or Board: the Board of County Commissioners, Morgan County, State of Colorado.

(3) Designation: only that legal procedure specified by Section 24-65. 1-401, et seq., C.R. S., carried out by the Board of County Commissioners.

(4) Development: any construction or activity which changes the basic character or the use of the land on which the construction or activity occurs.

(5) Layman's description: 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. The term "general description" means "layman's description."

(6) Legal description: any description from which it is possible to locate accurately on the ground the boundaries of the land being described.

(7) Matter of state interest: an area of state interest or an activity of state interest or both.

(8) Person: any private individual, partnership, corporation, association, company, or any public or corporate body, including the federal government, and includes any political subdivision, agency, instrumentality, or corporation of the State or the United States government.

(9) Receipt of Application: the time at which the completed application is accepted by the Planning Administrator.

1-110 Amendment

Amendments to these regulations shall be accomplished in the same manner as the original adoption thereof, pursuant to the same public notice and public hearing requirements.

Article 2 Designation of Matter of State Interest

1-201 Board of County Commissioners to Make Designations

Designations and amendments of designations may be initiated in three ways:

(1) The Board of County Commissioners may in its discretion designate and adopt regulations for the administration of any matter of state interest.

(2) The Morgan County Planning Commission may on its own motion or upon request by the Board of County Commissioners, recommend the designation of matters of state interest. The Board of County Commissioners shall decide, in its sole discretion, whether or not to designate any or all of the requested matters of state interest pursuant to statutory procedures.

1-202 Public Hearing Required

(1) The Board of County Commissioners shall hold a public hearing before designating any matter of state interest and adopting regulations for the administration thereof. Such hearing shall be scheduled and notice of such hearing shall be given as set forth below.

(2) The Board in its discretion may request that the Planning Commission hold a hearing and provide a recommendation to the Board on the proposed designation prior to the Board's hearing; Notice of any hearing before the Planning Commission shall be published no less than seven days before the Planning Commission hearing date in a newspaper of general circulation in the County. The Planning Commission shall preserve a record of its proceedings and shall make a written report of its recommendations, if any, to the Board of County Commissioners, which report shall be advisory only.

1-203 Notice of Public Hearing, Mailing List, Publication

(1) The Board of County Commissioners shall prepare a notice of the designation hearing which shall include:

- (a) The time and place of the hearing;
- (b) The place at which materials relating to the matter to be designated and any guidelines and regulations for the administration thereof may be examined;
- (c) The telephone number where inquiries may be answered;
- (d) A description of the area or activity proposed to be designated in sufficient detail to provide reasonable notice as to property which would be included.

(2) The Board of County Commissioners shall maintain a mailing list of the names of those persons requesting of the Clerk of the Board of County Commissioners that their names and addresses be placed on the list and paying to the Clerk an annual fee of twenty dollars (\$20.00) to cover the costs of production, handling and mailing of notices of all such hearings pursuant to Sections 24-65.1-404(2)(b) and 24-65.1-501(2)(c), C.R.S. In order to have a name and address retained on said mailing list, such persons shall resubmit their name and address and pay said annual fee before January 31 of each year.

(3) At least thirty (30) days; but no more than sixty (60) days before the public hearing, the Board of County Commissioners shall publish the notice one time in a newspaper of general circulation in the County and shall mail the notice by first class mail to each of the persons on the mailing list (subsequent to the initial adoption of guidelines and regulations).

1-204 Matters to be Considered at Designation Hearing

At the public hearings on designation, the Planning Commission, to the extent applicable, and the Board of County Commissioners shall consider such evidence as they deem appropriate, including but not limited to testimony and documents addressing the following considerations:

- (1) The intensity of current and foreseeable development pressures;
- (2) The boundaries of any area proposed for designation;
- (3) Reasons why the particular area or activity is of state interest, the adverse impacts that would result from uncontrolled development of any such area or uncontrolled conduct of such activity, and the advantage of development of such area or conduct of such activity in a coordinated manner;
- (4) The extent to which other governmental entities regulate the area or activity proposed to be designated;
- (5) The applicable criteria for administration of the proposed area or activity as set forth in these regulations and §§ 24-65.1-201 et seq., C.R.S.;

(6) The legislative declarations stated in §§ 24-65-102, 24-65.1-101, and 29- 20-102, C.R.S.; and

(7) The Morgan County Comprehensive Plan or any municipal master or comprehensive plan adopted as part of, pertaining to, or affected by the area or activity under consideration.

1-205 Conduct of Designation Hearing

(1) At the public hearing on designation, the Board of County Commissioners shall receive into the public record:

(a) Testimony and evidence from any and all persons or organizations desiring to appear and be heard, including County staff;

(b) Any documents that may be offered; and

(c) The recommendations of the Morgan County Planning Commission, if any.

(2) The Board may impose reasonable time limitations on testimony, and may invite persons representing the same point of view to consolidate their presentations.

(3) The Colorado Rules of Civil Procedure will not govern the conduct of the hearing, which is legislative in nature.

(4) The Board may continue the hearing from time to time for a period not to exceed 60 days. If the hearing is continued, no additional notice of the hearing needs to be given other than oral announcement at the time and place of the continuance of the next scheduled hearing time and place.

(5) No additional public input, either oral or written, shall be accepted for the record by the Board of County Commissioners after the hearing is closed, except as specifically permitted by the Board.

1-206 Record of Designation Proceeding

(1) The Board of County Commissioners shall collect and preserve the following record of the public hearing:

(a) A copy of the notice of the hearing;

(b) The certificate(s) of publication of the notice of the hearing and a listing of all persons to whom the notice was mailed;

(c) The names and addresses of persons who presented written or oral statements or offered documentary evidence;

(d) Any written statements or documents presented in support of or in opposition to the proposed designation of the matter of state interest;

(e) Any recording or transcript, if any, of the hearing;

- (f) The Order of Designation of the area or activity of state interest; and
- (g) A map or maps depicting each area of state interest designated.

(2) Any person may, at his or her own expense, provide for the recording of the hearing and transcription thereof, provided, however, that a copy of the recording or transcript thereof, if transcribed, shall be furnished free of charge to the Board of County Commissioners and shall become part of the record.

1-207 Adoption of Designation and Regulations

(1) At the conclusion of the hearing, or within thirty (30) days thereafter, the Board of County Commissioners may adopt; adopt with modification, or reject the proposed designation which was the subject of public hearing. If designation and regulation under Section 24-65.1-101, et. seq., C.R.S., is rejected, the Board of County Commissioners may regulate the matter under any other available land use control authority or it may reject the regulation of the matter entirely.

(2) Such action shall be taken by resolution.

(3) In the event the Board of County Commissioners finally determines that any matter is a matter of state interest, it shall be the Board's duty, acting by resolution, to designate such matter and adopt regulations for the administration thereof.

(4) Each designation order adopted by the Board of County Commissioners shall:

- (a) Specify the boundaries of the designated area of state interest or the boundary of the area in which an activity of state interest has been designated;
- (b) State reasons why the designation is appropriate in light of the factors specified above to be considered at the public hearings; and
- (c) Specify the regulations applicable to the designated matter of state interest.

A specimen designation order is attached hereto as Exhibit A.

1-208 Recording of Notice of Designation

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

1-209 Effect of Designation – Moratorium Until Final Determination

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

1-210 Combined Designation and Permit Hearing

If a person proposes to engage in development in an area of state interest or to conduct an activity of state interest not previously identified, designated, or for which regulations have not been adopted or for which amendments are pending, the governing body alone may hold one hearing for determination of identification, designation and regulations as well as for granting or denying the permit. No permit that is granted at the conclusion of any such hearing shall be authority to engage in development or to conduct an activity until the identification, designation and regulations are finally determined.

CHAPTER 2 PERMIT REGULATIONS

Article 1 Permit Requirements

2-101 Activities Requiring Permits

Any person desiring to engage in a development in a designated area of state interest or to conduct a designated activity of state interest once designated pursuant to these Regulations must apply for and obtain a permit from Morgan County. In the event a development or activity is proposed as an integral part of a subdivision or PUD, it shall be the responsibility of the service provider and developer to comply with the requirements of these Regulations.

2-102 Specific Activities Exempted from the Permit Process

- (1) Any system, extension, or project not covered by the preceding section.
- (2) Systems, extensions, or projects which are located on unincorporated land that is an enclave within the municipality proposing the activity.
- (3) Upgrades to existing facilities that are required maintenance or otherwise required by federal, state or County regulations, including repairing or replacing old or outdated equipment, or installing new equipment or ancillary facilities, provided the improvements do not expand levels of service beyond design capacity, and provided further that the upgrade does not alter the location of the existing facility.
- (4) Any system, extension, or project necessary to serve any subdivision or other use approved under the County's zoning, subdivision or other land use regulations (with the exception of uses reviewed solely under Section 30-28-110(1), C.R.S.), which meets one of the following criteria:
 - (a) That the service provider obtains a specific exemption from the Planning Administrator, approval or denial of which may be appealed to the Board of County Commissioners within 15 days of the action taken. Such exemption shall be based on the conclusion that review of the proposed service facilities falls outside the purposes of these regulations. Exemption under this section is not subject to the procedures of Section 2-103 below.
 - (b) That the Board specifies in its approval of the subdivision or other use that separate review of the system, extension or proposal is not necessary under these regulations.
- (5) Any system, extension, or project which, as of May 16, 1994, meets anyone of the following conditions:
 - (a) Is part of final discretionary County approval and protected by a site- specific development plan or agreement whose vesting period has not expired.
 - (b) Has a complete application filed and in process for a discretionary County land use approval (not including an application under C.R.S. § 30-28-110(1)) provided the applicant (if a public entity) formally commits to being bound by any conditions of a final

County approval or by denial of the application.

(c) Has a County zoning permit issued (i) within the preceding 90 days; (ii) within the previous two years and on which work has commenced and been diligently pursued or completed; or (iii) as to which vested rights were obtained and remain effective, all as provided in the Morgan County Zoning Regulations.

(6) Any system, extension or project otherwise covered under Section 2-101 above for which an application for an exemption is filed with the Planning Administrator no later than July 15, 1994, and the proponent demonstrates to the satisfaction of the Board, at a public hearing of which the proponent shall receive reasonable prior notice, that:

(a) The proponent has made significant financial commitments to the planning or engineering of the system, extension, or project on or before May 16, 1994; and

(b) Review of the system, extension, or project under these regulations is unnecessary to fulfill the purposes of these regulations because it would not significantly affect the protection of the public health, safety, and welfare or the natural environment.

2-103 Determination of Whether a Proposed Activity Is Subject to the Permit Requirement

(1) The Planning Administrator shall determine the applicability of these Regulations to the conduct of particular proposed activities. This determination shall be made within 10 calendar days after the Planning Administrator receives a written request containing adequate information for the Planning Administrator to make a determination. If any person is aggrieved by the decision of the Planning Administrator to include an activity within or exempt it from these regulations, that person may file an appeal to the Board with the Planning Administrator, no later than ten days after the date of the Planning Administrator's written decision.

(2) The Board shall schedule a public hearing on the appeal to be held no more than 30 days after the appeal is filed.

(3) For the purpose of deciding the appeal, the Board may require the developer to provide a description and declaration of the scope of the activity, including, but not necessarily limited to:

(a) The site of the proposed activity;

(b) The size, if proposed, of any transmission lines, storage tanks, or other structures;

(c) The number of County residents to be served by the activity;

(d) The increase in the County population that is projected as a result of the activity; and

(e) The water rights on which the activity relies.

(4) At the appeal hearing, the appellant shall have the burden of proving that the Planning Administrator erred in the decision to include or exclude the activity from these regulations.

(5) The Board's decision shall not be final for purposes of an appeal Under Rule 106, C.R.C.P.

Article 2 Permit Application

2-201 Permits Required After Designation; Receipt of Application Form

(1) Any person desiring to engage in a development, expansion or project subject to these Regulations shall submit an application for a permit in the form attached hereto as Exhibit B.

(2) An application- shall not be accepted or processed unless it is complete. The form shall be accompanied by all fees, maps, plans and reports required by these regulations. A request for waiver of submission requirements pursuant to these Regulations shall not render the application incomplete. If the application is considered incomplete by the Planning Administrator, the Planning Administrator shall specify what additional information is required. An application need not meet the submission requirements for other than the particular development alternative for which a permit is being sought in order for the application to be considered complete. When a submitted application is considered to be complete by the Planning Administrator, the Planning Administrator shall note upon the application the date and hour of its receipt.

(3) When an applicant seeks a permit to engage in development in more than one area of state interest or to conduct more than one activity of state interest, or to engage in development in one area of state interest and to conduct one activity of state interest, a single application may be completed for all such activities or developments and may be reviewed by the Board in one consolidated hearing.

(4) In addition to the substantive information specified in these Regulations, a complete application must designate all agents for the applicant and exhibit the applicant's or agent's signature. If the signature is by an agent, written proof of the agent's authority must also be submitted. The signature on an application form will be assumed to indicate the applicant's concurrence with all submissions and commitments made by their designated agent, unless otherwise specified in writing in the application.

2-202 Application Fee

Each application shall be accompanied by the applicant's certified check in the amount of the initial application fee set by the Board of County Commissioners from time to time. Such fee shall be included on the fee schedule maintained by the Planning Administrator. If the application has been divided into preliminary and final stages pursuant to these Regulations, the application fee shall accompany the preliminary application. The initial fee shall be nonrefundable. Thereafter, the applicant shall be responsible for paying any of the County's reasonable costs of processing the application which exceed the amount of the initial fee, including but not limited to costs of consultants, attorneys, copies, long distance telephone, and facsimile transmission expenses. Reimbursement of the County's costs of processing shall be made within 30 days of invoice by the County to the applicant therefor, which invoices may be generated on a monthly or such other basis

as determined by the Planning Administrator. The Planning Administrator may also require deposit in advance of expenditure for 'expenses deemed significant and reasonably likely to be incurred by the Planning Administrator, in its sole discretion. If the applicant fails to pay the initial application fee, or to reimburse or deposit expenses to the County in a timely manner, the County may refuse to process or suspend processing of an application, including refusal to hold hearings or issue decisions.

2-203 Consultants

(1) If the County does not have qualified staff to review certain elements of an application or referral agencies are not able to adequately advise the County regarding certain elements of an application, the Board may authorize the review to be performed by a consultant engaged or approved by the Planning Administrator. All fees for such consultant shall be paid by the applicant. In determining its need for engagement of a consultant, the County may consider the technical expertise which is available from the applicant, but the County reserves the right to engage an independent consultant. If the County proposes to engage a consultant, the Planning Administrator shall prepare a written summary which shall describe the proposed scope of the consultant's engagement, the qualifications of the consultant, the identity of the consultant, if known, and the estimated cost of the consultation. This summary shall be made available to the applicant and the applicant shall be given a reasonable opportunity to comment on the proposal, which comments shall be considered by the County but shall not be binding on it. The County shall then respond to the applicant as to the terms of the consultant's engagement, and the applicant shall have a reasonable opportunity to withdraw the application as an alternative to going forward with the application under such terms.

(2) The County may submit the application to a referral agency with a request that they review technical or other specific aspects of the application in an area of the agency's expertise, as provided below. Should the agency impose a fee for such a review, said fee shall be included in the processing expenses to be paid by the applicant.

(3) Professional qualifications of consultants for the applicant.

(a) A professional consultant may not be necessary for all applications. Only the following will require professional assistance:

(i) Improvement plans and reports for water supply, sanitation, drainage, utilities, soils, grading, roads, structures, pollution mitigation devices, and other civil engineering work for the project must be certified by a registered Colorado Professional Engineer, or other qualified professional engineer exempted from licensing requirements by state statute.

(ii) All documents containing land survey descriptions must be certified by a registered Colorado Professional Land Surveyor, or other qualified professional surveyor exempted from licensing requirements by state statute.

(iii) Geology reports shall be prepared by either a member of the American Institute of Professional Geologists, a member of the Association of Engineering Geologists, an individual registered as a geologist by a state, or other qualified professional geologist exempted from licensing requirements by state statute.

(b) All data and plans submitted for review must show the qualifications of the individual in charge of the work.

2-204 Waiver of Submission Requirements

The Planning Administrator may waive any part of the submission requirements which are not relevant to the decision on the application or which the applicant convinces the Planning Administrator are unreasonably burdensome for the applicant.

2-205 Intergovernmental Agreements

Upon the request of the State of Colorado or a political subdivision of the state, as defined by Section 29-1-202(1), C.R.S., proposing to engage in an area or activity of state interest, the requirements of these Regulations may be met by the approval of an intergovernmental agreement between the County and such applicant. The County may, but shall be under no obligation to, approve such an intergovernmental agreement in lieu of a permit application and review as provided by these Regulations. In the event such an agreement is approved by the County, no permit application to conduct the activity or area of state interest shall be required, provided that all of the following conditions are met:

(1) The state or political subdivision applicant and the County must both be authorized by Article XI V, Section 18(2) of the Colorado Constitution and Sections 29-1-201 et seq. 29-20-105 and 29-20-107, C.R.S., to enter into the agreement.

(2) The purpose and intent of these Guidelines and Regulations must be satisfied by the terms of the agreement.

(3) A public hearing must be conducted by the Board of County Commissioners in conformance with the provisions of these Regulations for hearing on a development permit application, with the exception that references to "permit application" shall be deemed replaced with "proposed intergovernmental agreement." Prior to the hearing, the Board of County Commissioners shall approve the form of any proposed intergovernmental agreement, subject, however, to final approval of the agreement at the conclusion of or subsequent to the public hearing and based on the evidence presented there. The public hearing shall be for the purpose of taking comment upon the proposed intergovernmental agreement, the provisions of which have been determined to be acceptable to the applicant and to the County.

(4) Both the Board of County Commissioners and the governing body of the state or political subdivision applicant must approve the agreement in the manner required of each of them by the Colorado Constitution, statutes and any applicable charter, ordinance or resolution.

(5) Exercise of the provisions of this Section by the state or political subdivision applicant will not prevent that entity from electing at any time to proceed under the permit provisions of these Regulations. Additionally, any entity which has previously proceeded under the permit provisions of these Regulations may at any time elect to proceed instead under this Section.

2-206 Referral Requirements

(1) The Board of County Commissioners shall refer the application to the following property owners for comment:

(a) Surface property owners of the project site and within 1320 feet of the boundaries of the property proposed to be physically disturbed; except for transmission line or pipeline projects, for which surface property owners for 500 feet on either side of the centerline of the proposed alignment shall be notified;

(b) Interest holders (excluding mineral interests) in any real property proposed to be physically disturbed or crossed by the activity or development which is the subject of the application; and

(c) Mineral interest holders in the case of projects to be constructed more than ten feet below the surface, excluding foundation structures for above-ground transmission lines.

(2) The Board of County Commissioners, in its sole discretion, may determine that the application should also be referred to referral agencies appropriate to the subject matter of the application for comment.

(3) The identity of referral agencies and the extent of property owners to receive notification by referral shall be designated as part of the preliminary review, if applicable, or by the Planning Administrator, if not, within 10 days after the pre-application conference.

(4) A sufficient number of referral packets shall be provided to the Planning Administrator by the applicant. Such packets shall contain a site plan of the proposed project (full size or reduced to letter size) and the application, or a summary of the application in form approved by the Planning Administrator. Referral agencies shall receive the complete application. Property owners shall receive a notification letter including a locational map summarizing the application in form approved by the Planning Administrator. All packets shall be mailed by U.S. Mail, first-class postage prepaid, by the Planning Department and a record of the mailing kept in the Department's application file.

(5) The packets shall be accompanied by a notice from the Planning Administrator advising that the complete application file may be reviewed in the offices of the Planning Department during normal office hours, and shall include the name of the proposal, the name of owners of the affected property, docket number, general location, number of acres affected, proposed use, and any other information deemed appropriate by the Planning Administrator. The notice shall also advise of the date and time of the public hearing set on the application, and that failure of the recipient of the referral packet to appear at the hearing or submit written comments no later than ten days prior to the hearing shall be construed as approval of the proposed project.

Article 3 Permit Hearing

2-301 Notice of Permit Hearing

Not later than thirty (30) days after receipt of a completed application for a permit, which shall mean from receipt of the final application in instances where the application proceeds in preliminary and final stages, the Board of County Commissioners shall set and publish notice of the

date, time and place for hearing on said application. Notice of the public hearing shall be published once in a newspaper of general circulation in Morgan County, not less than thirty (30) nor more than sixty (60) days before the date set for hearing and shall also be given to other persons and entities in the same manner as set forth for the notice of a designation hearing.

2-302 Conduct of Permit Hearing

(1) The Board of County Commissioners shall conduct the public hearing in a manner affording procedural due process to the applicant and supporters of the project as well as to any person who opposes issuance of the permit.

(2) The Board of County Commissioners shall hear testimony and receive evidence, including:

(a) The recommendations of the Morgan County Planning Administrator and Planning Commission, if any;

(b) Testimony and evidence from any and all persons or organizations desiring to appear and be heard, including County staff; and

(c) Any documents that may be offered.

(3) Although the Colorado Rules of Civil Procedure do not govern the conduct of the hearing, all persons appearing at the hearing, in person or by counsel, shall be afforded the right of cross-examination as well as reasonable opportunity to offer evidence in rebuttal.

(4) Any person may, at his own expense, provide for the recording of the hearing and transcription thereof, provided, however, that a copy of the recording or transcript thereof, if transcribed, shall be furnished free of charge to the Board of County Commissioners and shall become part of the record.

(5) The Board of County Commissioners shall collect and preserve the following record of the public hearing:

(a) The permit application;

(b) A copy of the notice of the hearing, the certificate(s) of publication of the notice of hearing, and a listing of all persons to whom the notice was mailed;

(c) Any written- statements or documents presented in support of or in opposition to the permit application;

(d) The names and addresses of all persons who presented oral or written statements, appeared as witnesses, or offered documentary evidence;

(e) Any recording or transcript, if any, of the hearing;

(f) Written minutes of the Board of County Commissioners relating to the public

hearing;

(g) The resolution of the Board of County Commissioners granting or denying the permit application; and

(h) A copy of the permit, if issued.

(6) In cases in which the development or activity must also comply with other provisions of County zoning or subdivision regulations, the permit hearing required by these Regulations may be held at the same time as the hearing on such other land use matter.

2-303 Approval or Denial of Permit Application

(1) If the Board of County Commissioners finds that there is not sufficient information concerning any material feature of a proposed development or activity, the Board of County Commissioners may deny the application or it may continue the hearing until the additional information has been received. However, no such continuance may exceed thirty (30) days and no more than two continuances may be granted unless agreed to by the applicant.

(2) The Board of County Commissioners shall approve an application for a permit to engage in development in an area of state interest or for the conduct of an activity of state interest if the proposed development or activity complies with the provisions of the regulations governing such area or activity. The Board of County Commissioners may attach reasonable conditions to its approval. If the proposed development does not comply with the regulations governing the area or activity, the permit shall be denied.

(3) The burden of proof shall be upon the applicant to show compliance with the provisions of the Guidelines and Regulations governing the area or activity of state interest involved in the application, as set forth in the chapter applicable to each such designation.

(4) The Board of County Commissioners shall state, in writing, reasons for its decision on a permit application, and its findings and conclusions.

(5) The Board of County Commissioners shall reach a decision on a permit application within thirty (30) days after the completion of the permit hearing, or the permit shall be deemed approved.

2-304 Judicial Review

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

Article 4 Issuance, Revocation or Suspension of Permits

2-401 Issuance of Permits

(1) The permit shall be issued on the form adopted by the Board of County

Commissioners. A specimen permit is attached hereto as Exhibit C.

- (2) The permit may be issued for an indefinite term, or for a specific period of years.

2-402 Financial Security

(1) Before any permit is issued, the Board of County Commissioners may, in its discretion, require the applicant to file a guarantee of financial security deemed adequate by the Board of County Commissioners and payable to Morgan County. If such a financial guarantee is required, the Board shall include in its written decision findings as to the reason for the security and the basis for the amount of security required. To the extent feasible, the Board shall notify the applicant as soon as it concludes that it may require financial security for the project which notification may include the Board's position at that time on the reason for the requirement and the amount of security under consideration, so that the applicant may speak to such matters in the public hearing on the permit.

(2) The purpose of the financial guarantee shall be to assure that the applicant or permittee shall faithfully perform all requirements of the permit or applicable regulations adopted by the Board of County Commissioners.

(3) Any requirement for a financial guarantee shall be specified in the written decision of the Board on the permit application.

2-403 Revocation or Suspension of Permits

(1) In the event the Board of County Commissioners has reason to believe that the provision of any permit or the terms of any regulation for administration have been violated, by the holder of the permit, the Board of County Commissioners may temporarily suspend the permit for a period of thirty (30) days. Before imposing such a temporary suspension, the Board of County Commissioners shall give the permit holder written notice of the specific violation and shall allow the permit holder a period of at least fifteen (15) days to correct the violations. If the permit holder does not concur that there is a violation, he shall, within fifteen (15) days of his receipt of such notice, show cause to the Board of County Commissioners why temporary suspension should not be ordered. A hearing shall be held within said thirty (30) day period pursuant to the following subsection.

(2) Prior to or subsequent to a temporary suspension, the Board of County Commissioners may permanently revoke or suspend the permit after conducting a public hearing in substantially the same manner and after substantially the same notice as for permit hearings, and if it finds:

(a) A violation of any provision of the permit or applicable regulation for administration of the matter of state interest concerned; or

(b) The applicant has failed to take substantial steps to initiate the permitted development or activity within twenty-four (24) months from the date of the permit, or, if such steps have been taken, the applicant has failed to complete the development or activity with reasonable diligence. "Substantial steps" do not require construction activity and may include, among other things, legal or administrative proceedings and activities directly

associated with the applicant's project. An extension of the time within which substantial steps to initiate the permitted development or activity need be taken may be granted by the Board of County Commissioners upon the request of the applicant and a showing of good cause therefor.

(3) Upon good cause shown, any revoked or suspended permit may be reinstated, effective immediately upon such reinstatement, within 12 months after revocation or suspension.

2-404 Annual Review

(1) Within thirty (30) days prior to each annual anniversary date of the granting of a permit by the Board of County Commissioners, the permittee shall submit a report detailing all past activities conducted by the permittee pursuant to the permit including a satisfactory showing that the permittee has complied with all conditions of the permit and applicable regulations. The permittee need not inform the Board of County Commissioners of activities, such as operational changes, which are not the subject of a permit condition.

(2) The Board of County Commissioners shall review the report set forth in Section 2-404(1) within thirty (30) days from the date of submittal thereof. If the Board of County Commissioners determines, based upon its review, that the permittee is likely to have violated the provisions of the permit or applicable regulations, it shall consider the matter at a scheduled public hearing. If the Board of County Commissioners determines at the public hearing that the permittee has violated the provisions of the permit or applicable regulations, the Board of County Commissioners may suspend or revoke the permit in accordance with these Regulations.

(3) Upon notice to the Board of County Commissioners of the fulfillment of all permit conditions; and. The Board of County Commissioner's concurrence therein, the Board of County Commissioners shall terminate any annual review requirements.

(4) The Board of County Commissioners may waive or modify the annual review requirements on its own initiative and discretion or upon petition of the permittee and a showing of good cause therefore.

Article 5 Administration, Enforcement and Penalties

2-501 Enforcement and Penalties

Any person engaging in a development in a designated area of a state interest or conducting a designated activity of state interest who does not obtain a permit pursuant to these Regulations, who does not comply with permit requirements, or who acts outside the authority of the permit, may be enjoined by the County from engaging in such development or conducting such activity, and may be subject to such other criminal or civil liability as may be prescribed by law.

2-502 Mapping Disputes

Where interpretation is needed as to the exact location of the boundary of any area designated for areas and activities of state interest and where there appears to be a conflict between a mapped boundary and actual field conditions, the Board of County Commissioners shall make the

necessary determination of the boundary. Any person contesting the location of the boundary shall be given an opportunity to present a case on the subject to the Board of County Commissioners

2-503 Inspection

(1) The Board of County Commissioners or its authorized representative is hereby empowered and directed to inspect and examine the use, occupation or development of or activity in each and every area or activity subject to these Guidelines and Regulations for the purpose of determining from time to time whether or not any use, occupation, development or activity is in violation of any of the provisions of these Regulations or of any permit issued or required pursuant to these or other applicable regulations.

(2) If a violation shall be found to exist, the Board of County Commissioners or its authorized representative shall by written order direct that such remedial action be taken forthwith as will result in full compliance with the applicable regulations, provided, however, that the issuance of such order shall in no way or manner be deemed a prerequisite to the institution of such enforcement proceedings as are set forth in these Regulations; and provided further, that compliance with such order shall not necessarily be deemed to be a defense to any alleged violation of these Regulations or other applicable regulations of Morgan County or the State of Colorado.

2-504 Nonconforming Uses

The provisions of these Regulations shall not apply to any nonconforming use, and then only to the extent such use existed on the date the area is designated or subjected to these Regulations. When such a nonconforming use shall be discontinued for six months or more or a nonconforming structure is damaged or destroyed to the extent of at least fifty (50) percent of the appraised value, any reuse, reconstruction, or replacement of such structure shall be deemed a new use and shall be subject to the provisions of these Regulations. Any expansion of a nonconforming use shall be fully subject to these Regulations.

CHAPTER 3 SITE SELECTION AND CONSTRUCTION OF MAJOR FACILITIES OF A PUBLIC UTILITY

Article 1 General and Introductory Provisions

3-101 Purpose and Intent

The purpose-and intent of the regulations contained in this Chapter 3 are:

- (1) To encourage planned and orderly land use development;
- (2) To provide for the needs of agriculture, forestry, industry, business, residential communities, and recreation in future growth;
- (3) To encourage uses of land and other natural resources which are in accordance with their character and adaptability;
- (4) To conserve soil, water, forest and agricultural resources and to protect vested water rights;
- (5) To protect the beauty of the landscape;
- (6) To promote the efficient and economic use of public resources;
- (7) 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 Morgan County;
- (8) To avoid or reduce direct conflicts with adopted local government, regional and state master plans; and
- (9) To regulate the site selection and construction of major facilities of a public utility to preserve the health and welfare of the citizens of Morgan County.

3-102 Definitions

In addition to the terms defined in Section 1-110 of Chapter 1 of these Regulations, the following terms specific to the designation of site selection and construction of major facilities of a public utility shall be construed to have the meanings set forth as follows:

- (1) "Appurtenant facilities" means any buildings, structures or other property which are clearly 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:
 - (a) Transmission lines, power plants, and substations of electrical utilities;
 - (b) Pipelines and storage areas of utilities providing natural gas or other petroleum

derivatives; and

(c) Other appurtenant facilities of a public utility which in the opinion of the Board either by itself or in conjunction with other major facilities of a public utility are likely to cause a major impact upon the health, welfare, or safety of the citizens of Morgan County, or upon the physical, social, or economic environment of Morgan County or this region.

(3) "Pipelines" mean any pipeline and appurtenant facilities designed for, or capable of, transporting natural gas or other petroleum derivatives of ten (10) inches diameter or larger which creates a hoop stress of 20 percent or more at their specified minimum yield strength.

(4) "Power plant" means any electrical energy generating facility with a generating capacity of fifty (50) megawatts or more, and any facilities appurtenant thereto, or any addition thereto increasing the existing design capacity of the facility by fifty (50) megawatts or more.

(5) "Public utilities" as used in these regulations means the term as defined by Section 40-1-103, C.R.S.

(6) "Site selection" means the process for determining the location of major facilities of a public utility or the expansion of existing major facilities of a public utility.

(7) "Storage area" means any facility, including appurtenant facilities, designed to store 50 million cubic feet or more of natural gas or 35,000 barrels or more of petroleum derivatives, or any expansion of any existing storage facilities to accommodate an additional 50 million cubic feet or more of natural gas or 35,000 barrels or more of petroleum derivatives.

(8) "Substation" means any facility designed to provide switching, voltage transformation, or voltage control required *for* the transmission of electricity at 115 kilovolts or greater.

(9) "Transmission lines" means those electrical lines and appurtenant facilities which meet all of the following criteria:

(a) Either a series of three or more structures and appurtenant facilities erected above ground which support one or more conductors or a power line placed underground; and

(b) Which lines emanate from a power plant or a substation/transition site and terminate at a substation/transition site; and

(c) Which are designed to transmit electrical voltages of 115kV or greater.

3-103 Applicability

These Regulations shall apply to site selection of major facilities of any public utility to be located wholly or partially within the unincorporated territory of Morgan County.

3-104 Relationship of Regulations to Other County, State, and Federal Requirements Affecting Major Facilities of a Public Utility

(1) Nothing in these Regulations shall be construed as exempting an applicant for a permit from any other requirements of this County or other state, or federal laws and regulations.

(2) To the extent that the requirements of these Regulations differ from any other applicable requirements; the more restrictive requirements shall apply.

(3) 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 agent pursuant to consistent 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.

(4) 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 Designation of Site Selection and Construction of Major Facilities of a Public Utility

3-201 Designation of Site Selection and Construction of Major Facilities of a Public Utility

The Board of County Commissioners having considered the intensity of current and foreseeable development pressures, applicable Guidelines for Identification and Designation adopted and issued by the Colorado Land Use Commission, and the provisions and requirements of these Regulations, it is the order of this body that the designation of site selection and construction of major facilities of a public utility as a matter of state interest made by this body on May 11, 1977, is hereby ratified and confirmed and that this activity shall be regulated pursuant to the provisions of this Chapter.

3-202 Boundaries of Area Covered by Designation

The site selection and construction of any major facility of a public utility wholly or partially within the boundaries of this County shall be subject to this designation and these Regulations.

3-203 Reasons for Designation

Site selection and construction of any major facility of a public utility is hereby designated as a matter of state interest for the reasons stated in Section 3-101 of this Chapter.

Article 3 Permit Program for Site Selection and Construction of a Major Facility of a Public Utility

3-301 Prohibition on Site Selection and Construction of a Major Facility of a Public Utility Without Permit

(1) No person may locate or construct a major facility of a public utility wholly or partially in this County without first obtaining a permit pursuant to these Regulations.

(2) No local authority, including Morgan County, may issue a building permit for purposes of selecting a site for or constructing a major facility of a public utility wholly or partially in this County without the applicant first having obtained a permit pursuant to these Regulations.

3-302 Procedural Requirements

(1) The procedures concerning permit applications, notice and conduct of permit hearings, review of Board of County Commissioners decisions and issuance and content of permits for selecting a site and constructing any major facility of a public utility shall comply with the provisions set forth in Chapter 2, the Permit Regulations adopted by this County, together with the additional regulations set forth in this Chapter.

(2) Prior to the preapplication conference, applicant may meet with both the Planning Administrator and Board of County Commissioners to discuss and outline the project. The purpose of the meeting is to discuss general information pertinent to the project, identify any major problems and define issues in order to direct the data gathering and assessment that are to accompany the future application. No record shall be maintained of this meeting and neither party shall be bound by plans, statements or positions discussed at the meeting.

(a) If, as a result of the meeting, the Planning Administrator or Board determine that the nature or extent of the proposal involves the potential for significant environmental damage or warrants examination of specific, less environmentally damaging alternatives, the Planning Administrator may request that the applicant evaluate and present information on such alternatives as part of the application. This shall not preclude a similar request following the preapplication conference.

(b) Required information on alternatives may include, but shall not necessarily be limited to, information on the environmental impacts and cost-effectiveness of the alternatives in relationship to the proposal presented.

(3) To minimize expenditures of time and money by all concerned, an application for a permit to locate and construct a major facility of a public utility must begin with a preapplication conference with the Planning Administrator. Within ten days following the preapplication conference, the Planning Administrator, in consultation with the Board of County Commissioners, shall determine whether or not the application shall be commenced with a preliminary application which shall be reviewed by the Planning Department and the Board of County Commissioners without public hearing prior to the receipt of the final application. The purposes of the preliminary application are to assess the general feasibility of the application and identify any major problems and define issues in order to direct the data gathering and assessment that are to accompany the final

application. The procedures and submission requirements for each stage of the application are set forth in more detail below.

(4) 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) Available documents, studies, or reviews by applicant or regulatory agencies will be utilized whenever possible by the Board in its review in order to minimize duplication and promote the timely review of the permit application.

3-303 Preapplication Conference

(1) Prior to formal filing of the application, the applicant shall confer with the Planning Administrator to obtain information and guidance. The purpose of such a conference is to permit the applicant and the staff to review the proposal informally before substantial commitments of time and money are made.

(2) Topics of discussion shall include, but not be limited to:

(a) Characteristics of the activity, including its location or potential locations, significant natural and man-made features with particular attention to natural hazard, resource, or other special areas; the size and accessibility of the site; surrounding development and land uses; and its potential impact on surrounding areas, including potential environmental effects and planned mitigation strategies.

(b) The nature of the development proposed, including land use types and their densities; placement of proposed buildings and maintenance of common open space or treatment of public use areas; the preservation of natural features; proposed parking areas and internal circulation system, including trails, the total ground coverage of paved areas and structures, and types of water and sewage treatment systems proposed.

(c) Community policy considerations including the review process and likely conformity of the proposed development with the policies and requirements of these Regulations.

(d) Applicable regulations, review procedures and submission requirements.

(e) Other regulatory reviews or procedures to which the applicant is subject, the applicant's time frame for the project, whether the applicant requests waiver of the preliminary application, and other concerns of the applicant.

(3) Any comments or commitments made by any member of the County administration during this preapplication conference are only preliminary in nature and should not be relied upon by the applicant. All prospective applicants should be informed that formal comments cannot be made by staff until after the application is submitted and adjacent or nearby property owners and referral agencies have had an opportunity to respond, if applicable.

(4) County staff will make available to applicant any public information concerning the application which is in the County's possession.

(5) If the project is not set for a preliminary application, the Planning Administrator shall consult with the Board of County Commissioners concerning the County's application requirements for the project, and shall notify the applicant either at the preapplication conference or within 10 days thereafter in writing of such requirements, including but not limited to the extent of interest holders to receive notification of the project under Section 2-206 and other applicable sections, the extent of the project area to be considered, the submittal requirements that will be waived by the County, and any particular submittal requirements in addition to those specified in these Regulations.

3-304 Preliminary Application

(1) Following the preapplication conference, the Planning Administrator shall consult with the Board of County Commissioners and, on the basis of the information provided by the applicant at the preapplication conference, they shall determine, in their sole discretion, whether to require the applicant to submit a preliminary application. This decision shall be communicated by the Planning Administrator to the applicant within ten days after the preapplication conference, or as soon as feasible thereafter. In general, Morgan County will require a preliminary application process only for substantial facilities of a size or potential impact on the community to justify additional study. If the applicant objects to undergoing the preliminary application process, the applicant may appeal this decision to the Board of County Commissioners, which shall meet with the applicant and the Planning Administrator as soon as feasible thereafter to consider the basis for the applicant's appeal, and shall then determine whether or not the preliminary application shall be waived for good cause shown.

(2) The submission requirements for the preliminary application shall be five copies of the following:

- (a) Completed application form in the format attached hereto as Exhibit B.
- (b) Description of proposed facility and site.
- (c) Description of the present use and zoning.
- (d) Vicinity map showing the proposed site and the surrounding area. The project area to be shown shall be defined as follows:
 - (i) If a power plant is proposed, the area within fifty (50) miles from the site;
 - (ii) If new transmission lines or pipelines are proposed, provide map showing all existing transmission lines and pipelines for a distance of two miles beyond any reasonable alternative studied.
 - (iii) For upgrades of existing transmission lines or gas pipelines, provide a map showing all existing transmission lines and pipelines within one mile on either side of the proposed alignment.
 - (iv) For all other major facilities of a public utility, the area within ten (10) miles of the site if another major facility is proposed.

- (e) Type of facility – specify where applicable:
 - (i) Approximate floor space of office building.
 - (ii) The voltages and lengths of transmission lines.
 - (iii) Power source and generating capacity.
 - (iv) The functions and sizes of substations.
 - (v) The diameters and lengths of pipelines.
 - (vi) The capacities of the storage tanks and types of petroleum derivative to be stored.
 - (vii) Corridor locations.
 - (viii) Service area.
 - (ix) Resource area (e.g. source of power being generated or transmitted, source of petroleum derivative being transported).
- (f) Projected development schedule:
 - (i) Estimate maximum number of employees, number of shifts and employees per shift during the construction, operation, and maintenance phases of the project.
 - (ii) Specify any future phases or extensions of the facility and relationship of the facility (if currently foreseen) to larger programs and plans.
 - (iii) Specify timetable for planning (e.g. Federal permits, other State permits, local zoning, etc.)
 - (iv) Estimate beginning and completion of construction and beginning of operation of facility.
 - (v) Describe support facilities (e.g. pollution control, parking areas, landscaping, etc.) to be provided.
 - (vi) Describe any feasible "non-structural" alternatives to meet the objectives of the proposed site selection and construction.
- (g) Hazards and emergency procedures:
 - (i) Describe hazards, if any, of fire, explosion and other dangers to the health, safety and welfare of employees and the general public.
 - (ii) Describe hazards, if any, of environmental damage and contamination due to materials used at or activities taking place at the proposed facility.
 - (iii) Describe emergency procedures to be used in the event of fire, explosion or other event which may endanger the public health, safety and welfare.
 - (iv) Describe any prevalent natural hazards that will affect or be affected by development, and describe mitigating measures to be taken to reduce danger due to such natural hazards.

(3) Upon receipt of complete preliminary application submission requirements, the Planning Administrator; shall issue a receipt indicating that preliminary application requirements have been satisfied.

(4) Within thirty (30) days of issuing receipt of the preliminary application, the Board of County Commissioners in consultation with the Planning Administrator shall provide the applicant with a written review concerning the general feasibility of the application. Major problems and concerns shall be outlined in this review.

(5) If the applicant, after receiving the written review, decides to proceed with the permit application, then the applicant shall notify the Planning Administrator in writing within thirty (30) days. The Board of County Commissioners shall then arrange a meeting at a mutually agreeable time and place among the Board, the Planning Administrator, and the applicant. This meeting may be attended by interested parties and members of the public, but they shall not be parties to the meeting and shall be permitted to comment only in the discretion of the Chair of the Board of County Commissioners.

(6) At such meeting, the preliminary review shall be discussed and clarified, where necessary, and submission requirements for the final application shall be determined, means of coordinating this study with others shall be considered, referral agencies for the application shall be designated, and the parties shall establish study format, methodology, map scales, work schedules in gathering and analyzing data for the final application, and a time frame for the final application.

3-305 Application Submittal Requirements

(1) These application submittal requirements shall apply to all applications for a development permit for a major facility of a public utility, except for requirements which have been waived as provided in these Regulations, whether or not a preliminary application is required.

(2) Submittal requirements for all applications for a development permit for a major facility of a public utility, where applicable:

(a) the following are general requirements for any map or plan required hereunder. Minimum requirements include:

(i) The name of the proposed development or use and total number of acres under consideration.

(ii) Since all maps and plans may be used for public presentation, the map scale and size should be large enough for effective, presentation and should accurately illustrate the application.

(iii) Name, address, and telephone number of the applicant, designer: engineer, surveyor, and any other consultants of the applicant.

(iv) Date of preparation, revision box, written scale, graphic scale, and north arrow for each map.

(b) The applicant must provide the following information concerning title of the project site, which shall be the entire proposed alignment or corridor under consideration at the time of the application for transmission line and pipeline projects:

(i) The names and addresses of all surface property owners of the project site and within 1320 feet of the boundaries of the property proposed to be physically disturbed, except for transmission line or pipeline projects, for which the names and addresses of all surface property owners for 500 feet on either side of the centerline of the proposed alignment shall be provided;

(ii) The planned access to the project site and the means the applicant intends to use to obtain a legal right to utilize such access, including copies of any access or right-of-way agreements entered into by the date of the application for such

access;

(iii) The names and addresses of persons or entities with an interest in any real property proposed to be physically disturbed or crossed by the activity or development which is the subject of the application, excluding mineral interests but including those holding mortgages, judgments, liens, easements, contract rights, rights of way, reservations, exceptions, or other encumbrances, at least to the extent shown in the records of the Clerk and Recorder of Morgan County or of which applicant has actual knowledge; and

(iv) The names and addresses of mineral interest holders with an interest in any real property proposed to be physically disturbed or crossed by the activity or development which is the subject of the application in the case of projects to be constructed more than ten feet below the surface, excluding foundation structures for above-ground transmission lines, at least to the extent shown in the records of the Clerk and Recorder and Assessor of Morgan County.

In addition, the applicant shall provide a certificate stating the process by which the applicant compiled such information, when such information was compiled, and the steps which were taken to ensure the accuracy of the information. The County will require that the information be compiled and verified in a manner reasonably designed to ensure the accuracy of such information, but shall not require the use of title insurance or attorney's title opinions. The County will require that the last search for such information have been updated no later than ten days before the date that the application is submitted, and that such information be updated again no later than ten days before the public hearing on the application.

(c) Maps

(i) Map delineating study area and describe how the study area was determined.

(ii) Map showing all special districts (school, fire, water, sanitation, etc.) within the study area.

(iii) Map or narrative delineating the area within the study area where the physical and socio-economic environment is likely to be affected, beneficially or adversely, by the site selection and construction of the proposed facility.

(d) The preliminary application requirements set forth at Section 3-304(2), if the preliminary application was not required.

(e) Summarization of major natural and socio-economic environmental constraints as they affect the site selection and construction of the facility as proposed.

(f) Summarization of the effects of the proposed site selection and construction upon the natural and socio-economic environment of the impact area as applicable to submission requirements. Included should be an analysis of impacts upon agricultural productivity and agricultural resources and upon vested water rights.

(g) Analysis of the long-term effects of the proposed site selection and

construction upon the physical and socio-economic development of the impact area.

(h) Description of a program to minimize and mitigate adverse impacts and to maximize the positive impacts of the proposed site selection and construction.

(i) 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.

(j) Analysis of structural alternatives to the project such as alternate locations and routes, alternative types of facilities, use of existing rights-of-way, joint use of rights-of-way with other utilities, and upgrading of existing facilities.

(k) Analysis of air and water pollution impacts and control alternatives.

(l) Analysis of design alternatives concerning access, landscaping, architectural controls and so forth.

(m) Submission of a proposed form of development agreement to meet costs of affected political subdivisions in the project area of providing new or upgraded services and facilities necessary to serve the proposed project.

(n) Analysis of hydrologic, atmospheric, geologic, pedologic, biotic, visual, and noise impacts.

(o) Surface and subsurface drainage analysis.

(p) Any other information required by the Board or the Planning Administrator and communicated to the applicant at the preapplication conference or within ten days thereafter, if the project is proceeding without a preliminary application, or no later than the preliminary review meeting described at Section 3-304(5) hereof if the application is proceeding with a preliminary application. This limitation shall not preclude the Board from requesting the applicant to provide additional information during the public hearing on the application, in order to provide which, the applicant shall be granted reasonable continuances if the applicant so requests.

(3) Specific submittal requirements. These additional requirements shall be imposed on the applicant by the Planning Administrator, in such Administrator's sole discretion, if the Planning Administrator determines that the need for the additional information is warranted by the size and scope of the proposed project in order for the Board of County Commissioners to make an informed decision on the application. It is the intention of these Regulations that the following information shall be required only if the proposed project is of such size and scope that it is reasonably likely to have significant environmental or social impacts on Morgan County residents or lands.

(a) Detailed description of the need for the proposed development or activity, including but not limited to:

(i) The present population of the area to be served and the total population to be served when the project is operating at full capacity.

(ii) The predominant type of users or communities to be served by the

proposal.

(iii) The percentage of the design capacity at which the current system is now operating.

(iv) 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.

(v) The relationship of the proposal to the applicant's long- range planning and capital improvements programs.

(vi) A description of why public convenience and necessity require a facility of the size and nature proposed.

(vii) A description of the user needs and user patterns to be fulfilled by the proposed project.

(viii) 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.

(b) Environmental impact analysis.

(i) Land use:

(a) Describe the relationship of the project to local land use policies and comprehensive plans and to policies and plans adopted or under preparation by federal, state, regional or other affected local governmental agencies.

(b) Detail the agricultural productivity capability of the land affected by the proposal (SCS classification).

(c) Specify how the proposed development will utilize existing easements or rights of way for any associated distribution or collector networks.

(ii) Information regarding other utility facilities.

(a) A map showing each existing major facility of a public utility within the County of the type proposed for development.

(b) 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.

(c) Whether present facilities can be upgraded to adequately accommodate a ten (10) year projected increase in demand for services to be offered by the proposed project.

(iii) Water resources:

(a) On the map of the base area, or another appropriate map, indicate any flood plain associated with the proposal. Documentation of the historical flooding activity should be included. Detail potential, adverse impacts related to the associated floodplain.

(b) Describe the potential adverse effects of the proposal upon plant and animal life dependent upon the water resources in question.

(c) Describe proposed sewage treatment facilities and nonpoint source controls.

- (d) Describe pollutant loads (point and non-point sources) expected directly from the development. Specify seasonal variations.
- (e) Describe the proposed water system, including:
 - i) Source of supply, volume and rate of flow at full development.
 - ii) Water Rights owned or utilized.
 - iii) Proposed points of diversion and changes of points of diversion.
 - iv) Volume of stream flow to remain unused between points of diversion.
 - v) Dependability of supply (physical and legal).
 - vi) Effects on downstream users.
- (iv) Air quality.
 - (a) Detail how many average daily trips will be generated by the proposal.
 - (b) Describe atmospheric and meteorologic conditions in the impact area, and the background ambient air quality (TSP, S02, HC, CO, NOx, 03, etc.).
 - (c) Describe pollutant outputs anticipated from the development and mitigation strategies.
- (v) Significant environmentally sensitive factors:
 - (a) Identify and locate on a map of appropriate scale the juxtaposition of any of the following features present in the proposed development or activity and its vicinity, and detail the potential impact of the proposal upon each feature.
 - i) Marshlands and wetlands.
 - ii) Ground water recharge areas.
 - iii) Potential natural hazards.
 - iv) Forests and woodlands.
 - v) Critical wildlife habitat.
 - vi) Public outdoor recreation areas.
 - vii) Unique areas of geologic, historic or archeological importance.
- (vi) Visual aesthetics and nuisance factors:
 - (a) Identify any significant deterioration of existing natural aesthetics, creation of visual bright, noise pollution or obnoxious odors which may stem from the proposal.
 - (b) Where significant, map or describe area within view of project.
 - (c) Describe proposed mitigation strategy.
- (vii) Transportation impacts:
 - (a) Describe what impacts the proposal will have upon transportation patterns in the area intended to be served or affected by the proposal.

- (b) Describe the potential impact on roads within the County.
 - (c) Identify improvements required to any roads within the County in order to serve the project adequately.
- (viii) Less damaging alternatives:
 - (a) If the Planning Administrator determines that the nature or extent of the proposal involves the potential for significant environmental damage or warrants examination of specific, less environmentally damaging alternatives, the Planning Administrator may request that the Board require that the applicant evaluate and present information on such alternatives as part of the application.
 - (b) Required information on alternatives may include, but shall not necessarily be limited to, information on the environmental impacts and cost-effectiveness of the alternatives in relationship to the proposal presented.
- (c) Community impact analysis.
 - (i) Public support facilities and impacts:
 - (a) Describe community or public support facilities needed for the project, including but not limited to police and fire protection, public road maintenance, and educational and health services, and identify needs for improvement or construction of new facilities or programs required for the success of the project.
 - (b) Describe how these needs are proposed to be accomplished or financed.
 - (ii) Impact on public finances:
 - (a) Describe capital investment in facility.
 - (b) Estimate anticipated revenues to local, state and federal governments, and special districts.
- (d) Applicants seeking a permit for the site selection and construction of pipelines or storage areas shall submit the following additional documents and information:
 - (i) Description of hydrologic conditions - surface (impact area).
 - (a) Provide map of all surface water.
 - (b) Describe expected monthly streamflows for typical year, wet year, dry year (include 7 day – 10 year low flows where sufficient data exists).
 - (c) Describe physical stream features (gradient, velocity, depth, etc.).
 - (d) Provide data on chemical and biological quality, including BOD, dissolved O₂, free CO₂, PH, TDS, ph-th alkalinity, MO alkalinity, NH₃, heavy metals and other toxic or deleterious substances.
 - (ii) Description of hydrologic conditions subsurface (impact area).
 - (a) Map all aquifers that may be affected by project.
 - (b) Provide tables, graphs, map showing permeability,

transmissibility, thickness, volume, depth of aquifers,

(c) Describe geology of strata overlying aquifers including percolation rates, travel time to ground water surface.

(d) Map of all wells using aquifers including diameter, flow rates.

(e) 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.

(f) Applicants seeking a permit for the site selection and construction of transmission lines or substations shall submit the following additional documents and information:

(i) Computer modeled electromagnetic field measurements within the proposed transmission line easement for that portion of transmission line between substations or transition sites; and

(ii) 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 1B(i), or similar authority, for projects where other similar authority is applicable.

(5) Waiver of submittal requirements.

Specific submittal requirements may be waived by the Planning Administrator, as provided in Subsection 2-204 above.

3-306 Approval of Permit Application

(1) The Board of County Commissioners shall approve an application for permit for site selection and construction of a major facility of a public utility (with reasonable conditions, if any, in the discretion of the Board of County Commissioners) only if the proposed site selection and construction complies with the following criteria to the extent applicable:

(a) The health, welfare and safety of the citizens of this County will be protected and served;

(b) The natural and socio-economic environment of this County will be protected and enhanced;

(c) 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 represents the best utilization of resources in the impact area;

(d) A satisfactory program to mitigate and minimize adverse impacts has been presented;

(e) The nature and location or expansion of the facility complies with all applicable provisions of the master plan of this County, and other applicable regional, metropolitan, state, and national plans;

(f) The nature and location or expansion of the facility complements the existing and reasonably foreseeable needs of the service area and of the area immediately affected by the facility;

(g) The nature and location or expansion of the facility does not unduly or unreasonably impact existing community services;

(h) The nature and location or expansion of the facility will not create an expansion of the demand for government services beyond the reasonable capacity of the community or region to provide such services, as determined by the Board;

(i) The facility site or expansion area is not in an area with general meteorological and climatological conditions which would unreasonably interfere with or obstruct normal operations and maintenance;

(j) The nature and location of the facility or expansion will not adversely affect the water rights of any upstream, downstream, or agricultural users, adjacent communities or other water users;

(k) Adequate water supplies are available for facility needs;

(l) The nature and location of the facility or expansion will not unduly interfere with any existing easements for or rights-of-way, for other utilities, canals, mineral claims, or roads;

(m) Adequate electric, gas, telephone, water, sewage, and other utilities exist or shall be developed to service the site;

(n) The nature and location for expansion of the facility will not interfere with any significant wildlife habitat or adversely affect any endangered wildlife species, unique natural resource or historic landmark within the impact area;

(o) The nature and location or expansion of the facility, including expected growth and development related to the operation and provision of service, will not significantly deteriorate water or air quality in the impact area;

(p) The geological and topographic features of the site are adequate for all construction, clearing, grading, drainage, vegetation, and other needs of the facility construction or expansion;

(q) The existing water quality of affected state waters will not be degraded below state and federal standards or established baseline levels.

(r) The proposed project will not have a significantly adverse net effect on the capacities or functioning of streams, lakes and reservoirs in the impact area, nor on the permeability, volume, recharge capability, and depth of aquifers in the impact area.

(s) The benefits of the proposed developments outweigh the losses of any natural resources or reduction of productivity of agricultural lands as a result of the proposed development.

(t) The applicant has obtained or will obtain all property rights, permits, and approvals necessary for the proposed project, including surface, mineral, and water rights and easements for drainage, disposal, utilities, access, etc. If the applicant has not obtained all necessary property rights, permits and approvals, the Board may, at its discretion, grant the permit conditioned upon completion of the acquisition of such rights prior to issuance of a zoning or building permit by the County.

(u) The proposed project will not present an unreasonable risk of exposure to or release of toxic or hazardous substances within the impact area. The determination of effects of the project shall include the following considerations:

- (i) The means by which outdoor storage facilities for fuel, raw materials, equipment and related items are adequately enclosed by a fence or wall;
- (ii) The likelihood of hazardous materials or wastes being moved off the site by natural causes or forces;
- (iii) Containment of inflammable or explosive liquids, solids or gases.

(v) The scope and nature of the proposed project will not create duplicate services within the County; and

(w) If the purpose and need for the proposed project are to meet the needs of an increasing population within the County, area and community development and population trends demonstrate clearly a need for such development.

(2) The Board of County Commissioners shall deny the permit if the proposed development does not comply with the applicable criteria in subsection (1) of this Section.

(3) The Board may impose additional mitigation requirements and conditions on an applicant as follows if it complies with each of the following steps:

(a) The Board shall make written findings that each such requirement and condition is necessary to ensure that the proposed project will not result in significant adverse net effect on the resources, values and conditions referenced above.

(b) The Board shall also find in writing that each such requirement and condition is necessitated by the proposed project.

(c) All such findings shall be based on material in the administrative record.

(d) The Board shall base the additional requirements and conditions on applicable design standards as adopted by the County, to the extent that such standards then exist.

EXHIBIT A-1

MORGAN COUNTY, COLORADO

DESIGNATION OF AREA OF STATE INTEREST

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

No one may engage in development on said lands without a permit. Maps or other descriptive materials showing the precise boundary of the area and procedures for obtaining a permit are available at the offices of the Morgan County Planning Department, which is located on the second floor, Morgan County Administration Building, 231 Ensign Street, Fort Morgan, Colorado 80701.

Date: _____

ATTEST:

Clerk to the Board

Chair
Board of County Commissioners
Morgan County, Colorado

[SEAL]

EXHIBIT A-2

MORGAN COUNTY, COLORADO

DESIGNATION OF ACTIVITY OF STATE INTEREST

Pursuant to Section 24-65.1-101, et seq., C.R.S. on _____, the Board of County Commissioners of Morgan County designated the following lands as an area of state interest. Such activities may not be conducted within the unincorporated area of Morgan County without a permit. Procedures for obtaining such a permit are available at the Morgan County Planning Department, which is located on the second floor, Morgan County Administration Building, 231 Ensign Street, Fort Morgan, Colorado 80701.

Date: _____

ATTEST:

Clerk to the Board

Chair
Board of County Commissioners
Morgan County, Colorado

[SEAL]

EXHIBIT B

MORGAN COUNTY, COLORADO

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, Morgan 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:

___ Site selection and construction of a major facility or public utility.
___ Other

2. Proposed Activity or Development.

General description of the specific activity or development proposed:

3. General Description.

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 'or on separate sheets the names and addresses of those persons holding recorded legal, equitable, contractual and option interests and any other person known to the applicant having an interest in the property described in paragraph 4, above; as well as the nature and extent of those interests for each person, as required in the Guidelines and Regulations *or* Areas and Activities of State Interest of Morgan County for each of the activities or areas checked in paragraph 1 above.'

6. Submission Requirements.

Submission requirements described in the Guidelines and Regulations for Areas and Activities of State Interest of Morgan 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. Design and Performance Standards.

The attached analyses show that each of the design and performance standards set forth in the Regulations for each of the activities or areas checked in paragraph 1 above, will be met. The individual analyses are identified by reference to the appropriate paragraph or section numbers corresponding to each standard in the Regulations.

8. Additional Information Required.

Attach any additional information required by the Guidelines and Regulations.

9. Duration of Permit.

The Applicant requests a permit for a period of _____ years

10. Application Fee.

An application fee accompanies this application. Note: This initial application fee is nonrefundable . The applicant may also be required to pay Morgan County's reasonable costs of processing this application in excess of such fee, including but not limited to costs of consultants, attorneys, copies, long distance telephone, and facsimile transmission expenses. Reimbursement of the County's costs of processing shall be made within 30 days of invoice by the County to the applicant therefor. The Planning Administrator may also require deposit in advance of expenditure for expenditures deemed significant and reasonably likely to be incurred. If the applicant fails to pay the initial application fee or to reimburse or deposit expenses to the County in a timely manner, the County may refuse to process or suspend processing of an application, including refusal to hold hearings or issue permits.

APPLICANT:

By: _____
(Name)

(Title)

EXHIBIT C

MORGAN COUNTY, COLORADO

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

Pursuant to Guidelines and Regulations for Areas and Activities of State Interest of Morgan 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 Application.

1. To conduct the following activities:
2. On the following described tract of land:
3. For the following period:
4. In accordance with the application approved by the Board of County Commissioners on 20_, as well as the guidelines for administration adopted by Morgan County for [insert category of matter of state interest involved] adopted by Morgan County on [date].
5. On the condition that the Applicant proceeds in conformity with all applicable federal and state statutes and regulations 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, and the following additional conditions:
6. Financial security shall be posted under this permit and this permit shall not be effective until the Applicant has tiled the proper security with the Board of County Commissioners, in form and content acceptable to them, pursuant to provisions of the Administrative and Permit Regulations. Such security shall be in the amount of (\$ _____) and shall be subject to the following additional conditions:

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 twenty-four (24) 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: _____

ATTEST:

Clerk to the Board

Chair
Board of County Commissioners
Morgan County, Colorado