

READER NOTE: The following Reports have been developed by City of Gunnison staff and will be presented to the Bureau of Land Management (BLM) to help facilitate their efforts to develop a *Gunnison Sage Grouse Candidate Conservation Agreement*, between the BLM and the U.S. Fish and Wildlife Service

Land Use and Development Policies City of Gunnison

Introduction

Regulation of land use and development on private property is promulgated through comprehensive land use planning and zoning and development standards adopted by local governments. Local government land use control significantly influences the physical development pattern of the landscape, and this control plays an important role for economic development, social structure, and natural resource management in the upper Gunnison basin.

Land use policies and development standards within the incorporated city limits direct development patterns in a manner that avoids sprawl. These local policies and standards are essential for the protection of occupied and critical sage grouse habitat in the upper Gunnison basin.

Federal and state agencies involved in the management of the Gunnison Sage-grouse should understand the legal parameters of private property land use rights and local government actions promoting sustainable development. This document provides a general overview of the City's land use policies and zoning and development standards that will affect future growth and land use patterns within the basin.

Land Use Police Powers

The State of Colorado delegates its "police power" authority to local governments through enabling legislation set forth in the *Colorado Revised Statutes (CRS)*. In *CRS* (§29-20-102), the General Assembly declares that "...in order to provide for planned and orderly development within Colorado and a balancing of basic human needs of a changing population with legitimate environmental concerns, the policy of this state is to clarify and provide broad authority to local governments to plan for and regulate the use of land within their respective jurisdictions." Municipal land use controls are established by enabling legislation found in *CRS* §31-23-202. This legislation requires that land use controls and plans promote and protect the health, safety, and welfare of the constituents in the jurisdiction.

Land use law is very complex and beyond the scope of this overview. With that being said, government exactions of private property rights must be consistent with a quantified and proportional rationale; otherwise, the exactions are considered to be a taking of private property rights. Land rights of private property in the city of Gunnison are established by existing zoning and development standards codified in the *City of Gunnison Municipal Code*.

City Policies and Development Standards

The City of Gunnison Master Plan, 2007 (Master Plan) contains policy statements for land use, recreation, streets, economic development and utility services. The *Master Plan* serves as a blueprint establishing policy directing future development. For example, one goal stated in the

Master Plan is that “...*sprawl will be avoided through effective infill and compact growth.*” This policy statement is rooted in sustainable growth principles and the recognition that service efficiencies are gained by promoting compact development.

The city’s future development is, and will continue to be, primarily in the valley bottom lands (see Enclosure 1). Existing zoning density standards for undeveloped land within the city will allow approximately 2,000 additional dwelling units. This future zoning development threshold has been measured against service capacities for domestic water, wastewater, streets and other related service needs. Based on existing consumption and service capacity, future development within the corporate limits can be served by the existing utility systems. This number of dwelling units is sufficient to accommodate development in Gunnison for the next 30 to 50 years.

City of Gunnison Three Mile and Urban Growth Boundary Plan

In July 2001 the Gunnison City Council and the Gunnison County Board of Commissioners signed the *Three Mile Plan/Urban Growth Boundary Intergovernmental Agreement (IGA)*. This IGA is guided by the *Three Mile Plan and Urban Growth Boundary, City of Gunnison*, a regional planning document developed in 1997 (and annually amended). The *Three Mile Plan* establishes a preferred alternative growth pattern that focuses development at specific areas with central utilities and other urban services. The plan is very successful in that higher density development patterns are found within the city or in the immediate proximity of the municipal boundary.

The City and County have also signed the *Wastewater Treatment Facility Agreement (2001)*. This agreement has been the basis for establishing service areas in unincorporated county land adjacent to the City. County building permit data indicates that since 1995 new construction in county utility service areas has captured 77.4 percent of new development in the three-mile area surrounding the city. These unincorporated service areas and the City’s land development policies have directed growth and have ultimately focused development patterns into the valley bottom adjacent to the City and outside of the upland sage brush habitat.

City of Gunnison Annexation Policy

In December 2007 the City adopted an *Annexation Policy*. The City’s *Annexation Policy* encourages infill development and requires a programmatic, cost effective extension of utilities that prohibits leap-frog development. The *Annexation Policy* requires that any annexation application develop an *Environmental Sensitivity Report* which must include a site inventory and assessment of potential impacts of proposed development on the basin’s natural resources. The report must also include recommendations for protection, mitigation and enhancement of resources. The City’s *Annexation Policy* specifically recognizes that development should avoid critical Gunnison Sage-grouse habitat found in the three mile planning area.

Conclusion

For over a decade the City of Gunnison has focused on growth policies and development standards that promote development within the municipal boundaries and adjacent utility service territories. These policies and directives are critical for protecting the upland sage brush habitat.

It is essential that any Habitat Conservation Plan that may be developed by the Fish and Wildlife Service recognize and promote future development within the City boundary. Otherwise, sprawling land use patterns will become the norm rather than the exception.

Utility Service Functions City of Gunnison

Introduction

The City of Gunnison provides many different services including, but not limited to; recreation, police protection, and electrical, wastewater and domestic water utilities. This document provides a basic summary overview of existing utilities and related facilities that are critical to providing these services.

Electrical Service Territory

The City of Gunnison is the electric utility service provider for development within the corporate limits and outlying areas that surround the city. The City purchases electricity from the Western Area Power Administration (WAPA) who is responsible for the management of the Colorado River Storage Project, and from the Municipal Energy Agency of Nebraska.

The Colorado River Storage Act (April 11, 1956) states that "...In order to initiate the comprehensive development of the water resources of the Upper Colorado River Basin, for the purposes, among others, of regulating the flow of the Colorado River, storing water for beneficial consumptive use, making it possible for the States of the Upper Basin to utilize, consistently with the provisions of the Colorado River Compact, the apportionments made to and among them in the Colorado River Compact and the Upper Colorado River Basin Compact, respectively, providing for the reclamation of arid and semiarid land, for the control of floods, and for the generation of hydroelectric power, as an incident of the foregoing purposes, the Secretary of the Interior is hereby authorized (1) to construct, operate, and maintain the following initial units of the Colorado River storage project, consisting of dams, reservoirs, power plants, transmission facilities and appurtenant works: Curecanti, Flaming Gorge, Navajo (dam and reservoir only), and Glen Canyon."

The Curecanti (Aspinall) Unit of the Colorado River Storage Project includes the Blue Mesa, Marrow Point and Crystal dams. Numerous high voltage transmission lines of this unit traverse across the basin and through critical sage grouse habitat. These power generation and transmission line facilities provide electric power to a significant portion of the western United States. The ongoing maintenance of these facilities is essential for meeting regional energy demands that are linked to the nation's long term security needs.

The City's electric service territory and the related obligation for electrical service are regulated by the Colorado Public Utilities Commission (PUC). Article XXV of the *Colorado Constitution* mandates that the regulation of public utilities is the province of the General Assembly and that unless that body should otherwise designate, the PUC is mandated with the authority provide this regulation. Title 40, *Colorado Revised Statutes*, provides legislative policy direction to the PUC as to how utility regulation is to be conducted in Colorado. The PUC derives its authority wholly from constitutional and statutory provisions. Colorado statutes mandate that the PUC must first give paramount consideration to the **public interest**. This requires constant attention to achieve the appropriate balance between the needs of Colorado customers for safe and reliable utility services at reasonable rates.

On June 14, 1962 the PUC published Decision 58736 establishing the service territory for the City of Gunnison. The defined electric service territory of the city as shown on Enclosure 2 encompasses approximately 12 square miles. The customer base includes the +5,400 residents in the city and approximately 3,000 persons living in the outlying service territory.

Existing utility lines in the City's electric service territory encompasses occupied and critical sage grouse habitat. The need to develop new transmission lines outside of the City boundary will be limited to the defined service territory and is anticipated to be fairly minimal. However, the need for maintenance of the existing lines will be required in perpetuity. Providing reliable electric supply to customers within the City's service territory is mandated by the Colorado PUC and it is an essential factor for maintaining the long term health, safety and welfare of the community.

Wastewater Services and Facilities

The City of Gunnison owns and operates the Gunnison Wastewater Treatment facility located approximately five miles west of the city limits. The City Public Works Department operates the wastewater treatment plant and maintains the wastewater mains in the City's system.

Gunnison County has established three wastewater districts in proximity of the City limits (see Enclosure 3). These districts serve a valuable function by protecting the basin's water quality and they have also attracted development to these specific areas. County building permit data shows that since 1995 the percentage of new construction in wastewater service areas has accounted for 77.4 percent of the new development in the three-mile area.

There are over 4,000 sewer billing accounts processed monthly by the City. It is estimated that approximately 8,500 residents are in the combined served territory. This population figure accounts for about 60 percent of the entire county population. Maintaining these services is of utmost importance for maintaining the high water quality of the basin's water resources.

Water Service and Facilities

Domestic water supply utility service is also provided by the City of Gunnison Public Works Department. Existing facilities include nine production wells, two storage tanks with a two-million gallon capacity and approximately 30 miles of water mains serving the municipal customers. The City anticipates development of additional domestic wells in either the Gunnison or Tomichi basin to serve the future demands created by growth.

The Gunnison and Tomichi basins are designated as being over-appropriated by the Colorado State Engineer. This means that any new wells proposed in these basins that are not approved by existing water right decrees can only be developed if there is augmentation plan approved by the Colorado Division 4 Water Court. The City of Gunnison has an excellent water rights portfolio and existing water court decrees that can accommodate the demands of future development within the corporate limits. Water right types vary and include domestic, irrigation and other beneficial uses.

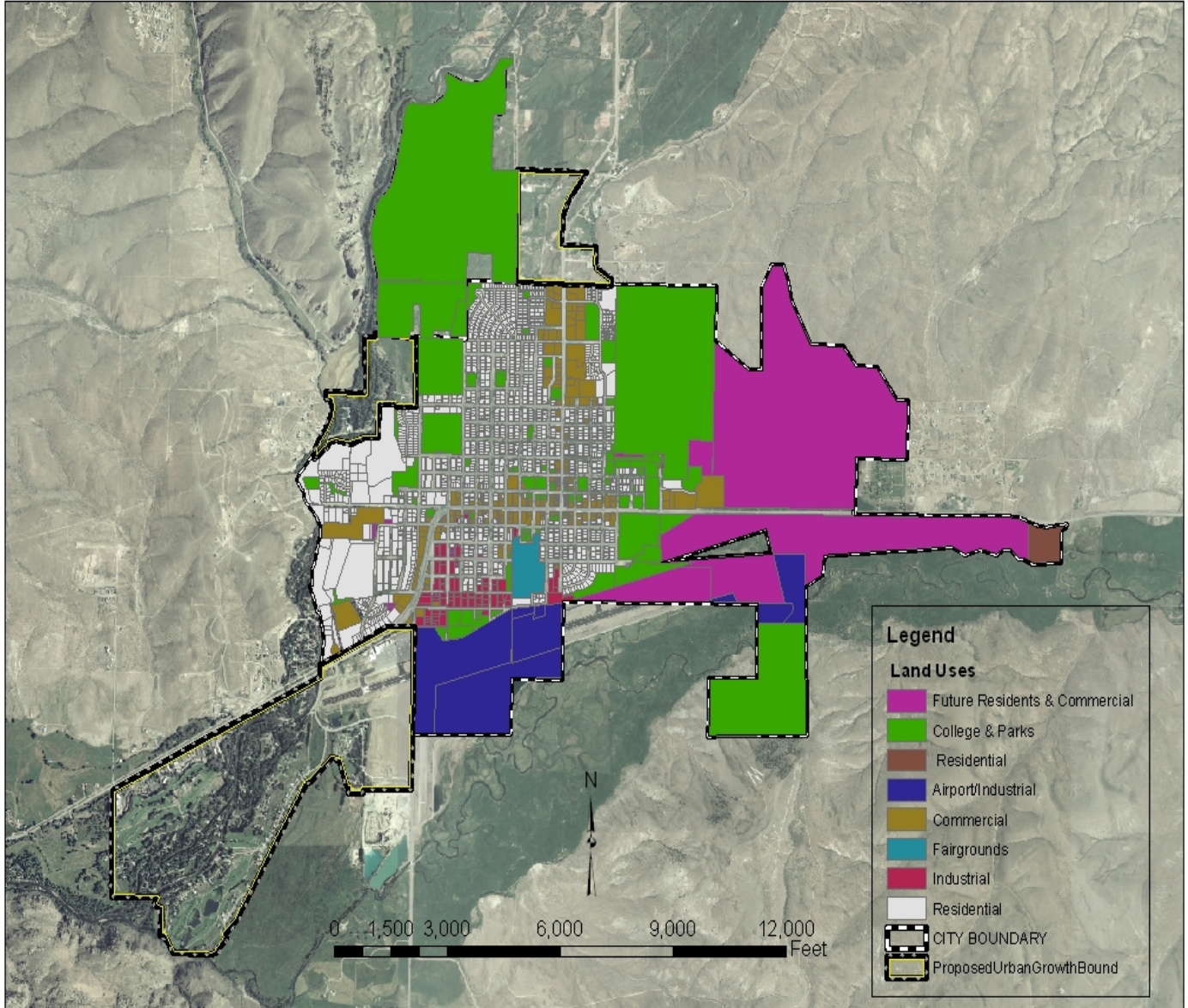
Decreed water rights from the City have a significant role in maintaining habitat quality and existing agriculture operations. It should be noted that the listing of the Gunnison Sage-grouse could cause a change in the City's position for using agriculture water rights, which are critical for maintaining the sage/hay meadow interface that is critical for early brood rearing.

Conclusion

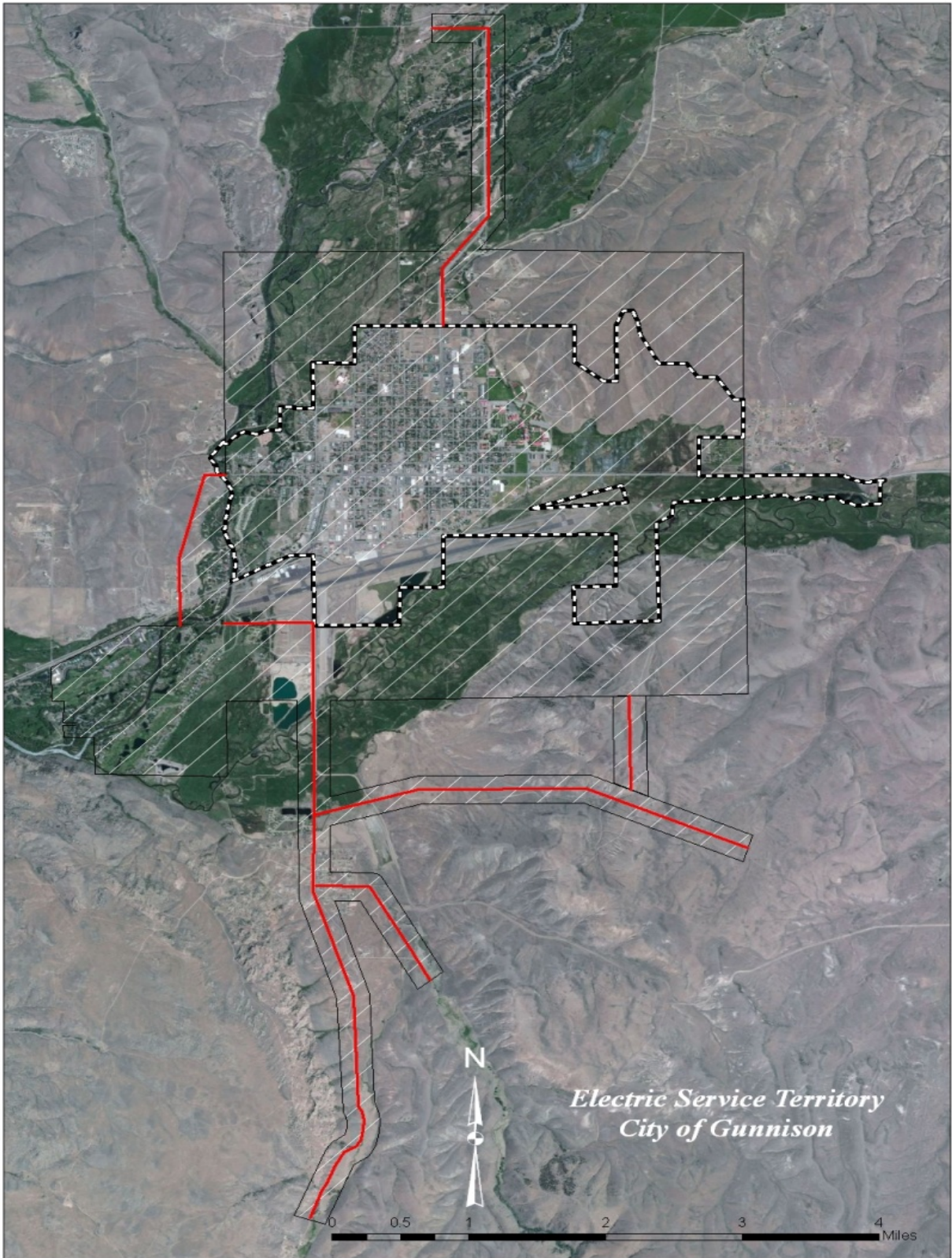
Utility services provided by the City of Gunnison are critical for the long term economic viability of the community. Furthermore, the Curecanti Unit of the Colorado River Storage Project provides electricity to a very large regional area in the western United States. These utility services also play an important role in protecting the health, safety and welfare needs of a very large regional geography.

It is essential that any Habitat Conservation Plan that may be developed by the Fish and Wildlife Service recognize the historic obligation of utility services provided by the City and establish latitude for the City to continue to provide these essential services.

ENCLOSURE 1



ENCLOSURE 2



ENCLOSURE 3

