Southern Delivery System

1041 Permit Application
Rebuttal Submission

January 21, 2009

Colorado Springs Utilities
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Water and Sanitation Security Utility Districts

City of Fountain
Pure Colorado

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PUEBLO WEST METROPOLITAN DISTRICT

Colorado Springs Utilities ("Springs Utilities"), on behalf of itself and its project partners, submits this second Rebuttal Submission to the Pueblo Board of County Commissioners in support of its Southern Delivery System ("SDS") 1041 Permit Application.

This submission responds to the additional written comments submitted to the Board at the public hearing on December 29, 2009 that were not presented in prior live testimony and provides some additional clarification related to questions asked by the Board during the same hearing.

Ex. 32: E-mail from Kim Headley

Mr. Headley's e-mail discusses a conversation with representatives of the Federal Emergency Management Agency (FEMA) regarding the floodplain map modernization process. Based on that conversation, Mr. Headley recommends a condition requiring sedimentation removal in Fountain Creek. Clearly, the SDS Project is not responsible for the current state of sedimentation in Fountain Creek or any deficiencies in the levees in Pueblo. It is Colorado Springs' understanding that the City of Pueblo owns and operates the Fountain Creek Flood Control Project, including the levees along Fountain Creek. As discussed in the FEIS, sedimentation results from numerous causes, and would occur regardless of any development upstream. To the extent SDS will cause additional impacts from sedimentation, Colorado Springs will agree to mitigation measures to address those additional impacts. Indeed, consideration of sediment removal projects, with input from Pueblo, is required by the Bureau of Reclamation in the FEIS.

Ex. 33: E-mail from Bill Alt

Mr. Alt presented live testimony at the December 11 hearing regarding noxious weeds. His December 18, 2008 e-mail follows up on those comments with specific suggestions for mitigation measures for removal of Tamarisk and Russian Olives. As noted in the SDS Final Environmental Impact Statement (FEIS), the SDS Participants will work with the Colorado Department of Agriculture's Colorado Noxious Weed Management Team, including submitting a request for partnership evaluation. In addition, as explained in the December 23, 2008 Rebuttal Submission, the Colorado Noxious Weed Act requires landowners and managers to manage noxious weeds if they are likely to damage neighboring lands and requires that each municipality in Colorado adopt a noxious weed management plan. The City of Colorado Springs and Springs Utilities have a Noxious Weed Management Plan that describes how weed management is implemented. It includes, but is not limited to, identification and mapping of noxious weeds, land management goals, duties and responsibilities, weed control and management techniques, and adaptive management. Pueblo County also has a noxious weed management plan that will be applicable to the SDS.

Exs. 37 and 38: Letters from M.E. MacDougall

Mr. MacDougall is an attorney representing the Speight Family Partnership and the Greenview Trust, who brought an unsuccessful lawsuit against the City of Colorado Springs seeking recovery for damage to property caused by flooding. His letters dated December 23 and

29, 2008, reiterate his concerns about flooding on Fountain Creek and suggest potential mitigation measures.

The impact of the SDS Project on flooding in Fountain Creek and some of the proposed mitigation measures were discussed in the Application, Colorado Springs' presentation on December 9, 2008, and in the December 23, 2008 Rebuttal Submission. The FEIS included extensive study of flood hydrology. See FEIS Section 3.8. Since the 1999 flood that Mr. McDougall uses as an example, Colorado Springs has formed its Stormwater Enterprise specifically to fund and construct additional stormwater control measures using current technology. Trapezoidal channels are no longer constructed for stormwater drainage. Stormwater detention facilities are required by current Colorado Springs and El Paso County site development regulations. Finally, the transit loss model that Mr. MacDougall requests be revised is a model developed in conjunction with the United States Geological Service and is used in water rights proceedings to determine rights to change or exchange and is beyond the scope of this permit.

Ex. 39: Letter from John Naylor

Mr. Naylor is an attorney representing the Walker Family. Gary Walker and Mr. Naylor presented live testimony during the hearing on December 11, 2008, and Mr. Naylor's December 29, 2008 letter reiterates the concerns already expressed during the hearing and suggests potential mitigation measures. Colorado Springs Utilities staff have been working with Pueblo County staff and consultants to develop a number of specific mitigation plans that will address these issues, including, among other things, dust, erosion, security, access, and revegetation. These mitigation plans will be enforceable conditions of the 1041 permit. Plans for avoiding or mitigating impacts on endangered plant and animal species along the pipeline route were discussed in the FEIS and in the December 23, 2008 Rebuttal Submission.

Ex. 40, 41, 42: Letters from Faith Lang, Jane Green and Keith Atkinson to U.S. Bureau of Reclamation

These three identical letters to the Bureau of Reclamation comment on the FEIS, not specifically this application. They raise concerns regarding erosion, environmental impacts, and the eminent domain language in the EIS. The SDS Project's potential impact on Fountain Creek and proposed mitigation measures, as well as Colorado Springs' plans for property acquisition (contemplating eminent domain only as a last resort), were addressed extensively in the FEIS, the Application, Colorado Springs' presentation on December 9, 2008 and the December 23, 2008 Rebuttal Submission.

January 5, 2009 Letter from Lower Arkansas Valley Water Conservancy District:

The Fountain Creek Corridor Master Plan is one of a number of plans being considered by Pueblo County Staff and consultants as recipients of monetary mitigation. The County Commissioners will decide how any monetary mitigation will be allocated.