

MEMORANDUM

TO: Pueblo Board of County Commissioners

FROM: Paul Banks, Banks and Gesso, LLC

THROUGH: Kim Headley, Pueblo Co. Planning and Development Director

DATE: December 8, 2008

SUBJECT: 1041 Permit Application No. 2008-002, Southern Delivery System
Addendum to Staff Comments

On December 3, 2008, Pueblo County staff issued a document of Staff Comments regarding the Southern Delivery System 1041 application to Pueblo County. This Addendum serves to update those Staff Comment based on an initial review by the Applicant, as well as further review by Pueblo County staff.

A summary of significant edits or additional information, organized in the sequence of their appearance in the Staff Comments, is as follows:

- Under 'Proof of Public Notice,' on page 2, a note should be added concerning notification of land owners along Fountain Creek. Land owners adjacent to Fountain Creek received mailed notification from the Applicant regarding the 1041 process.
- Under 'Recommended Conditions of 1041 Approval, Water Level Fluctuations...', on page 5, the reference to the "swim beach" at Lake Pueblo has been replaced with the term "shoreline recreation." The effect of fluctuations in Lake Pueblo water levels is understood to potentially affect a variety of recreational users, both within and outside Lake Pueblo State Park.
- Under 'Recommended Conditions of 1041 Approval, Structural Integrity...', on page 5, reference to the Colorado State Engineer's Office (SEO) should reflect that the state may not have jurisdiction over the Pueblo Dam structure; the role of the SEO will be appropriately limited and may be advisory only.
- Under 'Recommended Conditions of 1041 Approval, Fountain Creek Impacts,' on page 7, reference to the Fountain Creek Corridor Master Plan



should be clarified to note that the precise cost of implementing recommended projects is not known; it is, however, clear that these projects will cost tens of millions of dollars.

- Under 'Recommended Conditions of 1041 Approval, Pipeline Construction,' on page 8, the record should reflect that the applicant has developed a list of construction impact mitigation measures. The Staff Comments are intended to express the need for further definition of the mitigation measures, with particular attention to compliance monitoring and enforcement.
- Under 'Recommended Conditions of 1041 Approval, Impacts to County Roads,' on page 8, the applicant has noted its desire to discuss various mechanisms for mitigation, including intergovernmental agreements, as discussed in Attachment B, as well as terms and conditions of the 1041 permit and/or a "Development Agreement" or other legally enforceable contract between the parties.
- Under 'Recommended Conditions of 1041 Approval, Property Tax Consequences,' on page 9, the record should reflect that public acquisition of easements, in particular, for the pipeline alignment do not necessarily result in a loss of property tax value to the County. Property tax effects will be specific to each specific property affected by the pipeline.
- Under 'Recommended Conditions of 1041 Approval, Securing Land...' on page 9, the term "out-of-pocket costs" may be more accurately stated as transaction costs for the acquisition. The applicant's acquisition of property interests required for the pipeline alignment will follow statutory guidelines for covering transaction costs.
- Under 'Description and Location,' on page 11, the description of the physical pipeline should be corrected. Instead of a "60-inch wide" pipe, the description is accurately a "66-inch diameter" reinforced pipe.
- Under Approval Criterion B, on page 26, the discussion of wastewater treatment should be modified to emphasize that a portion of SDS-related wastewater would have been treated by the planned Clear Spring Regional Water Reclamation Facility. The Clear Spring facility is distinct from the SDS proposal; therefore, it is not accurate to say that the Clear Spring plant has been pulled from SDS plans, rather, the Clear Spring facility has been removed from other master planning efforts in the SDS service area.
- Under Approval Criterion C, on page 27, the comment should be amended to note that the financial soundness of Colorado Springs Utilities (CSU) is

a matter of record, especially to the extent addressed in the SDS feasibility report included as Appendix A of the 1041 Application Document. This Appendix notes that CSU has three existing bond issues in place to fund the project and a “well-established forecasting process and methodology.”

- Under Approval Criterion D, on page 27, the applicant has noted that state regulations covering wastewater utilities require entities such as Colorado Springs Utilities to engage in advance planning for new capacity. As indicated in the Staff Comments, documentation regarding the relevant regulations and CSU’s compliance is not part of the SDS application as submitted.
- Under Approval Criterion J, on pages 36-37, the record should be reflected to acknowledge that the 1041 application includes stormwater modeling of Probable Maximum Precipitation (PMP) and other conditions that exceed the flow from a 100-year storm event. The Staff Comment should accordingly be modified to note that there are concerns with flood hazards that are generated both by large storms and other unusual conditions, including embankment failures in lesser storm conditions, such as those that have been experienced along Fountain Creek in Pueblo County.
- Under Approval Criterion L, on page 38, the applicant has noted that the Fremont County review process currently underway for the SDS alternative route is entitled a “Special Review Use.”
- Under Approval Criterion O, on page 39, the applicant notes that it has approached land owners along the proposed alignment, some on multiple occasions. The record does not provide any detail on this prior discussion with land owners; County Staff simply notes that the record does not show any prior systematic discussions with land owners about acquisitions of land interests.
- Under Approval Criterion 1, on page 40, the word “all [permits]” should be stricken. The list of permits provided for the record is representative of the number of jurisdictions and nature of permits to be obtained for the project, but some minor additional permits may be required in addition to those listed.
- Under Approval Criterion 4, on page 42, note the above discussion of Colorado Springs Utilities’ financial health, with respect to Criterion C.
- Under Approval Criterion 12, on page 48, the Staff Comment about solid waste from reverse osmosis should be modified to replace “sediments,” as the referenced waste product, with “brine and salts.”

- Under Approval Criterion 15, on page 51, discussion of breached pipes in the SDS service area should be read to broadly recommend protection of utility infrastructure as a potential source of water contamination, including, but not limited to, sewer crossings of Fountain Creek and other tributary watercourses.
- Under Approval Criterion 15, it should be noted that concentration of bacteria in Fountain Creek flows is not associated with effluent from the wastewater reclamation process. The concentration of bacteria in urban flows is subject to further study, but urban sources of bacteria are largely associated with stormwater flows. In addition, Criterion 15 should note that development of water storage reservoirs is associated with potential mobilization of natural mercury sources.
- Under Approval Criterion 16, on page 52, the Staff Comment should be amended to note that the SDS project will draw water from the Joint Use Manifold *or* the proposed North River Outlet Works.
- Under Approval Criterion 16, on page 52, a cross-reference should be given to Criterion 28. Criterion 16, as written, is an analysis of quantitative pumping effects on the groundwater system; Criterion 28 addresses water potential quality effects on the groundwater system. In addition, the discussion under Criterion 16 should note that the cumulative effect of groundwater pumping is noted as a consequence of SDS in the vicinity of Fountain.
- Under Approval Criterion 20, on page 56, in the final paragraph, the Staff Comment should be corrected to identify that flooding in downtown Pueblo and at other locations in Pueblo County (e.g., near Target store at the Pueblo Mall) was experienced during a storm of an approximate 20-year recurrence interval in 1999. The 1999 flooding destroyed or rendered unusable at least two bridges in Pueblo County. Flood stage during a 2-year storm event does not currently breach levees in downtown Pueblo, though continued deposition of sediments in the Fountain Creek may heighten this risk during smaller flood events.
- Under Approval Criterion 26, on page 64, the J.D. Phillips Water Reclamation plant in Colorado Springs is correctly identified as a “scalping” facility.
- Under Approval Criterion 28, on page 66, the sources of untreated wastes and other contaminants presenting a possible risk to aquifer recharge are not limited to those contributed from deteriorating, inadequate pipes. This example should be noted as such.