# AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

**AgendaTitle:**
Land Use Resolution Amendment; Section 13-115: Reclamation and Noxious Weed Control

**Action Requested:** Board of County Commissioners' Signature

**Parties to the Agreement:**

**Term Begins:** **Term Ends:** **Grant Contract #:**

**Summary:**
Amendment to the LUR - Section 13-115: Reclamation and Noxious Weed Control

**Fiscal Impact:**

**Submitted by:** Neal Starkebaum **Submitter's Email Address:** nstarkebaum@gunnisoncounty.org

**Finance Review:** ○ Required ● Not Required

Comments:

Reviewed by: Discharge Date:

**County Attorney Review:** ● Required ○ Not Required

Comments:

Please see attorney legal issues section.

Reviewed by: GUNCOUNTY1\dBaumgarten Discharge Date: 8/14/2014 Certificate of Insurance Required

Yes ○ No ●

**County Manager Review:**

Comments:

Reviewed by: GUNCOUNTY1\mbirnie Discharge Date: 8/15/2014

○ Consent Agenda ● Regular Agenda ○ Worksession Time Allotted: 10

Agenda Date: 8/19/2014 Follow Up Agenda Date: n/a

*Revised April 2013*

**NOTICE OF PUBLIC HEARING**
**AMENDMENT TO THE**
***GUNNISON COUNTY LAND USE RESOLUTION***
**CONCERNING RECLAMATION REGULATIONS**

**HEARING DATE, TIME AND LOCATION:** The Gunnison County Board of Commissioners will conduct a public hearing **TUESDAY, AUGUST 19TH, 2014 at 9:05 a.m.** upstairs in the Planning Commission Meeting Room, 221 N. Wisconsin, in Gunnison, to hear public comment concerning an amendment to *Section 13-115: Reclamation and Noxious Weed Control* of the *Gunnison County Land Use Resolution*, concerning changes to reclamation permitting and standards.

**PUBLIC PARTICIPATION:** The public is invited to submit oral or written comments at the hearing, and/or to submit written comments by FAX (970) 641-8585, by letter (to the Community Development Department, 221 N. Wisconsin St., Ste. D, Gunnison, CO 81230), or by email to planning@gunnisoncounty.org prior to the meeting. A copy of the amendment is available for public review in the County Community Development Department, and on the Gunnison County website: http://www.gunnisoncounty.org/planning_regulations_guidelines.html

Additional information may be obtained by calling the Community Development Department at (970) 641-0360.

**ADA ACCOMMODATIONS:** Anyone needing special accommodations as determined by the *American Disabilities Act* may contact the Community Development Department, (970) 641-0360, prior to the day of the meeting.

/s/
Neal Starkebaum
Assistant Director
Gunnison County Community Development Department

**Gunnison County**
**Community Development Department**
Offices of Planning, Building and Environmental Health
221 N. Wisconsin St., Ste. D
Gunnison, CO 81230
Phone: (970) 641-0360 Fax: (970)641-8585

August 1, 2014

**TO:** **Board of County Commissioners**
**Matthew Birnie, County Manager**
**David Baumgarten, County Attorney**

**FROM:** **Neal Starkebaum**
**Assistant Director**

**SUBJECT:** **Planning Commission Recommendation**
**Amendment to the *Gunnison County Land Use Resolution***
***Section 13-115: Reclamation and Noxious Weed Control***

The attached proposed amendment to the *Gunnison County Land Use Resolution* (Exhibit A) was initiated by the Community Development Director. The proposed amendment is an update and revision to the reclamation permitting procedures, including Gunnison Sage-grouse review.

Pursuant to *Section 1-113: Amending This Land Use Resolution C.* of the *Resolution*, the Community Development Department and Planning Commission have reviewed the proposed amendments and considered the following:

1. **CONSISTENCY WITH ANY COMPREHENSIVE PLAN ADOPTED BY GUNNISON COUNTY**. Consistency of the proposed amendment with any applicable comprehensive plan adopted by Gunnison County;
2. **CHANGED CONDITIONS**. Changed conditions, including the economy of Gunnison County;
3. **EFFECT ON THE NATURAL ENVIRONMENT**. Effect of the proposed amendment on the natural environment;
4. **COMMUNITY NEEDS**. Community needs;
5. **DEVELOPMENT PATTERN**. Development pattern;
6. **CHANGES IN APPLICABLE LAW**. Changes in applicable law;
7. **PUBLIC HEALTH, SAFETY AND WELFARE**. Public health, safety and welfare;
8. **COMPLIANCE WITH ANY APPLICABLE INTERGOVERNMENTAL AGREEMENTS ADOPTED BY GUNNISON COUNTY**. Compliance with any applicable intergovernmental agreements adopted by Gunnison County.

*****

At its regular meeting of August 1, 2014, the Planning Commission unanimously approved the following motion:

Moved by Commissioner Cattles, seconded by Commissioner Wilcox, to approve the recommendation on the proposed amendment to the *Gunnison County Land Use Resolution*.

(highlighted text is new; ~~struck through~~ text is deleted):

## EXHIBIT A

## SECTION 13-115: RECLAMATION AND NOXIOUS WEED CONTROL

**A. PURPOSE.** The purpose of this Section is to establish standards to control the growth and proliferation of noxious weeds in Gunnison County, in conformance with Colorado Revised Statutes 35-5.5, *et seq*: the *Colorado Noxious Weed Act*, by requiring site reclamation after earth moving and/or construction has occurred.

**B. APPLICABILITY**. This Section shall apply to all earth moving sites including road and driveway cutting and construction, clearing of land, and berm construction. This Section shall not conflict with the requirements of Division 9-400: *Exploration, Extraction and Processing of Minerals and Construction Materials* or with reclamation within the jurisdiction of the Colorado Division of Reclamation Mining and Safety and applied to mining operations. Nothing in this Section is or shall be construed to be a limit on the County's authority regarding noxious weeds.

**1. EXEMPTIONS.** The following uses are exempt from having to obtain a Reclamation Permit:

**a. AGRICULTURAL OPERATIONS.** Agricultural operations, as defined within this *Resolution*.

**b. AREAS OF DISTURBANCE SMALLER THAN ~~2,000~~ 10,000 SQ. FT.** Areas of disturbance that are smaller than ~~2,000~~ 10,000 sq. ft. that are located outside of mapped occupied Gunnison Sage-grouse habitat.

~~**c. POLE BARNS 2,000 SQ. FT. OR LESS.** Construction of pole barns of 2,000 sq. ft. or less.~~

**c. RECORDED SUBDIVISIONS WITH APPLICABLE PROTECTIVE COVENANTS.** In platted, recorded subdivisions approved by the County for which there are recorded protective covenants that require reclamation that meets or exceeds the standards of this Section. Determination of that compliance shall be made by the Gunnison County Public Works Department.

**d. AREAS RECOMMENDED BY WEED ~~SPECIALIST~~ COORDINATOR**. Areas that are defined and recommended by the Gunnison County Weed ~~Specialist~~ Coordinator, as may be designated from time to time by the Board.

**C. GUNNISON SAGE-GROUSE REVIEW.**

**1. GUNNISON SAGE-GROUSE PREAPPLICATION CONFERENCE. A Gunnison Sage-grouse preapplication conference shall be required for any proposed site disturbance if the site is located within mapped occupied Gunnison Sage-grouse habitat.**

**2. RECLAMATION PERMIT. A reclamation permit shall be required for all projects involved in any level of site disturbance within Tier 1 Habitat. A reclamation permit may be required for site disturbance in Tier 2 Habitat, based upon a site-specific analysis.**

**D ~~C~~. RECLAMATION PERMIT REQUIRED FOR DEVELOPMENT ~~REQUIRING A LAND USE CHANGE PERMIT~~ THAT DISTURBS ~~500~~ 10,000 OR MORE SQ. FT.** Except as otherwise exempted, a development which results in any site disturbance ~~road cutting and/or construction, homesite clearing and berm construction that is required to obtain a Land Use Change Permit pursuant to this *Resolution*, and~~ that involves ~~500~~ 10,000 or more sq. ft. of disturbance, shall ~~also~~ be required to obtain a Reclamation Permit from the Gunnison County Public Works Department. ~~including the following:~~

~~**1. BUILDING A STRUCTURE**. Construction of a structure that is required to obtain a Gunnison County Building Permit.~~

~~**2. INSTALLATION OF AN ISDS.** Installation of a new or replacement individual sewage disposal system that is required to obtain an Individual Sewage Disposal System Permit.~~

~~**3. DRIVEWAY CONSTRUCTION**. Any driveway construction that requires a Gunnison County Access Permit, or a Colorado Division of Highways Access Permit.~~

~~**4. CUTS AND FILLS GREATER THAN EIGHT FEET.** If cuts and fills that measure eight feet or greater from the finished grade are to be used as part of a construction Project that is not otherwise required by this Section to obtain a permit, a Reclamation Permit shall be required.~~

**E~~D~~. SITE ~~REVEGETATION~~ RECLAMATION AND NOXIOUS WEED CONTROL PLAN**. ~~Within two calendar years of the date of the substantial completion of soil disturbance~~, Prior to obtaining a Certificate of Occupancy the applicant shall ~~revegetate~~ have implemented reclamation of the affected site pursuant to ~~an *Earthmoving Site Revegetation and Noxious Weed Control Plan*, as designed and/or approved by the Gunnison Basin Weed Specialist. Such plan shall, at a minimum, comply with~~ the requirements of Section 13-116: *Grading and Erosion* and with Section 11-105: *Development in Areas Subject to Wildfire Hazards* and be required, if applicable, to address the following:

1. **NATIVE PLANTS REQUIRED IN EAST RIVER CORRIDOR**. Native plant materials are required to be used in the portion of the East River Corridor to the Gothic Townsite as delineated a map that can be obtained from the Public Works Department.

2. **SLASH AROUND HOMES**. To avoid insects, diseases, and wildfire hazards, all vegetative residue, slushiness, branches, limbs, stumps, roots, or other such flammable lot-clearing debris shall be disposed of from around homesite areas by either chipping or removal prior to final building inspection approval. Homesite areas shall include all areas of the lot in which such materials are generated or deposited; and

3. **REMOVAL OF DEBRIS.** Within six months of substantial completion of soil disturbance, all stumps, and other tree parts, and brush should be removed from the site and disposed of in compliance with requirements of any applicable municipal tree disposal site or the Gunnison County Landfill, or by other means pursuant to applicable regulation. Excess or scrap building material, weeds, or other debris should be removed from the site and disposed of pursuant to requirements of the Gunnison County Landfill, or by other means pursuant to applicable regulation.

   a. **RETAINING DEADWOOD FOR WILDLIFE HABITAT.** All dead or dying trees should be removed from the site, unless those trees are to be used for fire wood or retained for wildlife habitat, upon recommendation of the Colorado Division of Parks and Wildlife or the Colorado State Forest Service. If trees and limbs are reduced to chips, they may be used as mulch in landscaped areas.

**F~~E~~. SURETY.**

1. **DISTURBANCE OF 10,000 OR MORE SQ. FT.** When activities of development or a land use change results in any site disturbance that disturbs 10,000 sq. ft. or more, surety in the form of a bond, letter of credit, interest-bearing account, or as may be addressed within a Development Improvement Agreement, shall be required by the County to assure satisfactory implementation of the plan. Such surety shall be subject to the approval of the Gunnison County Attorney.

2. **DISTURBANCE OF LESS THAN 10,000 SQ. FT.** When development or land use change causes disturbance of fewer than 10,000 sq. ft., no surety shall be required, but shall be subject to civil procedure if the Project is found by the County not to have complied with the requirements of this *Resolution*.

**BOARD OF COUNTY COMMISSIONERS**
**OF THE COUNTY OF GUNNISON, COLORADO**

**RESOLUTION NO. 2014-___**

**A RESOLUTION AMENDING THE *GUNNISON COUNTY LAND USE RESOLUTION***
**INCLUDING AMENDMENTS TO**
***SECTION 13-115: RECLAMATION AND NOXIOUS WEED CONTROL***

**WHEREAS,** pursuant to the *Gunnison County Land Use Resolution* ("the *Resolution*"), Section 1-113, details a process for initiation, review and Board of County Commissioner action on proposed amendments to the *Resolution*, and

**WHEREAS,** pursuant to Section 1-113, the Community Development Department and Planning Commission have initiated and completed review of proposed amendments as required by the *Resolution*; and

**WHEREAS,** the Planning Commission on August 1, 2014, forwarded its written recommendations to the Board regarding the proposed amendments; and

**WHEREAS,** the Board of County Commissioners has conducted a duly noticed public hearing on these proposed amendments August 19, 2014; and pursuant to Section 1-113 of the *Resolution* evaluated the proposed amendments using the following criteria:

- Consistency of the proposed amendments with any comprehensive plan that may be adopted by Gunnison County;
- Changed conditions, including the economy of Gunnison County;
- Effect of the proposed amendments on the natural environment;
- Community needs;
- Development pattern;
- Changes in applicable law;
- Public health, safety and welfare; and
- Compliance with any applicable intergovernmental agreements adopted by Gunnison County; and

**NOW, THEREFORE, BE IT RESOLVED,** by the Board of County Commissioners of Gunnison County, Colorado that the Board hereby adopts the following amendments of the *Gunnison County Land Use Resolution* as included on the attached "Exhibit A**."**

**INTRODUCED** by Commissioner _____, seconded by Commissioner _____ and adopted on this 19th day of August, 2014.

**BOARD OF COUNTY COMMISSIONERS**
**OF THE COUNTY OF GUNNISON, COLORADO**

**By:** _____
Paula Swenson, Chairperson

**By:** _____
Phil Chamberland, Commissioner

**By:** _____
Jonathan Houck, Commissioner

**ATTEST:**

_____
Deputy County Clerk

(highlighted text is new; ~~struck through~~ text is deleted):

## EXHIBIT A

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**B. APPLICABILITY**. This Section shall apply to all earth moving sites including road and driveway cutting and construction, clearing of land, and berm construction. This Section shall not conflict with the requirements of Division 9-400: *Exploration, Extraction and Processing of Minerals and Construction Materials* or with reclamation within the jurisdiction of the Colorado Division of Reclamation Mining and Safety and applied to mining operations. Nothing in this Section is or shall be construed to be a limit on the County's authority regarding noxious weeds.

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