

**ATTACHMENT C – STAFF REPORT – AMENDMENTS TO 82-186**

I. **Chart.** The following chart identifies existing provisions that are proposed to be amended and/or relocated. Where applicable, it also provides references to the policy recommendations of the County’s Water Advisory Commission (“WAC”) and the Board’s adopted water priorities, both of which form the basis for the proposed revisions.

<b>Existing Provision</b>	<b>Subject Matter</b>	<b>Proposed New Provision</b>	<b>Key Changes</b>	<b>Technical Justification (if applicable)</b>
82-186(I)	Reference to state law requiring sufficient water supply for subdivision approval	82-186 (I)(A)-(B)	Expanded to include policy statement and legal basis for requiring water of adequate quantity and quality for new land uses. <i>WAC Policy Bulletin #2, June 11, 2015, at pg. 5 (promoting application of same regulations to commercial and residential development)</i>	
82-186(I)	Requires proof of adequate water supply for subdivisions and Class I and Class II land use projects, and excepts development not requiring a land use permit	82-186 (I)(C)	States that water quantity and quality standards apply to all <b>new</b> development, except for development that does not require a land use permit; approved wildland fire remediation; adjustments and plat modifications that don’t require a change in water supply or demand; lot consolidations; boundary adjustments; special events; temporary uses; and conceptual development plans. <i>WAC Policy Bulletin #2, June 11, 2015, at pg.5 (promoting application of same regulations to commercial and residential development); Board Priority #3 (encourage water sensitive land use planning)</i>	<p>Boundary adjustments and lot consolidations reconfigure property lines or combine lots and do not result in additional lots (i.e. additional demands), therefore quantity or quality standards are not needed.</p> <p>Wildland fire remediation permits simply allow property owners affected by the 2002 wildland fires to correct, reverse or stop damage. Given the short-term nature and purpose of these permits, quantity and quality standards are not needed. (Planned amendment would expand wildland fire remediation permits to property owners affected by other disasters).</p> <p>Adjustments and plat modifications that don’t require a change in water supply or demand do not implicate the need for standards on water quality or quantity.</p> <p>Special Events and Temporary Uses typically occur over very short periods of time (one day or weekends) and therefore water demands are typically met by providing bottled water and use of port-a-lets for sanitary sewer, therefore quantity and quality standards are not needed.</p> <p>Adequate water, sewer and access for the proposed density and use do not have to be demonstrated for a class II land use permit for a conceptual development plan.</p>

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82-186(I)	For projects served by central water from a commercial or municipal water provider, water adequacy for Conceptual Development Plan approval may be established by notice of the water provider’s capacity and intent to serve the project, but that tap reservations or purchases are required for subdivisions, Class I, and Class II projects	82-186 (III)(A)(1)  See also 82-186(IV)(A)	For projects served by an existing public water provider or designated regional public water provider, <sup>1</sup> written confirmation of provider’s capacity and intent required at project submittal , and firm commitments for water delivery (tap purchase or non-revocable reservation) required prior to permit issuance or final plat recording. Requirement to prove adequacy of supply based on preparation of report, letter or acceptance of a water supply plan is statutorily required for development using large volumes of water. To ensure adequate water supply to serve constituents of any development, the requirement is being expanded to all development utilizing a public water system or designated regional public water system. <i>WAC Policy Bulletin #2, June 11, 2015, at pg. 2 (“T]he [WAC] believes that taking measures to ensure that an adequate, clean and safe water supply is available to serve a project’s constituents is vital to addressing the County’s water resource issues, now and in the future); WAC Policy Bulletin #2, June 11, 2015, at pg. 5</i>	Requiring tap reservation or purchase at the time of preliminary plat is not desired because project approval at the time of preliminary plat (i.e. hearings) is unknown; staff would prefer to not require the financial commitment of tap purchase at preliminary plat. Tap purchase/reservation will be required prior to final plat. If taps are not purchased or reserved the plat will not be recorded and the subdivision will not be finalized.  Expanding the report, letter, or water supply plan to all development is based on the WAC Policy Bulletin #2, Wet Water recommendation on page 5.

<sup>1</sup> New definitions for “public water providers” and “designated regional public water providers”, among others, are proposed, as central water provider is not a defined term. The definitions will be added to Section 62-1 of the Code.

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			<p>(“As such, the Commission fervently supports the need for completion of a safe yield analysis<sup>6</sup> for <b>all</b> Class II projects and subdivisions that are not served by a third-party supplier who has a current safe yield analysis on file with the planning department.”);  <i>Board Priority #3 (encourage water sensitive land use planning)</i></p>	
82-186(I)	For projects (except Conceptual Development Plans or preliminary plats) served by a private surface water system or domestic wells, legal (“paper”) water may be established through verification of decreed water rights, including any augmentation plans.	82-186 (III)(B)	Carries forward the requirement for verification of legal water <sup>2</sup> supply for development proposing service by any means other than existing public water system or by designated regional public water provider”, with the newly adopted specification that a temporary or substitute water supply plan will not meet the subsection’s requirements. Required for all development, not just service by a domestic well.	Temporary or Substitute Water Supply Plans are deemed not to provide adequate water supply under LPLUC §82-186; changes adopted via Project 2018-0237 and Resolution 2018-40.
82-186(II)	Water demand for all projects estimated at 350 gallons per day (gpd) per dwelling unit, subject to specified exceptions.	82-186 (II)(C)	Carries forward general 350 gpd estimate for residential demand, specifying that that estimate accounts for in-house and outdoor demand.	
82-186(II) (A)-(B)	In-house demand for dwellings is estimated at 195 gpd or 75 gpd per capita;	82-186(II) (C)(2)	For multifamily development, carries forward estimated 195 gpd in-house per dwelling and adds a new policy statement and estimation guidelines re:	This proposed amendment allows multifamily proposals to reduce estimated demand in providing smaller lawns or irrigation common areas.

<sup>2</sup> A new definition of “private surface water system” also is proposed.

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	outdoor is estimated at 210 gpd.		outdoor demand for multifamily dwellings with less than 1,500 square feet of irrigable area per dwelling. The purpose is to incentivize water conservation in high-density residential development. <i>Board Priority #7 (support conservation efforts)</i>	This provision was not applied to single family dwelling units, due to the complexity of enforcing such a provision for single family lots.
82-186 (II)(C)	Offers applicants an alternative from the standard residential demand estimates through preparation of a site-specific demand study.	82-186(II) (E)	Carries forward the alternative but promulgates specific requirements for the site-specific demand study’s preparation and contents. Adds a policy statement encouraging inclusion of water conservation measures in all such studies. <i>WAC Policy Bulletin #2 at pg. 4 (“[T]he WAC believes that the County should promote good stewardship through the use of incentives and by raising public awareness.”); Board Priority #7 (support conservation efforts)</i>	For uses that either want to include conservation measures or uses that have very site-specific water demands, this alternative will allow the applicant to develop estimated demands, rather than requiring staff to apply residential standards as a surrogate.
82-186 (II)(D)	Offers another alternative for domestic water systems to use historical use data if ten or more consecutive years of reliable data exist	N/A	This alternative will be eliminated in favor of established rates and the alternative of a site-specific demand study	This change avoids the uncertainty of projecting historical usage onto future development, given the difficulty in predicting changes in water availability, cost, practices, and infrastructure.
82-186(II)	“Non-household water demand shall be calculated in addition to household demands using best professional judgment.”	82-186(II) (D)	These revisions generally provide more clarity and guidance for non-residential development. Because EPA and CDPHE standards/estimated demand figures exist for many commercial and industrial uses, this section contains a table with use-	For some uses outlined in the EPA/CDPHE estimated demands, the demand is based on an average water use for the demand divided by an easily counted measure. For example, hospital use is 250 gpd./bed space. The patient in each bed space does not use 250 gpd, rather the entire demand for the entire hospital has been averaged and divided by the number of bed spaces. This unit measure allows for scalability based on an easily measurable unit (bed spaces).

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			specific estimates. Applicants who disagree with those estimates may prepare a site-specific demand study. Certain uses, e.g., gravel pits, whose water demand may vary beyond what reasonably may be estimated, are required to perform a site-specific demand study for all applications.	The table also allows for an “a la carte” option for additional fixtures. For example, an office building typically has restroom facilities, which is accounted for in the 15 gpd/employee. If the office also installs a shower, that would add another 15 gpd for that fixture.
82-186(III)	Groundwater Quantity Standards –contains criteria for establishing availability of physical (“wet”) water for projects proposing groundwater as water source	82-186(IV)	This section consolidates the criteria for establishing the availability of physical/wet water for all water sources.	
82-186 (III) (A)-(B)	Allows Class I and residential administrative land uses proposing to use groundwater to establish physical/wet water availability through verification of a legal/paper water supply.  For Class II uses, the requirements to establish adequate water supply shall be determined by the planning engineer upon a case-by-case review of each application.	82-186 (IV)(B)	Generally, aquifer data and/or testing is required for projects proposing to use groundwater, and basic standards for all such testing are prescribed. <i>WAC Policy Bulletin # 2 (“[T]he [WAC] believes that many of the County’s regulations should be amended to require more stringent ‘proof of water’ for proposed subdivision and commercial projects.”)</i>	Many projects currently permitted as Class I uses (e.g. child care centers, special uses in the AVLUP) may still entail high water consumption This requirement ensures the actual availability of groundwater and that applicants will exercise their water rights through drilling a productive well, rather than supplying development with hauled water.  Further, this section eliminates the uncertainty associated with a case-by-case determination of adequacy criteria and instead applies the same set of basic and heightened criteria based on the project’s estimated demand.
82-186 (III)(C)	Requires aquifer data and/or testing for subdivisions served by individual wells	82-186 (IV)(B)	Carries forward this requirement	

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82-186 (III)(D) and (IV)	For development proposing two or more residential units using a shared well, requires a professionally prepared water design and operations plan	82-186 (VII)	A new, separate section carries forward the requirement for plans and specifications for micro water systems, including a system maintenance plan. Adds requirement for metering for subdivisions with four or more lots or for any commercial development. <i>WAC Policy Bulletin #2 at pg. 3 (“[A]pplicants who will not be obtaining water from a third-party water system should be required . . . to develop a system maintenance plan and identify a responsible party for carrying out the plan [which] must include basic criteria established by the County.”) (“Further, metered taps should be required for all subdivision projects); Board Priority #1 (develop and maintain infrastructure); Board Priority #7 (support conservation)</i>	Consolidates the requirement for plans and specifications into one location.  Public water systems and designated regional public water systems (as defined by the code) must prepare plans pursuant to CDPHE rules and regulations.  Requires metering of shared systems to potentially encourage conservation, by making end users of water systems aware of their own personal consumption.
82-186(IV)	This existing section sets forth well/aquifer testing criteria depending on the type of development and water source proposed (i.e., MES, preliminary plats, existing vs. new well, number of lots in subdivision).	82-186 (IV)(B)	Well/aquifer testing criteria is promulgated based on estimated water demand rather than type of development. The stringency of criteria increases relative to the volume of estimated water demand. <i>Board Priority #3 (encourage water sensitive land use planning)</i>	Currently, the code defines the threshold for an 8-hour aquifer constant rate test vs. hydrogeologic study at 4 residential lots. This threshold has been revised to a gallons per day volume in order to apply the criteria equitably to all project types.
82-186 (IV)(A)(1)	For MES and preliminary plats proposing to use an existing well in production for a minimum of one year,	82-186 (IV)(B)(2) (a)	For projects with an estimated demand of 1,050 gpd or less, data on an existing well will satisfy water adequacy criteria if the well has been operating	If proposed uses do not increase water demand, no pump test required. Only verification of well permit and specified well information. For example, accessory uses which are operated by the owner would likely not increase water demand and have little impact.

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	groundwater adequacy may be established through information about the existing well’s current and historical production rate.		for one year or more and the anticipated development will not increase the water demand. <i>WAC Policy Bulletin #2 at pg. 3 (“[T]he [WAC] recommends that County regulations require all applicants proposing to use a new well or an existing well in which water demand will increase to complete an 8-hour pump test.”); Board Priority #3 (encourage water sensitive land use planning)</i>	
82-186 (IV)(A)(2)	MES and preliminary plats of four or fewer lots (i.e., with a demand of than 1400 (350 x 4) gpd or less, which propose a new well must conduct an 8-hour constant-rate pump test. In practice, the planning engineer applies the 1400 gpd cutoff to commercial and industrial projects.	82-186 (IV)(B)(2) (b)	For projects with an estimated demand of 1,050 gpd or less that propose to use a new well, or will increase demand on a current well or a well in operation for less than one year, an 8-hour aquifer constant rate test is required. Additionally, the flow rate of the aquifer constant rate test has been reduced to 2.2. gpm. <i>Board Priority #3 (encourage water sensitive land use planning)</i>	<p>Threshold for hydrogeologic study reduced to 1,050 gpd. Exempt well permits issued by the Division of Water Resources typically allow for up to 3 residential units to be supplied by the well. The use of 1,050 gpd (3 homes x 350 gpd) will align the threshold with exempt well permits. Additionally, Minor Exempt Subdivisions (MES) are exempt from full subdivision regulations, which also aligns with 1,050 gpd. Phased development will be required to conduct an 8-hour pump test when the current phase plus the previously approved phases demand is 1,050 gpd or less.</p> <p>Additionally, 1,050 gpd threshold aligns with the 2.2 gpm flow rate of the aquifer constant rate test. Currently, the threshold of 1,400 gpd is matched with a flow rate of 2.5 gpm, which do not equate in the same gallons of water.</p> <p>Currently, 2.5 gpm x 8 hours = 1,200 gallons, which is matched with a threshold of 1,400 gpd.</p> <p>2.2 gallons per minute derived from 1,050 gpd threshold for 8-hour pump test (2.2 gpm x 8 hours = 1,056 gpd = approx. 1,050 gpd threshold for 8-hour pump test).</p>
82-186 (IV)(B)	For projects proposing 5 or more residential lots (i.e., with a demand of greater than	82-186 (IV)(B)(3)	A comprehensive hydrogeologic report, with water balance estimate is required for all projects with an	Threshold for hydrogeologic study reduced to 1,050 gpd. Exempt well permits issued by the Division of Water Resources typically allow for up to 3 residential units to be supplied by the well. The use of 1,050 gpd (3 homes x 350 gpd) will align the

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	1400 gpd) a comprehensive hydrogeologic report and water balance estimate must be prepared. In practice, the planning engineer requires the same report and estimate of commercial and industrial projects with an estimated demand of greater than 1400 gpd.		estimated demand of more than 1,050 gallons per day. Basic and potential additional testing requirements are stated explicitly. The provision decreases the threshold for the hydrogeologic report requirement from 1,400 to 1,050 so that the threshold can be tied to the 3-lot maximum (350 x 3 = 1,050) for MES. It also promulgates specific requirements for the contents of a hydrogeologic report. <i>Board Priority #3 (encourage water sensitive land use planning)</i>	<p>threshold with exempt well permits. Additionally, Minor Exempt Subdivisions (MES) are exempt from full subdivision regulations, which also aligns with 1,050 gpd. Phased development will be required to conduct a hydrogeologic report when the current phase plus the previously approved phases demand is more than 1,050 gpd.</p> <p>Additionally, 1,050 gpd threshold aligns with the 2.2 gpm flow rate of the aquifer constant rate test. Currently, the threshold of 1,400 gpd is matched with a flow rate of 2.5 gpm, which do not equate in the same gallons of water.</p> <p>Currently, 2.5 gpm x 8 hours = 1,200 gallons, which is matched with a threshold of 1,400 gpd.</p> <p>2.2 gallons per minute derived from 1,050 gpd threshold for 8-hour pump test (2.2 gpm x 8 hours = 1,056 gpd = approx. 1,050 gpd threshold for 8-hour pump test).</p>
82-186(V)	This section prescribes protocol for well construction and testing	82-186 (IV)(B)(4)	Carries forward, but reorganizes and clarifies, well construction and testing protocol for aquifer testing;	
82-186(VI)	Prescribes surface water quantity standards; for private water systems serving a single lot or use, paper water is sufficient. For systems serving two or more lots, and serving uses requiring a Class II permit, a study is required to must estimate the project’s water demand and demonstrate that the paper water is sufficient in quantity and seniority to meet those demands in times of minimum	82-186 (IV)(C)	Carries forward a firm-yield analysis, which satisfies specified criteria, for development supplying its water from a new surface water system. Reports or supply plans required for development serviced by public water system or designated public water system. <i>WAC Policy Bulletin # 2 (“[T]he [WAC] believes that many of the County’s regulations should be amended to require more stringent ‘proof of water’ for proposed subdivision and commercial projects.”); Board Priority #3</i>	Use of firm-yield is a more acceptable/common term, rather than safe-yield.

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	flows (i.e., a safe-yield analysis).		<i>(encourage water sensitive land use planning)</i>	
82-186(VI)	This section requires a professionally designed operations plan for shared private surface water systems	82-186 (VII)	A new, separate section carries forward the requirement for plans and specifications for micro water systems, including a system maintenance plan. Adds requirement for metering for subdivisions with four or more lots or for any commercial development. <i>WAC Policy Bulletin #2 at pg. 3 ([A]pplicants who will not be obtaining water from a third-party water system should be required . . . to develop a system maintenance plan and identify a responsible party for carrying out the plan [which] must include basic criteria established by the County.”); Board Priority #1 (develop and maintain infrastructure)</i>	Consolidates the requirement for plans and specifications into one location.  Public water systems and designated regional public water systems (as defined by the code) must prepare plans pursuant to CDPHE rules and regulations.
82-186(VII)	All projects must submit water quality data for preliminary plat approval.	82-186(V)	Specifies that this requirement applies to all development not otherwise required to perform testing by CDPHE, not just subdivisions; <i>WAC Policy Bulletin #2 at pg. 4 (proof of water quantity, water quality, operations and maintenance and conservation should be required of all major projects, such as commercial Class II projects and subdivisions), Board Priority #6 (protect water quality)</i>	Currently water quality testing is required for all development, however this requirement is currently housed in the code relative to residential development.
82-186 (VII)(A)	Lists constituents for which water samples must be tested	82-186 (V)(B)	Provides a list of constituents for testing derived from CDPHE’s primary	Provides a more complete list of primary drinking water standards, in alphabetical order.

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			and certain secondary drinking water standards, in an alphabetized table. <i>Board Priority #6 (protect water quality)</i>	
82-186 (VII)(B)	Requires recording of water quality data with the plat.	82-186 (V)(C)	For subdivision lots served by individual wells, exceedances to the primary drinking water standards MCLs must be described in a plat note. For accessory uses where customers, employees, assistants, agents or other members of the public will be present, exceedances must be treated or signs posted. All other types of Development must install treatment measures and retest if constituents exceed the CDPHE’s Primary Drinking Water Maximum Contaminant Levels (MCLs) <i>Board Priority #6 (protect water quality)</i>	If a property proposed for subdivision has an existing well, this well may be used as a surrogate for water quality for the future wells developed on the future lots. If tested constituents are tested and exceed MCLs, a plat note will be added as a notice to future parcel owners.  For accessory uses, if the uses has 2 or fewer employees and no visits from customers/outside public, then water quality testing and treatment is not required.
82-186 (VII)(C)	If any constituents exceed MCLs, the applicant must prepare a plan detailing mitigation measures that will render the water supply a safe drinking water source.	82-186 (V)(C)	The requirement for corrective measures is carried forward, as noted above, with a requirement to install treatment measures and retest for most development.	
82-186(VIII)	This subsection requires development using shared water supply systems to create a legal entity to administer and operate the water supply.	N/A	This requirement is eliminated pursuant to the WAC’s recommendations. <i>WAC Policy Bulletin #2 at pg. 3 (“The [WAC] believes that current requirements . . . for creation of a legal entity to administer and operate the water</i>	

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			<i>supply . . . are too stringent . . . . Instead, applicants who will not be obtaining water from a third-party water system should be required . . . to develop a system maintenance plan and identify a responsible party for carrying out the plan. ”)</i>	
82-186(III)(E)	Cistern and hauled water	82-186(VI)	Carries forward existing language in substance; uses defined term of designated regional public water provider for required connections; amends yield requirement to 2.2 gpm	Amends minimum average pumping rate to 2.2 gpm to match changes to well pumping requirements in 82-186(IV)(B).
None	Standards and Specifications for Water Deliver Systems	82-186(VII)	This provision is new and requires development to follow design and construction standards. <i>WAC Policy Bulletin #1 (lack of water infrastructure, particularly lack of interconnect water infrastructure I largest issue facing residents); Board Priority #1 (develop and maintain infrastructure)</i>	Requiring uniformity/redundancy in water system design will decrease many of the infrastructure and interconnectivity problems faced by small water systems, when connecting to large public water systems or designated regional public water systems.
None	Approval by CDPHE of design and construction plans	82-186(VII) (C)	Construction plans and specifications, meeting the design and construction standards set forth by CDPHE, are required at project submittal for any central water supply system regulated by CDPHE and will be sent to CDPHE for review and comment . Approval of construction specifications and standards by CDPHE and installation of the system is required prior to plat recording or permit issuance.	To ensure connectivity, development may have to comply with CDPHE rules and design standards for designated regional public water providers

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None	Design and construction review and comment by designated regional public water providers	82-186(VII)(C)(2) and (D)(1)	<p>Any development located within the defined service area of a designated regional public water provider or within 400’ of that service area must design and construct the water system in accordance with the designated regional public water provider’s design and construction standards.</p> <p><i>WAC Policy Bulletin #1 (lack of water infrastructure, particularly lack of interconnect water infrastructure I largest issue facing residents); Board Priority #1 (develop and maintain infrastructure)</i></p>	<p>As larger domestic water systems are asked to take over failing smaller systems, problems frequently arise. Interconnectivity will help reduce these issues</p> <p>Designated regional public water provider means the City of Durango, Town of Bayfield, Town of Ignacio, Lake Durango Water Authority, Animas Water Company, La Plata Archuleta Water District, or La Plata West Water Authority</p>
None	Design and construction standards for other development	82-186(VII)(D)	<p>Design and construction specifications and standards will apply to any water system that is not otherwise subject to CDPHE review or within 400’ of the service area of a designated regional public water provider</p> <p><i>WAC Policy Bulletin #1 (lack of water infrastructure, particularly lack of interconnect water infrastructure I largest issue facing residents); Board Priority #1 (develop and maintain infrastructure)</i></p>	<p>Many current micro systems were built with substandard materials, lack uniformity and cannot be easily repaired when problems occur. Construction standards applicable to all new and modified domestic water systems should be adopted, requiring uniformity/redundancy. - <i>WAC Policy Bulletin #1 at pages 2 and pages 5</i></p>