2016 REAL PROPERTY NOTICE OF DETERMINATION

Gunnison County
COLORADO

Kristy McFarland
Gunnison County Assessor
221 N Wisconsin St, Suite A
Gunnison, CO 81230

Date of Notice: August 26, 2016
Phone: (970) 641-1085
Fax: (970) 641-7920
Email: assessor@gunnisoncounty.org
Website: http://www.gunnisoncounty.org/assessor.html

CBOE # 11

ACCOUNT NUMBER	TAX YEAR	TAX AREA	PARCEL NUMBER
R016024	2016	703	3185-000-00-045

AGENT	LEGAL DESCRIPTION
EXPERIS 4856 BRIGADOON RD ROCKFORD, IL 61107-1612 OWNER: OXBOW MINING LLC	COAL MINE LAND & IMPS IN SEC 3-11 LYING NORTH OF HWY 133 13S90W #480870 #480871 (SANBORN CREEK MINE)

Received
County Adminstration
9/12/16

PROPERTY CLASSIFICATION	PROPERTY OWNER'S ESTIMATE OF VALUE	ASSESSOR'S VALUATION	
		ACTUAL VALUE PRIOR TO REVIEW	ACTUAL VALUE AFTER REVIEW
Vacant		1,841,350	1,841,350
Natural Resource		3,332,590	2,899,080
TOTALS		$5,173,940	$4,740,430

The Assessor has carefully studied all the available information, giving particular attention to the specifics included on your protest. The Assessor's determination of value after review is based on the following:

The actual value of the property is determined by appropriate consideration of the approaches to appraisal set forth in § 39-1-103(5)(a), C.R.S.

Your value has been adjusted to account for demolished property. Further adjustment may be warranted based on additional information to be provided by site management

If you disagree with the Assessor's decision, you have the right to appeal to the County Board of Equalization for further consideration, § 39-8-106(1)(a), C.R.S.

The deadline for filing real property and personal property appeals is September 15.

The Assessor establishes property values. The local taxing authorities (county, school district, city, fire protection, and other special districts) set mill levies. The mill levy requested by each taxing authority is based on a projected budget and the property tax revenue required to adequately fund the services it provides to its taxpayers. The local taxing authorities hold budget hearings in the fall. If you are concerned about mill levies, we recommend that you attend these budget hearings. Please refer to last year's tax bill or ask your Assessor for a listing of the local taxing authorities.

Please refer to the reverse side of this notice for additional information.

APPEAL PROCEDURES

County Board of Equalization Hearings will be held from September 1 through November 1 at Gunnison County Courthouse or Blackstock Government Center.

To appeal the Assessor's decision, complete the Petition to the County Board of Equalization shown below, and mail or deliver a copy of both sides of this form to:

Gunnison County Board of Equalization
200 E Virginia Ave
Gunnison, CO 81230
(970) 641-0248

To preserve your appeal rights, your Petition to the County Board of Equalization must be postmarked or delivered on or before **September 15 for real property and personal property** – after such date, your right to appeal is lost. You may be required to prove that you filed a timely appeal; therefore, we recommend that all correspondence be mailed with proof of mailing.

You will be notified of the date and time scheduled for your hearing. The County Board of Equalization must mail a written decision to you within five business days following the date of the decision. The County Board of Equalization must conclude hearings and render decisions by November 1, § 39-8-107(2), C.R.S. If you do not receive a decision from the County Board of Equalization and you wish to continue your appeal, you must file an appeal with the Board of Assessment Appeals by December 8, § 39-2-125(1)(e), C.R.S.

If you are dissatisfied with the County Board of Equalization's decision and you wish to continue your appeal, you must appeal within 30 days of the date of the County Board's written decision to ONE of the following:

Board of Assessment Appeals
1313 Sherman Street, Room 315
Denver, CO 80203
(303) 866-5880
www.dola.colorado.gov/baa

District Court
Contact the District Court in the county where the property is located. See your local phone book for the address and telephone number.

Binding Arbitration
For information about binding arbitration, contact the County Board of Equalization at the address above.

If the date for filing any report, schedule, claim, tax return, statement, remittance, or other document falls upon a Saturday, Sunday, or legal holiday, it shall be deemed to have been timely filed if filed on the next business day, § 39-1-120(3), C.R.S.

PETITION TO COUNTY BOARD OF EQUALIZATION

What is your estimate of the property's value as of June 30, 2014? (Your opinion of value in terms of a specific dollar amount is required for real property pursuant to § 39-8-106(1.5), C.R.S.)

$ 500,000 (Rounded)

What is the basis for your estimate of value or your reason for requesting a review? (Please attach additional sheets as necessary and any supporting documentation, i.e., comparable sales, rent roll, original installed cost, appraisal, etc.)

THE Subject Property is an closed Mine and Further Evidence will be Furnished.

ATTESTATION

I, the undersigned owner or agent* of the property identified above, affirm that the statements contained herein and on any attachments hereto are true and complete.

Signature	Telephone Number	Date
B. Matt	815-319-2695	9-7-16

*Attach letter of authorization signed by property owner.

4856 Brigadoon Rd
Rockford, IL 61107

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UNITED STATES POSTAL SERVICE

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U.S. POSTAGE
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$3.77
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Gunnison County Board of Equalization
200 E. Virginia Ave
Gunnison, CO 81230

81230-224800

Gunnison County
COLORADO

Gunnison County Administration
Phone: (970) 641–0248 • Fax: (970) 641–3061
www.GunnisonCounty.org

September 12, 2016

CBOE # 11
Experis
4856 Brigadoon RD
Rockford, IL 61107-1612

Oxbow Mining LLC.

Schedule Number: R016024
Parcel Number: 3185-000-00-045
Property Description: COAL MINE LAND & IMPS IN SEC 3-11 LYING NORTH OF HWY 133 13S90W #480870 #480871 (SANBORN CREEL MINE)

Dear Property Owner:

The Gunnison County Board of Equalization will hear your petition of protest on the valuation for assessment of your property on Monday, September 26, 2016 at 10:45AM. The hearing will be held in the Board of County Commissioners Board Room at the Gunnison County Court House 200 E. Virginia, Gunnison, Colorado, 81230. Please read the following information carefully.

You may appear before the Board in person, via telephone conference call, appear with your representative, or have your representative appear on your behalf. **If you plan to be represented by someone other than yourself at your hearing, please submit a letter of agency signed by you** by email to CBOE@gunnisoncounty.org, or by fax at 970-641-3061. **Please contact the CBOE Administrative Officer prior to the hearing date to make a special request for a phone conference, if needed.**

1. You may submit your case in written form or appear in person or by phone before the Board. If your information is submitted in writing, the Board will make a determination after reviewing the petition, any written evidence that has been provided, and after allowing the Assessor to give testimony and submit exhibits.

2. All of the data used by the Assessor's Office in determining the actual value of your property is available on the Assessor's website (http://www.gunnisoncounty.org/678/reappraisal-sales). If you wish to receive a copy of this data, you must submit a request either by email (assessor@gunnisoncounty.org), by fax (970-641-7920), or in writing (221 N. Wisconsin St. Ste A, Gunnison, CO 81230). The Assessor's Office will send you the requested data within three (3) working days of receiving your request. You may choose to receive the data by email or in printed form. If you choose to receive it in printed form, the Assessor's Office may charge you for the printing and mailing costs.

3. Please provide one copy of the documentation that you plan to submit at the hearing, including any documentation that has previously been provided to the Assessor's Office, by 8:00 am, two (2) business days prior to the hearing date of Monday, September 26, 2016 to permit the exhibits to be presented to the Board. Please bring, or have delivered, such documentation to the County Administration Office located at 200 E. Virginia Avenue, Gunnison, Colorado. This documentation may also be faxed to 970-641-3061, or email to CBOE@gunnisoncounty.org. **If you bring additional documentation to the hearing, please bring five (5) copies of each document.**

4. Because of the volume of cases before the Board of Equalization, all hearings scheduled are final and cannot be rescheduled. Hearings will go before the Board in your absence. The Board will carefully consider all data submitted. If you cannot attend the hearing scheduled for you above, please contact the CBOE Administrative Officer by email at CBOE@gunnisoncounty.org or by telephone at 970-641-7600.

Sincerely,

Josh Ost
Administrative Assistant III

Gunnison County
COLORADO

200 East Virginia Avenue
Gunnison, CO 81230

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Experis
C/o Oxbow Mining LLC.
4856 Brigadoon RD
Rockford, IL 61107-1612

LETTER OF AUTHORIZATION

Oxbow Carbon, LLC the company and the following entities: Bear Ranch LLC, Gulf Transport, LLC, Oxbow Calcining International LLC, Oxbow Calcining LLC, Oxbow Carbon & Minerals, LLC, Oxbow Enterprises International LLC, Oxbow Falcon LLC, Oxbow Gas, Oxbow Midwest Calcining LLC, Oxbow Mining LLC, Oxbow Mining Oak Mesa LLC, Oxbow Sulphur Inc, Oxbow US Coal LLC, Stingley Gulch LLC, Sulcom, Inc. Terror Creek LLC hereby appoints and authorizes Experis as its ad valorem tax agent. Experis and/or its designee has the right to represent and receive confidential ad valorem assessment information; examine any property records; meet, discuss and/or appeal any tax assessments with the appropriate officials; as it pertains to property that is owned by the undersigned taxpayer, or in which the undersigned taxpayer has an ownership interest. This authorization shall remain in force and effect until revoked in writing.

Signed this 6 day of April, 2015.

By: David Fusanio

Title: Asst Secy

State of Florida

County of Palm Beach

This instrument was acknowledged and signed before me this 6th day of April, 2015.

By David M. Fusanio of West Palm Beach, Fl 33401

Janice C. Patten
Notary Public

(SEAL)

Notary Public State of Florida
Janice C Patten
My Commission EE087591
Expires 06/21/2015

My commission expires: _____

Gunnison Mountain Meadow Mall

Gunnison, Colorado

Wal Mart adjacent & Kroger Grocery store; all steel building with high way frontage Rent plus NNN Charges= $1962/mo

Status:
No. Spaces:
Rental Rate:
Space Available:
Bldg. Size:
Primary Type:
Sub-Type:

Active
1
$12.00
1,500 SF
8,904 SF
Retail
Street Retail

Water Wheel Inn

Gunnison, Colorado

HOTEL ON THE GREEN - 5.43 acres (next to the famous 18 hole Dos Rios Golf Course) Spacious rooms with both interior and exterior entrances; two...

Status:
Price:

Bldg. Size:
Rooms:
Primary Type:
Sub-Type:

Active
$1,500,000
34,097 SF
52
Hotel & Motel
Economy/Limited Service

$615,000
120 N. Wisconsin
City Map

Large office building and warehouse in the heart of downtown Gunnison.

Includes rental income from multiple offices, warehouse, parking and large dance studio.

- Approximately 7,603 sq. ft. of office space; 3,550 sq.ft. of warehouse garage space
- 17,500 sq.ft. lot
- Significant net income
- Fully occupied
- Some long-term leases and some month-to-month
- .402 acre
- Multi-use building (service, warehouse, office, retail)
- Easy to maintain and rent
- $8,972 annual real property taxes
- Excellent price at $55 per square foot for income/investment property
- Plenty of off-street parking
- Convenient location close to the post office, municipal building, and downtown
- Central heating; new boiler
- Courtyard
- Polyurethane roof
- Also known as "The Miller Building
- Built in 1919

According to the appraisal, "The subject property enjoys an excellent location near the center of Gunnison's business district, with high visibility to both local and non-local traffic. Because of the configuration of West Tomichi Avenue (US Hwy 50) one block south of the subject, certain positive attributes can be seen, such as minimal traffic noise, adequate parking and the Post Office, courthouse, cafes and businesses within walking distance. Given current market conditions and demand for real estate, the excellent location should provide for

- Located near the center of Gunnison's "walking pattern"
- Frontage on both North Wisconsin Street and West Virginia Avenue
- Zoned CBD (Central Business District)
- Map of the property(new browser window)

a positive but cautious future as one of Gunnison's finer office buildings."

Cathie Elliott, Real Estate Broker/Owner

$350,000
317 N. Main St.
City Map

Downtown Gunnison commercial building in the Central Business District.

Approximately 5,000 sq.ft. solid building with no interior bearing walls, and alley access.

- Zoned Central Business District
- Approximately 5,000 sq.ft.
- Main Street/ Highway 135 & alley access
- Double doors in back
- Lots of display windows in the front of the building
- City sewer, water, electric
- Atmos Energy natural gas forced air heat
- Sturdy cinder block construction
- Presently being used as a furniture store
- Floor is concrete slab with carpet
- Rolled asphalt roof
- Has been used as grocery store, gift shop, plumbing store and bowling alley
- Dimensions are approximately 40' x

125'

- Map of the building(new browser window)

Information presented is reliable, but not guaranteed.

$180,000
600 S. 11th #101

City Map

Shop building with 12' overhead door, office/reception area, floor drain, & 220 electric.

Located in the industrial zone, close to the airport, with plenty of off street parking.

- Approximately 1,978 sq. ft.
- Built in 1996
- Great for light industrial, warehouse, contracting, construction, mechanical
- $2,505 annual real property taxes
- City sewer, water, electric (220 electric)
- Natural gas heat
- Industrial zoning
- Unit 101 Airport Business Center Condos
- Annual dues range from $450-$650 per year for building insurance, outside building & grounds maintenance
- Low maintenance
- High ceilings
- 12' overhead garage door
- Roomy office area and restroom
- Off street parking
- Metal building
- Multiple skylights
- 11th street and alley access; corner lot
- Well insulated
- Map of the building and property (new browser window)

5740 Logan Street

Denver, CO 80216 ·

17,000 SF · Industrial For Lease

$6.50 /SF/Year

Share·

Watch Property·

Create Report·

Print

Ame
Cab
&
Floo

Mart Plaza

Rental Rate	$6.50 /SF/Year	Property Sub-type
Total Space Available	17,000 SF	Building Size

4955A Peoria St.

Denver, CO 80239 ·

10,600 SF · Industrial For Lease

$6.24 /SF/Year

Share·

Watch Property·

Create Report·

Print

Stapleton East Business Center

Rental Rate	$6.24 /SF/Year	Property Type	
Total Space Available	10,600 SF	Property Sub-type	
Min. Divisible	10,800 SF	Building Size	
Max. Contiguous	10,800 SF	Features	

Find out more...

Listing ID: 19941561	Date Created: 08/26/2016	Last Updated: 08/29/2016	Is this listing inaccurate? Request Listing Review

1 Space Available

Display Rental Rate as

Entered

Space A

Rental Rate	$6.24 /SF/Year	Sublease	Yes. S
Space Available	10,600 SF	Date Available	Aug 2
Min. Divisible	10,800 SF	No. Parking Spaces	25
Max. Contiguous	10,800 SF	Office SF	2515
Space Type	Flex Space	Clear Ceiling Height	18 ft.
Additional Space Types	Distribution Warehouse R&D Manufacturing	No. Drive In / Grade-Level Doors	1

11585 E. 53rd Avenue

Denver, CO 80239 ·

Industrial For Lease

$5.95 /SF/Year

Share·

Watch Property·

Create Report·

Print

Denver Business Center

Rental Rate	$5.95 /SF/Year	Year Built
Property Type	Industrial	Lot Size

Property Sub-type	Warehouse	Zoning Description
Building Size	167,972 SF	

Find out more...

Listing ID: 15481913	Date Created: 12/17/2007	Last Updated: 09/08/2016	Is this listing inaccurate? Request Listing Review

1 Space Available

Display Rental Rate as

Entered

Space F

Rental Rate	$5.95 /SF/Year	Office SF	1116
Space Available	25,143 SF	Clear Ceiling Height	22 ft.
Space Type	Warehouse	No. Dock-High Doors/Loading	6
Lease Type	NNN	No. Drive In / Grade-Level Doors	1
Date Available	Oct 2016		

Description

277/480 Volt Power * 38' x 57' Column Spacing * Rail Served (Union Pacific)

Denver Business Center is located in the northeast Denver Industrial submarket, with easy access to I-70, I-270, I-225, Pena Boulevard and DIA.

MARKETBEAT

Industrial Snapshot Q4 2015

Denver, Colorado

CUSHMAN & WAKEFIELD

DENVER INDUSTRIAL

Economic Indicators

	Q4 14	Q4 15	12-Month Forecast
Denver Employment	1.44M	1.45M	▲
Denver Unemployment	4.0%	3.1%	▼
U.S. Unemployment	5.6%	5.0%	▼

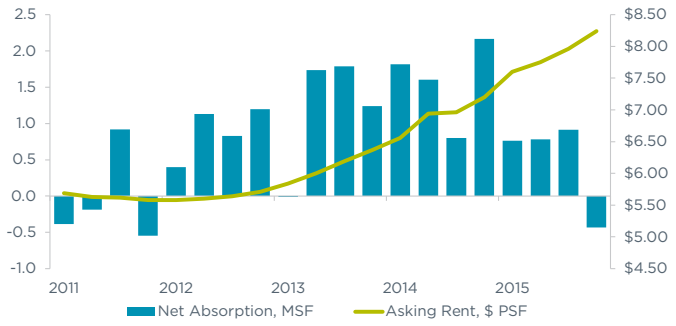
Market Indicators (Overall, All Product Types)

	2014	2015	12-Month Forecast
Overall Vacancy	4.3%	4.2%	▬
Net Absorption	2,165,103	(434,124)	▲
Under Construction	1,635,211	3,591,560	▲
Average Asking Rent (Whse)	$6.08	$7.15	▲
Average Asking Rent* (Flex)	$9.89	$10.62	▲

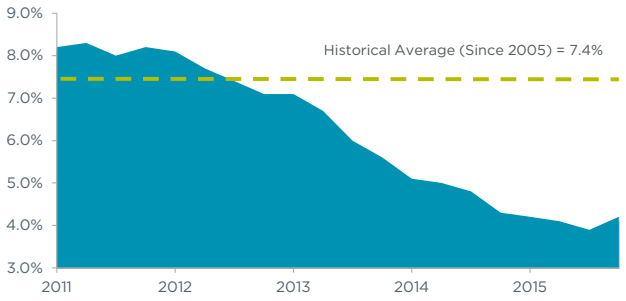
**Rental rates reflect net asking $psf/year*

Overall Net Absorption/Asking Rent

4Q Trailing Average



Overall Vacancy



Economic Overview

As we close the fourth quarter of 2015, Denver's economy remains strong, with many fundamental indicators still sitting in positive light. Most recent statistics show that unemployment continues to fall, down to an astounding 3.1%, while employment is still expanding. A diverse and vibrant economy has helped keep Denver booming, even with concern of falling oil prices, which has had a negative impact in other areas of the country. In fact, according to a 2015 ranking by Forbes, Denver ranks number one in the country for best places for businesses and careers. With a high median household income, a relatively low cost of living compared to other major metro areas, and a desirable location at the foot of the Rocky Mountains, Denver continues to be an attractive place to which people and companies are relocating. These are just a few of the factors that have helped maintain the growth trajectory of Denver's economy. In the year ending on July 1, 2015, nearly 101,000 residents moved to Colorado. The only other state with a higher growth rate was North Dakota.

Market Overview

The Denver industrial market continues to set records in some major indicators, but seems to be slowing in others, giving us the first evidence that we may be reaching a peak in the market. While market rents continued to increase in all sub-markets and every product class, market-wide vacancy for warehouse product actually increased .05% in the fourth quarter, representing the first uptick in vacancy since 2011. This is a pattern that we may continue to see from time to time over the next few quarters, with vacancy still sitting at an incredibly tight 4.2% and landlords continuing to push rents. The average asking rate for warehouse space is $7.15 NNN per square foot (PSF), up $1.07 PSF, or 15% from the same period of 2014. This rate is also up $0.22 PSF from the third quarter of 2015 despite more than 400,000 SF of negative absorption over the same period. With strong demand coupled with limited space options, landlords have been successful in increasing lease rates while reducing concession packages by limiting tenant improvements and rent abatement.

Industrial sales velocity was slightly down in the fourth quarter, with 104 transactions compared to the third quarter number of 113 transactions, a result not due to a lack of

demand in the market, but a lack of supply. Although volume and velocity are down from the previous quarter, average prices set a new all-time high of $95.50 PSF after leveling out over the previous three quarters. With historic high pricing becoming the new norm, look for more sellers to enter the market place to cash in.

Investment demand continues to be red hot, as local and out of State investors consider Denver as one of the best markets to place capital. 2015 will go down as the second biggest year in terms of volume ever, with over $530 million in industrial investment property transactions, proving that more owners are quickly becoming sellers in order to cash in on peak pricing. The average cap rate for industrial property investment sales in Denver is 7.2% for the trailing twelve months. Yet compared to the national average of 6.9%, it appears that there is still runway for cap rate compression, especially given the rising rental rate environment and the overwhelming push by investors to place money in Denver. The largest industrial investment sale of the quarter was the 244,028 SF (15) property portfolio sale in Englewood from Greenfield Partners to MIG for $27,750,000.

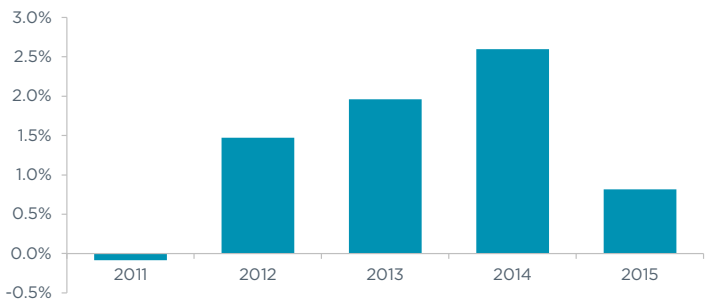
Despite the fact that construction costs are at historic highs, industrial developments totaling 3,591,560 SF are currently underway in the metro area. During this current expansion cycle, demand has always outpaced new deliveries, as developers have been cautious to avoid overbuilding, even with historically high demand. However, last quarter saw the first negative absorption in 18 quarters. This was partly due to the 1.3 million square foot former Kmart distribution center in Brighton coming back to the market. With much needed new projects breaking ground in infill locations we may see a slight uptick in the overall vacancy rate, but nothing that will throw the market off. Even with preleasing activity slowing in comparison to 2015, there is roughly 10 million square feet of requirements actively seeking space. Thus, most projects should lease up unless their proforma lease rates are unrealistic.

With this industrial real estate cycle being historical on so many levels – from record pricing and lease rates, to historically low vacancy rates and massive demand from users - the question often asked is "How long will it last?" As companies continue to focus on the revenue side of the balance sheet and consumer confidence remains strong, look for this market cycle to stay in position for the foreseeable future. A significant downturn in this market would require so many factors to take place simultaneously in order for the vacancy to simply get back to a historical average of 7.4%, and only then would we start to see a recognizable fall off in pricing and lease rates. However, don't forget the stagnation that the market realized back in 2008-2010, where many companies and investors contracted or sat tight to wait out the downturn, resulting in a significant fall off in transactions. As we approach the later innings of this cycle a similar pattern may be on the horizon should we see the economy turn down. That being said, this cycle has created many "new norms" relative to pricing expectations and average lease rates. Gone are the days of $45 PSF average industrial sales and $2.75 PSF lease rates. The market has recalibrated and expectations have changed.

Outlook

- **Low vacancy, steady demand and high construction costs will continue to put upward pressure on rents, though rent increases will not have the explosive growth of 2015.**
- **Investor demand will remain strong, further compressing cap rates and enticing more owners to sell.**
- **With limited quality space options, more companies will turn towards build-to-suit construction to satisfy space requirements.**
- **With a diverse economy and central location Denver should be relatively insulated from a significant downturn in the economy.**

Industrial Net Absorption
PERCENTAGE OF INVENTORY



MARKETBEAT

Industrial Snapshot Q4 2015

Denver, Colorado

	TOTAL BUILDINGS	INVENTORY	SUBLET VACANT	DIRECT VACANT	VACANCY RATE	CURRENT ABSORPTION	YTD NET ABSORPTION	UNDER CONSTRUCTION	AVERAGE ASKING RENT WAREHOUSE*	AVERAGE ASKING RENT FLEX*
SUBMARKET										
Boulder	712	21,405,036	539,334	1,293,540	8.6%	87,291	(4,739)	35,000	$9.31	$11.39
Central	2,564	47,423,745	63,793	778,802	1.8%	23,269	22,185	0	$7.68	$9.20
North	261	8,182,097	0	555,079	6.8%	29,396	680,755	51,875	$7.09	$9.76
Northeast	2,090	94,374,862	1,845,986	2,239,453	4.3%	(990,125)	117,224	2,927,623	$6.55	$9.81
Northwest	825	22,563,184	13,260	1,084,661	4.9%	(7,965)	314,282	377,202	$6.07	$10.88
Southeast	877	23,297,161	18,454	1,309,721	5.7%	225,690	362,800	127,052	$8.07	$10.31
Southwest	528	10,800,793	4,000	272,785	2.6%	103,468	371,470	33,500	$9.58	$10.34
West	521	19,895,919	5,575	385,626	2.0%	94,852	160,352	39,308	$7.24	$10.12
TOTAL	8,378	247,942,797	2,490,402	7,919,667	4.2%	(434,124)	2,024,329	3,591,560	$7.15	$10.62

*Rental rates reflect asking $psf/year FLEX = Flex Space HT = High Tech/Flex MF = Manufacturing OS = Office Service/Flex W/D = Warehouse/Distribution

Under Construction 4Q 2015

PROJECT	SF	DEVELOPER	COMPLETION DATE	SUBMARKET
Crossroads Commerce Park (4 Buildings)	704,651	Trammell Crow Company	Q2 2016	Central
Majestic Commerce Center	452,400	Majestic Realty	Q2 2016	Northeast
Eastpark 70 (2 Buildings)	436,833	Consolidated Investments	Q3 2016	Northeast
12900 E. Smith Rd.	290,132	Brookwood Capital Partners	Q3 2016	Northeast
Stapleton Business Center North	251,591	Prologis	Q2 2016	Northeast
Central 62	124,024	Corum	Q3 2016	Central
Colorado Technology Center	120,877	Etkin Johnson	Q3 2016	Northwest
Highfield Business Park	98,875	Confluent	Q3 2016	Southeast

Key Lease Transactions 4Q 2015

PROPERTY	SF	TENANT	PROPERTY TYPE	SUBMARKET
19755 E. 35th Dr.	200,000	Anheuser-Busch	Expansion/Extension	Northeast
390 E. 55th Ave.	127,480	American Tire Distributors	New Lease	Northeast
18250 E. 40th Ave.	97,656	MS International	New Lease	Northeast
14700 E. 38th Ave.	70,080	Universal Forest Products	New Lease	Northeast
24210 E. 19th Ave.	67,772	Bridgestone	New Lease	Northeast
13450 E. Smith Rd.	61,873	Landsberg Orora	New Lease	Northeast
2100 31st St.	49,404	City of Denver	New Lease	Central

Key Sale Transactions 4Q 2015

PROPERTY	SF	SELLER/BUYER	PRICE / $PSF	SUBMARKET
7330 S. Alton Way (16 Properties)	241,504	Greenfield Partners/MIG	$27,750,000	Southeast
11525 Main St.	92,800	Columbia Colorado Main Industrial LLC/GI Partners	$17,500,000	Northwest
1350 S. Public Rd.	89,360	Rocky Mountain Instrument Co./Zaragon Holdings, Inc.	$13,000,000	Northwest
6899 Winchester Cir. (3 Properties)	113,790	Sovereign Capital Management Group, Inc./Carr Gottstein Properties	$11,550,000	Northwest

MARKETBEAT

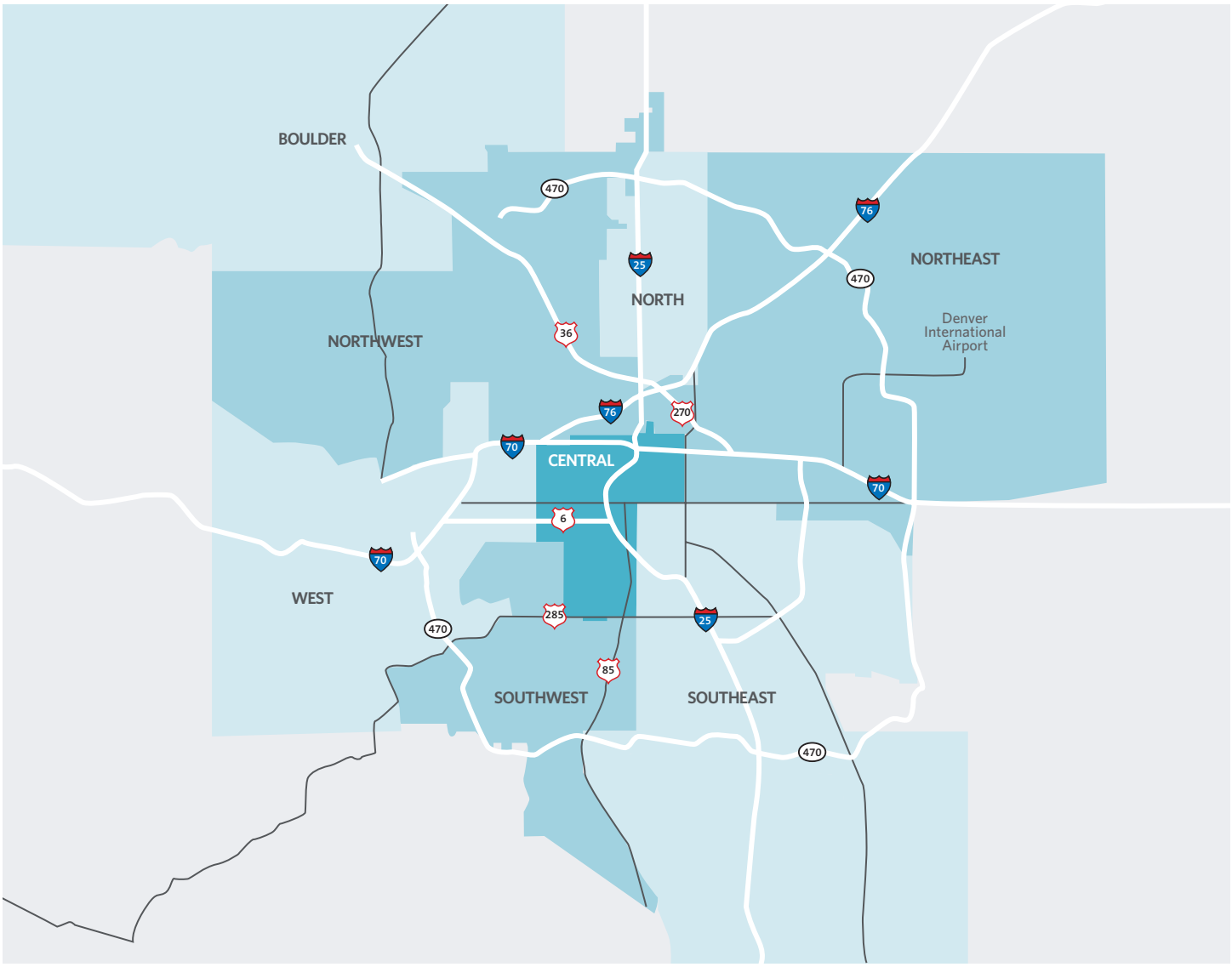
Industrial Snapshot Q4 2015

Denver, Colorado

CUSHMAN & WAKEFIELD

INDUSTRIAL SUBMARKETS

DENVER, COLORADO



About Cushman & Wakefield

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The DCD Building Square Foot Cost Guide

Commercial Buildings

NEW CONSTRUCTION

CM141140 - Youells Oyster House
Floors: 3
Sq. Ft. Cost: $194.84
Total Sq. Ft. Size: 6,107
Total Cost: $1,189,860

CM140530 - Sicardi Art Gallery
Floors: 2
Sq. Ft. Cost: $197.94
Total Sq. Ft. Size: 6,175
Total Cost: $1,222,304

CM130524 - Palm Avenue Parking Garage
Floors: 6
Sq. Ft. Cost: $42.12
Total Sq. Ft. Size: 287,040
Total Cost: $12,090,398

CM120914 - Ed Hicks Mercedes-Benz USA
Floors: 1
Sq. Ft. Cost: $190.62
Total Sq. Ft. Size: 25,273
Total Cost: $4,817,507

TENANT BUILD-OUT

CM130148 - Airport Restaurant Build Out
Floors: 1
Sq. Ft. Cost: $240.61
Total Sq. Ft. Size: 2,320
Total Cost: $558,215

CM090740 - LaMar Cebicheria Peruana Restaurant
Floors: 2
Sq. Ft. Cost: $273.05
Total Sq. Ft. Size: 11,000
Total Cost: $3,003,599

RENOVATIONS

CM130746 - West Oaks Mall Redevelopment
Floors: 1
Sq. Ft. Cost: $45.75
Total Sq. Ft. Size: 49,800
Total Cost: $2,278,224

CM090522 - Crogan Street (Multi-Use)
Floors: 2
Sq. Ft. Cost: $111.39
Total Sq. Ft. Size: 15,961
Total Cost: $1,777,883

ARTICLE 33

Colorado Surface Coal
Mining Reclamation Act

34-33-101. Short title. This article shall be known and may be cited as the "Colorado Surface Coal Mining Reclamation Act".

34-33-102. Legislative declaration. It is declared to be the policy of this state that surface coal mining operations and the reclamation of land affected by such operations are both necessary and proper activities. The purpose of this article is to assure that the coal required for local and national energy needs and for economic and social well-being is provided and to provide a balance among the protection of the environment, agricultural productivity, and the need for coal as an essential source of energy. It is the intent of the general assembly by the enactment of this article to allow for the continued development of the surface coal mining operations in this state, while requiring those persons involved in surface coal mining operations to reclaim land affected by such operations as contemporaneously as possible with the surface coal mining operations so that the affected land may be put to a beneficial use. It is the further intent of the general assembly by the enactment of this article to protect society and the environment from the adverse effects of surface coal mining operations, assure that the rights of surface landowners and other persons with a legal interest in the land or appurtenances thereto are fully protected from such operations; assure that surface coal mining operations are not conducted where reclamation as required by this article is not feasible; and to assure that appropriate procedures are provided for the public participation in the development, revision, and enforcement of regulations, standards, reclamation plans, or programs established by the state under this article. It is the further intent of the general assembly to promote the reclamation of mined areas left without adequate reclamation prior to the enactment of this article and which continue, in their unreclaimed condition, to substantially degrade the quality of the environment, prevent or damage the beneficial use of land or water resources, or endanger the health or safety of the public, to aid in the protection of wildlife and aquatic resources, and to protect and promote the health, safety, and general welfare of the people of this state. It is the intent of the general assembly that, in the administration of this article, the small operator be assisted in complying with the provisions of this article, particularly in the areas of bonding, technical and administrative assistance, and timely processing of permit applications.

34-33-103. Definitions. As used in this article, unless the context otherwise requires:

(1) "Administrator" means the head of the office of mined land reclamation in the division of reclamation, mining, and safety in the department of natural resources.

(2) "Alluvial valley floors" means the unconsolidated stream-laid deposits holding streams where water availability is sufficient for subirrigation or flood irrigation agricultural activities but does not include upland areas which are generally overlain by a thin veneer of colluvial deposits

composed chiefly of debris from sheet erosion, deposits by unconcentrated runoff or slope wash, together with talus, other mass movement accumulation, and windblown deposits.

(3) "Approximate original contour" means that surface configuration achieved by backfilling and grading of the mined area so that the reclaimed area, including any terracing or access roads, closely resembles the general surface configuration of the land prior to mining and blends into and complements the drainage pattern of the surrounding terrain, with all highwalls and spoil piles eliminated. Water impoundments may be permitted where the board determines that they are in compliance with section 34-33-120 (2) (h).

(4) "Board" means the mined land reclamation board created pursuant to section 34-32-105.

(5) "Complete permit application" means an application which minimally addresses each and every requirement of sections 34-33-110 and 34-33-111 and section 34-33-120 or 34-33-121.

(6) "Department" means the department of natural resources.

(7) "Division" means the division of reclamation, mining, and safety in the department of natural resources.

(8) "Executive director" means the executive director of the department of natural resources.

(9) "Federal land" means any land, including mineral interests, owned by the United States, but excluding Indian lands.

(10) "Historic areas" means those lands which are listed or are eligible for listing in the national register of historic places or the state register of historic properties or which are designated pursuant to the federal "Historic Sites, Buildings, and Antiquities Act", as amended.

(11) "Imminent danger to the health and safety of the public" means the existence of any condition or practice, or any violation of a permit or other requirement of this article, in a surface coal mining and reclamation operation which could reasonably be expected to cause substantial physical harm to persons outside the permit area before such condition, practice, or violation can be abated. A reasonable expectation of death or serious injury before abatement exists if a rational person, subjected to the same conditions, or practices giving rise to the peril, would not expose himself to the danger during the time necessary for abatement.

(12) "Indian lands" means all lands, including, but not limited to, mineral interests and rights-of-way, within the exterior boundaries of any federal Indian reservation, notwithstanding the issuance of any patent, including mineral interests held in trust for or supervised by any Indian tribe.

(13) "Indian tribe" means any Indian tribe, band, group, or community having a governing body recognized by the secretary of the United States department of the interior.

(13.5) "Office" means the office of mined land reclamation, created in section 34-32-105.

(14) "Operator" means any person engaged in surface coal mining and reclamation operations who removes or intends to remove more than two hundred fifty tons of coal from the earth or from coal mine waste disposal facilities within twelve consecutive calendar months in any one location.

(15) "Other minerals" means clay, stone, sand, gravel, metalliferous and nonmetalliferous ores, oil shale and oil extracted from shale by an in situ process, and any other solid material or substances of commercial value excavated in solid form from natural deposits on or in the earth, exclusive of coal and those minerals which occur naturally in liquid or gaseous form.

(16) "Permit" means a permit to conduct surface coal mining and reclamation operations.

(17) "Permit applicant" or "applicant" means a person applying for a permit.

(18) "Permit area" means the area of land indicated on the approved map submitted by the operator with his application, which area of land shall be covered by the operator's bond as required by section 34-33-113 and shall be readily identifiable by appropriate markers on the site.

(19) "Permit revision" means a significant alteration of the terms or requirements of a permit issued pursuant to this article, including, but not limited to, significant changes in the reclamation plan, and other actions which the board may by regulation prescribe. "Permit revision" does not include a technical revision as defined in subsection (27) of this section.

(20) "Permittee" means a person holding a permit.

(21) "Person" means an individual, partnership, association, society, joint stock company, firm, company, corporation, Indian tribe conducting surface coal mining and reclamation operations outside Indian lands, any other business organization, and any agency, unit, or instrumentality of federal, state, or local government, including any publicly owned utility or publicly owned corporation of federal, state, or local government.

(22) "Prime farmland" shall have the same meaning prescribed pursuant to the federal "Surface Mining Control and Reclamation Act of 1977", as amended, and the regulations thereunder.

(23) "Reclamation plan" means a plan submitted by an applicant under this article which sets forth a plan for reclamation of the proposed surface coal mining operations pursuant to section 34-33-111.

(24) "Secretary" means the secretary of the United States department of the interior.

(25) "Surface coal mining and reclamation operations" means surface coal mining operations and all activities necessary and incident to the reclamation of such operations.

(26) "Surface coal mining operations" means:

(a) Activities conducted on the surface of lands in connection with a surface coal mine or activities subject to the requirements of section 34-33-121 which involve surface operations and surface impacts incident to an underground coal mine. Such activities include excavation for the purpose of obtaining coal, including such common methods as contour, strip, auger, mountaintop removal, box cut, open pit, and area mining, removal of coal from coal mine waste disposal facilities, the use of explosives and blasting, and the use of in situ distillation or retorting, leaching or other chemical or physical processing, and the cleaning, concentrating, or other processing or preparation, loading of coal for interstate commerce at or near the mine site; except that such activities do not include any of the following: Coal exploration subject to section 34-33-117, the exploration and extraction of natural petroleum in a liquid or gaseous state by means of wells or pipe, or the extraction of geothermal resources.

(b) The areas upon which such activities occur or where such activities disturb the natural land surface. Such areas shall also include any adjacent land the use of which is incidental to any such activities, all lands affected by the construction of new roads or the improvement or use of existing roads to gain access to the site of such activities and for haulage, and excavations, workings, impoundments, dams, ventilation shafts, entryways, refuse banks, dumps, stockpiles, overburden piles, spoil banks, culm banks, tailings, holes or depressions, repair areas, storage areas, processing areas, shipping areas, and other areas upon which are sited structures, facilities, or other property or materials on the surface, resulting from or incident to such activities.

(27) "Technical revision" means a minor change, including incidental boundary revisions, to the terms or requirements of a permit issued under this article, which change shall not cause a significant alteration in the operator's reclamation plan.

(28) "Unwarranted failure to comply" means the failure of a permittee to prevent the occurrence of any violation of his permit or any requirement of this article due to indifference, lack of diligence, or lack of reasonable care or the failure to abate any violation of such permit or this article due to indifference, lack of diligence, or lack of reasonable care.

34-33-104. Administration. In addition to the duties and powers prescribed by the provisions of article 4 of title 24, C.R.S., the office and board have the full power and authority to carry out and administer the provisions of this article.

34-33-105. Jurisdiction of office and board. The office and board shall have jurisdiction and authority over all persons and property, public and private, necessary to enforce the provisions of this article.

34-33-106. Additional duties of division. (1) In addition to duties of the division set forth in article 32 of this title, the division shall:

(a) Carry on a continuing review of the problems of surface coal mining and land reclamation in this state;

(b) Cause to be published the monthly agenda of the board with a brief description of any affected land and the name of the applicant. These publications shall be in a newspaper of general circulation in the locality of the proposed surface coal mining operations listed in that month's agenda.

(2) It is the duty of the department of agriculture, the department of higher education, the department of public health and environment, the state conservation board, the Colorado geological survey, the division of water resources, the division of parks and wildlife, the university of Colorado, Colorado state university, Colorado school of mines, and the state forester to furnish the board and its designees, as far as practicable, whatever data and technical assistance the board may request and deem necessary for the performance of reclamation and enforcement duties pursuant to this article.

34-33-107. Powers of department. The department may initiate and encourage studies and programs with the office and other appropriate state agencies relating to the development of less destructive methods of surface coal mining operations, better methods of land reclamation, more effective reclaimed land use, and coordination of the provisions of this article with the programs of other state agencies dealing with environmental, recreational, rehabilitation, and related concerns.

34-33-108. Rules and regulations - no more stringent. (1) On July 1, 1979, the board shall commence development of reasonable rules and regulations respecting the administration and enforcement of this article and, in conformance therewith, shall promulgate such reasonable rules and regulations pursuant to the provisions of section 24-4-103, C.R.S. Rules and regulations promulgated pursuant to this article shall be no more stringent than required to be as effective as

the federal "Surface Mining Control and Reclamation Act of 1977", as amended and federal regulations thereunder, unless the board makes a specific finding that either protection of the public safety or the environment requires a more stringent regulation. Nothing in this subsection (1) shall supercede rules in effect prior to May 29, 1992.

(2) Any rule or regulation promulgated by the board which is required by a federal law, rule, or regulation shall become repealed and shall not be enforced when said federal law is repealed or said federal rule or regulation is deleted or withdrawn. Any provision of a permit issued under this article that is required by any rule of the board which is repealed in accordance with this subsection (2) shall not be enforceable. The repeal of such rule or regulation shall become effective ninety days after publication of the repeal in the federal register but, upon request, will be subject to a rule-making hearing by the board as set forth in article 4 of title 24, C.R.S.

34-33-109. Permits. (1) No later than eight months after the date on which a Colorado program is approved by the secretary pursuant to section 503 of the federal "Surface Mining Control and Reclamation Act of 1977", as amended, (Pub.L. 95-87), such date to be determined and set forth in a rule of the board, no person shall conduct on lands within this state any surface coal mining and reclamation operations unless such person has first obtained a permit under this article; except that a person conducting surface coal mining and reclamation operations under an existing valid permit may conduct such operations beyond such date if an application for a permit has been filed in accordance with the provisions of this article, but the initial administrative decision has not been rendered; and except that no permit shall be required for reclamation operations on abandoned or unreclaimed lands not required to be reclaimed under state or federal law.

(2) No later than two months following said approval of a Colorado program by the secretary, all operators of surface coal mines, operating on such date of approval and intending to operate such mines after the expiration of eight months from such approval of the Colorado program, shall file an application for a permit with the division; except that, with regard to the requirements of section 34-33-110 (2) (1), such application shall be considered filed for the purposes of this subsection (2) if it contains all applicable hydrologic information reasonably available to the applicant as of the date of the application.

(3) If, upon such date of approval by the secretary of a Colorado program, a person has filed with the office an application for a permit in accordance with the "Colorado Mined Land Reclamation Act" and section 502 of said Pub.L. 95-87, and the office or board has not yet made a final decision on such application, the board or office shall, unless such application is withdrawn, act on such application in accordance with the "Colorado Mined Land Reclamation Act" and section 502 of Pub.L. 95-87; except that in no event shall such person be relieved of the obligation to obtain a permit as required by subsection (1) of this section and said Pub.L. 95-87.

(4) No governmental office of the state, other than the board or office, nor any political subdivision of the state shall have the authority to require reclamation of lands affected or proposed to be affected by surface coal mining operations.

(5) All permits issued pursuant to the requirements of this article shall be issued for a term not to exceed five years; except that, if the applicant demonstrates that a specified longer term is reasonably needed to allow the applicant to obtain necessary financing for equipment and the opening of the operation and if the application is full and complete for such specified longer term, the board or office may grant a permit for such longer term. A successor in interest to a permittee

who applies for a new permit within thirty days after succeeding to such interest and who is able to obtain bond coverage the same as or equivalent to that of the original permittee may continue surface coal mining and reclamation operations according to the approved surface coal mining operations and reclamation plan of the original permittee until such successor's application is granted or denied.

(6) A permit shall terminate if the permittee has not commenced the surface coal mining operations covered by such permit within three years after the issuance of the permit; except that the office or board may grant reasonable extensions of time upon a showing that such extensions are necessary by reason of litigation precluding such commencement or threatening substantial economic loss to the permittee or by reason of conditions beyond the control and without the fault or negligence of the permittee; except that, in the case of a coal lease issued under the federal "Mineral Lands Leasing Act", as amended, extensions of time may not extend beyond the period allowed for diligent development in accordance with section 7 of that act; and except that, with respect to coal to be mined for use in a synthetic fuel facility or specific major electric generating facility, the permittee shall be deemed to have commenced surface coal mining operations at such time as the construction of the synthetic fuel or generating facility is initiated.

(7) (a) Any permit issued pursuant to this article shall carry with it the right of successive renewal upon expiration with respect to permit areas. The holder of the permit may apply for renewal, and such renewal shall be issued subsequent to fulfillment of the public notice requirements of sections 34-33-118 and 34-33-119, unless it is established by a preponderance of the evidence and written findings by the board are made that:

(I) The terms and conditions of the existing permit are not being satisfactorily met; except that renewal may be granted to the holder of the permit on the condition that the holder of the permit demonstrates that said holder of the permit is meeting and will continue to meet a schedule agreed to by such holder of the permit and the office for correcting any permit violation, consistent with section 34-33-123;

(II) The present surface coal mining and reclamation operation is not in compliance with the environmental protection standards of this article or regulations promulgated thereunder;

(III) The renewal requested substantially jeopardizes the operator's continuing responsibility on existing permit areas;

(IV) The operator has not provided evidence that the performance bond in effect for said operation will continue in full force and effect for any renewal requested in such application as well as any additional bond the board or office might require pursuant to section 34-33-113; or

(V) Any additional revised or updated information required by the office has not been provided.

(b) Prior to the approval of any renewal of permit, the office shall provide notice to the United States office of surface mining reclamation and enforcement, to the surface and mineral owners of record of the affected land, and to the board of county commissioners of the county in which the affected land is located.

(c) If an application for renewal of a permit includes a proposal to extend the surface coal mining and reclamation operations beyond the existing permit area, the portion of the application for renewal which addresses any new land areas shall be subject to the full standards applicable to new applications under this article; except that, if the surface coal mining and reclamation operations authorized by a permit issued pursuant to this article were not subject to the standards contained in section 34-33-114 (2) (e) (I) by reason of the exception provided in section 34-33-114 (2) (e) (II), the portion of the application for renewal of the permit which addresses any new

land areas previously identified in the reclamation plan submitted pursuant to section 34-33-111 shall not be subject to the standards contained in section 34-33-114 (2) (e) (I).

(d) Any permit renewal shall be for an additional term not to exceed the period of the original permit established by this article. Application for a permit renewal shall be made at least one hundred eighty days prior to the expiration of the existing permit. The office shall mail to the operator notice of the need to renew such permit at least ninety days prior to the final date for permit renewal.

(e) In any hearing on renewal of a permit, the burden of persuasion shall be on the opponents of renewal.

(f) The holder of a valid permit may continue surface mining operations under said permit, subject to section 34-33-123, beyond the expiration date until a final administrative decision on renewal is rendered if a renewal application is received by the office at least one hundred eighty days prior to the expiration date of the permit.

34-33-110. Application for permit. (1) Any person desiring to obtain a permit to perform surface coal mining and reclamation operations shall make written application therefor to the office on forms approved by the board. Each application shall be submitted pursuant to the provisions of this article and shall be accompanied by a fee of twenty-five dollars, plus ten dollars for each acre of affected land; except that such fee shall not exceed two thousand five hundred dollars and shall not exceed the actual or anticipated cost of reviewing, administering, and enforcing such permit issued pursuant to this article. The board shall develop procedures so as to enable the cost of the fee to be paid over the term of the permit. All fees collected under the provisions of this article shall be deposited in the general fund.

(2) The permit application shall include the following:

(a) The name of the applicant and the address and telephone number of the general office and the local office of the applicant;

(b) The names and addresses of:

(I) Every legal owner of record of the property (surface and mineral) to be mined;

(II) The holders of record of any leasehold interests in the property;

(III) Any purchaser of record of the property under a real estate contract;

(IV) The operator, if he is a person different from the applicant;

(V) The owners of record of all surface and subsurface property interests adjacent to any part of the permit area;

(c) If any of the entities described in paragraph (a) or (b) of this subsection (2) are business entities other than a single proprietor, the names and addresses of the principals, officers, and resident agent;

(d) A statement of any current or previous surface coal mining permits held by the applicant for operations in the United States and the permit identification in each pending application;

(e) If the applicant is a partnership, corporation, association, or other business entity, where applicable, the names and addresses of every officer, partner, director, or person performing a function similar to a director, of the applicant, together with the name and address of any person owning of record ten percent or more of any class of voting stock of the applicant and a list of all names under which the applicant, partner, or principal shareholder previously operated a surface

coal mining operation in the United States within the five-year period preceding the date of submission of the application;

(f) A statement of whether the applicant or any subsidiary, affiliate, or person controlled by or under common control with the applicant has ever held any federal or state mining permit for surface coal mining operations which, in the five-year period prior to the date of submission of the application, has been suspended or revoked or has had a mining bond or similar security deposited in lieu of bond forfeited and, if so, a brief explanation of the facts involved;

(g) A copy of the applicant's notification to be published in a newspaper of general circulation in the locality of the proposed site at least once a week for four successive weeks, which notification shall include the names of every legal owner of record of property (surface and mineral) in the proposed site, a description of the exact location and boundaries of the proposed site sufficient so that the proposed operation is readily locatable by local residents, and the location at which the application is available for public inspection;

(h) A description of the type and method of surface coal mining operation that exists or is proposed, the engineering techniques used or proposed, and the equipment used or proposed;

(i) The anticipated or actual starting and termination dates of each phase of the surface coal mining operation and the number of acres of land to be affected;

(j) An accurate map or plan, of an appropriate scale, clearly showing the land to be affected as of the date of the application and the area of land within the permit area upon which the applicant has the legal right to enter and commence surface coal mining operations and a statement of those documents upon which the applicant bases such legal right to enter and commence surface coal mining operations on the area affected and whether that right is the subject of pending court litigation; except that nothing in this article shall be construed as vesting in the board or office the jurisdiction to adjudicate property rights disputes;

(k) The name of the watershed and location of the surface stream or tributary into which surface and pit drainage will be discharged;

(l) A determination of the probable hydrologic consequences of the surface coal mining and reclamation operations, both on and off the mine site, with respect to the hydrologic regime and the quantity and quality of water in surface and groundwater systems, including the dissolved and suspended solids under seasonal flow conditions and the collection of sufficient data for the mine site and surrounding areas, so that an assessment can be made by the office of the probable cumulative impacts of all anticipated mining in the area upon the hydrology of the area and particularly upon water availability;

(m) When requested by the office, the climatological factors that are unique to the locality of the land to be affected, including the average seasonal precipitation, the average direction and velocity of prevailing winds, and the seasonal temperature ranges;

(n) Accurate maps or plans, of an appropriate scale, clearly showing the land to be affected as of the date of application and all types of information set forth on topographical maps of the United States geological survey of a scale of one to twenty-four thousand or one to twenty-five thousand or larger, including all manmade features and significant known archeological sites existing on the date of application. Such maps or plans shall show, among other things specified by the office, all boundaries of the land to be affected, the boundary lines and names of present owners of record of all surface areas abutting the permit area, and the location of all buildings within one thousand feet of the permit area.

(o) Cross sections, maps, or plans of the land to be affected, including the actual area to be mined, prepared by or under the direction of and certified by a qualified licensed professional

engineer or professional geologist, showing pertinent elevation and location of test borings or core samplings and depicting the following: The nature and depth of the various strata of overburden; the location of subsurface water, if encountered, and its quality; the nature and thickness of any coal or rider seam above the coal seam to be mined; the nature of the stratum immediately beneath the coal seam to be mined; all coal crop lines and the strike and dip of the coal to be mined, within the area of land to be affected; existing or previous surface mining limits; the location and extent of known workings of any underground mines, including mine openings to the surface; the location of aquifers; the estimated elevation of the water table; the location of spoil, waste, or refuse areas and topsoil preservation areas; the location of all impoundments for waste or erosion control; the location of any settling or water treatment facility; the location of constructed or natural drainways and the location of any discharges to any surface body of water on the area of land to be affected or adjacent thereto; and profiles at appropriate cross sections of the anticipated final surface configuration that will be achieved pursuant to the operator's proposed reclamation plan;

(p) A statement of the result of test borings or core samplings from the permit area, including logs of the drill holes; the thickness of the coal seam; and an analysis of the chemical and physical properties, including sulphur content, of such coal; a chemical analysis of potentially acid-forming or toxic-forming sections of the overburden; and a chemical analysis of the stratum lying immediately underneath the coal to be mined; except that the provisions of this paragraph (p) may be waived by the board or office with respect to the specific application by a written determination that such requirements are unnecessary; and

(q) For those lands in the permit application which a reconnaissance inspection suggests may be prime farmlands, a soil survey made or obtained according to standards established by the secretary of the United States department of agriculture in order to confirm the exact location of such prime farmlands, if any.

(3) Each applicant shall be required to submit to the office as part of the permit application a reclamation plan which shall meet the requirements of this article.

(4) Each applicant shall file a copy of the application for public inspection with the county clerk and recorder of the county where the surface coal mining operations are proposed to occur, or any other public office, subject to regulations issued by the board, except for that information pertaining to the coal seam itself.

(5) Each applicant shall be required to submit to the office as part of the permit application evidence that the applicant has satisfied other state or federal self-insurance requirements or a certificate issued by an insurance company authorized to do business in the United States certifying that the applicant has a public liability insurance policy in force for the surface coal mining and reclamation operations for which such permit is sought. Such policy shall provide for personal injury and property damage protection in an amount adequate to compensate any persons damaged as a result of surface coal mining and reclamation operations, including use of explosives, and entitled to compensation under the applicable provisions of state law. Such policy shall be maintained in full force and effect during the term of the permit or any renewal, including the term of all reclamation operations.

(6) Each applicant shall submit to the office as part of the permit application a blasting plan which shall outline the procedures and standards by which the operator will meet the provisions of section 34-33-120 (2) (o).

(7) Information pertaining to coal seams, test borings, core samplings, or soil samples as required by this section shall be made available to any person with an interest which is or may be adversely affected; except that information which pertains to the quantity of coal or the analysis

of the chemical and physical properties of the coal (excepting that information which the office reasonably believes to concern a mineral or elemental content which is potentially toxic in the environment) shall be kept confidential and not made a matter of public record.

(8) The permit application, including the reclamation plan, shall contain such other information, in addition to that required by this section or by section 34-33-111, or regulations promulgated thereunder, as the office deems necessary; except that requests by the office for such additional information shall be based upon good cause shown in terms of site specific needs and shall bear a reasonable relationship to the purposes and provisions of this article. Any applicant or operator shall have the right, at any regular meeting of the board, upon proper notice, to seek the informal opinion of the board concerning any information request or requirement made by the office in connection with the permit application or reclamation plan contained therein, and such informal opinion shall not be binding on any of the parties.

34-33-111. Reclamation plan requirements. (1) Each reclamation plan submitted as part of a permit application pursuant to this article shall include, in the degree of detail necessary to demonstrate that reclamation required by this article can be accomplished, a statement of:

(a) The identification of the lands subject to surface coal mining operations over the estimated life of those operations and the size, sequence, and timing of the subareas for which it is anticipated that individual permits will be sought;

(b) The condition of the land to be covered by the permit prior to any surface coal mining operations, including:

(I) The uses existing at the time of the application and, if the land has a history of previous mining, the uses which preceded any mining;

(II) The capability of the land prior to any mining to support a variety of uses, giving consideration to soil and foundation characteristics, topography, and vegetative cover and, if applicable, a soil survey prepared pursuant to section 34-33-110 (2) (q); and

(III) The productivity of the land prior to mining, including appropriate classification as prime farmlands, as well as the average yield of food, fiber, forage, or wood products from such lands obtained under high levels of management;

(c) The use which is proposed to be made of the land following reclamation, including a discussion of the utility and capacity of the reclaimed land to support a variety of alternative uses and the relationship of such use to existing land use policies and plans, and the comments of any owner of the surface and the federal, state, and local governments or agencies thereof which would have to initiate, implement, approve, or authorize the proposed use of the land following reclamation;

(d) A detailed description of how the proposed postmining land use is to be achieved and the necessary support activities which may be needed to achieve the proposed land use;

(e) The engineering techniques proposed to be used in the surface coal mining and reclamation operations and a description of the major equipment to be used; a plan for the control of surface water drainage and of water accumulation; a plan, where appropriate, for backfilling, soil stabilization, and compacting, grading, and appropriate revegetation; a plan for soil reconstruction, replacement, and stabilization, pursuant to the performance standards in section 34-33-120 (2) (g), for those food, forage, and forest lands subject to the provisions of section 34-33-120 (2) (g); an estimate of the cost per acre of the reclamation, including a statement as to how the applicant plans to comply with each of the requirements set out in section 34-33-120;

(f) The consideration which has been given to maximize the utilization and conservation of the solid fuel resource being recovered so that reaffecting the land in the future can be minimized;

(g) A detailed estimated timetable for the accomplishment of each major step in the reclamation plan;

(h) The consideration which has been given to making the surface coal mining and reclamation operations consistent with surface-owner plans and with applicable state and local land use plans and programs;

(i) The steps to be taken to comply with applicable air and water quality laws and regulations and any applicable health and safety standards as administered by applicable state and federal agencies;

(j) The consideration which has been given to developing the reclamation plan in a manner consistent with local physical, environmental, and climatological conditions;

(k) All lands, interests in lands, or options on such interests held by the applicant or pending bids on interests in lands by the applicant, which lands are contiguous to the area to be covered by the permit;

(l) The results of test boring made at the area or other equivalent information and data in a form satisfactory to the office, including the location of subsurface water, and an analysis of the chemical properties, including acid-forming properties, of the mineral and overburden; except that information which pertains to the quantity of the coal or to the analysis of the chemical and physical properties of the coal (excepting that information which the office reasonably believes to concern a mineral or elemental content which is potentially toxic in the environment) shall be kept confidential and shall not be made a matter of public record;

(m) A detailed description of the measures to be taken during the surface coal mining and reclamation operations to assure the protection of:

(I) The quality of surface water and groundwater systems, both on-site and off-site, from adverse effects of the surface coal mining and reclamation operations;

(II) The rights of present users to such water; and

(III) The quantity of water in surface and groundwater systems. Protection measures may include providing water by exchange, substitution, replacement, or augmentation, as appropriate under state law.

(2) Any information required by this section which is not on public file pursuant to state law shall be held in confidence by the board and the office.

34-33-112. Small operator assistance. (1) If the office finds that the probable total annual production at all locations of any operator or parent company will not exceed one hundred thousand tons, upon written request of the operator, the office shall, to the extent that funding or services are appropriated or otherwise provided for the express purposes of this section:

(a) Have performed by a qualified public or private laboratory designated by the board the determination of probable hydrologic consequences required by section 34-33-110 (2) (l) and the statement of test borings or core samplings required by section 34-33-110 (2) (p);

(b) Provide additional necessary technical and administrative assistance to the operator in the preparation of permit applications and revisions under this article.

34-33-113. Performance bonds. (1) After a permit application has been approved but before a permit is issued, the applicant shall file with the division, on a form prescribed and furnished by the board, a performance bond, payable to this state and conditioned upon faithful performance of all the requirements of this article and the permit. The bond shall cover the area of land within the permit area upon which the applicant will initiate and conduct surface coal mining and reclamation operations within the initial term of the permit. As succeeding increments of surface coal mining and reclamation operations are initiated and conducted within the permit area, the permittee shall file with the board an additional bond or bonds to cover such increments in accordance with this section. The amount of the bond required for each bonded area shall depend upon the reclamation requirements of the approved permit, shall reflect the probable difficulty of reclamation, giving consideration to such factors as topography, geology of the site, hydrology, and revegetation potential, and shall be determined as part of the proposed decision of the office pursuant to section 34-33-114, and subject to review by the board as provided in section 34-33-119. The amount of the bond shall be sufficient to assure the completion of the reclamation plan if the work had to be performed by the board in the event of forfeiture, and in no case shall the bond for the entire area under one permit be less than ten thousand dollars.

(2) Liability under the bond shall be for the duration of the surface coal mining and reclamation operations and for a period coincident with the operator's responsibility for revegetation requirements in section 34-33-120. The bond shall be executed by the applicant and a corporate surety licensed to do business in this state; except that the applicant may elect to deposit cash, negotiable bonds of the United States government or any political subdivision of this state, or negotiable certificates of deposit of any bank or other savings institution organized or transacting business in the United States. The cash deposit or market value of such securities shall be equal to or greater than the amount of the bond required for the bonded area. Cash or securities so deposited shall be deposited on the same terms upon which surety bonds may be deposited.

(3) The office may accept the bond of the applicant itself without separate surety when the applicant demonstrates to the satisfaction of the office that the applicant has the financial means sufficient to self-bond for reclamation, pursuant to reasonable bonding regulations promulgated by the board, consistent with the purposes and provisions of this article.

(4) Cash or securities posted as bond shall be deposited by the state treasurer in separate escrow accounts, to be known as reclamation surety accounts, and interest accruing on said funds shall be paid to the operator annually.

(5) The amount of the bond or deposit required and the terms of each acceptance of the applicant's bond shall be adjusted by the office from time to time for good cause as affected land acreages are increased or decreased or when the cost of future reclamation changes.

34-33-114. Permit approval or denial. (1) Upon the basis of a complete permit application, including a reclamation plan, or revision or renewal thereof, as required by this article, including public notification and opportunity for public hearing as required by sections 34-33-118 and 34-33-119, the office shall process the permit application and issue a proposed decision granting or denying the permit, in whole or in part, or requiring modifications to the permit application within the time periods provided for in sections 34-33-118 and 34-33-119, and the office shall notify the applicant in writing of the proposed decision. The applicant for a permit or for a revision of a permit shall have the burden of establishing that such application is in compliance with all the requirements of this article. Within ten days after issuing its proposed

decision granting or denying a permit, the office shall file a notice with the board of county commissioners of the county in which the area of land to be affected is located stating the proposed decision issued and describing the location of the affected land.

(2) No application for a permit or for a revision of an existing permit shall be approved unless the application affirmatively demonstrates and the office or board finds in writing, on the basis of the information set forth in the application or from information otherwise available which will be documented in the decision and made available to the applicant, that:

(a) The permit application is accurate and contains all information required under this article and regulations promulgated thereunder and that all the requirements of this article have been complied with;

(b) The applicant has demonstrated that reclamation as required by this article can be accomplished under the reclamation plan contained in the permit application;

(c) The assessment of the probable cumulative impact of all anticipated mining in the area on the hydrologic balance specified in section 34-33-110 (2) (l) has been made by the office and the proposed operation thereof has been designed to prevent material damage to hydrologic balance outside the permit area;

(d) Granting the permit will not conflict with any designation decision issued pursuant to section 34-33-126 or pursuant to section 522 of the federal "Surface Mining Control and Reclamation Act of 1977", as amended, Pub.L. 95-87, nor is the area proposed to be mined within an area under study for unsuitability designation in an administrative proceeding commenced pursuant to section 34-33-126 or section 522 of said Pub.L. 95-87;

(e) (I) The proposed surface coal mining operations would:

(A) Not interrupt, discontinue, or preclude farming on alluvial valley floors that are irrigated or naturally subirrigated, excluding undeveloped range lands which are not significant to farming on said alluvial valley floors and those lands upon which the board finds that the farming which will be interrupted, discontinued, or precluded is of such small acreage as to be of negligible impact on said land's agricultural production; or

(B) Not materially damage the quantity or quality of surface water or groundwater systems that supply the alluvial valley floors described in sub-subparagraph (A) of this subparagraph (I).

(II) The requirements of subparagraph (I) of this paragraph (e) shall not affect those surface coal mining operations which, in the year preceding August 3, 1977, either produced coal in commercial quantities and were located within or adjacent to alluvial valley floors or had obtained permit approval to conduct surface coal mining operations within said alluvial valley floors.

(f) In cases where the applicant proposes to extract coal by surface methods and where the private mineral estate has been severed from the private surface estate, the applicant has submitted to the office:

(I) The written consent of the surface owner to the extraction of coal by surface coal mining; or

(II) A conveyance that expressly grants or reserves the right to extract the coal by surface coal mining, but, if the conveyance does not expressly grant the right to extract coal by surface coal mining, the surface-subsurface legal relationship shall be determined in accordance with state law; except that nothing in this article shall be construed to authorize the board to adjudicate property rights disputes;

(g) Subject to valid rights existing as of August 3, 1977, and with the further exception of those surface coal mining operations which were in existence on August 3, 1977, the application:

(I) Does not include any lands within the boundaries of units of the national park system, the national wildlife refuge systems, the national system of trails, the national wilderness preservation system, the wild and scenic rivers system, including study rivers designated under said act, and national recreation areas designated by act of the United States congress;

(II) Does not include any federal lands within the boundaries of any national forest; except that surface coal mining operations may be permitted on such lands if the secretary finds that there are no significant recreational, timber, economic, or other values which may be incompatible with such surface mining operations, and:

(A) Surface operations and impacts are incident to an underground coal mine; or

(B) Where the secretary of the United States department of agriculture determines, with respect to lands in national forests which do not have significant forest cover, that surface mining is in compliance with the "Multiple-Use Sustained-Yield Act of 1960", as amended, the "Federal Coal Leasing Amendments Act of 1975", as amended, the "National Forest Management Act of 1976", as amended, and the provisions of this article;

(III) Will not adversely affect any publicly owned park or place included in the national register of historic sites unless approved jointly by the office and the federal, state, or local agency with jurisdiction over the park or the historic site;

(IV) Does not include lands within one hundred feet of the outside right-of-way line of any public road, except where mine access roads or haulage roads join such right-of-way line; except that the office may permit such roads to be relocated or the area affected to lie within one hundred feet of such road if, after public notice and opportunity for public hearing in the locality, a written finding is made that the interests of the public and the landowners affected thereby will be protected; and

(V) Does not include lands within three hundred feet of any occupied dwelling, unless waived by the owner thereof, nor within three hundred feet of any public building or school, church, community, or institutional building or any public park, nor within one hundred feet of a cemetery.

(3) The applicant shall file with his permit application a schedule listing any and all notices of violations of this article and any applicable law of the United States or of this state, or any applicable rule or regulation of any department or agency of the United States, other states, and this state, pertaining to air or water environmental protection received by the applicant in connection with any surface coal mining operations during the three-year period prior to the date of application. The schedule shall also indicate the final resolution of any such notice of violation. When the schedule or other information available to the board or office indicates that any surface coal mining operation owned or controlled by the applicant is currently in violation of this article or such other laws referred to in this subsection (3), the permit shall not be issued until the applicant submits proof that such violation has been corrected or is in the process of being corrected to the satisfaction of the board, department, or agency which has jurisdiction over such violation, and no permit shall be issued to an applicant after a finding by the board, after opportunity for hearing, that the applicant, or the operator specified in the application, controls or has controlled such surface coal mining operations with a demonstrated pattern of willful violations of this article of such nature and duration and with such resulting irreparable damage to the environment as to indicate an intent not to comply with the provisions of this article.

(4) (a) In addition to finding the application in compliance with the provisions of subsection (2) of this section, if the surface area proposed to be affected by the operation contains prime farmland pursuant to section 34-33-110 (2) (q), the office shall, after consultation with the

secretary of the United States department of agriculture, and pursuant to regulations issued by the secretary of the United States department of the interior with the concurrence of the secretary of the United States department of agriculture, grant a permit to mine on prime farmland if the board or office finds in writing that the operator has the technological capability to restore such mined area, within a reasonable time, to equivalent or higher levels of yield as nonmined prime farmland in the surrounding area under equivalent levels of management and that the operator can meet the soil reconstruction standards in section 34-33-120 (2) (g). Except as provided in subsection (2) of this section, the requirements of this paragraph (a) shall apply to all permits issued on and after August 3, 1977.

(b) Nothing in this subsection (4) shall apply to any permit issued prior to August 3, 1977, or to any revisions or renewals thereof, or to any existing surface coal mining and reclamation operations for which a permit was issued prior to August 3, 1977.

34-33-115. Revision of permit. (1) (a) During the term of the permit, the permittee may submit an application for revision of the permit, together with any necessary revisions to the reclamation plan, to the office.

(b) An application for revision of a permit shall not be approved unless the office finds that the reclamation required by this article can be accomplished under any necessary revisions to the reclamation plan. The revisions shall be approved or disapproved within the time periods provided for by sections 34-33-118 and 34-33-119. The board shall, by regulation, establish guidelines for a determination of the scale or extent of a revision request for which all permit application information requirements and procedures, including notice and hearings, shall apply; except that any revisions which propose significant alterations in the reclamation plan shall be subject to notice and hearing requirements.

(c) Any applications for extension of the area covered by the permit, except incidental boundary revisions, must be made by application for a permit revision or another permit.

(2) No transfer, assignment, or sale of rights granted under any permit issued pursuant to this article shall be made without the written approval of the division.

(3) The office shall, within a time limit prescribed in regulations promulgated by the board, review outstanding permits and may, for good cause shown, require reasonable revisions or modifications of the permit provisions during the term of each such permit; except that such revisions or modifications shall be based upon written findings and shall be subject to the notice and hearing requirement established by this article.

34-33-116. Technical revision of permit. (1) During the term of the permit, the permittee may submit an application for a technical revision of the permit to the office.

(2) An application for a technical revision of a permit shall contain:

(a) An identification of the permit by permit number or other appropriate reference which is the subject of the technical revision;

(b) A specific description of the requested change in the terms of the permit; and

(c) Such other information as may be necessary for the office to properly evaluate the technical revision.

(3) Consistent with the provisions of subsection (2) of this section, the board may promulgate regulations further defining the form and content of applications for technical

revisions; except that applications for technical revisions shall not be subject to the full standards and information requirements applicable to new permit applications under this article; and except that the board or office may reasonably request additional information to evaluate the proposed technical revision.

(4) The board shall promulgate regulations providing for the processing of applications for technical revisions, which regulations shall provide for adequate public notice of such applications and an opportunity for an expeditious hearing before the board for any person who may be adversely affected by the proposed technical revision.

(5) Within sixty days after the filing of a complete application for a technical revision, the office shall issue a proposed decision approving or denying the application in whole or in part. A written copy of such decision shall be promptly provided to the permittee and shall be published once in a newspaper of general circulation in the locality of the affected surface coal mining operation. Any requests for a hearing regarding the proposed decision of the office must be received in writing by the office within ten days after such publication. If no request for a hearing is received within such ten-day period, the proposed decision of the office shall immediately become final.

34-33-117. Coal exploration permit. (1) Coal exploration activities which cause substantial disturbance of the natural land surface shall be conducted in accordance with exploration regulations issued by the board. Such regulations shall include, at a minimum:

(a) A requirement that, prior to conducting any exploration under this section, any person must file with the office notice of intention to explore, including a description of the exploration area and the period of supposed exploration; and

(b) Provisions for reclamation in accordance with the performance standards in section 34-33-120 of all lands disturbed in exploration, including excavations, roads, drill holes, and the removal of necessary facilities and equipment.

(2) Information submitted to the office pursuant to this section as confidential concerning trade secrets or privileged commercial or financial information which relates to the competitive rights of the person or entity intending to explore the described area shall not be available for public examination.

(3) Any person who conducts any coal exploration activities which cause substantial disturbance of the natural land surface in violation of this section or regulations issued pursuant to this section shall be subject to the provisions of section 34-33-123.

(4) No operator shall remove more than two hundred fifty tons of coal pursuant to an exploration permit without the specific written approval of the board or office.

(5) The regulations adopted pursuant to this section shall include any additional requirements and provisions which the board deems necessary; except that such regulations shall have a reasonable relation to the purposes and provisions of this article.

34-33-118. Public notice and public hearings on complete applications. (1) Upon submission of an application for permit, or revision or renewal thereof, as provided by this article, the office shall, within ten days of receipt of said application, review the submission and determine if it is complete. If the application is complete, the applicant shall be duly notified and the application shall be considered filed for the purposes of this article. If the application is incomplete,

notice to that effect shall be mailed to the applicant within said ten-day period, and the applicant shall be given the opportunity to amend, revise, or otherwise make said application complete. At the time of submission of an application for a permit, or for renewal or revision of an existing permit, pursuant to the provisions of this article, the applicant shall submit to the office the proposed notice of publication of the ownership, precise location, and boundaries of the land to be affected by the proposed surface coal mining operation.

(2) Upon notification to the applicant that the application for a permit or the application for a permit revision or renewal is complete, the applicant shall place the notice of ownership, precise location, and boundaries of land to be affected by the proposed surface coal mining operation in a local newspaper of general circulation in the locality of said operation. This publication shall be published at least once a week for four consecutive weeks.

(3) On or before the time of first publication, the office shall notify appropriate state and federal agencies and various local government bodies, municipalities, regional planning commissions, boards of county commissioners, county planning agencies, sewage and water treatment authorities, and water conservancy and water conservation districts in the locality in which the proposed surface coal mining operations will take place of the operator's application indicating the application number, a legal description of the land covered by the application, and where a copy of the application may be inspected. These local bodies, agencies, or authorities may submit written comments, within thirty days of the last publication of the above notice, with respect to the effect of the proposed operation on the environment which is within their area of responsibility. Such comments shall be immediately transmitted to the applicant by the office and shall be made available to the public at the same locations as the permit application.

(4) Any person having an interest which is or may be adversely affected by a decision of the office regarding the proposed surface coal mining operation, or the officer or head of any federal, state, or local government agency or authority, shall have the right to submit written objections to or comments upon the initial or revised application for a permit to the office within thirty days after the last publication of the above notice. Such objections and comments shall immediately be transmitted to the applicant by the office and shall be made available to the public, at the same locations as the permit application.

(5) Within sixty days of the filing of an application for a permit, the office shall review said application and notify the applicant of preliminary findings as to the substantive adequacy or inadequacy of the application.

(6) Within thirty days after the last publication of the notice specified in subsection (2) of this section, any person who files objections or comments pursuant to subsection (3) or (4) of this section may also request an informal conference. If an informal conference is requested, the office shall hold an informal conference in the locality of the proposed surface coal mining operation. Notice of the date, time, and location of such informal conference shall be given to the applicant and published by the office in a newspaper of general circulation in the locality of the conference at least two weeks prior to the scheduled conference date. The informal conference shall be held within a reasonable time after close of the comment periods specified under subsections (3) and (4) of this section but no later than thirty days after the close of said periods. The office may arrange with the applicant, upon request by any person who has submitted objections, comments, or a request for an informal conference, access to the proposed mining area for the purpose of gathering information relevant to the proceedings. An electronic or stenographic record shall be made of the informal conference, unless waived by all parties thereto. Such record shall be maintained by the office and shall be accessible to the parties until final release of the applicant's

performance bond. In the event that all persons requesting the informal conference stipulate agreement prior to the requested informal conference and withdraw their request, such informal conference need not be held.

34-33-119. Permit application decisions of the office - appeals. (1) If an informal conference has been held pursuant to section 34-33-118 (6), any party thereto may submit additional information or comments to the office for a period of twenty days following the conference. The office shall issue a proposed decision, granting or denying the permit in whole or in part, no earlier than twenty days and no later than sixty days after the informal conference. The office may, for good cause shown, extend the time for the proposed decision up to an additional sixty days if the application is unusually complex or controversial or if significant snow cover prevents adequate on-site inspection.

(2) If there has been no informal conference pursuant to section 34-33-118 (6), the office shall issue a proposed decision, granting or denying the permit in whole or in part, within one hundred twenty days of the filing of the application. The office may, for good cause shown, extend the time for the proposed decision up to an additional sixty days if the application is unusually complex or controversial or if significant snow cover prevents adequate on-site inspection.

(3) The proposed decision of the office under subsection (1) or (2) of this section shall be in writing, and a copy thereof shall be furnished to the applicant and all persons who have objected to or submitted comments on the application. If the proposed decision is to deny the application in whole or in part, the office shall set forth specific reasons for the proposed decision. If the proposed decision is to grant the application in whole or in part or with modifications or stipulations, the modifications and stipulations and reasons for the decision shall accompany the notice of proposed decision.

(4) The office shall publish notice of the proposed decision in a newspaper of general circulation in the locality of the surface coal mining operations once a week for two weeks following issuance of the proposed decision. Any person with an interest which may be adversely affected by the proposed decision may request a formal hearing before the board on the proposed decision. Such request must be made within thirty days of first publication of the proposed decision of the division, be in writing, and state with reasonable specificity the reasons for the request and the objections to the proposed decision.

(5) If a formal hearing is requested, the board shall hold such hearing in an appropriate location no later than thirty days after said request and shall notify the applicant and any person requesting said hearing of the date, time, and location of said hearing. The board shall also publish notice of the proposed hearing in a newspaper of general circulation in the locality of the hearing. The hearing shall be conducted pursuant to section 24-4-105, C.R.S., and shall be adjudicatory in nature. No person who presided at a conference under section 34-33-118 (6) shall either preside at the hearing or participate in the decision thereon in any administrative appeal therefrom. The board may render its decision at the close of the hearing and must, in any event, render a decision within thirty days after the hearing. The board shall issue and furnish the applicant and all persons who participated in the hearing with a copy of the written decision, reversing, affirming, or modifying the proposed decision of the office, and stating the reasons therefor. The decision of the board shall be implemented by the office within five days after the written decision of the board.

(6) If no formal hearing is requested pursuant to subsection (4) of this section, the office shall issue and implement the proposed decision as final within five days after the close of the

thirty-day period provided by subsection (4) of this section for filing a request for a formal hearing.

(7) When a formal hearing is requested pursuant to subsection (4) of this section, the board may grant such temporary relief as it deems appropriate pending final determination of the proceedings if:

(a) All parties to the proceedings have been notified and given an opportunity to be heard on a request for temporary relief;

(b) The person requesting such relief shows that there is a substantial likelihood that he will prevail on the merits in the final determination of the proceeding; and

(c) Such relief will not adversely affect the public health or safety or cause significant imminent environmental harm to land, air, or water resources.

(8) For the purpose of such hearing, the board may administer oaths, subpoena witnesses or written or printed materials, compel attendance of the witnesses or production of the materials, and take evidence including, but not limited to, site inspections of the land to be affected and other surface coal mining operations carried on by the applicant in the general vicinity of the proposed operation. A verbatim record of each formal hearing required by this section shall be made, and a transcript shall be made available on request to any party or by order of the board.

(9) If any applicant or any person with an interest which is or may be adversely affected who has participated in the administrative proceedings as an objector is aggrieved by the decision of the board or if the office fails to act within the time limits specified in this article, such applicant or person shall have the right to appeal in accordance with section 34-33-128.

34-33-120. Environmental protection performance standards. (1) Any permit issued under this article shall require that the surface coal mining and reclamation operations meet all applicable performance standards of this article.

(2) General performance standards shall be applicable to all surface coal mining and reclamation operations and shall require such operations to:

(a) Conduct surface coal mining operations so as to maximize the utilization and conservation of the solid fuel resource being recovered so that reaffecting the land in the future through surface coal mining can be minimized;

(b) Restore land affected to a condition capable of supporting the uses which it was capable of supporting prior to any mining, or higher or better uses of which there is reasonable likelihood, so long as such use or uses do not present any actual or probable hazard to public health or safety or pose any actual or probable threat of water diminution or pollution which would be contrary to state or federal laws, rules, or regulations, and so long as the permit applicant's declared proposed land use following reclamation is not deemed to be impractical or unreasonable, is not inconsistent with applicable land use policies and plans, does not involve unreasonable delay in implementation, and is not violative of federal, state, or local law;

(c) Except as provided in subsection (3) of this section with respect to all surface coal mining and reclamation operations, backfill, compact where needed to provide stability or to prevent leaching of toxic materials, and grade in order to restore the approximate original contour of the land, eliminating all highwalls, spoil piles, and depressions unless small depressions are needed in order to retain moisture to assist revegetation or as otherwise authorized pursuant to this article; except that, in surface coal mining which is carried out at the same location over a substantial period of time where the operations transect the coal deposit, and where the thickness of the coal deposits relative to the volume of the overburden is large, and where the operator

demonstrates that the overburden and other spoil and waste materials at a particular point in the permit area or otherwise available from the entire permit area is insufficient, giving due consideration to volumetric expansion, to restore the approximate original contour, the operator, at a minimum, shall backfill, grade, and compact, where needed, using all available overburden and other spoil and waste materials to attain the lowest practicable grade, but not more than the angle of repose, to provide adequate drainage and to cover all acid-forming and other toxic materials, in order to achieve an ecologically sound land use compatible with the surrounding region; except that in surface coal mining where the volume of overburden is large relative to the thickness of the coal deposit and where the operator demonstrates that due to volumetric expansion the amount of overburden and other spoil and waste materials removed in the course of the mining operation is more than sufficient to restore the neapproximate original contour, the operator shall, after restoring the approximate original contour, backfill, grade, and compact, where needed, the excess overburden and other spoil and waste materials to attain the lowest grade, but not more than the angle of repose, and to cover all acid-forming and other toxic materials, in order to achieve an ecologically sound land use compatible with the surrounding region; and except that such overburden or spoil shall be shaped and graded in such a way as to prevent slides, erosion, and water pollution and shall be revegetated in accordance with the requirements of this article;

(d) Stabilize and protect all surface areas, including spoil piles, affected by the surface coal mining and reclamation operations to effectively control erosion and attendant air and water pollution;

(e) Remove the topsoil from the land in a separate layer, replace it on the backfill area or, if not utilized immediately, segregate it in a separate pile from other spoil, and, when the topsoil is not replaced on a backfill area within a time short enough to avoid deterioration of the topsoil, maintain a successful cover by quick-growing plant or other means thereafter so that the topsoil is preserved from wind and water erosion, remains free of any contamination by other acid or toxic material, and is in a usable condition for sustaining vegetation when restored during reclamation; except that, if topsoil is of insufficient quantity or of poor quality for sustaining vegetation or if other strata can be shown to be more suitable for vegetation requirements, the operator shall remove, segregate, and preserve in a like manner such other strata which is best able to support vegetation;

(f) Restore the topsoil or the best available subsoil which is best able to support vegetation;

(g) Unless exempted by section 34-33-114 (4) (b), for all prime farmlands as identified in section 34-33-110 (2) (q) to be mined and reclaimed, comply with specifications for soil removal, storage, replacement, and reconstruction to be established by the secretary of the United States department of agriculture, and the operator shall be required, as a minimum, to:

(I) Segregate the A horizon of the natural soil, except where it can be shown that other available soil materials will create a final soil having a greater productive capacity, and, if not utilized immediately, stockpile this material separately from other spoil and provide needed protection from wind and water erosion or contamination by other acid or toxic material;

(II) Segregate the B horizon of the natural soil, or underlying C horizons or other strata, or a combination of such horizons or other strata that are shown to be both texturally and chemically suitable for plant growth and that can be shown to be equally or more favorable for plant growth than the B horizon, in sufficient quantities to create in the regraded final soil a root zone of comparable depth and quality to that which existed in the natural soil, and, if not utilized immediately, stockpile this material separately from other spoil and provide needed protection from wind and water erosion or contamination by other acid or toxic material;

(III) Replace and regrade the root zone material described in subparagraph (II) of this paragraph (g) with proper compaction and uniform depth over the regraded spoil material; and

(IV) Redistribute and grade in a uniform manner the surface soil horizon described in subparagraph (I) of this paragraph (g);

(h) Create, if authorized in the approved reclamation plan and permit, permanent impoundments of water on mining sites as part of reclamation activities only when it is adequately demonstrated that:

(I) The size of the impoundment is adequate for its intended purposes;

(II) The impoundment dam construction will be so designed as to achieve necessary stability with an adequate margin of safety compatible with that of structures constructed under Public Law 83-566, 16 U.S.C. sec. 1006;

(III) The quality of impounded water will be suitable on a permanent basis for its intended use and that discharges from the impoundment will not degrade the water quality below water quality standards established pursuant to applicable federal and state law in the receiving stream;

(IV) The level of water will be sufficiently stable for its intended use;

(V) Final grading will provide adequate safety and access for proposed water users; and

(VI) Such water impoundments will not result in the diminution of the quality of water or the quantity of water available to water right holders for agricultural, industrial, recreational, or domestic uses;

(i) Conduct any augering operation associated with surface coal mining in a manner to maximize recoverability of coal reserves remaining after the mining and reclamation operations are complete and seal all auger holes with an impervious and noncombustible material in order to prevent drainage except where the office determines that the resulting impoundment of water in such auger holes may create a hazard to the environment or the public health or safety; except that the office may prohibit augering if necessary to maximize the utilization, recoverability, or conservation of the solid fuel resources or to protect against adverse water quality impacts;

(j) Minimize the disturbances to the prevailing hydrologic balance at the mine site and in associated off-site areas and to the quality and quantity of water in surface and groundwater systems both during and after surface coal mining operations and during reclamation by:

(I) Avoiding acid or other toxic mine drainage by such measures as, but not limited to:

(A) Preventing or removing water from contact with toxic producing deposits;

(B) Treating drainage to reduce toxic content which adversely affects downstream water upon being released to watercourses;

(C) Casing, sealing, or otherwise managing boreholes, shafts, and wells to keep acid or other toxic drainage from entering groundwaters and surface waters;

(II) (A) Conducting surface coal mining operations so as to prevent, to the extent possible using the best technology currently available, additional contributions of suspended solids to streamflow or runoff outside the permit area, but in no event shall contributions be in excess of requirements set by applicable state or federal law;

(B) Constructing any siltation structures pursuant to sub-subparagraph (A) of this subparagraph (II) prior to commencement of surface coal mining operations, such structures to be certified by a qualified registered engineer to be constructed as designed and as approved in the reclamation plan;

(III) Cleaning out and removing temporary or large settling ponds or other siltation structures from drainways after disturbed areas are revegetated and stabilized and depositing the silt and debris at a site and in a manner approved by the office. The office may approve the

retention of sediment ponds as permanent impoundments if all requirements of paragraph (h) of this subsection (2) are met.

(IV) Restoring recharge capacity of the mined area to approximate premining conditions;

(V) Avoiding channel deepening or enlargement resulting from the discharge of water from mines;

(VI) Preserving throughout the mining and reclamation process the essential hydrologic functions of alluvial valley floors;

(VII) Taking such other actions reasonably related to the purposes of this paragraph (j) as the office may prescribe for good cause shown;

(k) With respect to surface disposal of mine wastes, tailings, coal processing wastes, and other wastes in areas other than the mine working or excavations, stabilize all waste piles in designated areas through construction in compacted layers and through the use of incombustible and impervious materials if necessary and assure that the final contour of the waste pile will be compatible with natural surroundings and that the site can and will be stabilized and revegetated according to the provisions of this article;

(l) Refrain from surface coal mining within five hundred feet, measured horizontally, from active and abandoned underground mines in order to prevent breakthroughs and to protect the health and safety of miners; except that the office shall permit an operator to mine near, through, or partially through an abandoned underground mine or closer to an active underground mine if the nature, timing, and sequencing of the approximate coincidence of specific surface mine activities with specific underground mine activities are jointly approved by the office and by the United States mine safety and health administration, or its successor, and if such operations will result in improved resource recovery, abatement of water pollution, or elimination of hazards to the health and safety of the public;

(m) Design, locate, construct, operate, maintain, enlarge, modify, and remove or abandon, in accordance with the standards and criteria developed pursuant to subsection 515 (f) of the federal "Surface Mining Control and Reclamation Act of 1977", as amended, all existing and new coal mine waste piles consisting of mine wastes, tailings, coal processing wastes, or other liquid and solid wastes and used either temporarily or permanently as dams or embankments;

(n) Ensure that all debris, acid-forming materials, toxic materials, or materials constituting a fire hazard are treated or buried and compacted or otherwise disposed of in a manner designed to prevent contamination of groundwaters or surface waters and that contingency plans are developed to prevent sustained combustion;

(o) Ensure that explosives used in connection with the extraction of coal by surface methods are used only in accordance with existing state and federal law and blasting regulations promulgated by the board, in consultation with appropriate state agencies, which shall include provisions to:

(I) Provide adequate advance written notice to local governments and residents who might be affected by the use of such explosives by publication of the planned blasting schedule in a newspaper of general circulation in the locality and by mailing a copy of the proposed blasting schedule to every business or residence located within one-half mile of the proposed blasting site and by providing daily notice to resident occupants in such areas prior to any blasting or notice of less frequency as each resident occupant in such areas shall approve in writing;

(II) Maintain for a period of at least three years and make available for public inspection upon request a log detailing the location of the blasts, the pattern and depth of the drill holes, the amount of explosives used per hole, and the order and length of delay in the blasts;

(III) Limit the type of explosives and detonating equipment and the size, timing, and frequency of blasts based upon the physical conditions of the site so as to prevent injury to persons, damage to public and private property outside the permit area, adverse impacts on any underground mine, and change in the course, channel, or availability of groundwaters or surface waters outside the permit area;

(IV) Require that all blasting operations be conducted by trained and competent persons certified under a program which meets the minimum criteria established by applicable law;

(V) Provide that, upon the request of a resident or owner of a man-made dwelling or structure within one-half mile of any portion of the permitted area, the applicant or permittee shall conduct a preblasting survey of such structures and submit the survey to the office and a copy to the resident or owner making the request. The area of the survey shall be decided by the office and shall include such provisions as the board shall promulgate.

(p) Ensure that all reclamation efforts proceed in an environmentally sound manner and as contemporaneously as practicable with the surface coal mining operations; except that, where the applicant proposes to combine surface coal mining operations with underground mining to assure maximum practical recovery of the mineral resources, the board or office may grant a variance for specific areas within the reclamation plan from the requirement that reclamation efforts proceed as contemporaneously as practicable to permit underground mining prior to reclamation:

(I) If the board or office finds in writing that:

(A) The applicant has presented, as part of the permit application, specific, feasible plans for the proposed underground mining operations;

(B) The proposed underground mining is necessary or desirable to assure maximum practical recovery of the mineral resource and will avoid multiple disturbance of the surface;

(C) The applicant has satisfactorily demonstrated that the plan or revision for the underground mining activities conforms to applicable local and state requirements for underground mining and that the permits necessary for the underground mining activities have been issued by the appropriate authorities;

(D) The areas proposed for the variance have been shown by the applicant to be necessary for the proposed underground mining;

(E) No substantial adverse environmental damage, either on-site or off-site, will result from the delay in completion of reclamation as required by this article;

(F) Provisions for the off-site storage of spoil will comply with paragraph (v) of this subsection (2);

(II) If the board has promulgated specific regulations to govern the granting of such variances in accordance with the provisions of this article;

(III) If variances granted under the provisions of this paragraph (p) are to be reviewed by the office not more than three years from the date of issuance of the variance; and

(IV) If liability under the bond filed by the applicant with the office pursuant to section 34-33-113 (2) will continue for the duration of the underground mining activities and until the requirements of this subsection (2) and section 34-33-125 have been fully complied with;

(q) Ensure that the construction, maintenance, and postmining conditions of access roads into and across the site of operations will control or prevent erosion and siltation, pollution of water, or damage to fish or wildlife or their habitat or to public or private property;

(r) Refrain from the construction of roads or other access ways up a stream bed or drainage channel or in such proximity to such channel so as to seriously alter the normal flow of water;

(s) Establish on the regraded areas, and all other lands affected, a diverse, effective, and

permanent vegetative cover of the same seasonal variety native to the area of land to be affected and capable of self-regeneration and plant succession at least equal in extent of cover to the natural vegetation of the area; except that introduced species may be used in the revegetation process where desirable and necessary to achieve the postmining land use specified in the approved reclamation plan;

(t) Assume responsibility for successful revegetation, as required by paragraph (s) of this subsection (2), for a period of five years after the last year of augmented seeding, fertilizing, irrigation, or other work in order to assure compliance with paragraph (s) of this subsection (2); except that, in those areas or regions of the state where the annual average precipitation is twenty-six inches or less, the operator's assumption of responsibility and liability will extend for a period of ten years after the last year of augmented seeding, fertilizing, irrigation, or other work; except that, when the board approves a long-term, intensive, agricultural postmining land use, the applicable five-year or ten-year period of responsibility for revegetation shall commence at the date of initial planting for such long-term, intensive, agricultural postmining land use; and except that, when the board issues a written finding approving a long-term, intensive, agricultural postmining land use as part of the mining and reclamation plan, the office may grant exception to the provisions of paragraph (s) of this subsection (2);

(u) Protect off-site areas from slides or damage occurring during the surface coal mining and reclamation operations and require that such operations not deposit spoil material or locate any part of the operations or waste accumulations outside the permit area;

(v) Place all excess spoil material resulting from surface coal mining and reclamation operations in such a manner that:

(I) The spoil is transported and placed in a controlled manner in position for concurrent compaction and in such a way to assure mass stability and to prevent mass movement;

(II) The areas of disposal are within the bonded permit areas and all vegetative matter shall be removed immediately prior to spoil placement;

(III) The appropriate surface and internal drainage systems and diversion ditches are used to prevent spoil erosion and movement;

(IV) The disposal area does not contain springs, natural watercourses or wet weather seeps unless lateral drains are constructed from the wet areas to the main underdrains in such a manner that filtration of the water into the spoil pile will be prevented;

(V) If placed on a slope, the spoil is placed upon the most moderate slope of those upon which, in the judgment of the division, the spoil could be placed in compliance with all of the requirements of this article and shall be placed, where possible, upon or above a natural terrace, bench, or berm, if such placement provides additional stability and prevents mass movement;

(VI) Where the toe of the spoil rests on a downslope, a rock toe buttress of sufficient size is constructed to prevent mass movement;

(VII) The final configuration will be compatible with the natural drainage pattern and surroundings and suitable for the proposed postmining land use;

(VIII) The design of the spoil disposal area is certified by a qualified licensed professional engineer in conformance with professional standards; and

(IX) All other provisions of this article are met;

(w) Meet such other criteria as are necessary to achieve reclamation in accordance with the purposes of this article, taking into consideration the physical, climatological, and other characteristics of the site;

(x) To the extent possible using the best technology currently available, minimize

disturbances from and adverse impacts of the surface coal mining operations on fish, wildlife, and related environmental values and achieve enhancement of such resources where practicable; and

(y) Provide for an undisturbed natural barrier beginning at the elevation of the lowest coal seam to be mined and extending from the outslope for such a distance as the office shall determine shall be retained in place as a barrier to slides and erosion.

(3) (a) When an applicant meets the requirements of paragraphs (b) and (c) of this subsection (3), a permit may be granted for surface coal mining operations without regard to the requirement to restore to approximate original contour set forth in paragraph (c) of subsection (2) of this section or subparagraph (II) or (III) of paragraph (a) of subsection (4) of this section if surface coal mining operations will remove an entire coal seam or seams running through the upper fraction of a mountain, ridge, or hill (except as provided in subparagraph (I) of paragraph (c) of this subsection (3)), by removing all of the overburden and creating a level plateau or a gently rolling contour with no highwalls remaining and capable of supporting postmining uses in accordance with the requirements of this subsection (3).

(b) In cases where an industrial, a commercial, an agricultural, a residential, or a public use including a recreational facility is proposed for the postmining use of the affected land, the office shall grant a permit for a surface coal mining operation of the nature described in paragraph (a) of this subsection (3) if:

(I) After consultation with the appropriate land use planning agencies, if any, the proposed postmining land use is deemed to constitute an equal or better economic or public use of the affected land, as compared with premining use;

(II) The applicant presents specific plans for the proposed postmining land use and appropriate assurances that such use will be:

(A) Compatible with adjacent land uses;

(B) Obtainable according to data regarding expected need and market;

(C) Assured of investment in necessary public facilities;

(D) Supported by commitments from public agencies where appropriate;

(E) Practicable with respect to private financial capability for completion of the proposed use;

(F) Planned pursuant to a schedule attached to the reclamation plan so as to integrate the surface coal mining and reclamation operations with the postmining land use; and

(G) Designed by a registered engineer in conformance with professional standards established to assure the stability, drainage, and configuration necessary for the intended use of the site;

(III) The proposed use would be consistent with adjacent land uses and existing state and local land use plans and programs;

(IV) The office provides the board of county commissioners, of the county in which the land is located, and any state or federal agency which the office determines to have an interest in the proposed use an opportunity of not more than sixty days to review and comment on the proposed use; and

(V) All other requirements of this article will be met.

(c) In granting any permit pursuant to this subsection (3), the office shall require that:

(I) The toe of the lowest coal seam and the overburden associated with it are retained in place as a barrier to slides and erosion;

(II) The reclaimed area be stable;

(III) The resulting plateau or rolling contour drain inward from the outslopes except at specified points;

(IV) No damage be done to natural watercourses;

(V) Spoil will be placed on the mountaintop bench as is necessary to achieve the proposed postmining land use; except that all excess spoil material not retained on the mountaintop shall be placed in accordance with the provisions of paragraph (v) of subsection (2) of this section;

(VI) Stability of the spoil retained on the mountaintop be ensured; and

(VII) All other requirements of this article will be met.

(d) The board shall promulgate specific regulations to govern the granting of permits in accord with the provisions of this subsection (3).

(e) All permits granted under the provisions of this subsection (3) shall be reviewed not more than three years from the date of issuance of the permit, unless the applicant affirmatively demonstrates that the proposed development is proceeding in accordance with the terms of the approved schedule and reclamation plan.

(4) (a) The following performance standards shall be applicable to steep-slope surface coal mining and shall be in addition to those general performance standards required by this section; except that the provisions of this subsection (4) shall not apply to surface coal mining on flat or gently rolling terrain on which an occasional steep slope is encountered through which the mining operation is to proceed, leaving a plain or predominantly flat area or in which an operator is in compliance with the provisions of subsection (3) of this section:

(I) Ensure that, when performing surface coal mining on steep slopes, no debris, abandoned or disabled equipment, spoil material, or waste mineral matter be placed on the downslope below the bench or mining cut; except that spoil material in excess of that required for the reconstruction of the approximate original contour under the provisions of paragraph (c) of subsection (2) of this section or subparagraph (II) of this paragraph (a) shall be permanently stored pursuant to paragraph (v) of subsection (2) of this section.

(II) Complete backfilling with spoil material shall be required to cover completely the highwall and return the site to the approximate original contour, which material shall maintain stability following the surface coal mining and reclamation operations.

(III) The operator shall not disturb land above the top of the highwall unless the board or office finds that such disturbance will facilitate compliance with the environmental protection standards of this section; except that the land disturbed above the highwall shall be limited to that amount necessary to facilitate said compliance.

(b) For the purposes of this subsection (4), the term "steep slope" means any slope above twenty degrees or such lesser slope as may be determined by the board or office after consideration of soil, climate, and other characteristics of a region.

(5) (a) The board shall establish procedures pursuant to which it may permit variances for the purposes set forth in paragraph (c) of this subsection (5): If the watershed control of the area is improved; and if complete backfilling with spoil material is required to completely cover the highwall, which material will maintain stability following the surface coal mining and reclamation operations.

(b) When an applicant meets the requirements of paragraphs (c) and (d) of this subsection (5), a variance from the requirement to restore to approximate original contour set forth in subparagraph (II) of paragraph (a) of subsection (4) of this section shall be granted for surface coal mining if the owner of the surface knowingly requests in writing, as a part of the permit application, or application for permit revision, that such a variance be granted so as to render the land, after

reclamation, suitable for an industrial, an agricultural, a commercial, a residential, or a public use, including a recreational facility, in accordance with the provisions of paragraphs (c) and (d) of this subsection (5).

(c) Before granting a variance pursuant to this subsection (5), the board or office shall determine that:

(I) The proposed postmining land use of the affected land will be an equal or better economic or public use, after consultation with appropriate land use planning agencies in such matter, and that such use is designed and certified by a qualified licensed professional engineer in conformance with professional standards established to ensure the stability, drainage, and configuration necessary for the proposed postmining land use; and

(II) After approval of the appropriate state environmental agencies, the watershed of the affected land will be improved.

(d) In granting a variance pursuant to this subsection (5), the board or office shall require that only such amount of spoil be placed off the mine bench as is necessary to achieve the proposed postmining land use, ensure stability of the spoil retained on the bench, and meet all other requirements of this article and shall ensure that all spoil placements off the mine bench comply with paragraph (v) of subsection (2) of this section.

(e) The board shall promulgate specific regulations to govern the granting of variances in accord with the provisions of this subsection (5).

(f) All variances granted under the provisions of this subsection (5) shall be reviewed not more than three years from the date of issuance of the variance, unless the permittee affirmatively demonstrates that the proposed development is proceeding in accordance with the terms of the reclamation plan.

(6) Any additional criteria, mining or reclamation measures, or other conditions which the office requires the operator to meet, satisfy, or undertake in connection with the issuance, revision, or transfer of permits or in connection with the conduct of a surface coal mining operation shall be based upon good cause shown by the office, taking into consideration the specific conditions at the site, and shall bear a reasonable relationship to the purposes and provisions of this article. Any applicant or operator shall have the right, at any regular meeting of the board, upon proper notice, to seek the informal opinion of the board concerning any request or requirement of the office for such additional criteria, mining or reclamation measures, or other conditions, and such informal opinion of the board shall not be binding upon any of the parties.

34-33-121. Surface effects of underground coal mining. (1) The board shall promulgate rules and regulations directed toward the surface effects of underground coal mining, embodying the requirements of this section and in accordance with the procedures of this article and the rules and regulations promulgated pursuant to this article; except that, in adopting any rules and regulations, the board shall consider the distinct difference between surface coal mining and underground coal mining.

(2) Each permit issued under this article and relating to underground coal mining shall require the operator to:

(a) (I) Adopt measures consistent with known technology in order to prevent subsidence causing material damage to the extent technologically and economically feasible, maximize mine stability, and maintain the value and reasonably foreseeable use of such surface lands, except in those instances where the mining technology used requires planned subsidence in a predictable

and controlled manner.

(II) If material damage results from subsidence caused by underground coal mining operations to any occupied residential dwelling and related structures or any noncommercial building, the operator of the underground coal mining operations conducted on or after April 7, 1995, shall either:

(A) Promptly repair the damage by rehabilitating, restoring, or replacing the damaged occupied residential dwelling and related structures or noncommercial building; or

(B) Compensate the owner of the damaged occupied residential dwelling and related structure or noncommercial building in the full amount of the diminution in value resulting from the subsidence. Compensation may be accomplished by the purchase, prior to mining, of a noncancellable, premium-prepaid insurance policy.

(III) Nothing in this section shall be construed to prohibit or interrupt underground coal mining operations.

(b) Seal all portals, entryways, drifts, shafts, or other openings between the surface and underground mine workings when no longer needed for the conduct of the underground coal mining;

(c) Fill or seal exploratory holes no longer necessary for underground coal mining, maximizing, to the extent technologically and economically feasible, return of mine and processing waste, tailings, and any other waste incident to the underground coal mining activities, the mine workings, or excavations;

(d) With respect to surface disposal of mine wastes, tailings, coal processing wastes, and other wastes in areas other than the mine workings or excavations, stabilize all waste piles created by the permittee from current operations through construction in compacted layers, including the use of incombustible and impervious materials if necessary, and assure that the leachate will not degrade, below water quality standards established pursuant to applicable federal and state law, surface water or groundwaters and that the final contour of the waste accumulation will be compatible with natural surroundings and that the site is stabilized and revegetated according to the provisions of this section;

(e) Design, locate, construct, operate, maintain, enlarge, modify, and remove, or abandon, in accordance with the standards and criteria contained in applicable state and federal law, all existing and new coal mine waste piles consisting of mine wastes, tailings, coal processing wastes, or other liquid and solid wastes and used either temporarily or permanently as dams or embankments;

(f) Establish on regraded areas and all other affected lands, a diverse and permanent vegetative cover capable of self-regeneration and plant succession and at least equal, in extent of cover, to the natural vegetation of the area;

(g) Protect off-site areas from damages which may result from such underground coal mining activities;

(h) Eliminate fire hazards and otherwise eliminate conditions which constitute a hazard to the health and safety of the public;

(i) Minimize the disturbances of the prevailing hydrologic balance at the mine site and in associated off-site areas and to the quantity of surface water and groundwater systems both during and after underground coal mining and during reclamation by:

(I) Avoiding acid or other toxic mine drainage by such measures as, but not limited to:

(A) Preventing or removing water from contact with toxic producing deposits;

(B) Treating drainage to reduce toxic content which adversely affects downstream water

upon being released to watercourses;

(C) Casing, sealing, or otherwise managing boreholes, shafts, and wells to keep acid or other toxic drainage from entering groundwaters and surface waters; and

(II) Conducting surface activities incident to underground coal mining so as to prevent, to the extent possible using the best technology currently available, additional contributions of suspended solids to streamflow or runoff outside the permit area (but in no event shall such contributions be in excess of requirements set by applicable state or federal law), and avoiding channel deepening or enlargement in operations requiring the discharge of water from mines;

(j) With respect to other surface impacts not specified in this subsection (2), including the construction of new roads or the improvement or use of existing roads to gain access to the site of such activities and for haulage, repair areas, storage areas, processing areas, shipping areas, and other areas upon which are sited structures, facilities, or other property or materials on the surface, resulting from or incident to such activities, operate in accordance with the standards established under section 34-33-120 for such effects which result from surface coal mining operations; except that the board or office shall make modifications in the requirements imposed by this paragraph (j) as are necessary to accommodate the distinct difference between surface and underground coal mining;

(k) To the extent possible using the best technology currently available, minimize disturbances and adverse impacts of the operation on fish, wildlife, and related environmental values and achieve enhancement of resources where practicable;

(l) Locate openings for all new drift mines working acid-producing or iron-producing coal seams in such a manner as to prevent a gravity discharge of water from the mine.

(3) In order to protect the stability of the affected land, the office, after consultation with the operator and the office of active and inactive mines, shall order an immediate cessation of those portions of underground coal mining activities which are found in violation of section 34-24-109 or 34-48-102 or which are adjacent to permanent streams if the office finds an imminent danger to the inhabitants of urbanized areas, cities, towns, and communities.

(4) The provisions of this article relating to permits, bonds, inspections and enforcement, public review, and administrative and judicial review shall be applicable to surface activities and impacts incident to underground coal mining with modifications to the permit application requirements, permit approval or denial procedures, and bond requirements as are necessary to accommodate the distinct difference between surface and underground coal mining.

34-33-122. Inspections and monitoring. (1) For the purposes of administering and enforcing any permit under this article or of determining whether any person is in violation of any requirement of this article, the board shall require permittees to establish and maintain records of information relative to surface coal mining and reclamation operations which the board deems necessary in order for it or the office to monitor such operations.

(2) For those surface coal mining and reclamation operations which affect or potentially affect surface water and groundwater, on or off the site, the office shall, to the extent it deems necessary and after consultation with the division of water resources, require the permittee to:

(a) Establish monitoring sites to record the effect of the operations on the level and amount of such water;

(b) Maintain records of well logs and borehole data;

(c) Establish such monitoring sites to record precipitation in the area of the surface coal

mining operation.

(3) The office shall require such monitoring of surface and groundwater quality, both on and off the site, as it deems necessary to determine compliance by permittees with the water quality provisions of this article.

(4) (a) The authorized representative of the board or office, upon presentation of appropriate credentials, shall have the power to enter at reasonable times, and without delay, upon or through any surface coal mining and reclamation operations and to have access to and copy any record, wherever located, and to inspect any monitoring equipment or method of operation required under this article or any permit issued under this article.

(b) Such inspections shall occur on an irregular basis, during times of operation at the mine, averaging not less than one partial inspection per month and one complete inspection per calendar quarter for each permitted surface coal mining and reclamation operation. Inspections may occur at any time at sites if a surface coal mining operation does not have a valid permit under this article or if there is reason to believe in a particular instance that significant environmental harm exists.

(c) Such inspections shall occur without prior notice to the permittee or his agents or employees, except for necessary on-site meetings with the permittee, and shall include the filing of inspection reports on forms approved by the board.

(5) Each permittee shall conspicuously maintain at the entrances to his surface coal mining and reclamation operations a clearly visible sign which sets forth the name, business address, and telephone number of the permittee and the permit number of the surface coal mining and reclamation operations.

(6) Upon detection of a violation of any requirement of this article during an inspection, the authorized representative of the board or office shall forthwith issue a notice of violation to the operator in accordance with section 34-33-123.

(7) Any person who is or may be adversely affected by a particular surface coal mining operation may request that an inspection for violations be held. Such request shall be acted upon by the office if it is in writing and if it contains sufficient basis for the allegation that a violation has occurred. When a state inspection is to be made as a result of such information, the office shall notify such person when the inspection is proposed to be carried out, and such person shall be allowed to accompany the inspector during the inspection if such person remains in the presence of and under the control, direction, and supervision of the inspector and if such person agrees to comply with all applicable state and federal safety rules and regulations.

(8) Copies of any records, reports, inspection materials, or information obtained under this article by the board, except information identified as confidential pursuant to the provisions of this article, shall be made immediately available to the public at the office of mined land reclamation's office and at a convenient place in the area of the surface coal mining and reclamation operations.

(9) No employee of the division performing any function or duty under this article shall have a direct or indirect financial interest in any underground or surface coal mining operation. Whoever knowingly violates the provisions of this subsection (9) is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than twenty-five hundred dollars, or by imprisonment in the county jail for not more than one year, or by both such fine and imprisonment.

34-33-123. Enforcement - civil and criminal penalties. (1) When, on the basis of any

inspection, an authorized representative of the office determines that any condition or practices exist at a surface coal mining operation which is subject to this article or that any operator is in violation of any requirement of this article or any permit condition required by this article, which condition, practice, or violation also creates an imminent danger to the health or safety of the public, or is causing or can reasonably be expected to cause significant imminent environmental harm to land, air, or water resources, such authorized representative shall immediately order a cessation of surface coal mining and reclamation operations or that portion thereof relevant to the condition, practice, or violation. Where such authorized representative finds that the ordered cessation of surface coal mining and reclamation operations will not completely abate the imminent danger or the significant imminent environmental harm, the representative shall, in addition to the cessation order, impose affirmative obligations on the operator requiring such operator to abate the imminent danger or the significant imminent environmental harm. The order shall specify a reasonable time in which such abatement shall be accomplished.

(2) When, on the basis of any inspection, an authorized representative of the office determines that any operator is in violation of any requirement of this article or any permit condition required by this article, but such violation does not create an imminent danger to the health or safety of the public or cannot be reasonably expected to cause significant imminent environmental harm to land, air, or water resources, such authorized representative shall issue a notice of violation to the operator or a designated agent of the operator fixing a reasonable time, but not more than ninety days, for the abatement of the violation.

(3) If the operator who is issued a notice of violation under subsection (2) of this section fails to abate the violation within the abatement period as originally set or subsequently extended, for good cause shown and upon written finding to that effect, the authorized representative of the office shall immediately order a cessation of the surface coal mining and reclamation operations or that portion thereof relevant to the violation.

(4) Each notice of violation and cessation order issued pursuant to this section shall be on a written form approved by the board, shall be signed by the person issuing it, and shall set forth with reasonable specificity the nature of the violation, including a reference to the provisions of the permit, statute, or regulation allegedly violated, the steps necessary to abate the violation in the most expeditious manner possible, the period of time established for abatement, and a reasonable description of the portion of the surface coal mining and reclamation operation to which the notice or order applies. The notice of violation or cessation order shall also inform the operator that a civil penalty may be assessed for the violation, if any, and that the operator has the right to have review of the notice or order in public hearing before the board in accordance with section 34-33-124. The procedure which the operator must follow to obtain such a hearing on any matters contained in the notice of violation or cessation order shall be included in the notice or order. Each notice of violation or cessation order shall be served in a timely fashion on the operator, through his designated agent or management personnel at the mine, in person or by certified mail, return receipt requested.

(5) Except as set forth in subsection (6) of this section, cessation orders issued under this section shall remain in effect until the condition, practice, or violation has been abated or until vacated, modified, or terminated in writing by an authorized representative of the office or by the board. An authorized representative of the office may vacate, modify, or terminate a cessation order for good cause and may extend the time for abatement if the failure to abate within the time previously fixed was not caused by lack of diligence on the part of the operator. An authorized representative of the office shall immediately terminate a cessation order by written notice to the

permittee when such representative determines that all conditions, practices, or violations listed in the order have been abated.

(6) Any notice of violation or cessation order issued pursuant to this section which requires cessation of mining, expressly or by necessary implication, shall automatically expire thirty days after service of the notice or order to the operator unless an informal hearing on the cessation of mining portion of the notice or order is held within such time at the site or within such reasonable proximity to the site that any viewings of the site can be conducted during the course of the hearing. Such hearing shall be presided over by the authorized representatives of the office and pursuant to such reasonable procedural rules as the board may adopt by regulation. The office shall either affirm, modify, vacate, or terminate the notice or order or grant temporary relief therefrom. The authorized representative of the office who originally ordered the cessation of mining shall not take part in any such decision. Such hearings may be waived by the operator to whom the order was issued, and the holding of or failure to hold such a hearing shall not affect such operator's right to board review under section 34-33-124.

(7) When the office determines that a pattern of violations of any requirements of this article or any permit conditions required by this article exists or has existed and that such violations are caused by the unwarranted failure of the permittee to comply with any requirements of this article or any permit conditions or that such violations are willfully caused by the permittee, the office shall forthwith issue an order to the permittee to show cause why the permit should not be suspended or revoked and shall provide opportunity for a public hearing before the board to be held in accordance with section 34-33-124 and pursuant to such rules and regulations the board may adopt.

(8) (a) Any operator who violates any permit condition or who violates any other provision of this article may be assessed a civil penalty by the division; except that, if such violation leads to the issuance of a cessation order under subsection (1) or (3) of this section, the civil penalty shall be assessed. Such penalty shall not exceed five thousand dollars for each violation. Each day of continuing violation may be deemed a separate violation for purposes of penalty assessments. In determining the amount of the penalty, consideration shall be given to the operator's history of previous violations at the particular surface coal mining operation, the seriousness of the violation, including any irreparable harm to the environment and any hazard to the health or safety of the public, whether the operator was negligent, and the demonstrated good faith of the operator charged in attempting to achieve rapid compliance after notification of the violation.

(b) The office shall notify the operator in writing of the proposed amount of any civil penalty within thirty days after the issuance of a notice or order charging a violation. The operator shall have ten days after receipt of the proposed penalty within which to request, on a written form approved by the board, an assessment conference in which all relevant information concerning the violation and penalty, including all information which the operator may submit, shall be reviewed by the operator or an authorized representative and a conference officer who shall be an authorized representative of the office.

(c) If the issues are resolved at the settlement conference, the conference officer shall prepare a settlement agreement, on a form approved by the board, which agreement shall be signed by the conference officer or his authorized representative and the operator charged with the violation. The settlement agreement shall provide, among other things, that, by paying the penalty as agreed, the operator waives all further right to review of the violation or penalty. The settlement agreement shall also require that the penalty, as agreed to, shall be paid within a certain time not to exceed thirty days from the date the agreement is signed by both parties. The settlement

agreement shall not be effective if it is not signed by the operator or his authorized representative at the conference or within ten days thereafter.

(d) If the operator does not request a settlement conference, if a settlement conference is requested and the issues are not resolved there, or if the penalty agreed to in the settlement conference is not paid within the prescribed time, the office shall order the penalty fixed at whatever amount it deems appropriate based on the criteria set forth in paragraph (a) of this subsection (8) and on all relevant information which was received at the assessment conference, if held, and it shall give the operator written notice of the amount of the fixed penalty. The notice and order shall be on a form approved by the board, shall require payment of the fixed penalty within thirty days after the receipt of the notice and order by the operator, and shall state the procedure which the operator must follow to obtain a hearing before the board on the fact of the violation or the penalty. The notice and order shall be served on the operator or a designated agent of the operator no later than one hundred twenty days after the date the notice or order describing the violation was originally issued.

(e) Failure of the operator to forward the amount of the fixed penalty to the office and to request a public hearing in accordance with paragraph (f) of this subsection (8) shall result in a waiver of all legal rights to contest the violation or the amount of the penalty.

(f) If the operator wishes to contest either the amount of the fixed penalty or the fact of the violation, the operator shall forward the amount of the fixed penalty to the office within thirty days after receipt of notice thereof for placement in an escrow account and request a public hearing before the board. Such hearing shall be held in accordance with section 34-33-124, and, when appropriate, the board shall consolidate such hearing with other proceedings under section 34-33-124. After such a public hearing has been held, the board shall make findings of fact and shall issue a written decision as to the occurrence of the violation and the amount of the civil penalty which is warranted, incorporating, when appropriate, an order therein requiring that the penalty be paid. Any hearing under this section shall be of record and shall be subject to the "State Administrative Procedure Act", article 4 of title 24, C.R.S. Failure of the operator to pay the civil penalty ordered by the board within thirty days after such order is issued shall result in a waiver of all legal rights to contest the violation or the amount of penalty under section 34-33-128.

(g) If, after board review or judicial review of the fixed penalty, it is determined that no violation occurred or that the amount of the penalty should be reduced, the board shall, within thirty days of such determination, remit the appropriate amount to the operator with interest at the rate prevailing in the escrow account established under paragraph (f) of this subsection (8).

(h) Civil penalties owed under this section may be recovered in a civil action brought by the attorney general at the request of the board in the district court of this state for the district in which any of the affected land is located or in such other district agreeable to all parties to such action.

(i) Any operator who fails to correct a violation for which a notice or cessation order has been issued under this section within the period permitted for its correction, which period shall not end until the entry of an order of the court, in the case of any review proceedings under section 34-33-128 initiated by the operator wherein the court orders the suspension of the abatement requirements of the citation, shall be assessed a civil penalty of not less than seven hundred fifty dollars for each day during which such failure or violation continues.

(9) Any operator who willfully and knowingly violates a condition of a permit or fails or refuses to comply with any order issued under this section or any order incorporated in a final decision issued by the board under this article, except a notice and order issued under paragraph

(d) of subsection (8) of this section or an order issued under paragraph (f) of subsection (8) of this section shall, upon conviction thereof, be punished by a fine of not more than ten thousand dollars, or by imprisonment for not more than one year, or by both such fine and imprisonment.

(10) Whenever a corporate operator violates a condition of a permit or fails or refuses to comply with any order issued under this section or any order incorporated in a final decision issued by the board under this article, except a notice and order issued under paragraph (d) of subsection (8) of this section or an order issued under paragraph (f) of subsection (8) of this section, any director, officer, or agent of such corporation who willfully and knowingly authorized, ordered, or carried out such violation, failure, or refusal shall be subject to the same civil penalties, fines, and imprisonment that may be imposed upon an operator under subsections (8) and (9) of this section.

(11) Whoever knowingly makes any false statement, representation, or certification or knowingly fails to make any statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained pursuant to this article or any order or decision issued by the board or office under this article shall, upon conviction thereof, be punished by a fine of not more than ten thousand dollars, or by imprisonment for not more than one year, or by both such fine and imprisonment.

(12) The board or office may request the attorney general to institute a civil action for relief, including a permanent or temporary injunction, restraining order, or any other appropriate order in the district court of this state for the district in which the surface coal mining and reclamation operation is located or in which the permittee thereof has its principal office, whenever such permittee or an agent of such permittee violates or fails or refuses to comply with any order or decision issued by the board or office under this article, or interferes with, hinders, or delays the board or office in carrying out the provisions of this article, or refuses to admit an authorized representative of the office to the mine, or refuses to permit inspection of the mine by such representative, or refuses to furnish any information or report requested by the office or board in furtherance of the provisions of this article, or refuses to permit access to, and copying of, such records as the office or board determines necessary in carrying out the provisions of this article. Such court shall have jurisdiction to provide such relief as may be appropriate. Temporary restraining orders shall be issued in accordance with rule 65 of the Colorado rules of civil procedure. Any relief granted by the court to enforce an order based on a violation or failure or refusal to comply with any order or decision issued by the board or office under this article shall continue in effect until the completion or final termination of all proceedings for review of such order under this article, unless, prior thereto, the district court granting such relief sets it aside or modifies it.

(13) (a) When the office determines that it improvidently issued a permit that should not have been issued under the criteria set forth in section 34-33-114 (3), it shall implement remedial measures, including development of a cooperative plan with the permittee, imposition of a condition on the permit to correct the reason that the permit should not have been issued under section 34-33-114 (3), or issuance of an order to the permittee to show cause why the permit should not be suspended or revoked.

(b) When an order to show cause is issued pursuant to this subsection (13), the order shall include the reasons for the finding that the permit was improvidently issued and shall provide an opportunity for a public hearing before the board to be held in accordance with section 34-33-124 and pursuant to rules the board may adopt. Rules adopted pursuant to this section shall be no less effective than the federal rules provided in 30 CFR 773.21.

34-33-124. Review by board. (1) (a) An operator issued any notice of violation or cessation order pursuant to the provisions of section 34-33-123 or any person having an interest which is or may be adversely affected by such notice or order or by any modification, vacation, or termination of such notice or order may request review thereof by the board within ninety days after the issuance of the notice or order or within ninety days after its modification, vacation, or termination. Such request for review may include a request for a hearing to enable the operator or such person to present information relating to the issuance and continuance of such notice or order or the modification, vacation, or termination thereof. Upon receipt of such request for a hearing, the hearing shall be held and, prior to such hearing, the board shall cause an investigation to be made as it deems appropriate. The filing of a request for review under this paragraph (a) shall not operate as a stay of any order or notice.

(b) The operator, any other persons requesting a hearing, and all other persons expressing an interest shall be given written notice of the time and place of any hearing requested under this section at least five days prior to such hearing. Notice of such hearings shall also be included in the monthly mailings of the division. Any such hearing shall be of record and shall be subject to the "State Administrative Procedure Act", article 4 of title 24, C.R.S.

(2) Upon receiving the report of any investigation and after any public hearing under paragraph (b) of subsection (1) of this section, the board shall make findings of fact and shall issue a written decision, incorporating therein its findings and an order vacating, affirming, modifying, or terminating the notice of violation or cessation order or the modification, vacation, or termination of such notice or order reviewed. Where the request for review concerns an order for cessation of surface coal mining and reclamation operations issued pursuant to section 34-33-123, the board shall issue a written decision within thirty days of the receipt of the request for review unless temporary relief has been granted by the board pursuant to subsection (3) of this section, by the office pursuant to section 34-33-123 (6), or by the court pursuant to section 34-33-128 (3).

(3) Pending completion of the investigation and hearing under this section, the operator or any other party may file with the board a written request that the board grant temporary relief from any notice or order, together with a detailed statement giving reasons for granting such relief. The board shall issue an order or decision granting or denying such relief expeditiously; except that, where the operator requests relief from an order for cessation of surface coal mining and reclamation operations issued pursuant to section 34-33-123, the order or decision on such a request shall be issued within five days of its receipt. The board may grant such relief under such conditions as it may prescribe if:

(a) An informal hearing has been held in the locality of the permit area on the request for temporary relief in which all parties were given an opportunity to be heard;

(b) The party requesting temporary relief shows that there is substantial likelihood that the findings of the board will be favorable to him; and

(c) Such relief will not adversely affect the health or safety of the public or cause significant imminent environmental harm to land, air, or water resources.

(4) Following the issuance of an order to show cause as to why a permit should not be suspended or revoked pursuant to section 34-33-123 (7), the board shall hold a public hearing after giving written notice of the time, place, and date thereof to the permittee. Advance notice of such hearing shall be included in the monthly mailings of the office. Any such hearing shall be of record and shall be subject to the "State Administrative Procedure Act", article 4 of title 24, C.R.S. Within sixty days following the public hearing, the board shall issue and furnish to the permittee and all

other parties to the hearing a written decision, and the reasons therefor, concerning suspension or revocation of the permit. If the board suspends or revokes the permit, the permittee shall immediately cease those surface coal mining operations on the permit area as specified by the board and shall complete reclamation within a period specified by the board, or the board shall declare the performance bonds for the operation as forfeited. Proceeds of forfeited bonds shall be available to the office and shall be used by the office for reclamation of the area covered by the bond.

(5) Whenever an order is issued under this section or as a result of any administrative proceeding under this article, at the request of any party to such proceeding, a sum equal to the aggregate amount of all costs and expenses (including attorney fees) which the board determines to have been reasonably incurred by such party for or in connection with his participation in such proceedings may be assessed against any party to the proceedings, as the board deems just and proper.

34-33-125. Release of performance bonds or deposits. (1) The permittee may file a request with the office for the release of all or part of a performance bond or deposit. The permittee shall submit with such request a copy of a publication to be placed by the permittee at least once a week for four successive weeks in a newspaper of general circulation in the locality of the surface coal mining operation. Such publication shall be considered part of any bond release application and shall contain a notification of the precise location of the land affected, the number of acres, the permit and the date approved, the amount of the bond filed and the portion sought to be released, the type and appropriate dates of reclamation work performed, and a description of the results achieved as they relate to the operator's approved reclamation plan. In addition, the operator shall, prior to the filing of a request for release of performance bond or deposit, provide written notice of such operator's intention to seek release from the bond to adjoining property owners and appropriate local government bodies, municipalities, regional planning commissions, boards of county commissioners, county planning agencies, sewage and water treatment authorities, and water conservancy and water conservation districts in the locality in which the surface coal mining operations took place, and copies of such notifications shall be submitted to the office within thirty days of the filing of any request for release under this section.

(2) Upon receipt of a request for the release of a performance bond or deposit, the office shall, within thirty days or as soon thereafter as weather conditions permit, conduct an inspection and evaluation of the reclamation work involved. Such evaluation shall consider, among other things, the results of inspections and monitoring conducted pursuant to section 34-33-122, the degree of difficulty to complete any remaining reclamation, and whether pollution of surface or subsurface water is occurring, the probability of continued pollution, and the estimated cost of abating such pollution. The written results of such inspection and evaluation shall be made immediately available for public inspection in the offices of the office of mined land reclamation.

(3) Any person with a valid legal interest which might be adversely affected by release of the bond or any federal, state, or local government agency which has jurisdiction by law or special expertise with respect to any environmental, social, or economic impact involved in the operation, or is authorized to develop and enforce environmental standards with respect to such operations, shall have the right to file written objections to or comments upon the requested release from bond with the office within thirty days after the last publication of the notice required in subsection (1) of this section. Upon receipt of any such objections or comments, copies thereof shall be

transmitted to the permittee.

(4) The office shall provide written notification to the permittee of its proposed decision to release or not release all or part of the performance bond or deposit together with written reasons for such proposed decision within sixty days from the date of completion of the inspection and evaluation as required in subsection (2) of this section. The office shall further publish written notice of its proposed decision once a week for two successive weeks in a newspaper of general circulation in the locality of the surface coal mining operation and shall immediately provide written notification of its proposed decision by certified mail to the board of county commissioners of the county in which the surface coal mining operation is located.

(5) If no request for an adjudicatory hearing as provided in subsection (6) of this section is received within the time periods specified therefor, the proposed decision of the office shall be final.

(6) The board shall hold an adjudicatory hearing on the proposed decision of the office upon the receipt of a written request for hearing from any person with a valid legal interest which might be adversely affected by the proposed decision of the office or from the responsible officer or head of any federal, state, or local government agency which has jurisdiction by law or special expertise with respect to any environmental, social, or economic impact involved in the operation or which is authorized to develop and enforce environmental standards with respect to such operations. The request for an adjudicatory hearing must state with specificity the reasons why the hearing is requested and must be received within thirty days of issuance of the proposed decision of the office. Prior to the adjudicatory hearing, the board shall inform all interested parties of the time and place of the hearing and shall publish the date, time, and location of such hearing in a newspaper of general circulation in the locality of the surface coal mining operation for two consecutive weeks after receipt of a request for hearing. The board shall hold an adjudicatory hearing on the proposed decision of the office within thirty days of the receipt of any written request for such hearing and shall render a written decision affirming or reversing, in whole or in part, the decision of the office within thirty days following the conclusion of the adjudicatory hearing.

(7) The adjudicatory hearing on the proposed decision of the office shall be conducted pursuant to section 24-4-105, C.R.S., and, for the purpose of such hearing, the board shall have the authority and is hereby empowered to administer oaths, subpoena witnesses or written or printed materials, compel the attendance of witnesses or production of the materials, and take evidence, including, but not limited to, inspections of the land affected and other surface coal mining operations carried on by the applicant in the general vicinity. A verbatim record of each adjudicatory hearing required by this article shall be made and a transcript made available on the request of any party to such hearing or by order of the board.

(8) Without prejudice to the rights of any person which might be adversely affected, the applicant, or the responsibilities of the office pursuant to this section, the office may hold an informal conference as provided in section 34-33-118 to resolve any written comments or objections on the request for release, if such conference concludes by the sixtieth day following the inspection and evaluation required in subsection (2) of this section.

(9) The bond or deposit shall be released, in whole or in part, if the office, or the board where an adjudicatory hearing is held pursuant to subsection (6) of this section, is satisfied the reclamation covered by the bond or deposit or portion thereof has been accomplished as required by this article, according to the following schedule:

(a) Up to sixty percent of the bond or collateral for the applicable permit area shall be

released when the operator completes backfilling, regrading, and drainage control of a bonded area in accordance with his approved reclamation plan;

(b) An additional portion of the bond or collateral shall be released when revegetation has been established on the regraded mined lands in accordance with the approved reclamation plan. When determining the amount of bond to be released after successful revegetation has been established, the board or office shall retain that amount of the bond for the revegetated area which would be sufficient for a third party to cover the cost of reestablishing revegetation and for the period specified for operator responsibility in section 34-33-120 of reestablishing revegetation. No part of the bond or deposit shall be released under this paragraph (b) so long as the lands to which the release would be applicable are contributing suspended solids to streamflow or runoff outside the permit area in excess of the requirements set by section 34-33-120 (2) (j) or until soil productivity for prime farmlands has returned to equivalent levels of yield as nonmined land of the same soil type in the surrounding area under equivalent management practices as determined from the soil survey performed pursuant to section 34-33-110 (2) (q). Where a silt dam is to be retained as a permanent impoundment pursuant to section 34-33-120 (2) (h), a portion of the bond may be released under this paragraph (b) so long as provisions for sound future maintenance by the operator or the landowner have been made with the office.

(c) The remaining portion of the bond shall be released when the operator has successfully completed all surface coal mining and reclamation operations, but not before the expiration of the period specified for operator responsibility in section 34-33-120; except that no bond shall be fully released until all reclamation requirements of this article are fully met.

34-33-126. Designating areas unsuitable for surface coal mining. (1) (a) Upon petition pursuant to subsection (2) of this section, the board shall designate an area as unsuitable for all or certain types of surface coal mining operations if the board determines, based upon competent and scientifically sound data and information derived from the data base and inventory system established in section 34-33-130 or from any other source, that reclamation of the subject area pursuant to the requirements of this article is not technically and economically feasible.

(b) Upon petition pursuant to subsection (2) of this section, a surface area may be designated unsuitable for all or certain types of surface coal mining operations if such operations will:

(I) Be incompatible with state or local land use plans or programs;

(II) Adversely affect fragile or historic lands in which such operations could result in significant damage to important historic, cultural, scientific, or esthetic values or natural systems;

(III) Adversely affect renewable resource lands in which such operations could result in a substantial loss or reduction of long-range productivity of water supply or food or fiber products, such lands to include aquifer and aquifer recharge areas; or

(IV) Affect natural hazard areas in which such operations could substantially endanger life and property, such lands to include areas subject to frequent flooding and areas of unstable geology.

(c) Determination of the unsuitability of land for surface coal mining operations under this section shall be integrated as closely as possible with present and future land use planning, leasing, and regulation processes at the federal, state, and local levels.

(2) (a) Any person having an interest which is or may be adversely affected or any duly authorized governmental agency shall have the right to petition the board to have an area

designated as unsuitable for all or certain types of surface coal mining operations or to have such designation terminated. Any such petition which includes acreage identified in a pending permit application pursuant to the requirements of section 34-33-111 (1) (a) shall be filed with the board prior to completion of the informal conference provided for in section 34-33-118 (6) concerning such pending permit application. If no such informal conference is requested with respect to such pending permit application, such petition shall be filed with the board on or before thirty days after the last publication of the notice provided for in section 34-33-118 (2). The petition shall be in writing, shall be directed to the board, and shall contain the following information:

(I) The name, address, and telephone number of the petitioner;

(II) The identification, including applicable range and township numbers, of the areas proposed for designation and a brief description of such areas. The petitioner shall make a good faith effort to identify the owners of record of surface and mineral interests in the land proposed for either designation or termination of designation and shall include a list of the names so obtained with the petition.

(III) The identification of the petitioner's interest which is or may be adversely affected;

(IV) Any allegations of fact with supporting evidence which would tend to establish the allegations.

(b) Within thirty days after receipt of the petition, the board shall notify the petitioner in writing as to the completeness or incompleteness of the petition. In the event the petition is deemed incomplete, the petitioner shall be notified in writing of the specific aspects of the petition which render it incomplete and be provided an opportunity to amend, revise, or otherwise make said petition complete.

(c) Within thirty days after the filing of a complete petition, the office shall make a determination of whether any identified coal resources exist in the area covered by the petition, whether the petition is frivolous, and, if the area or part thereof has been the subject of a previous unsuccessful petition to establish or terminate an unsuitability designation, whether any new factual allegations not contained in such previous petition are included in the petition. If the office determines that there are no identified coal resources in the area covered by the petition, the petition shall be returned to the petitioner with a statement of the finding. If the office determines that the petition is frivolous or that no new factual allegations are contained in the petition covering lands which were the subject of a previous unsuccessful petition, the office shall recommend to the board that the petition be dismissed and provide written notice to the petitioner of such recommendation. At its next regularly scheduled meeting following such recommendation of dismissal by the office, but in no event less than thirty days following notice to the petitioner of the office's recommendation, the board shall accept or reject the office's determination after providing the petitioner and other interested parties an opportunity to be heard at such meeting regarding the office's recommendation. If the board accepts the office's determination, the office shall promptly notify the petitioner that the petition has been dismissed and state the reasons therefor.

(d) Within thirty days after the filing of a complete petition, notice of the petition shall be sent by the office to the owners of record of all surface and mineral interests in the land included in such petition, and a copy of the petition shall be available at all times for inspection by the public in the office of the office of active and inactive mines. The office shall include a list of pending petitions in the monthly mailings of the office.

(e) Within ten months after the receipt of a complete petition, the board shall hold a public hearing in the locality of the affected area. At least one month prior to the date of public hearing,

the board shall notify, in writing, the owners of all surface and mineral interests in the affected area regarding the time and place of the public hearing as well as the location where a copy of the subject petition may be examined. At least one month prior to the date of the public hearing, the board shall also publish, in a newspaper of general circulation in the area to be affected by the petition, a notice of the public hearing with a description of the area to be affected as well as the location where a copy of the petition may be examined.

(f) A copy of the petition shall be sent to the county clerk and recorder of each county affected by such petition for recording in the real property records of said county and shall be made available for inspection by the public.

(g) After the filing of a petition and no later than fifteen days before the public hearing, any person may intervene. A petition to intervene shall contain allegations and supporting evidence which tends to establish or refute the allegations contained in the petition.

(h) Within sixty days after the public hearing on the petition, the board shall issue and furnish to the petitioner and any other party to the hearing a written decision on the petition and the reasons therefor. Any decision of the board on the petition shall be sent to the county clerk and recorder of each county affected by such petition for recording in the real property records of such counties.

(3) Prior to designating any area as unsuitable for surface coal mining operations, the board shall prepare and make available for public inspection and copy, at least one month prior to the hearing provided for in paragraph (c) of subsection (2) of this section, a detailed statement on:

(a) The potential coal resources of the area;

(b) The demand for coal resources; and

(c) The impact of such designation on the environment, the economy, and the supply of coal.

(4) The requirements of this section shall not apply to federal lands or to lands on which surface coal mining operations were being conducted on August 3, 1977, or under a permit issued pursuant to this article, or where substantial legal and financial commitments in such operations were in existence prior to January 4, 1977.

34-33-127. Public agencies, public utilities, and public corporations. Any agency, unit, or instrumentality of federal, state, or local government, including any publicly owned utility or publicly owned corporation of federal, state, or local government, which proposes to engage in surface coal mining operations, which are subject to the requirements of this article, shall comply with the provisions of this article.

34-33-128. Judicial review. (1) Any order or decision issued by the board in a civil penalty proceeding, or in a proceeding under section 34-33-126 to establish an unsuitability designation, or in any proceeding required to be conducted pursuant to article 4 of title 24, C.R.S., shall be subject to judicial review on or before thirty days after the date of such order or decision in accordance with subsection (2) of this section in the district court of this state for the district in which the surface coal mining operation is located. In the case of a proceeding to review an order or decision issued by the board under section 34-33-124, the court shall have jurisdiction to enter an order requiring payment of any civil penalty assessment enforced by its judgment.

(2) The court shall hear such petition or complaint solely on the record made before the

board. The findings of the board, if supported by substantial evidence on the record considered as a whole, shall be conclusive. The court may affirm, vacate, or modify any order or decision or may remand the proceedings to the board for such further action as it may direct.

(3) In the case of a proceeding to review any order or decision issued by the board under this article, the court may, under such conditions as it may prescribe, grant such temporary relief as it deems appropriate pending final determination of the proceedings if:

(a) All parties to the proceedings have been notified and given an opportunity to be heard on a request for temporary relief;

(b) The person requesting such relief shows that there is a substantial likelihood that he will prevail on the merits of the final determination of the proceeding; and

(c) Such relief will not adversely affect the public health or safety or cause significant imminent environmental harm to land, air, or water resources.

(4) At the request of any party to a proceeding under this section, the court may assess costs and expenses, including attorney fees, against any party, as the court deems just and proper.

(5) The commencement of a proceeding under this section shall not, unless specifically ordered by the court, operate as a stay of the action, order, or decision of the board.

34-33-129. Surface coal mining operations not subject to this article. (1) The provisions of this article shall not apply to any of the following activities:

(a) The extraction of coal by a landowner for such landowner's own noncommercial use from land owned or leased by said landowner; and

(b) (Deleted by amendment, L. 92, p. 1895, § 5, effective May 29, 1992.)

(c) The extraction of coal as an incidental part of federal, state, or local government-financed highway or other construction under regulations established by the board.

34-33-130. Data inventory. (1) The board is hereby authorized and directed to cooperate with and seek assistance from state, county, and federal agencies and universities and research institutions in this state and to work in close cooperation with local planning units in order to establish a data base and an inventory system, drawing upon existing resources where possible, which will:

(a) Provide proper evaluation of the capacity of different land areas of the state to be reclaimed following surface coal mining operations;

(b) Be available to those making land use planning decisions concerning surface coal mining operations;

(c) Provide objective and scientific evaluation of fragile, historic, natural hazard, and renewable resource lands and lands listed in the Colorado natural areas registry or designated under the Colorado natural areas program.

(2) The board shall promulgate such rules and regulations which it deems necessary to establish such a data base and inventory system, and, in so doing, the board shall take into consideration those criteria and definitions which other federal and state agencies have adopted for use in determining lands unsuitable for mining.

(3) (a) The board may, at its discretion, appoint an advisory committee to assist it in establishing a data base and inventory system for surface coal mining operations. Such committee, if appointed, shall consist of experts in the areas of wildlife, plant ecology, natural areas, historic

areas, reclamation, agriculture, coal geology, and land management planning and other areas as deemed necessary by the board.

(b) and (c) Repealed.

(4) The board is further authorized and directed to accept and seek grants and financial aid from the federal government and from private agencies for carrying out the purposes of this section.

34-33-131. Informal opinion as to alluvial valley floors. Any person who proposes to engage in surface coal mining operations may, prior to making an application for a permit under this article, request that the board give an informal opinion on whether or not the area of land to be affected by such proposed operations is in, or adjacent to, an alluvial valley floor. Any such informal opinion shall be based upon sound scientific data, shall be in writing, and shall be advisory in nature.

34-33-132. Special coordination and review process - site-specific agreements. (1) The department and any person contemplating opening a surface coal mining operation in this state may, at their discretion, enter into one or more site-specific agreements to identify and coordinate local, state, and federal government jurisdiction and review of land use planning, environmental analysis, and socioeconomic evaluation, to establish coordinating procedures for required action, and to ensure that such procedures be undertaken in a timely, sequential manner. Any such agreements shall be consistent with the provisions of this article.

(2) Such site-specific agreements may include:

(a) The schedule for completion of data collection required for environmental, technical, and policy review; and

(b) The schedule for completion of evaluation, review, and comments by all parties.

(3) Such agreements may list all applicable laws, regulations, and ordinances of this state and its agencies, the federal government and its agencies, and of the county or counties in which the proposed operation will be situated. The department may, with the advice and concurrence of the board, develop rules and regulations to ensure relative uniformity in such agreements.

34-33-133. Abandoned mine reclamation plan. (1) The office of active and inactive mines is authorized and directed to develop, in accordance with the provision of Title IV of the federal "Surface Mining Control and Reclamation Act of 1977", as amended, and the rules and regulations thereunder, an abandoned mine reclamation program which may provide for, but need not be limited to, the following:

(a) Protection of public health, safety, general welfare, and property from the dangers and adverse effects of past mining practices;

(b) Acquisition, reclamation, and restoration of land and water resources previously degraded by the adverse effects of mining, including measures for the conservation and development of soil, water, woodland, fish and wildlife, recreation and tourism resources, and agricultural productivity;

(c) The protection, repair, replacement, construction, or enhancement of public facilities in communities affected by coal or other energy development.

(2) The office of active and inactive mines is authorized and directed to:

(a) Apply for, receive, and expend grant moneys or other funds for the development, administration, and fulfillment of the requirements of an abandoned mine reclamation program;

(b) Apply for, receive, and expend such funds legally available to Colorado from the abandoned mine reclamation fund established by Title IV of the federal "Surface Mining Control and Reclamation Act of 1977", as amended;

(c) Invite public inspection of, comment on, and involvement in the formulation of the abandoned mine reclamation program;

(d) Submit the abandoned mine reclamation program, after public review, to the secretary for approval and funding;

(e) Amend the approved abandoned mine reclamation program from time to time, after public review of the proposed amendments, as may be necessary or desirable.

34-33-133.5. Colorado mine subsidence protection program - rules. (1) The board is authorized and directed to issue rules and regulations to develop a Colorado mine subsidence protection program, which shall provide protection for owners of private residential structures against damages caused by land subsidence from underground coal mines. The program shall be operated in accordance with the provisions of Title IV of the federal "Surface Mining Control and Reclamation Act of 1977", as amended, and the rules and regulations promulgated pursuant thereto. The board may assess and expend fees collected from participants who are insured under the program, and expend interest earned on such fees as necessary to defray administrative costs of the program. In its discretion, the board may delegate such power and responsibility, by rule-making, to the division.

(2) **Creation of trust.** The Colorado coal mine subsidence trust is hereby created as part of the board. Trust funds shall be held in custody by the state treasurer in a fund to be known as the Colorado coal mine subsidence trust fund, which fund is hereby created. Moneys granted to the state by the federal government for the purposes specified in subsection (1) of this section, together with all interest earned, shall be credited to such trust fund. The state treasurer shall invest trust assets in lawful investments. The trust funds shall be available to the board to carry out the purposes of the Colorado mine subsidence protection program established pursuant to subsection (1) of this section.

34-33-134. Experimental practices. In order to encourage advances in coal mining and reclamation practices and to allow postmining land use for industrial, commercial, residential, or public use, including recreational facilities, the board, with the approval of the secretary, may authorize departures in individual cases on an experimental basis from the environmental protection performance standards promulgated under sections 34-33-120 and 34-33-121. Such departures may be authorized if: The experimental practices are potentially more or at least as environmentally protective, during and after coal mining operations, as those required by promulgated standards; the coal mining operations approved for particular land use or other purposes are not larger or more numerous than necessary to determine the effectiveness and economic feasibility of the experimental practices; and the experimental practices do not reduce the protection afforded the public health and safety below that provided by promulgated standards.

34-33-135. Civil actions. (1) Subject to the requirements of subsection (2) of this section, any person having an interest which is or may be adversely affected may commence a civil action on such person's own behalf to compel compliance with the provisions of this article against:

(a) Any person or governmental agency or instrumentality who is alleged to be in violation of any provision of this article or any rule or regulation promulgated or any order or permit issued pursuant to this article; or

(b) The board or office when there is alleged a failure of the board or office to perform any act or duty under this article which is not discretionary with the board or office.

(2) No action may be commenced under:

(a) Paragraph (a) of subsection (1) of this section prior to sixty days after the plaintiff has given notice in writing of the alleged violation, setting forth such matters as the board shall by regulation prescribe, to the attorney general, the board and office, and any alleged violator;

(b) Paragraph (b) of subsection (1) of this section prior to sixty days after the plaintiff has given notice in writing of the alleged violation, setting forth such matters as the board shall by regulation prescribe, to the board and office and the attorney general; except that such action may be brought immediately after such notification of the alleged failure of the board or office complained of if such failure constitutes an imminent threat to the health or safety of the plaintiff or would immediately affect a legal interest of the plaintiff.

(2.5) The board or the office may intervene as a matter of right in any action commenced pursuant to paragraph (a) of subsection (1) of this section to which they are not otherwise a party.

(3) Any action initiated pursuant to this section shall be tried in such county as is provided by the Colorado rules of civil procedure.

(4) The court, in issuing any final order in any action brought pursuant to subsection (1) of this section, may award costs of litigation, including attorney and expert witness fees, to any party, whenever the court determines such award is appropriate. The court shall, if a temporary restraining order or injunction is sought, require the filing of a bond or equivalent security to the extent required by the Colorado rules of civil procedure.

(5) Nothing in this section shall restrict any right which any person or class of persons may have under any statute or common law to seek enforcement of any of the provisions of this article or the regulations promulgated under this article or to seek any other allowable relief, including relief against the appropriate state agency.

(6) Any person who is injured in person or property through the violation by an operator of any rule or regulation promulgated or any order or permit issued pursuant to this article may bring an action for damages, including reasonable attorney and expert witness fees, against such operator only in the county where said violation occurred. Nothing in this subsection (6) shall affect the rights established by or limits imposed under the workers' compensation laws of this state.

34-33-136. Water rights. Nothing contained in this article shall be construed to affect or impair the rights and obligations attendant upon the ownership of water rights under Colorado water law.

34-33-137. Reservation clause. Passage of this article shall not be deemed to be an admission by the state of Colorado as to the legality or constitutionality of the federal "Surface Mining Control and Reclamation Act of 1977", as amended, and shall not be construed to limit, waive, or otherwise affect the right of the state of Colorado, or its agencies, from contesting the constitutional or statutory validity of any part, section, provision, requirement, or regulation promulgated under such act, pursuant to which this article has been enacted.

Assessor Quick Links

Gunnison Assessor Home

Find Property Records

Assessor Property Record Search

Property Record Card (PRC)

Owner and Parcel Information

Owner Name & Mailing Address	
OXBOW MINING LLC ATTN PRABHA SCHMIDT-KA 1601 FORUM PL STE 1400 WEST PALM BEACH, FL 33401-8104	
Business Name:	OXBOW COAL MINE

Today's Date:	August 31, 2016
Appraisal Year:	2015

Account Number:	R016024
Parcel Number:	3185-000-00-045
Account Type:	Nat Resource
Economic Area:	Econ Area 8
Tax District:	703
Mill Levy:	46.884

Property Location:	STATE HIGHWAY 133 , SOMERSET
Neighborhood:	COAL LANDS
LEA:	SAGE GOOD ACCESS (80040)
Subdivision:	
Condo:	
Legal Description:	COAL MINE LAND & IMPS IN SEC 3-11 LYING NORTH OF HWY 133 13S90W #480870 #480871 (SANBORN CREEK MINE)
Parcel Notes	QCD #499056 UNION PACIFIC RAILROAD COMPANY TO OXBOW MINING. INTEREST ONLY TOTAL PARCEL = 1516.17 AC PRODUCTION ON ACCT #N000015 UNIT LOADOUT SILO 35-04 WAREHOUSE / SHOP BLDG BATH HOUSE 55-10 WOMENS BATH HOUSE LW-2030208 LW-SE15 LW-SE-09 DUMP STATION 33-01 LAMP HOUSE STORAGE SHED OFFICE BLDG COMPRESSOR HOUSE DIESEL REPAIR SHOP EQUIPMENT CLEANING BLDG OIL HOUSE POWDER HOUSE 55-08 57-05 86-00 LW-SE-13 LW-4020200 LW-2030113

Parcel Map	Show Parcel Map
Building Photos	Building Images
Building Sketches	Building Sketches

Generate Neighboring Owner List by Distance

Search Sales By Subdivision

2016 Assessment Information

Land Actual Value	Land Assessed Value	Building Actual Value	Building Assessed Value	Total Actual Value	Total Assessed Value
$1,889,090	$547,830	$3,284,850	$952,610	$5,173,940	$1,500,440

Prior Year Assessment Information

Year	Actual Value	Assessed Value	Mill Levy	Ad Valorem Taxes
2015	$5,173,940	$1,500,440	47.214	$70,841.77
2014	$4,864,200	$1,410,620	46.884	$66,135.50
2013	$3,582,990	$1,039,060	44.769	$46,517.67
2012	$4,732,000	$1,372,280	41.731	$57,266.65
2011	$4,732,000	$1,372,280	41.647	$57,151.34
2010	$5,053,200	$1,465,430	40.286	$59,036.31
2009	$5,053,200	$1,465,430	39.605	$58,038.36
2008	$5,094,560	$1,477,430	41.651	$61,536.44

2007	$5,094,560	$1,477,430	41.341	$61,078.44
2006	$5,136,890	$1,489,700	46.658	$69,506.44
Contact the Treasurer's Office for current property tax amount due. Do not use the figures above to pay outstanding property taxes.				

Land Information

Land Description	Land Type	Acres	Site Access	Electricity	Sewer	Water	Other Attributes
COAL-LAND	Nat. Resource	31.000	YEAR ROUND	INSTALLED	NONE	NONE	LAND TYPE PRIMARY - MEADOW UNIQUE CHARACTERISTICS - STEEP SLOPE GREATER THAN 45 DEG
100 AC & UP	Nat. Resource	1485.170	YEAR ROUND	INSTALLED	NONE	NONE	LAND TYPE PRIMARY - MEADOW UNIQUE CHARACTERISTICS - STEEP SLOPE GREATER THAN 45 DEG

Sales and Conveyance Information

Sale Date	Sale Amount	Grantor	Grantee	Vacant or Improved (at time of sale)	Reception #	Deed Type
No sales associated with this parcel.						

Building Information

Building Number 1:

Occupancy Type	BATH HOUSE	**Quality of Construction**	Fair	**Stories**	1	**Primary Heating System**	
Building Description	Shower Building	**Exterior Condition**	Average	**Roof**		**Domestic Hot Water**	
Original Year Built	1969	**Interior Condition**		**Exterior**		**Landscaping**	0
Effective Year Built	1994	**Bedrooms**	0	**Foundation**	Slab		
Percent Complete	100%	**Bathrooms**	0	**Windows**			

Building Square Footage or Units:	
Above-grade Living Area	10,243 sqft
Finished Basement	0 sqft
Unfinished Basement	0 sqft
Garage	0 sqft

Building Number 2:

Occupancy Type	WOMENS BATH HOUSE	**Quality of Construction**	Fair	**Stories**	1	**Primary Heating System**	
Building Description	Shower Building	**Exterior Condition**	Average	**Roof**		**Domestic Hot Water**	
Original Year Built	1976	**Interior Condition**		**Exterior**		**Landscaping**	0
Effective Year Built	1976	**Bedrooms**	0	**Foundation**	Slab		
Percent Complete	100%	**Bathrooms**	0	**Windows**			

Building Square Footage or Units:	
Above-grade Living Area	900 sqft
Finished Basement	0 sqft
Unfinished Basement	0 sqft
Garage	0 sqft

Building Number 3:

Occupancy Type	STORAGE SHED	**Quality of Construction**	Low	**Stories**	1	**Primary Heating System**	
Building Description	Storage Warehouse	**Exterior Condition**	Average	**Roof**		**Domestic Hot Water**	
Original Year Built	1991	**Interior Condition**		**Exterior**		**Landscaping**	0
Effective Year Built	1991	**Bedrooms**	0	**Foundation**	Slab		
Percent Complete	100%	**Bathrooms**	0	**Windows**			

Building Square Footage or Units:	
Above-grade Living Area	600 sqft
Finished Basement	0 sqft
Unfinished Basement	0 sqft
Garage	0 sqft

Building Number 4:

Occupancy Type	OFFICE	**Quality of Construction**	Average	**Stories**	1	**Primary Heating System**	

Building Description	Office Building	**Exterior Condition**	Below Average	**Roof**		**Domestic Hot Water**	
Original Year Built	1998	**Interior Condition**		**Exterior**		**Landscaping**	0
Effective Year Built	2001	**Bedrooms**	0	**Foundation**	Concrete		
Percent Complete	100%	**Bathrooms**	0	**Windows**			

Building Square Footage or Units:	
Above-grade Living Area	5,261 sqft
Finished Basement	0 sqft
Unfinished Basement	0 sqft
Garage	0 sqft

Building Number 5:

Occupancy Type	SERVICE GARAGE	**Quality of Construction**	Average	**Stories**	1	**Primary Heating System**	
Building Description	Service Garage	**Exterior Condition**	Average	**Roof**		**Domestic Hot Water**	
Original Year Built	1998	**Interior Condition**		**Exterior**		**Landscaping**	0
Effective Year Built	2001	**Bedrooms**	0	**Foundation**	Slab		
Percent Complete	100%	**Bathrooms**	0	**Windows**			

Building Square Footage or Units:	
Above-grade Living Area	11,076 sqft
Finished Basement	0 sqft
Unfinished Basement	0 sqft
Garage	0 sqft

Building Number 6:

Occupancy Type	COMPRESSOR HOUSE	**Quality of Construction**	Average	**Stories**	1	**Primary Heating System**	
Building Description	Storage Warehouse	**Exterior Condition**	Average	**Roof**		**Domestic Hot Water**	
Original Year Built	2002	**Interior Condition**		**Exterior**		**Landscaping**	0
Effective Year Built	2002	**Bedrooms**	0	**Foundation**	Slab		
Percent Complete	100%	**Bathrooms**	0	**Windows**			

Building Square Footage or Units:	
Above-grade Living Area	1,620 sqft
Finished Basement	0 sqft
Unfinished Basement	0 sqft
Garage	0 sqft

Building Number 7:

Occupancy Type	DIESEL REPAIR SHOP	**Quality of Construction**	Average	**Stories**	1	**Primary Heating System**	
Building Description	Service Garage	**Exterior Condition**	Average	**Roof**		**Domestic Hot Water**	
Original Year Built	2004	**Interior Condition**		**Exterior**		**Landscaping**	0
Effective Year Built	2004	**Bedrooms**	0	**Foundation**	Slab		
Percent Complete	100%	**Bathrooms**	0	**Windows**			

Building Square Footage or Units:	
Above-grade Living Area	4,800 sqft
Finished Basement	0 sqft
Unfinished Basement	0 sqft
Garage	0 sqft

Building Number 8:

Occupancy Type	EQUIPMENT CLEANING BLDG	**Quality of Construction**	Average	**Stories**	1	**Primary Heating System**	
Building Description	Storage Warehouse	**Exterior Condition**	Average	**Roof**		**Domestic Hot Water**	
Original Year Built	2004	**Interior Condition**		**Exterior**		**Landscaping**	0
Effective Year Built	2004	**Bedrooms**	0	**Foundation**	Slab		
Percent Complete	100%	**Bathrooms**	0	**Windows**			

Building Square Footage or Units:	
Above-grade Living Area	2,000 sqft

Finished Basement	0 sqft
Unfinished Basement	0 sqft
Garage	0 sqft

Building Number 9:

Occupancy Type	OIL HOUSE	**Quality of Construction**	Average	**Stories**	1	**Primary Heating System**	
Building Description	Storage Warehouse	**Exterior Condition**	Average	**Roof**		**Domestic Hot Water**	
Original Year Built	2004	**Interior Condition**		**Exterior**		**Landscaping**	0
Effective Year Built	2004	**Bedrooms**	0	**Foundation**	Slab		
Percent Complete	100%	**Bathrooms**	0	**Windows**			

Building Square Footage or Units:	
Above-grade Living Area	320 sqft
Finished Basement	0 sqft
Unfinished Basement	0 sqft
Garage	0 sqft

Building Number 10:

Occupancy Type	LAMP HOUSE	**Quality of Construction**	Average	**Stories**	2	**Primary Heating System**	
Building Description	Office Building	**Exterior Condition**	Average	**Roof**		**Domestic Hot Water**	
Original Year Built	2005	**Interior Condition**		**Exterior**		**Landscaping**	0
Effective Year Built	2005	**Bedrooms**	0	**Foundation**	Slab		
Percent Complete	100%	**Bathrooms**	0	**Windows**			

Building Square Footage or Units:	
Above-grade Living Area	6,000 sqft
Finished Basement	0 sqft
Unfinished Basement	0 sqft
Garage	0 sqft

Building Number 11:

Occupancy Type	COMPRESSOR HOUSE	**Quality of Construction**	Average	**Stories**	1	**Primary Heating System**	
Building Description	Storage Warehouse	**Exterior Condition**	Average	**Roof**		**Domestic Hot Water**	
Original Year Built	2006	**Interior Condition**		**Exterior**		**Landscaping**	0
Effective Year Built	2006	**Bedrooms**	0	**Foundation**	Slab		
Percent Complete	100%	**Bathrooms**	0	**Windows**			

Building Square Footage or Units:	
Above-grade Living Area	900 sqft
Finished Basement	0 sqft
Unfinished Basement	0 sqft
Garage	0 sqft

Building Number 12:

Occupancy Type	OIL STORAGE SHED	**Quality of Construction**	Low	**Stories**	1	**Primary Heating System**	
Building Description	Storage Warehouse	**Exterior Condition**	Average	**Roof**		**Domestic Hot Water**	
Original Year Built	1980	**Interior Condition**		**Exterior**		**Landscaping**	0
Effective Year Built	1980	**Bedrooms**	0	**Foundation**	Slab		
Percent Complete	100%	**Bathrooms**	0	**Windows**			

Building Square Footage or Units:	
Above-grade Living Area	240 sqft
Finished Basement	0 sqft
Unfinished Basement	0 sqft
Garage	0 sqft

The Gunnison County Assessor's Office makes every effort to produce the most accurate information possible. No warranties, expressed or implied, are provided for the data herein, its use or interpretation. All assessment information is subject to change before the next certified tax roll. Website Updated: August 29, 2016

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Income Approach

Analysis Year: 2016

Property Name:	Oxbow Mining, LLC
Parcel #:	R016024
Property Address:	State Highway 133 (Somerton Mine)
Property Type:	Mine (Various Metal Buildings, not demolished)
NRA:	26,974 Sq.Ft.
Land Area:	66,036,960 Sq.Ft.
L/B Ratio	2448.17 :1
Year Built:	1969-2005
Physical Occupancy	100%

Assessment Summary				**Year:**	**2016**
Imp.	$	2,899,080	$	107.48	/Sq.Ft.
Land	$	1,889,090	$	0.03	/Sq.Ft.
Total	$	4,788,170	$	177.51	/Sq.Ft.

2016 Assessment Summary					
Total:	$	4,788,170	$	177.51	/Sq.Ft.

** all-time high in Denver is $95 price per sqft - assessor has mine at $177

** Cushman Wakefield Study assumes active property, not vacant or closed as is the mine!

SqFt.				
26,974	**Market Rent**	$6.07	Used Cushman & Wakefield Study	
			Income Approach	
	Rental Income:	$ 163,732		
	Potential Gross Income:	$ 163,732		350 full employment
	Less:			100 operational before closing
	V & C Loss:	$ 8,023	**4.90%**	(mine is closed - 4 employees)
				Used Cushman & Wakefiled Report
	Effective Gross Income	$ 155,709		NorthWestRegion
	Expenses		%	
	Est. Operating	4,671	**3.00%**	Assumed 5% NNN expenses to a landlord, however
		-		expenses are significant due to reclamation requirements
		-		from the state.
	Net operating Income	$ 151,038	97.00%	
	Capitalization Rate	7.20%		** Per Cushman & Wakefield - AVG Cap pg 2
	Owner's Estimate:	**$ 2,097,750**	**$77.77**	**/SF**

Property Location	City	Rent Rate	Mkt Adj	Lease Type	Relative Size	Age	Site Utility	Financing	Adj Sum	Adj Rate
5740 Logan	Denver	$6.50	-20%	0%	0%	-10%	-10%	0%	-40%	$3.90
Stapleton East Business Center	Denver	$6.24	-20%	0%	10%	0%	-10%	0%	-20%	$4.99
11585 E. 53rd Avenue	Denver	$5.95	-20%	0%	0%	0%	-10%	0%	-30%	$4.17

High	Low	Midpoint
$4.99	$4.17	$4.58

0.4135

Building No.	Building Type	Building Age	Sqft	Secondary Description	Status
1	Bath House	1969	9,936	Shower Building	Inactive
2	Women's Bath House	1976	900	Shower Building	Inactive
3	Storage Shed	1991	625	Warehouse	Inactive
4	Office	1998	5,273	Office	4 employees & contractors occupy
5	Service Garage	1998	10,240	Service Garage	In use by contractors
	Total		26,974		
6	Compressor Warehouse	2002	840	Warehouse	Demolished
7	Diesel Repair Shop	2004	4,800	Service Garage	Demolished (foundation - 4-16)
8	Equipment Cleaning Bldg	2004	2,000	Warehouse	Demolished (foundation - 6-1)
9	Oil House	2004	320	Warehouse	Demolished
10	Lamp House	2005	6,000	Office	Demolished (foundation 4-11)
	Total		13,960		

Description	Description 2	reported cost	Year Built	Comments
DUMP STATION	33-01	1857	1979	Site Improvement specific to Business Use
EC POND EXTENTION	LW-2030113	7959	1999	Site Improvement specific to Business Use
SEPTIC SYSTEM	LW-SE15	12166	1999	7 years old - generally plumbing & Septic are part of a Marshal & Swift and a knowledgeable market realizes building have plumbing
SITE ADMINISTRATION EW	LW-4020200	70502	1999	What is this? Sounds like old intangible building consulting costs
EC POWERLINE	LW-2030208	125135	1999	Power is inactive to the mine and power comes standard in a real property cost approach (Marshal & Swift)
DEMO STOCKPILE		155096	1999	Unclear on this - Demolition costs!
RR SPUR		218456	1991	Site Improvement specific to Business Use
	Total Costs:	$591,171		

10% good (All assets are over 17 years old and at maximum sitting on a residual value such as 10% on any depreciation schedule)
(value at most is $59,000)

2016
Gunnison County Board of Equalization:
Hearing # 11

The Gunnison County Assessor's Office has been asked to communicate the assignment results for a single property that was appraised as part of our mass appraisal assignment.

The Uniform Standards of Professional Appraisal Practice (USPAP) defines mass appraisal as: the process of valuing a universe of properties as of a given date using standard methodology, employing common data, and allowing for statistical testing.

All of the sales used for Gunnison County's mass appraisal can be viewed on the Gunnison County web site (www.gunnisoncounty.org).

For the purposes of the mass appraisal, market value is defined as:

> "The most probable price, expressed in terms of money, that a property would bring if exposed for sale in the open market in an arm's-length transaction between a willing seller and a willing buyer, both of whom are knowledgeable concerning all the uses to which it is adapted and for which it is capable of being used." – Property Assessment Valuation, 1996, IAAO

For the 2016 property tax year, the effective **appraisal date is June 30, 2014**, as required by § 39-1-104(10.2)(a)(d), Colorado Revised Statutes.

The single property being characterized for this hearing is identified as:

Property Owner:	**OXBOW MINING LLC**
Account Number:	**R016024**
Parcel Number:	**3185-000-00-045**
Legal Description:	**COAL MINE LAND & IMPS IN SEC 3-11 LYING NORTH OF HWY 133 13S90W**
Value:	**$4,740,430**

Based on physical inspection of the mine site and discussions with the mine management, the Assessor has identified a number of structures that were either destroyed prior to 1/1/2016 or at some time during 2016. The Assessor has calculate a revised value for the account based on removing or prorating the value of destroyed property, as required by statute.

As a result of these changes, the Assessor recommends adjusting the value on account R016024 to $3,730,380 ($1,889,090 land plus $1,841,290 improvements).

The petitioner's agent is requesting a significant further reduction, based primarily on the fact that the mine is no longer operating and the claim that the remaining improvements are therefore subject to significant functional and economic obsolescence. The Assessor believes that the property as a whole was correctly valued for tax year 2015 (the reappraisal year), and that any valuation changes for 2016 (the intervening year) may, by statute, only account for unusual conditions – that is new construction, destroyed property and change of use. We will continue to research the impact of mine closures on mine property valuations for the upcoming reappraisal cycle.

Appraisal Date - June 30, 2014	Assessment Date - January 1, 2016

The cost approach was calculated using the Marshall Valuation Service by Marshall & Swift/Boeckh, LLC.

Local Cost Multpliers by Class:	
Class	**Gunnison County**
A	1.02
B	1.03
C	1.02
D	1.01
S	1.02

Improvement Inventory after the August 9, 2016 on-site inspection:				
Imp #	**Imp descrition**	**sqft**	**Notes**	**Existing building or Demolished?**
1	Bath House	10,243	corrected measurements during inspection	existing
2	Women's Bath House	900	measurements confirmed during inspection	existing
3	Storage Shed	600	corrected measurements during inspection	existing
4	Office	5261	corrected measurements during inspection	existing
5	Service Garage	11,076	corrected measurements during inspection	existing
6	Compressor House	1,620	corrected measurements during inspection	existing
7	Diesel Repair Shop	4,800		Demolished 4-15-2016
8	Equipment Cleaning Bldg	2,000		Demolished 5-31-2016
9	Oil House	320		Demolished 5-31-2016
10	Lamp House	6,000		Demolished 4-10-2016
11	Compressor House	900	discovered during inspection	existing
12	Oil Storage Shed	240	discovered during inspection	existing

yellow highlights indicate some data updates and/or corrections

2015 REAPPRAISAL
GUNNISON COUNTY
COMMERCIAL IMPROVED SALES
SALES STUDY PERIOD: JULY 1, 2009 - JUNE 30, 2014

							INVENTORY AT TIME OF SALE					
ACCOUNT	SALE DATE	ADJUSTED SALE PRICE	TOTAL FINISHED SQ FT	PRICE PER SQ FT	ADDRESS	NEIGHBORHOOD	ABOVE GRADE SQ FT	OTHER SQ FT	CONSTRUCTION QUALITY	BUILDING CONDITION	EFFECTIVE YEAR BUILT	TYPE USE
R010078	2/28/2012	$1,444,500	3,685	$392	194 COUNTY ROAD 11	310010: ECON 1 COMMERCIAL LAND STUDY	2,725		Low	Average	1976	Lodge
R010078 2nd improvement:							960		Low	Average	1982	Bath House
R010205	6/20/2014	$80,000	8,895	$9	44 COUNTY ROAD 51	310010: ECON 1 COMMERCIAL LAND STUDY	3,723	5172 - FIN BASEMENT	Fair	Below Average	1990	Health Club
R010552	11/12/2013	$323,000	3,729	$87	37610 US HWY 50	310011: ECON 1 WEST OF GUNNISON	6,729		Average	Average	1985	Restaurant
R007996	4/29/2013	$655,000	30,337	$22	41883 US HWY 50	310080: ECON 1 RES/COMM LAND STUDY	22,936		Average	Average	1984	Motel
R007996 2nd Improvement:							4,525		Average	Average	1970	Restaurant
R007996 Residential Portion:							2,263	613 - FIN BASEMENT 1230 - GARAGE	Average	Average	1987	Single Family Residence
R010380	12/17/2010	$755,000	6,557	$115	332 BEVINGTON RD	310081: ECON 1 RES COMM WEST OF GUNN	2,488		Average	Average	1969	Workshop
R010380 Residential Portion:							3,493	720 - GARAGE	Average	Average	1980	Single Family Residence
R010380 Residential Portion:							576	864 - GARAGE	Average	Average	1969	Garage & Living Area
R071039	11/19/2012	$240,000	4,980	$48	1198 US HWY 50	310140: ISLAND ACRES COMMERCIAL	3,541		Average	Fair	1971	Motel
R0071039 Residential Portion:							1,439		Average	Good	1993	Manufactured Home
R001603	7/20/2010	$430,800	3,409	$126	121 N TAYLOR ST	311100: COMMERCIAL IN RESIDENTIAL		320 - FIN BASEMENT	Fair	Average	1963	Office
R001603 2nd improvement:							2,493	596 - FIN BASEMENT 318 - UNFIN BASEMENT 768 - GARAGE	Fair	Average	1963	Single Family Residence
R002201	8/13/2013	$100,000	2,125	$47	413 W NEW YORK	311100: COMMERCIAL IN RESIDENTIAL	2,125		Fair	Below Average	1979	Workshop/Garage
R001523	10/3/2012	$120,000	477	$252	827 N MAIN ST	311210: COMMERCIAL HWY 135	477		Average	Average	1995	Drive-up Bank

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R001310	5/20/2010	$220,000	1,152	$191	204 N 12TH ST	311220: COMMERCIAL OFF HWY	1,152		Fair	Average	1978	Dental Office Clinic
R030883	3/1/2011	$295,000	2,376	$124	322 E DENVER AVE	311220: COMMERCIAL OFF HWY	1,542	834- FIN BASEMENT	Fair	Average	1970	Retail Store
R002181	12/7/2012	$150,000	3,120	$48	115 S 12TH ST	311220: COMMERCIAL OFF HWY	3,120		Fair	Below Average	1973	Service Garage
R001669	6/18/2014	$292,500	1,949	$150	200 N SPRUCE ST	311220: COMMERCIAL OFF HWY	1,949		Average	Average	1980	Medical Office
R002069	2/1/2010	$440,000	3,587	$123	213 W TOMICHI AVE	311250: COMMERCIAL TOMICHI AVE	3,587		Fair	Average	1975	Restaurant
R070769	3/28/2012	$300,000	5,268	$57	302 W TOMICHI AVE	311250: COMMERCIAL TOMICHI AVE	5,268		Fair	Below Average	1988	Office/Storage
R001956	3/15/2013	$350,000	2,480	$141	323 E TOMICHI AVE	311250: COMMERCIAL TOMICHI AVE	2,480		Fair	Average	1978	Restaurant
R001684	4/29/2013	$720,000	15,000	$48	136 W TOMICHI AVE	311250: COMMERCIAL TOMICHI AVE	7,500	400 - UNFIN BASEMENT	Fair	Below Average	1973	Retail/Tavern/Restaurant
R001684 Residential Portion:							7,500		Fair	Below Average	1973	Apartments
R070688	11/14/2011	$350,000	1,678	$209	112 S MAIN ST	311290: COMMERCIAL MAIN ST CBD	1,309	606- UNFIN BASEMENT	Fair	Average	1975	Restaurant
R070688 2nd improvement:							369		Low	Below Average	1975	Storage Warehouse
R042044	9/26/2013	$367,500	2,982	$123	144 N MAIN ST	311290: COMMERCIAL MAIN ST CBD	2,982	840 - UNFIN BASEMENT	Fair	Average	1980	Retail/Office
R001539	1/27/2014	$200,000	1,485	$135	310 N MAIN ST	311290: COMMERCIAL MAIN ST CBD	1,485	950 - UNFIN BASEMENT 1200- UNFIN AREA	Fair	Average	1950	Restaurant/Storage
R001829	1/13/2011	$288,000	3,189	$90	104 W RUBY AVE	311295: COMMERCIAL MAIN ST	2,685	1343- UNFIN BASEMENT	Average	Average	1964	Office
R001829 2nd improvement:							504		Fair	Average	1964	Storage Warehouse
R027463	1/9/2013	$445,000	16,312	$27	701 W US HWY 50	311300: COMMERCIAL W HWY 50	16,312		Fair	Average	1982	Motel
R071227	5/15/2013	$365,000	6,724	$54	600 W US HWY 50	311300: COMMERCIAL W HWY 50	5,100		Fair	Average	1975	Warehouse
R071227 2nd improvement:							1,624	1624- UNFIN BASEMENT	Fair	Average	2007	Office

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R026742	12/21/2010	$235,000	1,935	$121	1005 W RIO GRANDE AVE	313000: GUNNISON INDUSTRIAL	1,335		Fair	Average	1975	Warehouse
R002272	11/20/2012	$266,000	4,005	$66	620 S 9TH ST	313000: GUNNISON INDUSTRIAL	4,005	180 - UNFIN BASEMENT	Fair	Below Average	1976	Bar/Tavern
R043167	6/28/2013	$420,000	4,400	$95	312 S 10TH ST	313000: GUNNISON INDUSTRIAL	4,400		Fair	Average	2005	Warehouse/Storage
R033812	3/14/2014	$585,000	8,600	$68	591 S BOULEVARD ST	313000: GUNNISON INDUSTRIAL	7,300		Fair	Average	2004	Manufacturing/Office
R033812 Residential Portion:							1,300		Fair	Average	2004	Single Family Residential
R002784	8/3/2011	$1,300,000	8,271	$157	615 TEOCALLI AVE	320000: CB BED & BREAKFAST	6,390		Average	Average	1997	Bed And Breakfast
R002784 Residential portion:							1,881		Average	Average	1997	Single Family Residential
R003528	10/2/2012	$604,000	1,895	$319	425 ELK AVE	320130: B3 HOUSES USED COMMERCIAL	1,895		Fair	Below Average	1960	Restaurant
R003197	7/14/2009	$1,615,000	5,454	$296	226 ELK AVE	320210: B-1 ELK AVE	5,454	1328- UNFIN BASEMENT	Average	Average	1990	Restaurant, Retail Store
R003174	8/15/2011	$766,700	4,184	$183	229 ELK AVE	320210: B-1 ELK AVE	4,184		Fair	Below Average	1940	Restaurant, Retail Store
R003514	6/14/2012	$1,446,500	10,812	$134	303 ELK AVE	320210: B-1 ELK AVE	5,406	5406- FIN BASEMENT	Fair	Below Average	1970	Restaurant, Retail Store, Bar/Tavern
R003532	11/26/2012	$1,095,000	3,012	$364	401 ELK AVE	320230: B-3 ELK AVE	3,012	1150- UNFIN BASEMENT	Good	Average	1997	Office
R003433	10/21/2011	$600,000	3,560	$169	325 BELLEVIEW AVE	320250: COMMERCIAL SOUTH	3,053		Fair	Average	1986	Garage, office
R003433 Residential portion:							507		Fair	Average	1986	Residential Apartments
R033109	6/12/2013	$637,500	2,450	$260	306 BELLEVIEW	320250: COMMERCIAL SOUTH	1,800		Fair	Average	2007	Office/Garage
R033109 Residential portion:							650		Fair	Good	2007	Single Family Residence
R003439	1/14/2014	$883,263	10,800	$82	307 RED LADY	320250: COMMERCIAL SOUTH	10,800		Fair	Average	1991	Mini-Storage
R013220	3/1/2013	$850,000	9,600	$89	244 BUCKLEY DR	360300: RIVERLAND INDUSTRIAL	9,600		Average	Average	2000	Workshop

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R009424	6/10/2010	$299,000	4,960	$60	16020 W US HIGHWAY 50	370010: SEASONAL RESORTS	4,960		Low	Below Average	1975	Restaurant, Retail, Storage Garage
R015813	11/25/2013	$74,000	2,547	$29	3872 HWY 133	372180: SOMERSET RESIDENTIAL/COMMERCIAL	1,587	420- FIN BASEMENT	Fair	Average	1978	Bar/Tavern
R015813 Residential Portion:							960		Fair	Average	1978	Single Family Residence
R071275	8/23/2013	$75,000	768	$98	311 MAIN ST	372200: PITKIN COMMERCIAL	768		Fair	Average	2000	Retail
R003754	6/1/2012	$400,000	2,496	$160	204 9TH ST	372280: PITKIN RESIDENTIAL/COMMERCIAL	1,008		Fair	Average	1980	Retail
R003754 Residential portion:							1,488		Fair	Average	1985	Single Family Residence
R015726	5/8/2013	$269,900	2,826	$96	5585 COUNTY RD 3	372300: MARBLE COMMERCIAL	1,413	1413- FIN BASEMENT	Average	Average	2000	Lodge
R017241	8/14/2013	$556,000	9,400	$59	21401 ALPINE PLATEAU RD	382100: ARROWHEAD COMMERCIAL	8,741		Average	Average	1983	Lodge
R017241 Residential portion:							659		Fair	Average	1983	Single Family Residence
R026623	5/31/2013	$294,800	2,781	$106	200 W TOMICHI AVE	316000: BANK CONDO	2,871		Fair	Average	1970	Retail
R045214*	10/30/2009	$575,000	3,352	$172	210 W SPENCER AVE	316025: SPENCER AVE	3,352		Average	Average	2005	Office
Sale includes R045215												
R041344	1/5/2012	$43,500	221	$197	114 N BOULEVARD ST	316040: OPERA HOUSE CONDO	221		Average	Average	1989	Office
R041905*	8/31/2009	$720,000	2,570	$280	525 N MAIN ST	316050: ROCKY MOUNTAIN PLAZA	2,570		Average	Average	2001	Office
Sale includes R041907, R041908, R041909, R041910, R041911, R041912, R041913												

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R003584	3/21/2014	$165,000	673	$245	111 ELK AVE	326130: ZINK BUILDING	673		Fair	Below Average	1979	Office
R041541	10/14/2011	$295,000	1,193	$247	202 ELK AVE	326172: CRESTED BUTTE HOUSE UPPER	1,193		Fair	Below Average	1957	Office
R041542*	1/14/2014	$1,249,000	4,246	$294	202 ELK AVE	326170 & 326172: CRESTED BUTTE HOUSE	2,920		Fair	Below Average	1957	Office
					R041542 Residential portion:		1,326		Fair	Average	1960	Condo/Apartment
** Sale includes R041540, R041541, R041542, R041543*												
R045200	9/3/2011	$152,650	439	$348	307 SIXTH ST	326230: SIXTH STREET	439		Fair	Average	1980	Fast Food Restaurant
R032097*	12/29/2011	$80,000	524	$153	503 RED LADY AVE	326420: MAJESTIC PLAZA FIRST FLOOR	524		Average	Average	1994	Office
** Sale includes R032098*												
R032095	8/27/2012	$50,000	302	$166	503 RED LADY AVE	326420: MAJESTIC PLAZA FIRST FLOOR	302		Average	Average	1994	Retail
R003607	9/26/2012	$132,500	921	$144	315 BELLEVIEW AVE	326510: BELLEVIEW COMMERCIAL CONDO	921		Average	Average	1982	Office/Storage
R042171	12/11/2009	$113,000	330	$342	427 BELLEVIEW AVE	326570: WEST ELK CENTER	330		Good	Average	2001	Office
R042170	1/19/2012	$185,000	836	$221	427 BELLEVIEW AVE	326570: WEST ELK CENTER	836		Good	Average	2001	Office
R005250*	7/31/2009	$158,000	1,013	$156	701 GOTHIC RD	356130: THREE SEASONS	981		Average	Average	1979	Office/Storage
** Sale includes R005259, R005260*												
R005981	3/15/2012	$175,000	2,405	$73	11 SNOWMASS RD	356340: PLAZA AT WOOD CREEK	2,405		Average	Average	1985	Restaurant
R043880*	9/7/2011	$685,000	9,156	$75	14 HUNTER HILL RD	356430: WESTWALL LODGE	9,156		Very Good	Average	2004	Health Club/Storage/Office
** Sale includes R043897, R045079, R045080*												

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R041422	9/3/2013	$150,000	552	$272	626 ANDREAS CIRCLE	370610: RIVERLAND BUSINESS COMPLEX	552		Fair	Average	2000	Storage Garage
R041595	10/31/2012	$130,000	1,164	$112	337 BUCKLEY DR	370640: RIVERLAND BUCKLEY DRIVE CONDO	1,164		Fair	Average	1984	Storage Garage
R041598	12/30/2013	$160,000	1,145	$140	337 BUCKLEY DR	370640: RIVERLAND BUCKLEY DRIVE CONDO	1,145		Fair	Average	1984	Workshop
R044427	3/11/2011	$160,000	894	$179	571 RIVERLAND DR	370660: PORCUPINE RIDGE	247	647- FIN BASEMENT	Average	Average	2001	Workshop
R044618	8/30/2010	$300,000	1,616	$186	744 RIVERLAND DR	370665: SLATE RIVERSIDE	1,616		Fair	Average	2006	Workshop/Office