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1   PUEBLO COUNTY BOARD OF COUNTY COMMISSIONERS' MEETING

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3   Sangre de Cristo Arts & Conference Center

4   Robert Jackson Conference Room

5   210 North Santa Fe Avenue

6   Pueblo, Colorado 81003

7

8   December 9, 2008

9   6:07 p.m.

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11   PUBLIC HEARING REGARDING

12   HOUSE BILL 1041 PERMIT NO. 2008-002

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17   PRESENT:

18   COUNTY COMMISSIONER ANTHONY NUNEZ - CHAIRMAN
      COUNTY COMMISSIONER JEFF CHOSTNER
19   COUNTY COMMISSIONER JOHN CORDOVA

20   GARY J. RASO, PUEBLO COUNTY ASSISTANT ATTORNEY
      SUE KOVACICH - CLERK
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1   COMMISSIONER NUNEZ: Call the meeting of the

2   Board of County Commissioners to order. First of all,

3   we would like to welcome everyone.

4   Our neighbors from the north, Colorado

5   Springs, thank you for being here.

6   This is a hearing on SDS. In attendance at

7   the -- are the Board, the three commissioners are

8   present, Commissioner Jeff Chostner and Commissioner

9   John Cordova.

10   If I would -- please, I would like to ask

11   everyone to put their cell phones either on vibrate or

12   turn them off, please.

13   And with that, I will turn the hearing over

14   to the County Attorney, Mr. Raso, please.

15   MR. RASO: Thank you.

16   Commissioners, the only matter be -- on this

17   evening's agenda is House Bill 1041 Permit 2008-002.

18   This application comes before the Board on the

19   application of Colorado Springs Utilities, which

20   submitted it on behalf of the City of Colorado Springs,

21   the City of Fountain, the Security Water District and

22   the Pueblo West Metropolitan District.

23   This hearing is held pursuant to public

24   notice, which was published in the public -- Pueblo

25   Chieftain on November 1st, 2008.

1   The notice was also mailed to the owners of

2   real property located within 500 feet of the project.

3   It contained a brief description of the project and its

4   location in Pueblo County.

5   At this time I would ask that the notice be

6   made a part of the record and labeled as Exhibit 1.

7   (Exhibit 1 was marked for identification.)

8   MR. RASO: The -- we have previously put out

9   for publication -- and -- and we would ask that everyone

10 here tonight pay particular attention to -- a proposed

11 agenda that these hearings would follow. Obviously,

12 this is a -- the -- the application, itself, consists, I

13 think, of about 26 volumes, it's -- it's a big project,

14 and we have a fairly extensive set of regulations, so

15 these hearings, obviously, will not conclude tonight,

16 they will be continued over, and at the end of each

17 evening's proceedings we'll state the date, the time and

18 the place where they'll be continued to.

19   We've had this -- three different

20 publications of this proposed agenda in the Pueblo

21 Chieftain, but let me briefly remind you of the agenda

22 we're going to follow. Tonight we'll open with the

23 presentation of the Applicant with both testimony and

24 documentary support to pre -- be presented by Colorado

25 Springs Utilities.

1   At the conclusion of the -- their

2   presentation Pueblo County Staff will introduce its

3   Staff Report and present it to the Board of County

4   Commissioners.

5   And, of course, the Board may ask questions

6   of all of those who speak in -- in -- on behalf of

7   Colorado Springs Utilities tonight, or upon -- or may

8   ask Pueblo County Staff questions, depending on the

9   time.

10   But we will ask that all witnesses who do

11   speak return to the next evening's hearing, so if the

12   Board has questions they can be asked and addressed at

13   that time.

14   The -- we know the next date will be two days

15   from now, same time, same place, on December 11th, 2008.

16   Assuming we've concluded with the -- the

17   initial presentations of Springs Utilities and our

18   Pueblo County Staff, and handled questions that the

19   Commissioners may have, the -- the balance of that

20   evening's agenda will be open to the public who wishes

21   to speak in support of the application, followed by

22   those who wish to just offer comment, or perhaps raise

23   questions or concerns neither in support or opposition,

24   and, finally, by those who hear -- or desire to speak in

25   opposition to the permit request.

1   At the conclusion of that hearing, if we

2   finish with that portion of the agenda, this will be

3   continued once again to a date certain, a time certain

4   and a place certain, and we will just keep the process

5   then going.

6   Colorado Springs Utilities, as the Applicant,

7   will have a -- a full opportunity to present a rebuttal

8   case, and, then, all witnesses who've testified will

9   have to be available for questions by the Board.

10   So we do have sign-up sheets in the back of

11   the room for those that want to speak on Thursday

12   evening -- excuse me -- and we'll try to follow that

13   order. The Board may vary that order, depending if

14   there are any hardship requests.

15   So I would remind you to please sign in if

16   you haven't done so already.

17   (Reviewed document.)

18   That's it.

19   Prior to the -- commencing the presentation

20   of the Applicant, I would ask that the application of

21   Springs Utilities, dated -- the official date was August

22   18th, 2008, be made a part of the record. It was

23   submitted in both hard copy, which consists of 26

24   volumes of material in these two boxes here, and it was

25   also submitted on two electronic disks, which are both

1   in those boxes (indicating).

2   If you could label those as Exhibit 2.

3   (Exhibit 2 was marked for identification.)

4   MS. KOVACICH: Both?

5   MR. RASO: Yes.

6   And the -- the -- I would just like to note

7   that those have been available -- and it was published

8   in the notice -- both at the Rawlings Public Library

9   down on 100 Abrien -- East Abriendo, and they've also

10   been available at our Department of Planning and

11   Development at 229 West 12th. You could certainly still

12   look at those at -- at those locations.

13   In addition, for many of you the more

14   important site probably is on the Pueblo County website,

15   the -- the application's been posted there since we

16   first received it, it's at www.co.pueblo.co.us.

17   At this juncture I would ask that those

18   witnesses who are here to speak on behalf of Colorado

19   Springs Utilities tonight, as well as those members of

20   Pueblo County Staff, including its consultants who are

21   here to speak or who may speak tonight, if you could

22   stand to be sworn.

23   As each of you then comes to the podium, I

24   will ask if you did take the oath at the time of this

25   swearing in, and that oath is going to be administered

1   by our County Clerk, Mr. Bo Ortiz.

2   Thank you.

3   SPEAKERS,

4   having been first duly sworn to tell the truth, the

5   whole truth and nothing but the truth, testified as

6   follows:

7   MR. RASO: Thank you.

8   With that, I am going to turn the matter over

9   to the presentation of Colorado Springs Utilities. I

10   believe their counsel, Mr. David Robbins, is here to

11   open the presentation.

12   MR. ROBBINS: Thank you, Mr. Raso.

13   Mr. Chairman, members of the Board of County

14   Commissioners, I'm David Robbins, I'm outside counsel

15   for Colorado Springs Utilities.

16   I, first of all, would like to wish you and

17   everyone in the audience a happy holiday season while I

18   have the opportunity to do so.

19   Mr. Chairman, I would -- I provided Mr. Raso

20   two letters before this started in hearing, the first

21   one was a letter that was submitted to Mr. Kogovsek

22   early on in this process that -- setting forth the

23   Colorado Springs Utilities' position on several legal

24   issues, I would like to ask that that letter be marked

25   as an exhibit and included in the hearing.

1   MR. RASO: Yes, it will be marked as Exhibit

2   3.

3   MR. ROBBINS: Thank you.

4   MR. RASO: It's dated March 27th, 2008.

5   (Exhibit 3 was marked for identification.)

6   MR. ROBBINS: And the second matter I would

7   like to have marked as an exhibit and included in the

8   hearing is a letter to Mr. Headley seeking a termination

9   by the County Commissioners concerning a Finding of No

10   Significant Impact for this project, which was then

11   subsequently ruled upon by the County.

12   And I understand that if our letter

13   application is included, Mr. Raso will also properly

14   note and include your determination on that.

15   MR. RASO: Thank you.

16   This is the letter to which he's referring, a

17   request for the FONSI was dated March 26th, 2008

18   (indicating). That will be Exhibit 4.

19   (Exhibit 4 was marked for identification.)

20   MR. ROBBINS: Thank you.

21   In a position highly uncharacteristic for an

22   attorney, I am now going to call the Mayor of Colorado

23   Springs, Lionel Rivera, to give the opening remarks, and

24   I am going to try to stay seated for the remainder of

25   the presentation, and I hope you will enjoy it and find

1   it informational.

2   COMMISSIONER NUNEZ: Thank you.

3   MR. ROBBINS: Thank you, Mr. Mayor.

4   MR. RASO: Yes, if each witness, as you

5   approach, could give your name and your address, we do

6   have a court reporter, Priscilla Medina is here -- I

7   apologize for not introducing you -- if she's waving her

8   hands at me or whatnot, if we move a little fast, I may

9   interrupt the witnesses (indicating).

10   So, Mr. Mayor, if you could, your name and

11   address, please.

12   MR. RIVERA: Thank you, Mr. Raso.

13   Lionel Rivera, the Mayor of Colorado Springs,

14   and I also serve as the Chair of the Colorado Springs

15   Utilities Board.

16   My address as Mayor is 107 North Nevada

17   Avenue, Colorado Springs, Colorado 80903.

18   MR. RASO: Mr. -- Mr. Mayor, were you a

19   member that took the oath here this evening?

20   MR. RIVERA: Yes, I was.

21   MR. RASO: Thank you.

22   MR. RIVERA: Well, I want to thank

23   Commissioners Nunez, Chostner and Cordova for having us

24   here tonight, this is a pleasure. You don't know how

25   much I have been looking forward to this hearing.

1   I have been on the city council since 1997,

2   and even back then we were looking at something like the

3   Southern Delivery System that's before you today. I

4   have been the Mayor for nearly six years, we have made

5   tremendous progress in six years, so believe me, I am

6   excited to be here.

7   I want to thank your staff for handling our

8   application professionally and very timely, we're at

9   this point today because of their diligent work, and the

10   fact that they were able to do a very thorough review

11   and bring it to this hearing.

12   I also want to recognize one of my

13   colleagues, this is Vice Mayor Larry Small, who serves

14   as the Vice Chair of the Colorado Springs Utility Board

15   (indicating). Vice Mayor Small and myself are here to

16   show our support for this project, for not only the City

17   Council and Utility Board, but for the citizens of

18   Colorado Springs. This is a project that is extremely

19   important not only for our city, but for our project

20   partners, and also, I believe, for Pueblo County and all

21   of Southern Colorado.

22   We are committed to make sure that this

23   project is done right, we know and understand that there

24   are responsibilities with a project like this and we'll

25   live up to those responsibilities, and I think our

1   application lays that out fairly thoroughly.

2   There are tremendous regional benefits to

3   this project not only for El Paso, but, also, for Pueblo

4   County. We think it will have tremendous positive

5   impact for the citizens of both of our counties.

6   Like I said, I am excited to be here, I have

7   been waiting for this day for quite a long time, and I

8   know you all have been very diligent in your review, and

9   this public hearing will, I think, show the value of the

10   Southern Delivery System.

11   You will hear from a number of people from

12   the Colorado Springs Utility staff tonight, and it will

13   be led up by our Chief Executive Officer, Jerry Forte.

14   And, again, thank you for an opportunity to

15   present our case to Pueblo County, I think you will find

16   it is very compelling and great for all of Southern

17   Colorado.

18   Jerry?

19   MR. FORTE: Thank you, Mayor Rivera.

20   My name is Jerry Forte, my address is 121

21   South Tejon Street, Colorado Springs 80947.

22   MR. RASO: And, Mr. Forte, were you among the

23   witnesses who were sworn by Mr. Ortiz here tonight?

24   MR. FORTE: Yes, I was.

25   MR. RASO: Thank you.

1   MR. FORTE: Well, I want to start out by

2   thanking you, Mr. Chairman Nunez and Commissioner

3   Chostner and Commissioner Cordova, for the opportunity

4   to be able to speak to you tonight, and also thank you

5   for the opportunity to be able to speak to all of these

6   fine staff members and others in the Pueblo area.

7   We're here tonight, as the Mayor said, to

8   discuss our application for a 1041 Permit.

9   I'm wondering if you could advance the slide,

10   please? Thank you.

11   I want to begin, though, by introducing to

12   you some of the project partners that are here today.

13   Steve Harrison, Director of Utilities for

14   Pueblo West Metropolitan District, please stand.

15   MR. HARRISON: Present.

16   MR. FORTE: Ray Hill, Manager of Security

17   Water; Jer -- Jerry Drake, board member for Security

18   Water.

19   MR. DRAKE: (Makes motion.)

20   MR. FORTE: And Mike Fink, the Water Resource

21   engineer for the City of Fountain.

22   MR. FINK: (Makes motion.)

23   MR. FORTE: It's been a really valuable

24   partnership that we've been able to have together, and

25   we've seen the value of regional cooperation in a lot of

1 areas, not just with these project partners but some of

2 the other projects that we've been able to engage in

3 over the last few years that I think really warrants

4 some really great fruit for both of our communities.

5   I'm going to start by sharing a few brief

6 remarks on why this project is so important to our

7 community and what we intend to do to minimize the

8 impacts on your community.

9   You will also hear from several members of

10 our Southern Delivery team, Bruce McCormick, who's our

11 Water Services Officer, will cover some of the

12 background information on Southern Delivery; Bruce

13 Spiller, our SDS Project Manager, who works for CH2M

14 Hill, our engineering firm, will discuss the

15 construction details and their impacts; Mark Glidden, an

16 engineer with CH2M Hill, will outline the impacts

17 Southern Delivery will have on Fountain Creek; Carol

18 Baker, our Watershed Planning Manager with Colorado

19 Springs Utilities, will share regional efforts to

20 improve Fountain Creek; and, finally, we'll close with

21 John Fredell, who's our Project Director for Southern

22 Delivery, who will discuss the benefits of the project

23 to Pueblo County.

24   And, then, we would be happy to answer

25 questions either at the end or certainly any time during

1   any of the presentations.

2   So why do we need SDS? Well, a little

3   background before I get to what I know you care most

4   about, and that's the impacts of Southern Delivery on

5   Pueblo County. Southern Delivery System Project, or, as

6   we call it, "SDS", is needed to provide water for

7   Colorado Springs, Pueblo West, Security and Fountain.

8   Our four communities that receive water from this

9   project will use the water rights that they already own,

10   and here's why SDS is so important, with or without SDS

11   our communities are going to continue to grow. In fact,

12   in Colorado Springs we've identified that a full 50

13   percent of our growth is from our own children and

14   grandchildren that continue to live in the area.

15   Southern Delivery also provides a

16   cost-effective, dependable and

17   environmentally-responsible way to deliver water to

18   these communities, it provides a water savings account

19   to help protect our communities against a drought; and,

20   finally, it provides much system redundancy to insure

21   that there's an uninterrupted flow of water if other

22   parts of our water system are closed for maintenance or

23   repair.

24   From a high-level perspective, I want to

25   share with you now our commitments to you. We'll build

1   SDS in an environmentally-responsible manner, we'll

2   mitigate SDS impacts. We're committed to mitigation

3   first because it's the right thing to do, and, second,

4   we know that you, as well as the Bureau of Reclamation,

5   will hold us accountable to do that.

6   We will use the water rights that we already

7   own, we'll insure that Pueblo County will not pay for

8   SDS, and we'll continue to do our part to improve

9   Fountain Creek.

10   And, now, I want to introduce Mr. Bruce

11   McCormick, who will provide you some background on the

12   SDS Project.

13   MR. McCORMICK: Good evening. My name's

14   Bruce McCormick, and my address is 121 South Tejon,

15   Colorado Springs, 80947.

16   MR. RASO: Mr. McCormick, were you amongst

17   the witnesses sworn in by Mr. Ortiz this evening?

18   MR. McCORMICK: I was.

19   MR. RASO: Thank you.

20   MR. McCORMICK: Good evening, Commissioners,

21   we appreciate the opportunity to be here and present to

22   you this project, and we want to thank you for the

23   professional treatment that we've received from your

24   staff through this process.

25   This slide identifies the milestones in the

1   1041 Permit process leading up to the last bullet on

2   that slide, where we're at tonight with this

3   presentation.

4   You'll note that there were a number of

5   public meetings that we presented similar information

6   that the information you will hear tonight was drawn

7   from, so it's very similar to other information that's

8   been presented publicly.

9   We believe County Staff are in agreement with

10   many of our responses and conclusions about the project,

11   and we know that there is disagreement in some areas,

12   that brings us to -- to tonight, and we look forward to

13   presenting detail to you on this project.

14   In terms of the major components of this

15   project --

16   COMMISSIONER NUNEZ: Mr. McCormick, if you

17   could speak a little bit more into the mike, we're

18   getting signals that they can't hear (indicating).

19   MR. McCORMICK: Certainly. I'm a little

20   distance from the mike here, I will try to get closer.

21   COMMISSIONER NUNEZ: Thank you.

22   MR. McCORMICK: The major components of the

23   preferred alternative which were requested in the 1041

24   Permit form include a outlet works from the Pueblo Dam;

25   53 miles of underground pipeline, 17 miles of which are

1   in Pueblo County; three pump stations, one of which is

2   in Pueblo County; treatment facility and two reservoirs.

3   So those are the major components of this regional

4   system that will provide water supply to Colorado

5   Springs, Security, Fountain and Pueblo West.

6   The Draft Environmental Impact Statement for

7   SDS analyzed seven alternatives, including the propos --

8   proposed action against which we're requesting a permit

9   for.

10   I want to mention a couple of other

11   alternatives that we have put significant effort into --

12   into, one of those being the Highway 115 alternative

13   that we see as our second best option to the preferred

14   alternative, and the option we would most likely pursue

15   if we're unable to construct from Pueblo Dam.

16   There has also been significant discussion

17   around one of the other seven alternatives in terms of

18   the downstream intake project, which would involve

19   taking water out of the Arkansas River below the

20   confluence of Fountain Creek with the Arkansas River.

21   The premise behind that alternative was that that would

22   require us to -- cause us greater or improved water

23   quality even further in Fountain Creek, because we would

24   then be recycling it back to our city for water supply.

25   The facts that -- are that alternative would not

1 increase or improve water quality in the Fountain Creek,

2 and I'll explain the reason why.

3   We -- we currently treat our return flows in

4 our treatment plants, then return those to Fountain

5 Creek, and they meet all of the stringent state and

6 federal water quality and -- requirements, regulations;

7 that water then comes down Fountain Creek, and this

8 alternative would require, then, that we pull water out

9 of the Arkansas River and put a very expensive and

10 energy-intensive treatment process at that point where

11 the water's taken out of the river. So it really would

12 not improve water quality in Fountain Creek, but it

13 would cause us to construct a very, again, expensive and

14 energy-intensive treatment facility, and that facility

15 would require a great deal of energy over the preferred

16 alternative, which would increase its carbon fluid, as

17 well as create some other environmental issues around a

18 salt brine disposal of that treatment process. So for

19 those reasons we have not continued to pursue that

20 alternative.

21   With that, I would like to turn this present

22 over -- tation over to Bruce Spiller, who is the SDS

23 Program Director for CH2M Hill, and he will talk about

24 construction details of the project.

25   MR. SPILLER: Thank you.

1   My name is Bruce Spiller, the address would

2   be 90 South Cascade, Colorado Springs, 80903.

3   MR. RASO: And, Mr. Spiller, were you amongst

4   those witnesses who were sworn by Mr. Ortiz this

5   evening?

6   MR. SPILLER: Yes.

7   MR. RASO: Thank you.

8   MR. SPILLER: Again, my name is Bruce

9   Spiller, I'm the Program Manager with CH2M Hill on this

10   project. CH2M Hill is the engineering and consulting

11   firm that was retained by Colorado Springs Utilities for

12   this project.

13   CH2M Hill has a lot of background in doing

14   projects like this, primarily conveyance projects and

15   treatment projects, and I'll be talking about a lot of

16   construction as -- aspects, the effects of that

17   construction, what we're going to do to mitigate that

18   construction in my presentation.

19   Within Pueblo County this shows the -- the

20   primary facility (indicating). We have a outlook works

21   which will be the North Outlet Works on the Pueblo Dam;

22   Juniper Pump Station, which will be the initial pump

23   station; and, then, the 66-inch diameter pipeline, which

24   conveys the flow up into El Paso County where the rest

25   of the facilities are.

1   Now, we're going to drop out of the power

2   point and show a brief video to show the flyover of the

3   pipeline route through Pueblo County -- go ahead and let

4   that come up, and point out some of the particular

5   aspects of it -- start coming out of the dam at the

6   North Outlet Works, Juniper Pump Station, pipeline

7   follows through Pueblo Park, then continues out of the

8   park going north over generally open country in this

9   area here (indicating).

10   As we move north, we'll see in this location

11   is the beginning of Pueblo West (indicating).

12   We'll enter Pueblo West and cross Highway 50

13   at this location here, and, then, head generally due

14   north along an existing utilities corridor, we'll be

15   directly east of that existing utilities corridor

16   (indicating).

17   We're in Pueblo West for approximately seven

18   miles.

19   Around in this location we exit Pueblo West

20   and go onto the Walker Ranch property, which we're on

21   for, again, seven miles after that, following the

22   existing power line corridor along here (indicating).

23   Leave the ranch area at about this location and, then,

24   continue up to the county line (indicating).

25   So that gives you a general overview of the

1   physical locations of the facility.

2   Now -- excuse me, I'm, hopefully, getting

3   over a cold, so you'll have to bear with me a little

4   bit.

5   Getting into a little bit more detail of --

6   of facilities that are contained in what that video just

7   showed.

8   This shows the location of the --

9   THE COURT REPORTER: The what facility?

10   MR. SPILLER: -- the existing facilities

11   around Pueblo Reservoir.

12   And just want to -- a lot of people are

13   familiar with the Pueblo State Park -- Pueblo Lake State

14   Park, and I just want to point out some specific

15   features on this.

16   Obviously you've got the concrete dam

17   structure here, spillway in the center, Municipal Outlet

18   Works are located here, River Outlet Works are on the

19   north side (indicating).

20   Fountain Valley Authority has a pump station

21   located here, Pueblo West has a pump station that's

22   located here (indicating).

23   This is a fish hatchery area, swim beach is

24   located down in -- in this area (indicating).

25   Those are the primary existing facilities.

1   The Juniper Pump Station would occupy this

2   footprint here, just to show you in relation to where it

3   is with the other facilities that are currently out

4   there (indicating).

5   The beginning of the Southern Delivery System

6   would be coming out of the North Outlet Works or the

7   River Outlet Works. Currently those come through this

8   abutment of the dam, and it's an open discharge that

9   comes out and, then, discharges to the river

10 (indicating).

11   This shows what we would be constructing,

12 which is essentially to go to the interior of the dam

13 and pressurize that pipe so that the water would come

14 through there in a pressurized conduit, would then be

15 discharged to the river, very similar to the way it is

16 now, only about 50 to a hundred feet down (indicating).

17 There would be a pipeline coming off this, which would

18 then go to the Southern Delivery System participants --

19 Pueblo West to their existing pump station, and

20 Fountain, Security and Colorado Springs to the new

21 Juniper Pump Station -- then these three valves would

22 then regulate the flow that goes to the river

23 (indicating).

24   Currently reg -- reg -- excuse me --

25 Reclamation regulates the valve within the dam to

1   regulate flow to the river, they would then move that

2   operation to these valves on the exterior (indicating).

3   This is a blowup in -- in plan view

4   (indicating). River Outlet Works modifications would be

5   up here, we would have a underground pipeline that comes

6   down here, be a turnout to the existing Pueblo West Pump

7   Station, and the pipeline would continue to the Juniper

8   Pump Station, where it would be pumped north through

9   the -- through the pipeline (indicating).

10   There's a potential for a future connection

11   to the existing users of the Municipal Outlet Works,

12   which is here, all the facilities are underground for

13   that (indicating). It could be a tie-in to the

14   joint-use manifold.

15   What this would do, if this project happens

16   in the future, is give redundancy to these outlet users

17   of the Municipal Outlet Works, which would be Board of

18   Water Works, Fountain Valley Authority; Pueblo West has

19   a pipeline that comes off of here, so that would allow

20   both outlet works to provide flow to the municipal users

21   (indicating).

22   But SDS is proposed to come out of the North

23   Outlet Works and, then, into the Juniper Pump Station.

24   Both of these modifications were studied

25   within the Draft EIS.

1   The interior of the Juniper Pump Station --

2   just to give you a idea of the physical facilities there

3   will be seven pumps shown here in two different views,

4   they're vertical turbine-style pumps (indicating).

5   Other equipment that is housed within the

6   pump station are, obviously, all the electrical gear to

7   run those pumps, as well as two surge tanks, which are

8   used to help control hydraulic flow of the water through

9   the pipeline.

10   This shows what the Juniper Pump Station

11   would look -- look like from the exterior, and I've got

12   three views from various locations (indicating). This

13   one is up on Juniper Road close to where the dam

14   abutment goes into the natural -- natural ground

15   (indicating).

16   Looking down, this is a view that you would

17   see of the Juniper Pump Station (indicating).

18   The next slide shows, again on Juniper Road,

19   about where the turn to the swim beach is. As you can

20   see, you can barely see the top of the pump station

21   peeking over the rise of this berm (indicating).

22   When we started to look at siting this pump

23   station and -- as well as the architecture of it, we met

24   with State Parks, as well as Bureau of Reclamation's

25   architect -- had several meetings with them, and it was

1   through their input that the pump station was located on

2   the back side of this berm so it would be as low

3   visibility from the public areas as practicable, as well

4   as going with a style of the building that we showed --

5   go ahead and flip to the next slide.

6   This is the existing Pueblo West Pump Station

7   (indicating). The architect from Reclamation wants a

8   similar type building, flat roof, natural colors, so

9   that it would blend in as much as it could in the -- in

10   the area (indicating).

11   So this is a view from very close to the

12   Pueblo West Pump Station.

13   Now, I am going to show you two more of these

14   videos, and these will be driving down primarily around

15   Juniper Road, and, then, it will be turning into the

16   access road that goes in. So it will be starting up

17   here, going in and, then, turning into the access road

18   to Pueblo West Pump Station, and you'll be able to see

19   what you can and can't see of the pump station as you're

20   driving along Juniper Road (indicating).

21   These -- you can see it's just behind this

22   existing berm there, the Pueblo West Pump Station is --

23   is there visible in the background (indicating).

24   So this is the bridge that crosses the

25   Arkansas River (indicating).

1   You've already gone in and paid your $6 to

2   enter the park at this point.

3   We showed this last Friday to staff meeting

4   with the state park rangers, and they all informed me

5   that I was exceeding the 20-mile-an-hour speed limit as

6   I did this, but I guess as I wasn't caught in the act,

7   didn't get a ticket.

8   As you can see, you -- you just -- there's a

9   lot of time you really can't see the pump station.

10   Now, you've -- you're making a hard turn onto

11   the access road that goes down to the existing Pueblo

12   West Pump Station, and, then, you'll be able to see the

13   new Juniper Pump Station as it's modeled in that much

14   more visible view (indicating).

15   So we've left Juniper Road and are on the

16   access road.

17   So on -- on the back side you'll see three

18   air-handling units and, then, the main pump station

19   building is the -- is that (indicating). So most of the

20   exposure that you would be able to see this pump station

21   from would be this maintenance access road going to the

22   existing pump station.

23   Okay. Then the next view is going to be a

24   little bit shorter, and it's going to be coming down

25   from the top of the dam and, then, leaving the park.

1   This is the view from where you sort of crest the dam

2   on Juniper Road. So you can see it from that high

3   point, but once you get down on the road it really

4   disappears behind that berm.

5   And, again, this was specifically set up this

6   way at the request of both State Parks and Bureau of

7   Reclamation. So once you get down around this point,

8   it's very difficult to see. You'll -- you maybe have a

9   foot or two appear towards the end.

10   This is one of the trails that we'll be

11   crossing with the pipeline, and we'll talk about that in

12   a little bit about how we'll detour around those --

13   those trails (indicating). But -- but there's only

14   really about one major trail that we cross.

15   Again, you see Pueblo West Pump Station. You

16   just start seeing Juniper appear right before you leave

17   the park (indicating). It's coming up over the horizon

18   by now (indicating).

19   Okay, end it.

20   The -- excuse me -- pump station obviously

21   requires electrical power, there's two existing overhead

22   115 kilovolt lines that are in the vicinity, this one

23   here is owned and operated by Black Hills Energy, which

24   is the provider for this area (indicating). The

25   proposal is -- is that Black Hills would take out this

1 existing tower that holds up those electrical lines in

2 this location here, replace that with a new substation

3 that would be 13.2 kv run overhead in the vicinity of

4 these existing overhead lines, and, then, we would go

5 underground, have an underground power feed that would

6 come here and feed Juniper Pump Station (indicating).

7   Another thing that Black Hills is -- is

8 looking at with this new electrical substation is

9 improving the electrical feed to the fish hatchery,

10 Fountain Valley Authority and Pueblo West Pump Station

11 (indicating). So this would be a new -- for lack of a

12 better word -- a, you know, regional type substation

13 that would feed those areas, but that will be

14 specifically designed by Black Hills (indicating).

15   Okay.

16   As far as impacts to Pueblo Reservoir itself,

17 there's going to be no impacts, due to construction, to

18 the boating and fishing. There's going to be some

19 fluctuations in -- in lake levels, but there --

20 shouldn't have any significant impact on recreation, and

21 we'll talk about those lake levels in just a minute.

22   The hiking and biking trails, I showed you

23 that one major trail that would be crossed on the video,

24 we'll be detouring that trail, so that will be open

25 during construction; and once the construction is

1 finished with the buried pipeline, there will be no

2 long-term impact.

3   I described a little bit about the water

4 stored behind Pueblo Dam. Here's two primary areas,

5 there's what's called the "inactive pool" and the

6 "active pool", and the active pool really goes from the

7 service spillway crest -- that center crest that I

8 showed you in the aerial view of the dam -- to the top

9 of the inactive pool, and that's where all the water is

10 stored that is owned by entities -- so it's both project

11 water, nonproject water, as well as flood control -- and

12 those varying amounts of water are stored, and I -- that

13 amount of water, of course, seasonally during the year,

14 and from year to year -- so the reservoir was designed

15 so that it would fluctuate up and down between these two

16 lines, hence the name the "active pool" (indicating).

17   The inactive pool is where water is not

18 stored by users. So if the water gets down to this

19 level, nobody, whether it be Southern Delivery or other

20 users, can call on that water and lower the water level

21 any lower than this by -- by using water out of the

22 reservoir (indicating). So that's the inactive.

23   So there's always this amount of water in the

24 reservoir, and it gets released either to

25 municipalities, irrigators or downstream into the

1   Arkansas River (indicating).

2   So in the next slide I am going to talk about

3   how water fluctuates within this inactive pool -- or --

4   excuse me -- within this active pool area.

5   So, again, we've got our active storage up in

6   this area, our inactive in this area (indicating). And

7   note that the two major boat launches were designed,

8   when the reservoir was built, to be at or below the

9   level of the active storage, always down in this

10   inactive (indicating). So regardless of use of the

11   reservoir by any users, those boat launches will always

12   be able to be used (indicating).

13   Okay, this shows the historical fluctuations

14   in the reservoir from 1981 to 2003 (indicating). So

15   this is the actual record of how the reservoir

16   fluctuated from when it got -- you know, started getting

17   filled and used, and fluctuates seasonally due to -- you

18   know, the 2002 drought is when it got really low. But

19   there are also other areas and times when it gets --

20   when it gets low due to use, storage and weather

21   conditions.

22   So it -- during the development of the

23   Impact -- Environmental Impact Statement you need to

24   come up with a model so you can simulate and compare all

25   different types of uses of the reservoir, so this blue

1   line that is on there is what is called "existing

2   conditions", and you can see it differs from the

3   historical reservoir conditions (indicating).

4   And the way this line was developed is it

5   took this hydrologic record of the historical line and

6   overlayed it on the 2006 demand, so that all the demands

7   that all the users -- Pueblo Board of Water Works,

8   Fountain Valley Authority, all the irrigators, Pueblo

9   West -- in 2006 if all of those had been exactly the

10   same as uses over this 20-year period, the reservoir

11   actually would have done this, would have followed the

12   blue line (indicating).

13   So that's used to make a comparison, so that

14   when you compare all these other models to it you should

15   really be comparing to the heavy blue line, not the

16   historical line.

17   So this next is the -- essentially -- if

18   Southern Delivery System and the project participants

19   don't do -- don't use Pueblo Reservoir at all for

20   storage or, you know, any use, the -- this is what the

21   2046 demands would be, which is what the Draft --

22   what the EIS study was (indicating). The future

23   demands, they just picked the year 2046. So this would

24   be what the reservoir would -- would follow, so it would

25   be this (indicating). If -- if 2046, without SDS, had

1   existed in 1981, that's what the reservoir would have

2   followed, and you can see, when you really simulate a

3   dry year like 2002, how it bottoms out -- for lack of a

4   better word -- on the active pool (indicating). That

5   means everybody has used their water and there's no more

6   stored water, so it -- it doesn't go any lower than this

7   inactive pool (indicating).

8   So the reservoir never gets dried up, there

9   is always this inactive pool area that is still able to

10 be used down to the bottom of the -- of the -- of the

11 boat launches (indicating).

12   Got a couple of more cases here to show you.

13   This red line is if the proposed action, SDS

14 coming from the Pueblo Dam, is used, and this is the

15 direct effect (indicating). So the difference in the --

16 the blue line and the red line is the effect of Southern

17 Delivery System on those lake levels using those same

18 computer models.

19   And, then, the last one that we have here is

20 everybody -- Southern Delivery System, Board of Water

21 Works, all the irrigators -- everybody in 2046 as to

22 what the lake level would be.

23   This is a -- again, a computer-simulation

24 using if we had the same 20 years of hydrologic

25 conditions that we had on -- you know, as far as weather

1   and everything over the last 20 years (indicating).

2   So moving on to the direct effects of

3   construction, installing a pipeline, it's going to be

4   very similar conditions to this (indicating). This is a

5   62-inch pipeline in this photograph here, we're

6   proposing to install a 66-inch pipeline, so very similar

7   type of trenching, type of equipment; dig the trench,

8   install the pipe, backfill the pipe (indicating).

9   The initial backfill and grading, the grade

10   gets restored to existing contour so there's not a mound

11   left or anything, it's going to look and be graded to

12   the pre -- preconstruction conditions (indicating).

13   As we backfill it -- or as we -- as we dig

14   the initial trench we take the top six inches of soil

15   and we put that back as the top six inches of soil to

16   give it the best opportunity for revegetation.

17   We re -- revegetate it with either native

18   plants, or, if we're going through a specific

19   landowner's property, we would go back with whatever

20   they specifically request. Again, as I talked about, we

21   have natural contours going back (indicating).

22   And, then, this is that same photograph

23   that -- of the three previous five years after the

24   pipeline was put in (indicating). So you can see the

25   revegetation is essentially -- and the contours are

1   essentially back to preconstruction conditions.

2   This is the area out in Pueblo West. As I

3   mentioned earlier, we're paralleling existing utility

4   corridors that have high-voltage power lines along it

5   (indicating). Along this area is the existing Fountain

6   Valley Authority pipeline, and, then, the majority of

7   the houses that we're -- and properties that we're going

8   to be going through are set back about 200 feet off the

9   Fountain Valley -- edge of the Fountain Valley easement

10   (indicating). And we're going to be taking about 60

11   feet of that with a easement for the Southern Delivery

12   System pipeline, so it really doesn't impact the

13   majority of the houses.

14   There's one house that is close enough to the

15   FVA easement that it will have to be taken, there are

16   four other houses where we're in discussions with the

17   property owner where they could stay or be relocated, it

18   would be their choice, but the remainder of the houses

19   are set back far enough that they would not be impacted

20   by the pipeline construction or the easement

21   (indicating).

22   So during construction and construction

23   activities there's a number of impacts that need to be

24   mitigated. Noise is one of the key things you'll --

25   you'll -- you hear during a major construction activity

1   such as this, and it's usually equipment like this

2   unloading pipe, when they back up you hear those backup

3   alarms (indicating). Those things are just -- they're

4   annoying to everybody, but they're required for safety

5   reasons. That's the largest noise impact (indicating).

6   What we do is we limit construction hours of

7   the contractor between 7 a.m. and 7 p.m. so that the

8   noise happens during the active part of the day, Monday

9   through Saturday. Typically contractors will work five

10   days a week, but occasionally they'll work Saturday if

11   they're picking up a weather day or other day, so we

12   usually allow that Saturday operation (indicating).

13   Dust control I will talk a little bit about,

14   as well as environmental controls, traffic control,

15   safety and communications (indicating).

16   And on safety, a lot of times people think

17   safety on a construction site is just safety about the

18   construction operations and construction workers, but

19   when we're designing and constructing a project like

20   this through a very public area it's safety of the

21   public that is also very important to us, so we'll talk

22   about some of the safety protections for the public.

23   Dust control. Anywhere in Colorado it's dry,

24   there is a lot of wind, you take that ground cover off

25   there, open it up, expose these piles, dust can be an

1   issue (indicating). The main control for that is -- is

2   water, so -- keeping -- keeping the roads dampened so

3   the dust doesn't pick up, and that's -- that's a key and

4   very important issue.

5   Another is when you've exposed this soil, if

6   it does rain, or even water from the dust control

7   operation, you want this silk fencing up, such as this,

8   so loose soil doesn't get transported off the property,

9   whether it be to a water stream or to just an adjacent

10   property, so they're not getting mud or silt washed onto

11   their property (indicating).

12   We are going to be crossing a number of

13   different roads -- you remember seeing in the video

14   there will be a number of roads we cross -- some we're

15   going to open cut, which will require detours, others

16   we'll be able to cross without open cutting. I'll talk

17   about those in a -- in a moment.

18   But any ones that we do cut, we're going to

19   be showing proper detours around there. We'll also be

20   communicating throughout the project. During design --

21   which is the phase we've been in -- we will have a

22   number of open houses -- as Bruce McCormick mentioned

23   earlier, we have had open houses for the public already,

24   we've mailed notices, as we're developing the contract

25   documents we're going to be incorporating a number of

1   these controls that are going to be put on the

2   contractor so that they insure that they're done during

3   construction.

4   During construction we'll have a public

5   information team, message boards and a 24-hour hotline,

6   so this will be posted (indicating). I can't guarantee

7   we're going to have that number for our help lines, I

8   don't think it's that at this time (indicating). So

9   there will be a number posted so if there's any issues

10   that come up to the public during construction they can

11   call that number and get a resolution on it.

12   Talked about some streets. Like Highway 50,

13   we won't open cut that, we won't disrupt traffic on

14   Highway 50, what we'll do there is we'll use a

15   microtunnel machine that bores underneath the road and

16   allows us to slide our pipe directly underneath the

17   road.

18   We'll have barricades up along the road to

19   separate the construction from the street, so major

20   roads like that will not be impacted by the construction

21   (indicating).

22   I said earlier that we primarily were going

23   to do work hours from 7 a.m. to 7 p.m., occasionally we

24   have to do night work, and a lot of this is on the

25   smaller roads where -- if we can get through the road

1 and get it opened back up the next day.

2   When we had had our meetings like in Pueblo

3 West, the sentiment we got from residents there was they

4 would rather have us work a little bit late one night,

5 get the road completely back open the next day, rather

6 than having to shut down operations and, then, have the

7 road closed for more than one day.

8   So if we did this and had to work late we

9 would notify the adjacent residents and -- and keep

10 going. Even though we said the hours are generally 7 to

11 7, there's going to be occasions when night work will

12 be -- or will possibly be done.

13   Another thing we do to -- as far as safety is

14 we'll fence off the work area from the rest of the

15 public ac -- access, we use a number of different types

16 of fencing for that. One of the primary ones you see is

17 this construction orange fencing, which we'll put up --

18 be put up in advance of the construction (indicating).

19 That does two things. One, it makes sure that our

20 construction operations stay within our easements and

21 our agreed-to work areas, and the other is that notifies

22 the public that this is a construction work zone so that

23 nobody inadvertently wanders into it (indicating).

24   Other types of fencing that we use -- that

25 are in areas where there's livestock or other things --

1   we'll put up barb-wire fencing to keep cattle outside

2   the work zone, or other -- other livestock outside the

3   work zone, and we'll work on this by a property by

4   property owner basis as we go -- we go through our

5   design (indicating).

6   In addition to the pipeline, we have

7   appurtenances that we install along the pipeline route.

8   All high points in the pipeline get a vent that allows,

9   when you're filling the pipeline with water, air to

10   escape, and when -- if you have to drain the pipeline,

11   allows air to come back into the pipeline (indicating).

12   And even as -- these -- these are going to be large

13   vaults, they're underground, they're buried, on the

14   surface you see a vent. There's a number of different

15   types we could use. The typical one you see on

16   pipelines is this shepherd's crook-looking one, but

17   there's also -- if home -- homeowners would like a more

18   architectural vent, there's mushroom style or just a --

19   a straight stand pipe, louvered pipe vent (indicating).

20   T-drains are at the low points, typically

21   located near existing drainage basins (indicating). On

22   the surface what you'll see, again, is a -- just a

23   energy dissipation area, such that when we drain the

24   pipeline we don't cause erosion to any of the ex -- the

25   existing area. So this is typically what you would see

1 from the surface (indicating).

2   In addition to drains and vents, we'll have

3 access points for maintenance or repair workers to get

4 in the pipe in the future, and you'll see a small access

5 hatch from the top (indicating). This is the type of

6 facility that will be in the vault for a vent

7 (indicating). You would have these air vacuum release

8 valves, those would all be buried, from the top you

9 would just see this (indicating).

10   For a drain valve coming off the pipeline,

11 manhole structure, again the most visible feature would

12 be the energy dissipation and riprap if we need it for

13 erosion control (indicating).

14   Access manways. Again, this is going to be

15 in a buried man -- manhole, from the top you would just

16 see the manhole or access cover (indicating).

17   We'll be acquiring the majority of the

18 property for this pipeline through easements, I

19 mentioned there's going to be a few that we'll probably

20 have to purchase. Owners have already been contacted,

21 both through notifications for the public meetings and

22 directly; and, then, through this 1041 notification,

23 adjacent property owners were also notified.

24   None of the acquisitions would start until

25 after both 1041 approval was granted and Reclamation

1   gives a -- a Record of Decision.

2   And during it all landowners will be fairly

3   compensated.

4   And with that I am going to turn it over to

5   Mark Glidden, who's going to talk about Fountain Creek.

6   MR. GLIDDEN: Thank you, Bruce.

7   My name is Mark Glidden, I'm a engineer with

8   CH2M Hill, 90 South Cascade, Colorado Springs 80903.

9   MR. RASO: And, Mark, were you among the

10 group of witnesses that was sworn at the commencement of

11 the hearings?

12   MR. GLIDDEN: Yes, I was.

13   MR. RASO: Thank you.

14   MR. GLIDDEN: Okay.

15   So I have been asked to talk about the

16 impacts on Fountain Creek. And, in fact, there are some

17 impacts, but, as you'll see, they're relatively small,

18 and the impacts that I'm going to talk about don't

19 include the mitigation that's being proposed that will

20 even further reduce some of those impacts (indicating).

21   So the EIS studied impacts along Fountain

22 Creek extensively, and in those evaluations they did

23 come up with a number of findings. One, that there was

24 an increase in base flows in Fountain Creek associated

25 with SDS activities, but that impact -- that increased

1   flow didn't increase the flood threat, and, in fact, SDS

2   facilities had some minor benefit through incidental

3   flood storage.

4   They looked at water quality extensively and

5   actually found that the SDS facilities and future return

6   flows would actually dilute some of the natural

7   contaminants in Fountain Creek.

8   Erosion/sediment control -- or sedimentation

9   we know is very important, and, in fact, the findings of

10   the EIS found that there was some minimal increase in

11   the amount of sedimentation that was expected in Pueblo.

12   It also will identify mid-gauge measures that are

13   intended to address the minor impacts that are

14   identified.

15   So the first thing I want to talk about is

16   the base flows. Those are the flows that we normally

17   see in Fountain Creek, and, as you can imagine, flow

18   rates in Fountain Creek have been studied extensively.

19   We -- the original EIS was published, since then some

20   subsequent studies were done, so the numbers have

21   changed slightly, and the numbers that we're using now

22   represent the latest and best available information.

23   And to show what those impacts are I want to

24   look at this location on Fountain Creek (indicating).

25   This is just downstream of 8th Street, this is the 8th

1   Street bridge in the background (indicating). I

2   think -- you'll notice the levee on the east side here,

3   this is looking up the channel or to the north, you'll

4   see the levee on this side and, then, the low flow

5   channel which extends across here, and, then, the

6   shallow overbank area here (indicating).

7   Normal flows in this area of Fountain Creek

8   are about a hundred 41 cfs, and those are flows that are

9   there half the time. So half the time flows are above

10   this level, half are below.

11   Those flow across the low flow channel and

12   generally fill up the low flow channel about 80 feet

13   wide.

14   In 2046, when SDS is fully operational, those

15   flows are going to increase to about a hundred 90 cfs,

16   but because that additional water spreads out across

17   that low flow channel, the depth of flow is only about

18   two inches deeper.

19   On occasion SDS will release exchange flows

20   for operational purposes to try to -- to maximize the

21   water rates used, in those cases as much as 300 cfs of

22   additional flow might be added to Fountain Creek. Even

23   then those flows only add an additional six inches of

24   depth to the -- the water, and they remain confined to

25   the low flow channel.

1   So this would represent the additional 300 on

2 top of the hundred 90 cfs in Fountain Creek

3 (indicating). So, again, flows would remain inside the

4 low flow channel.

5   Now, we know there's a lot of interest in

6 what the impact of SDS flows might be on flood

7 conditions, so the next set of figures I want to show

8 are some of those impacts. This is the same location,

9 so this is Fountain Creek here, up to the north

10 (indicating). We have the 8th Street bridge crossing

11 here, so this cross section is taken at the same

12 location, but, as you'll see, we have a little wider

13 view of it here, and this shows the -- the cross section

14 of the river just downstream of 8th Street (indicating).

15   So, again, we have the levees on the east

16 side here, the low flow channel, that we were looking at

17 earlier, here, and, then, a shallow overbank with the

18 highway and the railroad on the west side (indicating).

19   I want to show you what some different floods

20 look like. So this first one is the 10-year flood,

21 which, coincidentally, happens to be about the level of

22 the 1999 flood, around 16,000 cfs (indicating). The

23 depth of flow during that event is about 7.4 cfs.

24   If we take the maximum SDS discharges of 300

25 cfs plus that increase in the normal base flows, that

1   would add about a half an inch of additional depth over

2   the entire floodway -- floodplain there (indicating).

3   And, similarly, for the hundred-year flood,

4   which has a discharge of about 44,000 cfs -- and, again,

5   this is a pretty close approximation to the 1965

6   flood -- you'll see that the depth of flow increases to

7   about 11.8 feet, and with the SDS flows on top of it it

8   only gets a quarter of inch deeper (indicating).

9   And -- and a couple of things to note here.

10   One is it spreads across the entire channel area here of

11   900 feet, but it's also confined within the levee area

12   here on the east side, that protects the -- the east

13   valley here (indicating).

14   And this levee, you may remember, was built

15   in response to the '65 flood. Recent studies by both

16   the Corps of Engineers and the Colorado Water

17   Conservation Board have concluded that the levee remains

18   adequate to protect against the hundred-year flood

19   through Pueblo today, so this -- this flood would, in

20   fact, remain contained within the levee (indicating).

21   Now, just to show what that might look like

22   at a different point I've taken another cross section up

23   here, just upstream of Highway 50 -- again, this is

24   where we were earlier, so we've gone up a little bit --

25   you can see the channel's a little bit wider, but here

1   the water backs up a little bit behind the bridge, so

2   you can see, again, the cross section (indicating).

3   Here's the levee, the low flow channel here, the

4   overbank, and, then, the highway and the railroad on the

5   west side (indicating).

6   And because water backs up behind the bridge

7   here, the depths of flow change a little bit

8   (indicating). You can see the 10-year flood is now a

9   little lower than 10 feet deep, but because the flow has

10   spread out the impacts of SDS are even smaller

11   (indicating). In here they only add about a quarter of

12   an inch of additional depth to the 10-year flood

13   (indicating).

14   The hundred-year flood is deeper and spreads

15   out a little bit further, but, once again, SDS has a

16   very small increase in flow, and only increases the

17   depth by about an eighth of an inch.

18   So the impact of the SDS operations on the

19   flood threats through Pueblo is very, very small,

20   measured in fractions of an inch.

21   Now, we know there's a lot of concern about

22   flow increases from the northern part of the watershed

23   that aren't necessarily related to SDS, and those are,

24   obviously, related to growth, so I want to talk a little

25   bit about growth in the Fountain Creek watershed.

1   This is the Fountain Creek watershed, here we

2   have Pueblo, Colorado Springs is up here, and, then, the

3   Palmer Divide up is here (indicating). And you can see

4   all of these areas are areas that are projected to be

5   future growth, so they are existing and future growth

6   areas (indicating).

7   The important thing to recognize here is

8   growth in Fountain Creek is not unique to Colorado

9   Springs, it's really going to be something that

10   everybody in the watershed experiences.

11   So here you can see the growth that's in

12   Colorado Springs -- and many of you know this is

13   primarily the Banning Lewis Ranch area -- but it's not

14   just in -- exclusive to Colorado Springs, we've got

15   other growth in El Paso County, shown here in the blue;

16   and, then, Pueblo is also going to have growth, which is

17   shown down here in the purple area (indicating).

18   So all of the communities in the watershed

19   are facing the challenges of future growth and the

20   increase in flow associated with that growth, and all of

21   them are trying to do things to try to address the

22   impacts of that growth.

23   Colorado Springs, through their Stormwater

24   Enterprise, has made a significant investment in these

25   Drainage Basin Planning Studies -- and I think you all

1   know that the citizens of Colorado Springs endorsed the

2   investment in these kinds of studies by retaining the

3   Stormwater Enterprise at the recent legislation, and,

4   so, they're going to be able to continue to do some of

5   the things that they've done -- but the purpose of those

6   studies is to try to identify what some of the problems

7   are in the watershed, and identify possible solutions or

8   mitigation measures that can address those impacts,

9   and -- and those may include things like stabilizing

10   unstable banks or eroding channel bottoms by providing

11   stabilized channels, grade controls, vegetation, all of

12   which help to more safely convey flows and reduce the

13   threat of introducing additional sediment to the stream.

14   Similarly, they include recommendations on

15   flood control storage that would reduce the amount of

16   runoff from the tributary watershed and slow that water

17   down and reduce some of the impacts further downstream

18   along Fountain Creek.

19   Other things are being done to control

20   development -- not only in Colorado Springs, but in all

21   the communities in the watershed -- and -- and those

22   include some rigorous development requirements that are

23   intended to reduce the impacts of these impervious areas

24   on runoff (indicating). So development regulations

25   require that new development control runoff, whether

1   it's through stabilized channels, whether it's through

2   detention ponds like we saw, those are part of the

3   underlying requirements for all new developments.

4   They also require stormwater quality

5   enhancement measures, floodplain administration to -- to

6   help address the impacts of future development.

7   And one of the other things that the

8   communities are doing is looking at some other options

9   that might further enhance their ability to control the

10   impacts of future development.

11   Colorado Springs is in the process of trying

12   to upgrade their drainage criteria manual, and are

13   looking at including things like low impact development

14   requirements wherein filtration is promoted, or reduced

15   impervious surfaces within developments are being

16   considered, all in an attempt to try to replicate

17   existing runoff patterns and mitigate future impacts.

18   Stormwater quality measures are -- are always

19   being looked at and enhanced, and, as you'll hear from

20   Carol Baker a little bit later, there are things like

21   the Fountain Creek Vision Task Force that are coming up

22   with some tremendous ideas that are being looked at by

23   all of the communities within the watershed to try to

24   help address some of the issues associated with Fountain

25   Creek.

1   As you can imagine, water quality is

2 something that was looked at very extensively in the

3 EIS, and the findings of the water quality studies

4 generally were that there were minor impacts associated

5 with SDS, and that in many cases those impacts were

6 actually beneficial -- and -- and the reason for that

7 I'll explain a little bit later -- but, generally, it

8 was because some of the treated wastewater return

9 flows -- that Bruce McCormick talked about meeting the

10 stringent effluent standard -- actually serve to reduce

11 the concentrations of some of the contaminants already

12 in Fountain Creek.

13   Those treatment plants are required to

14 release at applicable stream standards, and, in -- in

15 fact, those standards are intended to assure that all of

16 the uses for that stream can be achieved.

17   And -- and I think it -- a great way of

18 putting that is if all the water in the stream met the

19 standards of the treatment plant effluent, you would be

20 able to have contact recreation, the water would be

21 suitable for agricultural water supplies and all the

22 other intended uses (indicating).

23   So I want to just briefly talk about some of

24 the general water quality trends, and, again, I think

25 the most important one is that the water quality in

1   Fountain Creek is getting better. Colorado Springs has

2   made a number of investments in wastewater treatment

3   plant upgrades, and, as a result of that, over the past

4   20 years there's been substantial reductions in the

5   concentrations of a lot of the typical wastewater

6   components, and -- and they have shown tremendous

7   benefit -- and those have been documented through

8   reductions in the levels of ammonia, phosphorous and

9   other -- other things -- and, then, those improvements

10   serve to help reduce some of those existing contaminants

11   that exist in -- in Fountain Creek.

12   But there are some impairments that remain,

13   and generally those are associated with sources that we

14   can't control, and they include E. coli, salinity and

15   selenium, and -- and I'll talk about each of these in a

16   little bit of detail.

17   I'll start with E. coli. E. coli is a major

18   element in raw wastewater in -- in sewage, and over the

19   years Colorado Springs has made a significant investment

20   in the -- in addressing some of their past sewage spills

21   to make sure that this wastewater doesn't make it into

22   Fountain Creek, and their performance has improved

23   substantially. There haven't been any recent spills in

24   the past two years.

25   Their spill history is among the lowest in

1   the nation for utilities of similar size, and they've

2   been able to accomplish this through a considerable

3   investment of over a hundred 20 million dollars in

4   wastewater and wastewater system improvement since the

5   year 2000. Those improvements include the construction

6   of new wastewater facilities, the -- a substantial

7   investment in the wastewater collection system and the

8   construction of the Fountain Creek Recovery Project, all

9   of which are intended to reduce the in -- the

10   introduction of E. coli in the Fountain Creek.

11   But concentrations of Fountain Creek

12   sometimes remain high, and -- and I want to show you

13   just an example of how these work, and I am going to

14   look at two different situations, one of which is a low

15   flow and the other one is flood flows.

16   Low flows are times when Fountain Creek is

17   largely devoid of runoff -- and a major contributor of

18   E. coli in the Fountain Creek is runoff -- so at times

19   during low flows -- and this is an example, in the

20   winter of '06, where flows in Fountain Creek were pretty

21   low -- and these represent concentrations of E. coli in

22   Fountain Creek that were measured on February 8th of

23   '06 -- and, as you can see here, concentrations are

24   below the stream standard of a hundred 26 all the way

25   down Fountain Creek (indicating). And the Colorado

1   Springs lowest treatment plant is in this area here, so

2   you could see that even below the treatment plant the

3   concentrations are substantially lower than the stream

4   standard (indicating).

5   Now, in contrast, this column over here

6   represents concentrations after a storm event

7   (indicating). These were measured in September of '06

8   after a storm event the day before, and that storm event

9   raised the stream flows to about 500 cfs down in Pueblo,

10   and -- certainly people can't go out and monitor the

11   stream when there's a flood, so they took these samples

12   the next day -- but, as you can see, the concentrations

13   of E. coli remained elevated there above the stream

14   standard, and they really are largely the result of

15   runoff from the watershed, both agricultural runoff and

16   urban runoff from the developed areas in the watershed

17   (indicating).

18   The other constituents of concern are sele --

19   or that I talked about are salinity and selenium, and

20   both of these are naturally-occurring things that --

21   that exist, again, largely in the runoff from the

22   tributary areas of the Fountain Creek. So the average

23   concentrations of salinity here, you -- you -- are --

24   are in the range of 4 -- 350 to 450, and they increase

25   from the northern part of the watershed down as runoff

1 continues to accumulate, because many of these sources

2 are from runoff (indicating).

3   Selenium is another constituent, and the --

4 the pattern here is a little bit different. You can see

5 in the upper part of the watershed the concentrations

6 are generally below the stream standards, but when we

7 get down to the very bottom there's a spike in the

8 concentration of selenium, largely from local natural

9 sources of selenium that entered the stream through

10 runoff in the southern part of the watershed

11 (indicating).

12   The last thing I want to talk about is

13 sediment, and we know sediment's a real important issue.

14 The EIS identified this as a very important issue, and

15 they also acknowledge that it was a very complicated

16 issue. It's been studied extensively, and the

17 conclusions really are that Fountain Creek remains an

18 unstable and dynamic system, it's changing and that it's

19 very variable, and that is that there are areas of the

20 stream where we see degradation here in the red and the

21 orange, and we see aggregation or -- erosion is the

22 degradation process, aggregation is where the material

23 drops out of suspension and builds up in a channel

24 bottom.

25   And, so, you can see here in the blue areas

1   there are areas of deposition mixed amongst the areas of

2   erosion (indicating). It's -- it's a dynamic,

3   complicated system, but, in general terms, what we can

4   say is that generally the areas above Williams Creek are

5   eroding and those downstream of Williams Creek are

6   depositing. That is, more material's eroded from up

7   here than the stream can carry down here, so it gets

8   deposited in the lower end (indicating).

9   And, as I said, this has been the topic of

10   considerable study. The -- the EIS committed a couple

11   of different studies to the -- the issues of sediment

12   and geomorphology, which is the science of streams. The

13   Fountain Creek Watershed Study looked at erosion and

14   sedimentation extensively, and -- and general

15   conclusions were, one, storm flows carry a lot more

16   sediment than base flows, and that's because more water

17   can carry more sediment. In fact, estimates are that

18   during the four days of the 1999 flood, about 10 times

19   as much sediment moved down Fountain Creek as moves in a

20   normal year under just base flow conditions. So the

21   amount of water has an impact on how much sediment

22   moves.

23   And SDS, as we said, results in additional

24   water being in Fountain Creek, and, so, there is more

25   sediment movement as a result of some of the future

1 activities.

2 And what -- what the studies have found is

3 that there's an in -- increased contribution of sediment

4 from the upper part of the watershed that makes it to

5 the lower part of the watershed, and that increased

6 contribution can't necessarily make it all the way out,

7 so there is the potential for an increase in long-term

8 deposition in the lower 20 miles of Fountain Creek.

9 And -- and, again, I think with sediment, as

10 with all of the other impacts that I've talked about so

11 far, they really -- the studies that have been done so

12 far don't include any mitigation measures that could be

13 used to address those impacts, so these really represent

14 the worst-case conditions, and any mitigation that's

15 done in the watershed is likely to reduce those impacts

16 even more.

17 So with that I am going to turn it over to

18 Carol Baker.

19 Are you going to talk at the podium?

20 MS. BAKER: I am going to talk at the podium.

21 Good evening, Honorable Commission --

22 Commissioners, my name is Carol Baker, I am located --

23 my office is at 121 South Tejon, 80903.

24 MR. RASO: And, Miss Baker, were you among

25 the group of witnesses from CSU that were sworn in this

1   evening?

2   MS. BAKER: Yes, sir.

3   MR. RASO: Thank you.

4   MS. BAKER: Thank you so much for having all

5   of us here today, I'm very excited to be able to talk

6   about my favorite topic, which is Fountain Creek.

7   And there's been a lot of activities that

8   have been going around a re -- going on around Fountain

9   Creek over the last several years. It takes regional

10   solutions for a regional problem, and it's very exciting

11   how much headway we've made in recent times. This list

12   shows all the different activities that have been going

13   on.

14   Of course, USGS studies have been going on

15   for over 50 years, we have Stormwater Enterprises in

16   both Pueblo and Colorado Springs. There's the Corps of

17   Engineers' watershed study, which is wrapping up this

18   month. Also, the Fountain Creek Vision Task Force is

19   wrapping up this month as well.

20   Senator Salazar, a couple of years ago, came

21   out with the Crown Jewel recommendations, and we are

22   forming -- we have formed -- there has been a Fountain

23   Creek Foundation that's been formed, and you all will be

24   voting soon -- I think this month -- on a formation of a

25   Fountain Creek District.

1   And, then, the Corridor Master Plan, and I am

2   going to be focusing on the Corridor Master Plan this

3   evening.

4   The Corridor Master Plan was envisioned about

5   two years ago, when an IGA was signed between Colorado

6   Springs and the Lower Arkansas Valley Water Conservancy

7   District. The goal of the plan is to find regional

8   solutions for the bottom 44 miles of Fountain Creek,

9   that's from the southern Colorado Springs city limits

10   down to the Arkansas River (indicating). And each

11   entity has contributed $300,000 towards the study.

12   Here are the five goals. The first one, most

13   importantly, is to look for how can we reduce flooding,

14   sedimentation and erosion, and improve water quality in

15   Fountain Creek; how can we create healthy ecosystems,

16   sustain productive agricultural land, and lay out a

17   trail from Colorado Springs to Pueblo and gain public

18   and private support. So not only do we want to make

19   some great plans to be done, but make sure that those

20   plans don't just sit on the shelf, that they actually

21   are implemented.

22   This slide shows -- when we originally

23   started this project there -- we did a helicopter tour

24   of Fountain Creek, the full 44 miles, and we were very

25   happy to see that there's a lot of Fountain Creek that

1   looks like this, it's a very healthy stretch of Fountain

2   Creek (indicating). This one is -- happens to be in

3   southern El Paso County, and this section of Fountain

4   Creek has remained stable through all the changes that

5   have gone on upstream, and the reason is that Mother

6   Nature is very actively at work.

7   The first thing that you see is the -- the

8   creek is very sinuous or curvy, when water runs downhill

9   it goes faster the straighter it is, and -- just like a

10   skier going downhill, will be going at a dangerous speed

11   at the bottom of a hill if they point and go straight

12   down as opposed to taking curves, which is the more

13   sensible thing that usually the older skiers do, the

14   younger ones like to go straight down.

15   And this -- that's what Mother Nature's doing

16   right here with the curving, is slowing down the creek

17   (indicating).

18   In addition, since there has been no

19   encroachment from any activities, development or farming

20   upon the creek, there's a nice, wide floodplain.

21   And when the -- there is flooding, the water

22   goes up on the banks, spreads out along this floodplain

23   and slows down (indicating).

24   As well, there is natural riprap, which is

25   all this vegetation you see (indicating). So as it --

1   which further slows down the creek, the roots stabilize

2   the banks. So that's what good looks like.

3   Here's what bad looks like on the left side.

4   This creek -- this is a -- a picture's of it on the side

5   (indicating). You can see that the creek was

6   straightened upstream of this big nose that you see in

7   the picture here, and in straight English it -- again,

8   it's the little kid going down the ski slope, gets to

9   the end, and here's probably me standing at the bottom

10   of the hill getting smashed, and all the energy

11   dissipates right there (indicating).

12   What we tried to do -- or what we are -- have

13   designed in our Corridor Master Plan is how can we

14   duplicate those good things we saw -- see in Mother

15   Nature? So for this we have designed adding sinuosity

16   or curviness back into the creek.

17   Additionally -- thank you -- we have

18   envisioned putting wetlands into this area, and I'll

19   talk about this specific site a little bit later on.

20   The wetlands not only slow the creek down during

21   flooding, but also improve water quality as the water

22   filters through it.

23   And, then, side detention areas to

24   captivate -- or to capture water during -- I want to

25   make sure I say that right -- we're not capturing it,

1   we're retaining it, not detaining; is that right?

2   MR. ROBBINS: (Nods head.)

3   MS. BAKER: Thank you.

4   And, so, those are the -- the applications we

5   used here (indicating).

6   When we looked at the 44 miles of creek we

7   found that 3.1 miles of that 44-mile stretch looked like

8   this (indicating). It's -- this is very active erosion

9   going on. There has not been measurements made of

10 erosion going on in Fountain Creek, how much is actually

11 going down the creek at any one time, but in some basins

12 as much as 75 percent of the sediment that moves

13 downstream comes from bank erosion just like this

14 (indicating). So in addressing this 3.1 miles there

15 would be a -- a rapid decrease in the amount of sediment

16 moving downstream.

17   So we have looked at how can this be done,

18 what kind of designs can be done that would be

19 acceptable to the Corps of Engineers. We have worked

20 with the Corps and come up with some designs in our

21 demonstration projects, we'll be showing how that can be

22 done.

23   Farmers and landowners along Fountain Creek

24 can then apply to NRCS to get assistance to do the same

25 kind of thing along their property.

1   I talked a little bit about the wetlands and

2   side detention, or, as we like to call them, "mini dams"

3   along Fountain Creek. These reduce flooding, improve

4   water quality, reduce erosion and sedimentation.

5   These curve -- these charts on the right show

6   what the flow in Fountain Creek was in early September

7   when we had a flood event in northern El Paso County and

8   in the City of Colorado Springs, the top one shows at

9   Security what the flow rates were -- and it's a little

10 small -- but this is 11,000 cfs (indicating). That's

11 how much water was actually in the creek at Security.

12 Down in Pueblo the level was 4,000 cfs, that was the

13 peak.

14   And the reason that there's a reduction

15 between these two points was because of the natural

16 wetlands and side detention that already exists.

17   So we have looked to identify, where we can,

18 additional wetlands and side detention, and for this

19 amount we can reduce the flows in Fountain Creek 10,000

20 cfs for four hours. Very impressive.

21   We want to make sure, as we go through this

22 process, that we get lots of input from lots of people,

23 because one thing we find is that more brains come up

24 with better solutions. So we've gone to all these

25 groups -- Vision Task Force, the Corps, landowners and

1 elected officials -- we've shown them what we've been

2 working on, and we've gotten some great input and we've

3 incorporated it into the plan.

4   The first place that we would like to

5 actually start putting things on the ground is through

6 demonstration projects. We've identified four locations

7 for demonstration projects, and they're shown here

8 from -- on the Fountain Creek watershed map

9 (indicating). All of these locations will be accessible

10 to the public. They'll all be unique, but they'll have

11 a common theme, they'll be teaching people about the

12 watershed and to care for their watershed. There will

13 be unique activities at each location, and we believe

14 that it will invite a lot of tourism into the area.

15 People will come bird watching, hiking, biking, being

16 actually in the water.

17   So I am going to go through briefly -- you

18 all -- a lot of you already have seen the Eco-Fit and

19 the third location, so I'll go briefly over those in --

20 a little bit more in detail the two you have not seen.

21   This is the Eco-Fit Environmental Center,

22 it's about a 40-acre site along Fountain Creek at the

23 very southern end of Colorado Springs, it's south of --

24 or -- excuse me -- east of I-25, the World Arena is

25 right on the west side, and it will have opportunity for

1 kids, and families alike, to come and explore some

2 newly-developed wetlands, also to look and see how

3 stormwater can be controlled.

4   And this developer right here is going to be

5 doing an industrial park that does low impact

6 development, so that will be a great place to see that

7 (indicating).

8   Second one, Clear Spring Ranch Environmental

9 Center. This location is directly in between -- or

10 right in the middle between Colorado Springs and Pueblo.

11 This park is about a thousand acres, it's owned by

12 Colorado Springs Utilities. This is the one I was

13 showing you the big nose before, which is located down

14 on this -- this end (indicating). We're looking at

15 adding a lot of sinuosity to the creek. This will

16 display every single thing that we have identified for

17 improving Fountain Creek, so the sinuosity

18 (indicating) . . .

19   There's been over a hundred acres of wetlands

20 identified in this area.

21   Additionally, we're looking at putting in a

22 fish ladder at the north end of our site where there's

23 diversion right now. There are two fish that are rare

24 in this part of the -- rare fish, and they happen to be

25 in this part of the creek. There has never been fish

1 passage designed for these small fish. They're about

2 this big (indicating). One's the Flathead Chub and the

3 one -- the other one's the Arkansas Darter.

4   They have studied the Arkansas Darter --

5 Arkansas Darter, and it can fit -- it can jump pretty

6 well for a little guy; but the Flathead Chub is kind of

7 a weenie for a little fish, so it doesn't jump as far

8 (indicating). We don't know how much it can jump, but

9 we're doing some studies to figure that out so we can

10 design this.

11   Once this is done in this location, that same

12 design can be duplicated up and down the creek. So it's

13 a very exciting project.

14   Excuse me.

15   Oh, wait, one more thing. I really like this

16 one.

17   Thank you.

18   There has -- have -- are a lot of deer and

19 elk that happen to get killed on I-25 in this reach, so

20 where Fountain Creek crosses under, we're also looking

21 at having a crossing under the highway to protect the

22 animals (indicating).

23   Okay, thanks.

24   Here's the Fountain Creek Environmental

25 Stewardship Center in Pueblo County.

1   That last one, by the way, was three miles

2   along the creek.

3   This is a mile along the creek, it's at

4   Pueblo Spring Ranch, and there's a lot of neat stuff

5   here. There's already some beaver dams here that -- on

6   a tributary into Fountain Creek, there's some

7   opportunities for bank -- fixing bank erosion. We

8   envision having some tours where people can look at all

9   the cool stuff in here. It's a very exciting project.

10   And the one at -- the southernmost one -- we

11   showed this to City Council last night -- Confluence

12   Park in Pueblo (indicating). This park will be an

13   amenity from 8th Street down through the Arkansas River,

14   be a showpiece for restoration.

15   Some of you, I know, have been up to Denver

16   and seen what's been done up there at the confluence,

17   and we envision a similar thing here. Really bring

18   people to the creek, as all these projects would do.

19   It ties the East Side neighborhood to

20   Fountain Creek. And we -- we've also talked to the

21   planning department and gotten their input on this, and

22   we have incorporated that in. We presented this to the

23   lower East Side folks, they are very excited about it,

24   they really want to give some input to it, so we're

25   working on putting together a process to get their

1   input.

2   I'm going to do three slides on this one

3   'cause it's so exciting.

4   This is a picture of the -- the trail that

5   goes along as it exists today, there's big riprap that

6   really prevents anyone from enjoying the natural beauty

7   of Fountain Creek, and, then, this li -- slopes off on

8   the back side over here (indicating). There's no

9   vegetation here because there's some contamination

10   that's left from -- from an old railroad (indicating).

11   So what we envision is -- this look here is

12   the streamside systems, a -- a widget from that, and

13   this is going to be placed in Fountain Creek, one like

14   it -- the money from CWBC should be awarded in March of

15   this year to do this -- it picks up sediment, takes it

16   to the banks (indicating).

17   So what we'd like to do is take the sediment

18   that comes from here, put it on top of this riprap and,

19   then, fill this in in the back to make it more level

20   (indicating).

21   So it invites the public to come to the

22   creek, it invite -- and here's a picture at the bottom

23   that shows what it would look like (indicating).

24   So we would be able to use the sediment from

25   the creek.

1   And another exciting element of this is that

2   we'd take the solids from the wastewater treatment

3   plant -- they've done some testing, they've done

4   composting of these solids, and they are safe to use for

5   vegetation, so that would be put on top of the

6   sediment -- or the sediment that's pulled out, and,

7   then, it could be vegetated. And, so, that's what it

8   looks like (indicating).

9   Another great thing about this is that it

10 fortifies the levees going through Pueblo and it

11 improves the levee capacity as well, because we're

12 pulling down the sediment that's built up in Fountain

13 Creek.

14   We're about 14 months through with our

15 Corridor Master Planning work, we have a full two years,

16 so another 10 months. We've done most of the conceptual

17 stuff that I presented here, we've also started to

18 looking -- looking for funding.

19   This is a lis -- a list of entities that have

20 said, "Gee, we would like to support that" (indicating).

21   And in our last 10 months that's what we're

22 going to be working on, is getting some funding to make

23 these things happen. And I predict we'll be doing some

24 of this starting out on the next year actually doing

25 things on the ground.

1   Thank you.

2   MR. FREDELL: Mr. Chairman and Board of

3   County Commissioners, I'm John Fredell, I'm the Project

4   Director to the Southern Delivery System, my address is

5   121 South Tejon, and the zip code's 80903.

6   MR. RASO: John, were you -- you were among

7   the group of witnesses sworn at the commencement of the

8   hearing?

9   MR. FREDELL: I was.

10   MR. RASO: Thank you.

11   MR. FREDELL: If I was sitting in one of your

12 chairs I would ask the question, "What's in this for

13 Pueblo West?", and I -- I would like to spend the next

14 few minutes answering that question from the perspective

15 of benefits that we've identified, and they really fall

16 into four main categories, benefits to Pueblo West,

17 economic benefits to Pueblo County, Pueblo Flow

18 Management Program benefits and, then, improvements to

19 Fountain Creek.

20   I want to start by talking about benefits to

21 Pueblo West. And initially you have to realize, really,

22 that Pueblo West only participates in this proposed

23 action -- they would not participate if we actually

24 built from Fremont County.

25   And what -- what does it really do for Pueblo

1   West? It expands their water delivery system, like it

2   does for all the project partners; it provides

3   redundancy, again a benefit that all the project

4   partners are really looking forward to; and, then, it

5   provides an opportunity for Pueblo West to come off of

6   the North Outlet Works. Their existing pipeline

7   actually utilizes the South Outlet Works.

8   Southern Delivery System is a big

9   construction project, it's over a billion dollars, and

10 what that really means in all of our communities is

11 jobs. That's the bottom line. A hundred $72 million

12 worth of construction of the project will occur in

13 Pueblo County, $600 million in Phase I between Pueblo

14 County and El Paso County. Again, that means jobs for

15 local citizens here, as well as expenditures for goods

16 and services for the project, and, then, the essentials

17 for those employees that are coming into the community

18 buying goods and services, gasoline and lodging, et

19 cetera.

20   Next I want to talk for a minute about the

21 benefits of the Pueblo Flow Management Program, and they

22 really break down into two categories, and the one is

23 the flow program protects flow below Pueblo Dam. It

24 benefits the kayak course by maintaining that flow, as

25 well as the Legacy Project and other -- other

1   recreational opportunities like fishing along the river.

2   It also protects in-basin water users. As

3   you know, an IGA -- actually, two IGAs in 2004

4   established the program, and it limits those entities

5   that signed the project from taking additional water out

6   of the Arkansas Basin, and that's important to both of

7   our communities.

8   I want to talk a little bit about Fountain

9   Creek improvements. You heard a lot of the bright spots

10   that Carol talked about that are really going on along

11   Fountain Creek. We want to be

12   environmentally-responsible with this project, and the

13   first reason for that is it's the right thing to do.

14   And, as you heard Carol say, there's a lot going on

15   already.

16   Now, we're really talking about two

17   different, very separate regulatory processes for

18   mitigation for Southern Delivery, and I want to talk

19   about those separately.

20   First of all, I want to talk about NEPA and

21   what we're doing through the EIS process to develop

22   mitigation, and talk about those mitigations at -- at a

23   fairly high level, but with some of them really get down

24   to some of the detail as well; and, then, I want to talk

25   about the 1041 permitting process, because it's very

1   clear that there will need to be additional mitigation

2   for SDS through that process.

3   Now, the real key to the EIS process is this

4   bottom line at the top of the page here (indicating).

5   The preferred alternative has got to be built in a

6   manner consistent with the Final Environmental Impact

7   Statement, that's the bottom line, it's enforceable

8   upon -- upon the project partners that we follow through

9   with the mitigation outlined in that document.

10   And it's really broken down into a number of

11   different categories. The initial ones are really what

12   I consider environmental categories, surface water,

13   vegetation, wildlife, recreation, wetlands, streambank

14   and channel stability, water quality; and, then, there

15   are a number of others. I really intend to talk about

16   these, I'm not going to talk a lot about noise and

17   vibrations and hazardous materials and all the other

18   things that are lumped in there (indicating).

19   Now, I want to talk about these categories

20   individually and what we're going to do as project

21   participants to address these different mitigation

22   areas.

23   The first one's surface water, and as part of

24   the Final EIS we will continue our participation in the

25   upper park voluntary Flow Management Program, which

1   benefits the flows in the Upper Arkansas River, and,

2   secondly, with the preferred alternative we will

3   continue participation in the Pueblo Flow Management

4   Program that I spoke about a minute ago.

5   In terms of vegetation -- and Bruce Spiller

6   covered a lot of this -- a lot of the impacts here will

7   come through construction. We'll initially survey for

8   protected species of plants prior to construction, we'll

9   replace mature trees that will be damaged through

10   construction, we'll monitor revegetation and

11   reestablishment of that vegetation, and, then, we'll

12   have to control weeds, as well as we revegetate it to

13   make sure that you aren't left with a weed patch.

14   Now, additionally, we'll file an annual

15   report with the Bureau that basically says how we're

16   doing with regard to these various mitigations,

17   including vegetation, vegetation mitigation.

18   Now, in terms of recreation, we'll -- as

19   Bruce also said -- affect some parts, and, as he said,

20   we'll maintain detours for trail closures so that people

21   can continue to use those trails even during

22   construction, and we will go in and mitigate impacts,

23   we'll restore any impacts that we have to develop parks.

24   The next few slides address mitigation that

25   we're still defining in a process with the Army Corps

1   of -- Corps of Engineers, with Reclamation, the EPA and

2   the Colorado Division of Wildlife. Now, some of these

3   are further along than others, and I'll point that out

4   as we go.

5   The first one I talk -- I want to talk about

6   is wetlands, and our strategy is really threefold, the

7   three first bullets.

8   The first one is avoid impacts to wetlands

9   when possible. And an example of this would be the

10   change that we made in the preferred alternative to

11   change our terminal storage reservoir from Jimmy Camp

12   Creek Reservoir to Upper Williams Creek. That was done

13   in part to avoid wetlands and other environmental

14   impacts.

15   The second strategy is to minimize impacts if

16   we can avoid them, and that's done by minimizing the

17   footprint that we need for construction.

18   And, then, the final leg is to mitigate

19   impacts that occur during construction, actually go in

20   and revegetate it or whatever it takes to repair that

21   wetland to its current -- or its previous state.

22   Now, the exciting part is the next bullet,

23   and that really has to do with creation of new wetlands.

24   We are going to impact some wetlands with the project,

25   and we intend to fully mitigate those impacts.

1   Now, as you can see here -- I got stuck with

2   the less pretty slide, Carol gets all the pretty ones --

3   and this is actually a picture of Clear Spring Ranch, an

4   area that she talked about improvements on, and this is

5   slightly different because -- and slightly less

6   developed because this goes beyond the concept plan, and

7   we're actually trying to design how we would create

8   wetlands in this area (indicating).

9   The whole idea is to use about a four-mile

10   stretch of the river -- and this doesn't show the entire

11   course that we're actually going to cover, there's an

12   additional slide -- but where it gives you the exact

13   idea of what it is we're trying to do.

14   And, again, why Clear Spring Ranch? There

15   are a couple of reasons. One is its location. It's on

16   property that City of Colorado Springs already controls,

17   so that we can provide for additional access to this

18   property for people to enjoy public access; and, then,

19   it was identified in the Fountain Creek Watershed --

20   Watershed Study, as well as the Fountain Creek Corridor

21   Master Plan that Carol talked about, as a high priority

22   to actually address wetlands.

23   What would we do here? You see these brown

24   areas here (indicating)? Those would be areas where we

25   would actually create on-channel wetlands. You can see

1   the channel of the creek running here, so there would be

2   a wetland created (indicating).

3   And this is another (indicating).

4   Then these other areas show areas where we

5   could potentially create off-channel wetlands.

6   So this is the focus of our study for

7   wetlands right now in terms of an area that really

8   appears to need to be addressed and is a high priority

9   area, and -- as Carol pointed out -- is about halfway

10   between Colorado Springs and Pueblo, so, again, it's

11   going to have a high impact on water quality when we can

12   make those improvements on that reach.

13   Now, another really exciting thing that we're

14   working on is a partnership with CDOT. We have talked

15   with CDOT on a number of occasions, and what they would

16   like to do is find a place to be able to bank wetlands

17   mitigation. What they need is to partner with the

18   property to do it, we can do that. We would like to

19   partner with them and be able to use additional

20   resources to impact more area, create more wetlands in

21   this area working in conjunction with them, that way we

22   can parlay the investment that we'll make through the

23   NEPA process to greatly increase the number of wetlands

24   we could build there (indicating). So we are really

25   working on that and -- and hope that comes to fruition.

1   Now, two other things that we are very

2   focused on in the NEPA process in terms of mitigation

3   are stream management channel stability. Again, you can

4   see -- the same slide -- we're talking about the same

5   area (indicating). There are a number of areas that we

6   can actually address in this four miles, as Carol

7   pointed out, to actually improve Fountain Creek

8   dramatically.

9   What would we do? We would increase stream

10 curves, the sinuosity; we'd also do bank stabilization.

11   And, then, this third bullet would probably

12 fall outside of Clear Spring Ranch (indicating). What

13 we would like to do is implement a project to control

14 sediment and work basically on sediment removal.

15 Currently we're looking for a site to do that, and what

16 we've identified to date should occur further down

17 Fountain Creek towards Pueblo, maybe in Pueblo, to be

18 able to have the greatest impact. That will be part of

19 our mitigation for the project.

20   Then in terms of water quality, we'll develop

21 a comprehensive water quality monitoring program and,

22 then, an adaptive management program to go with that so

23 that we can act upon water quality changes that we see

24 through the process.

25   Now, it's important to note that we're

1   planning to begin any water quality monitoring early in

2   the process. Generally when we start construction we

3   plan to begin water quality monitoring, so we'll have

4   about a three-year baseline by the time construction's

5   done to know, you know, what water quality impacts there

6   are from the project.

7   Now, additional mitigation we're going to --

8   we are involved in is related to aquatic life. Again,

9   we'll do a -- a -- develop a monitoring program, and

10   we're working towards that right now for all of Fountain

11   Creek from the Colorado Springs city limits basically to

12   the confluence and, then, on down the Arkansas River

13   between Pueblo Dam and Las Animas Gauge.

14   And, again, if there are impacts to aquatic

15   life, then we'll develop measures to deal with those.

16   Now, we're taking great steps to consider

17   wildlife. We're preparing to submit a mitigation

18   plan -- it's actually a fish and wildlife mitigation

19   plan -- to Colorado Wildlife Division, and as part of

20   that we're also going to evaluate opportunities to

21   improve angling, boating recreation on Lake Henry, Lake

22   Meredith and Holbrook Reservoir.

23   The wildlife mitigation actually continues on

24   the next page, and, as I said, it's -- it's very

25   comprehensive. I'm not going to bore you with all of

1   the details, but you can see there we've talked about

2   revegetating habitat.

3   We're going to conduct surveys for raptors,

4   migratory birds all the way down to -- you can see the

5   last one, "Replace nesting habitat for Lewis

6   woodpecker", that we could actually affect with the

7   project, and install wildlife crossovers along the

8   excavation so that wildlife can move back and forth

9   while we're actually building.

10   Now, I would like to talk for a minute about

11   1041 mitigation, and it's clear that the Staff Report

12   that's been developed by Pueblo County Staff and their

13   consultant is very comprehensive and very well done, in

14   my opinion. It makes it very clear that 1041 mitigation

15   and NEPA is totally separate, they're not linked, and I

16   think that's important to point out. They really look

17   at -- the report looks at four categories of

18   mitigation -- and these are my words, not the Staff

19   Report's, but this is how I broke them down -- there's

20   really mitigation related to infrastructure, and that

21   has to do with repairing roads, taking care of traffic,

22   all those kinds of things that we need to do when we --

23   when we construct the project.

24   Now, the -- the second one is really

25   environmental, and I see -- as I'm sure you do -- the

1   major focus there is probably going to be Fountain

2   Creek, and that's probably the focus and where we can

3   have the most benefit.

4   Then we have operational mitigation

5   potentially in terms of how the project operates, the

6   stream flows, that sort of thing.

7   And, then, socioeconomic, and these are

8   focused around land acquisition and some of the other

9   activities that we will be involved in.

10   Now, the recommendation in the Staff Report

11 is that staff work with the Applicant, the mitigation

12 should be monetary, the amount and details should be

13 negotiated with the Applicant, and, basically, work out

14 the details of this mitigation to make sure that we

15 cover the areas that we should cover.

16   Now, we're going to have some differences of

17 opinion I'm sure, but we've dealt with working

18 relationships with your staff and your consultant for a

19 number of months here, we've had a great relationship to

20 date, they've shown tremendous expertise and

21 professionalism, and we're confident that we can develop

22 these mitigations together if that's what you want us to

23 do.

24   And I want to tell you, from my perspective,

25 our staff's ready to get started on this.

1   At this point I would like to hear your

2   questions and we will try to address all of them.

3   And, Mr. Chairman, if -- if you don't mind, I

4   think I'll take my seat while we do that. I'm not

5   expecting a lot of questions, but just so that I can sit

6   down to take those, if that's all right with you.

7   COMMISSIONER NUNEZ: That's fine.

8   MR. RASO: Thank you.

9   MR. FREDELL: Thank you.

10   MR. RASO: I take it that that concludes,

11 John, the presentation of the Applicant, at least to

12 this juncture in the hearings?

13   MR. FREDELL: It does.

14   MR. RASO: Thank you.

15   MR. FREDELL: Thank you.

16   MR. RASO: At this time we can certainly

17 entertain questions from the Board, but as -- I think as

18 I indicated in the proposed agenda, I think our Board

19 wanted to hear what we've heard tonight from CSU, but

20 they also want to now hear from our staff and our

21 consultant -- consultants that assisted our staff, and,

22 then, I think they will look at both presentations and

23 get into questions most likely -- maybe tonight, maybe

24 at the start of the next hearing, or -- or perhaps even

25 at a -- at a subsequent hearing.

1   So at this time I think we would call upon

2   the presentation of our -- of Pueblo County's -- excuse

3   me -- Pueblo County Staff Report.

4   COMMISSIONER NUNEZ: Thank you.

5   I think for -- for purposes of bio, we will

6   take a 5- to 10-minute break right now. We will take a

7   bio break now, okay?

8   (A break was taken from 8:00 p.m. until 8:10

9   p.m.)

10   COMMISSIONER NUNEZ: We will now resume the

11   hearing, and at this time we will again turn the agenda

12   over to the County Attorney, Mr. Raso.

13   MR. RASO: Thank you, Commissioner.

14   Before we move to the Pueblo County Staff

15   presentation, Bruce, would you like to submit a CD of

16   your PowerPoint presentation for the record?

17   MR. SPILLER: We've got both a hard

18   copy --

19   MR. RASO: Oh, you -- and the CD?

20   MR. SPILLER: -- and a CD. The CD contains

21   the movies, the hard copy, obviously, does not.

22   MR. RASO: Okay.

23   MR. SPILLER: And, so, we've got the

24   presentation and the PDF of the PowerPoint, and the

25   brief movies we showed on the CD.

1   MR. RASO: Okay, unless there's an objection

2   I would like to combine those into one exhibit, and if

3   we could, for purposes of our numbering, label this

4   Exhibit 4-A.

5   (Exhibit 4-A was marked for identification.)

6   MS. KOVACICH: This is 4-A?

7   MR. RASO: 4-A. Yes, this will be 4-A.

8   MR. KOGOVSEK: Gary?

9   MR. RASO: Yes.

10   MR. KOGOVSEK: It's 5.

11   MR. RASO: Well, we've already done some

12   other stuff. This will be Exhibit 4-A.

13   Thank you.

14   I have some ad -- some exhibits which precede

15   our Staff Report that I would like to introduce for

16   inclusion in the record. I -- certainly if there's any

17   objection we'll hear that before they finally go in.

18   I believe all these have been provided to the

19   Applicant prior to today's hearing, but certainly if we

20   get to anything that hasn't, we'll make sure they get

21   it.

22   What I would ask to be marked as Exhibit 5 is

23   a letter from Kim Headley to Mr. John Fredell, and this

24   was the determination on the request for a Finding of No

25   Significant Impact, and I would be -- ask that that be

1   labeled Exhibit 5.

2   (Exhibit 5 was marked for identification.)

3   MR. RASO: The -- Exhibit 6 is the Notice of

4   the -- Mr. Headley, as the Administrator -- his

5   determination on a FONSI, and this was published --

6   which is required by our regulations -- this was

7   published in The Pueblo Chieftain, it is a one-page

8   exhibit, Exhibit 6 (indicating).

9   (Exhibit 6 was marked for identification.)

10   MR. RASO: Exhibit 7 is a letter to John

11   Fredell, the Project Director for SDS, from Kim Headley,

12   dated October 24th, 2008, and this was a determination,

13   under our regulations, that the application was due a

14   Certificate of Completeness.

15   (Exhibit 7 was marked for identification.)

16   MR. RASO: Exhibit 8 is a Statement of

17   Qualifications from Banks and Gesso, LLC, and they are

18   consultants retained by Pueblo County to conduct and

19   write up the Staff Review on -- that we'll submit as the

20   next exhibit. That will be Exhibit 8.

21   (Exhibit 8 was marked for identification.)

22   MR. RASO: The -- Exhibit 9 is the Staff

23   Comments prepared by Banks and Gesso on the Southern

24   Delivery System 1041 Application. There is in the

25   attachments -- I believe it's Attachment I, or perhaps

1   it's even later -- there's a bibliography of items that

2   they -- studies, other reports that they looked at and

3   cite in their -- in their -- body of their report.

4   The CD, which is attached, actually has a

5   full presentation of any report or study that's cited in

6   the body of their main Staff Report, so I would ask that

7   the CD, which accompanies this Staff Comments Report, be

8   made a part of the record and labeled Exhibit 9.

9   (Exhibit 9 was marked for identification.)

10   MR. RASO: As Exhibit 10 we have a Mem --

11 Memorandum to the Board of County Commissioners from

12 Paul Banks, at Banks and Gesso, and this is an Addendum

13 to the Staff Report which we just submitted as Exhibit

14 9, consists of four pages, and we -- like I say, this

15 has also been given to the Applicant.

16   (Exhibit 10 was marked for identification.)

17   MR. RASO: And, finally, we have Exhibit 11,

18 which was the -- a Memorandum from the El Paso County

19 Public Services Department, Tim Wocken as its Director,

20 and he was among the -- the many persons who were given

21 an opportunity to review this application and make

22 comments, he did submit specific written comments. So

23 we would like to make that Exhibit 11.

24   (Exhibit 11 was marked for identification.)

25   MR. RASO: That brings us on our agenda to

1　the presentation by Pueblo County Staff. Pueblo County

2　Staff here is represented by Banks and Gesso, Mr. Paul

3　Banks.

4　　　　　　So, Paul, if you would like to start out.

5　　　　　　MR. BANKS: Good evening, Commissioners. My

6　name is Paul Banks, my company is Banks and Gesso;

7　business address, 720 Kipling Street, Lakewood, Colorado

8　80215.

9　　　　　　MR. RASO: And, Paul, were you among the

10　group of witnesses that was sworn at the commencement of

11　these proceedings?

12　　　　　　MR. BANKS: I was.

13　　　　　　MR. RASO: Thank you. Go ahead.

14　　　　　　MR. BANKS: I would like to start tonight and

15　tell you just a little bit about my company and about

16　myself. We specialize in land-use entitlements, and

17　work all across the State of Colorado; and, further, our

18　specialty is in industrial land uses -- sand and gravel

19　mines, rock quarries, cement plants, asphalt plants,

20　concrete plants, we've done a power plant, transmission

21　lines -- so that is our specialty in life, land-use

22　entitlement/industrial uses.

23　　　　　　My personal background is that I have a

24　Master's degree in geology from Boston College, and I

25　have been working professionally in Colorado for over 30

1   years.

2   With me tonight also is Alex Schatz.   Alex

3   has a degree in landscape architecture, is a licensed

4   landscape architect in the state of Colorado.   In fact,

5   he holds License Number 2.   He fought for Number 1, but

6   didn't get it.

7   He also has a law degree from the University

8   of Colorado.

9   And I would like to point out that in his

10   capacity with my company he works as a land planner, a

11   landscape architect and a project manager, he does not

12   practice law.

13   One other thing, in the late '70s and early

14   '80s I was employed by the Jefferson County, Colorado

15   government, and my time was split between the planning

16   department and what was then called the "House Bill 1041

17   Coordinator", 'cause that Bill had just passed in 1974

18   and I was hired in 1975.

19   I created and presented to the Board their

20   Geologic Hazard Overlay Zone District, their Flood Plain

21   Overlay Zone District; and the commissioners at that

22   time also assigned me to be their technical liasion on

23   the Two Forks Dam and Reservoir EIS and the Rocky Flats

24   Nuclear Weapon Plant closure EIS.

25   What did we do to prepare the Staff Comments?

1   We reviewed multiple documents, I'm estimating somewhere

2   in the vicinity of 20,000 pages of documents, some

3   submitted by the Applicant and some not, but that were

4   publicly available and relevant to this project, and

5   that's the reason for that bibliography that Gary

6   mentioned.

7   We also collaborated with your staff, Kim

8   Headley and Jeff Woeber, Greg Severance, Gary Raso --

9   THE COURT REPORTER: Excuse me? The last

10 part? What was the last part? The last few names?

11   MR. BANKS: Gary Raso, Ray Petros, Dan

12 Kogovsek (indicating).

13   Met with them, discussed the comments and

14 the -- the application.

15   And we also met on several occasions with the

16 Applicant themselves.

17   The goal of the Staff Comments is to compare

18 them and determine compliance with your Code, with your

19 County Code, specifically Chapters 17.148, 17.164 and

20 17.172, which is the areas and activities of state

21 interest referred to as the "1041 Regulations".

22   It is important to note, though, that you

23 adopted those regulations under both House Bill 1041 and

24 House Bill 1034 and their resulting statutes, and the

25 reason I say that is that House Bill 1034 gives you a

1   broad range of environmental powers to -- to regulate

2   land use.

3   One other thing in terms of the Staff

4   Comments and compliance with your Code is we mentioned

5   that SDS has to comply with the National Environmental

6   Policy Act -- NEPA -- in terms of the Bureau of

7   Reclamation, your 1041 Regulations are separate and

8   distinct, they are not linked to one another. In fact,

9   the approval criteria and the scope in the areas of

10   interest of your 1041 Regs can be broader than the NEPA

11   requirements, and, as a result of that, the same

12   evidence presented can result in a different judgment.

13   The Bureau can reach a judgment on impacts and

14   mitigation different than what you do because of those

15   parallel forms of regulations. Furthermore, the -- your

16   judgment of impacts and mitigation may differ from the

17   Bureau, and that does not necessarily mean the Bureau's

18   interpretation is incorrect, 'cause they are distinct

19   regulatory lines of authority.

20   Under the public record, in addition to the

21   notice information that Gary provided, I would also like

22   to mention that the County, through Colorado Springs,

23   through the Applicant, not only mailed letters that were

24   mentioned before, but mailed letters to landowners along

25   Fountain Creek -- mailed the notice to the landowners

1   along Fountain Creek and, also, to Midway Ranches, a

2   subdivision in the extreme northern part of your county.

3   Staff Recommendations. We -- I think Mr.

4   Fredell mentioned -- we are not currently in a position

5   to recommend approval; however, our recommendation is

6   that you direct staff to work with the Applicant to

7   create concrete, enforceable mitigation language for the

8   project.

9   The Applicant has submitted mitigation in the

10   1041 Application -- mitigation suggestions, and, also,

11   has provided us with a list of what the Bureau of

12   Reclamation may require for mitigation; however, two

13   things, the language I think needs to be tidied up so

14   it's clear and enforceable, and there are areas of

15   mitigation that they did not address.

16   So that's the fundamental rec --

17   recommendation, assign staff and your attorneys to work

18   with them to come back to you with a list of -- of that

19   mitigation language and -- I'll speak to this a little

20   bit later -- the enforcement mechanism that you could

21   use to do that.

22   At this point I would like to -- Don, do you

23   have that fired up over there?

24   I would like to go over the framework of the

25   mitigation, at least in general, which would be

1   subsequently fleshed out and created in detail, and the

2   categories are as follows.

3   Don, would you go to the . . .

4   Lake Pueblo Water Levels. SDS can and will

5   lower the levels on Lake Pueblo. The Applicant's

6   analysis thinks a maximum -- their project -- a maximum

7   of 19 to 20 feet, cumulative impacts can lower even

8   further of the people withdrawing water from the

9   reservoir.

10   In discussions with the Applicant they

11 mentioned, and we agreed, that you could not identify a

12 single reason or user for lowering the levels in the

13 lake, this climate is multiple entities that draw the

14 water out of it; however, our -- our goal there is

15 to -- to construct the terminal storage reservoir in El

16 Paso County soon so that it could be filled at times

17 when Lake Pueblo had enough water and, then, they could

18 withdraw it from the terminal storage reservoir. So

19 that's -- that's kind of a concept there.

20   It's not clear to me from the application the

21 timing of the construction of the terminal storage

22 reservoir.

23   Also I would like to make a correction. I

24 mentioned swim beach, I meant shore line rec --

25 recreation. So the impacts that a declining water level

1   in Lake Pueblo could cause are impacts on shore line

2   recreation and the boat ramps.

3   And let me mention, too, it's not clear to

4   me -- and we -- perhaps we can get clarification

5   subsequently -- that the Bureau absolutely prohibits

6   lowering that water below the inactive pool level

7   (indicating). It may be true, I just don't know.

8   Secondly, the structural integrity of the

9   dam. The -- some of the comments -- or one of the

10   comments, anyway, in the DEIS mentioned a couple of

11   reports -- and I believe they were prepared by the

12   Bureau -- that expressed some concern about the dam

13   itself and its structural integrity, so we felt it would

14   be useful for the Board to get some certification or

15   warrant from either the state engineer office of

16   Colorado or the Bureau of Reclamation that the

17   construction proposed in and around the dam would not

18   affect the integrity of the dam.

19   In discussions with the Applicant they told

20   me that the Colorado State Engineer would have no

21   jurisdiction over a federal dam -- which may or may not

22   be true, it probably is -- but that certainly the Bureau

23   of Reclamation would, so I guess our recommendation

24   would be -- and the other thing the Applicant mentioned

25   is they wouldn't proceed with this project and/or issue

1   a final EIS and approval if they felt that the

2   structural integrity of the dam was imperiled; however,

3   I think it might be beneficial to get something in

4   writing from the Bureau stating that for your benefit

5   and reliance.

6   The next item, Early Construction of the

7   North River Outlet Works. As you know, that was not in

8   the original 1041 Application, that was a subsequent

9   change or decision made by the Applicant to -- to not

10 rely on the -- on the joint-use manifold, but rather

11 initially build and rely on that North River Outlet

12 Works. We think that would be a good thing to get as a

13 condition or as a mitigation because it would relieve

14 the concern about excess capacity on the joint-use

15 manifold, the multiple users and people who rely on the

16 joint-use manifold.

17   And I don't think the Applicant would have

18 any problem with that. They mentioned tonight they

19 would build it early.

20   Next item.

21   Reduce Flows on the Arkansas River. The SDS

22 project will reduce the flows in the river downstream

23 from the dam. They mentioned tonight the Low Flow

24 Agreement, it's not clear to us whether you -- whether

25 Pueblo County would be in a position to enforce any

1   existing or future Low Flow Management Plans or IGAs,

2   and we think that might be important to do.

3   We also asked some questions that we would

4   like to have clarified on the Low Flow Management Plan

5   in terms of wet, dry and average years, and what it

6   would mean to the river during those -- those periods.

7   In other words, if -- if there's an IGA on flow

8   management in the river between Pueblo Board of Water

9   Works and Colorado Springs, could you all enforce that

10   to the benefit of the river? I'm -- I'm not clear on

11   that, but I think it's our recommendation that you might

12   take the position to do so.

13   Fountain Creek Impacts. We -- it is our

14   opinion that SDS will have impacts on Fountain Creek,

15   and those impacts are related to increased base flows

16   and runoff from the new development that would be made

17   possible by SDS.

18   Now, the Applicant told you tonight that they

19   feel they can manage and control runoff from new

20   development through new drainage regulations, a low

21   impact development, Stormwater Enterprise funds;

22   however, I don't believe this Board could -- could

23   enforce -- could require the enactment of new drainage

24   regulations in another jurisdiction or enforce them, so

25   I don't believe we should rely on that, in other words,

1 rely on those statements reducing the flows from new

2 development that will be made possible by SDS.

3   So that -- that's one of the many reasons --

4 and Alex will be speaking later -- why we do believe

5 there will be impacts on Fountain Creek.

6   Why monetary mitigation? Several reasons.

7 There are numerous unfunded recommendations for the

8 improvement of Fountain Creek as you well know, you've

9 heard many of them tonight, and those are very -- and

10 cumulatively, if you add up the costs to implement

11 those, are very, very expensive.

12   Now, Colorado Springs, the Applicant, should

13 not and cannot mitigate the historic problems on

14 Fountain Creek, but should for the SDS impacts, and we

15 believe it should be monetary for that reason.

16   Also, there's a precedent that's been set

17 with Fremont County. Their application -- their SDS

18 application to Fremont County has an IGA which mentions

19 monetary mitigation paid to Fremont County to offset the

20 impacts of the SDS project in Fremont County.

21   Another point, too, is -- from my reading of

22 the costs of the various alternatives -- construction of

23 this project in Pueblo County is somewhere around a

24 hundred and fifty million to $200 million less expensive

25 than the next most costly alternative, so building it

1   here results in a -- in a monetary savings to the

2   Applicant, and, yet, many of the alternatives could

3   result in return flows or increased flows in Fountain

4   Creek.

5   Next.

6   Pipeline Construction Impacts. The Applicant

7   discussed that at length tonight. The -- they do have

8   it -- they do touch on it in the 1041 Application, but,

9   as I mentioned before, we would like to put that into

10   very clear, concise, enforceable language. One thing I

11   think we have to keep in mind down the road is we're all

12   gone, there's a new planning department, new

13   enforcement, these things I think need to be crystal

14   clear as to -- as to how they could be enforced.

15   And, also, there was some things I didn't

16   hear mentioned tonight that I think we heard at the open

17   house in Pueblo West, which is, for example, capping the

18   ends of open pipe at the end of the workday so kids or

19   pets or whatever can't -- can't crawl in there and that

20   kind of thing. These are all very standard construction

21   techniques, I am sure the Applicant would have no

22   problem reducing them to enforceable mitigation

23   criteria.

24   Impacts to County Roads. Your Public Works

25   Department has given us a Memo, which is an attachment

1   to the Staff Comments, and I will go over that in more

2   detail after I'm done with this -- this master list, so

3   to speak (indicating).

4   Next category is Environmental and Cultural

5   Resource Impacts. These are our wetlands, endangered

6   species, sensitive plant communities, historical and

7   archeological sites that might be encountered during

8   construction, and your regulations give you the

9   authority to regulate these; however, I suppose there's

10 an option that you could defer to other agencies who

11 have the authority to regulate these -- U.S. Fish and

12 Wildlife Service, for example, the CDOW, the State

13 Health Department -- in terms of discharge permits.

14   With respect to cultural resource impacts,

15 the Applicant has what's called a "Programmatic

16 Agreement" between them and the various agencies that

17 regulate historic archeological and paleontological

18 resources, and that has procedures and impact mitigation

19 and resource recovery provisions in it, it's our

20 recommendation that they execute that, and implement.

21   The question I guess you would have to deal

22 with, do you want it to be one of your terms and

23 conditions so you would also have enforcement authority

24 over these things? And we can discuss that later.

25   But I am trying to make the distinction

1   between you being in a position of enforcing some of

2   these things, or relying on or deferring to other

3   entities who have that enforcement authority.

4   And I talked a little bit with Gary about

5   that.

6   The next item, Property Tax Consequences.

7   The Applicant has stated that this project would have

8   limited impact on property tax revenue both to the

9   County and to Pueblo West, and that -- that's entirely

10   possibly correct; however, some land would be taken off

11   the property tax rolls. It is -- the Applicant did

12   mention to me that a 100-foot easement on private

13   property may not take the -- that property off the tax

14   rolls because it's an easement and it's not going into

15   government ownership, I'm not quite clear on that; and,

16   then, there was the issue brought up at the Pueblo

17   West -- some of the Pueblo West open houses, a

18   landowner, you know, saying, "If I got a hundred feet I

19   can't use in my backyard and I have to pay taxes on

20   that, I don't like it."

21   So I'm not recommending that this impact be

22   mitigated, but I think if the Board so chooses it might

23   be interesting to know what kind of dollar or property

24   tax impact might be incurred here.

25   The next item.

1   Securing Private Property. The -- the

2   Applicant has been very good at this in terms of

3   contacting the landowners along the route who would

4   either have an easement, a fee simple sale or -- or,

5   ultimately, condemnation. They have contacted them,

6   they have talked to them.

7   The Applicant has committed to using the

8   power of eminent domain as a very last resort in this --

9   in this case.

10   And they also have -- we had recommended that

11   your property owners who may be affected have no

12   out-of-pocket costs as a result of this project, and the

13   Applicant -- I discussed with them, and we want to

14   clarify what that means is the cost of appraisals, title

15   work, any closing costs, the costs of transactions would

16   be borne by the Applicant and not your constituents

17   (indicating).

18   The next slide, please.

19   The Public Works Department has -- has given

20   us a memo, and there is a map in another exhibit listing

21   your county roads, and this is a summary of what they

22   have requested.

23   The first sentence, please.

24   Apply for excavation permits within County

25   right-of-way.

1   Next.

2   Apply for access permits onto a county road.

3   So think of the easement -- the hundred-foot

4   easement, and there's a county road where they would

5   turn off to get into the construction area and create a

6   staging area and, then, come back onto a county road

7   (indicating). Your Public Works Department wants access

8   permits issued to accomplish that.

9   Next.

10   The Applicant has submitted a haul route

11   plan, and the haul route plan shows how the heavy trucks

12   and the construction equipment would get from the state

13   highway system onto your county roads to the

14   construction site, and Public Works would like that haul

15   route to remain as shown in the submittal; however, I

16   should point out the Public Works wants the right to

17   review the final construction plans and may modify

18   slightly some of these provisions that they have now.

19   Next one, Don.

20   They have requested the Applicant submit a

21   traffic control plan through the construction period on

22   your roads.

23   Next.

24   The -- the current memo or requirement of

25   Public Works requests an Intergovernmental Agreement for

1   the reconstruction and maintenance of your county roads.

2   I talked to the Applicant and they were a little

3   concerned about that because there is already an

4   Intergovernmental Agreement between Pueblo County and

5   Pueblo West concerning roads, and felt that there may be

6   some -- some concern about that.

7   However, in discussions with your Public

8   Works Department what they want is a enforceable

9   commitment to comply with these recommended conditions.

10 And I guess it may or may not take the form of an IGA,

11 but the -- but the criteria is an enforceable

12 commitment.

13   Next.

14   They also mentioned Intergovernmental

15 Agreement for use of the staging areas within the

16 easement, that's also subject to the same comment I gave

17 to you. When -- when the Applicant creates a staging

18 area and parks vehicles and puts pipes in there and uses

19 land and so forth, the Public Works wants an enforceable

20 commitment in some form for the use of that land for

21 that purpose.

22   Next.

23   They would request that stormwater management

24 plans be submitted and approved by the Public Works

25 Department.

1   Next.

2   Blasting. The Applicant doesn't think they

3 will have to blast for the construction of this -- of

4 this pipeline; however, your Public Works Department has

5 noted there are some areas of hard rock in Pueblo West,

6 for example, that may require blasting, and should that

7 be so Public Works has requested in advance a plan that

8 they can review and approve for blasting.

9   Next one.

10   Drainage Plans for Blowoff Valves. Some of

11 these valves release water from the pipeline if they

12 have to empty it out for maintenance or repair, and it

13 would -- the water would come out and go into the

14 drainage ways. Public Works would like to see a

15 drainage plan for that discharge, whether it might be

16 part of erosion protection or some limitation of volume

17 of discharge or whatever.

18   Next.

19   Public Works would like to see no

20 unreasonable prohibition of future roads and utilities

21 across the easement. The Applicant has stated they do

22 not want any parallel -- excuse me -- parallel utilities

23 in their easement, but utilities that may cross it

24 are -- are okay.

25   So I think what Public Works is saying here

1   is if we need a future road that is not currently

2   contemplated but built across that easement, or a

3   utility line of some kind across that easement, we would

4   like no unreasonable prohibition of the ability to do

5   that.

6   Next.

7   This is what I mentioned earlier. The -- the

8   construction plans and the alignment and the haul route

9   plans and so forth right now are in preliminary

10   engineering design, final plans will be created, Public

11   Works would like to review those and may amend some of

12   these comments or come up with some additional issues.

13   Next.

14   Other recommendations that we have made. We

15   would recommend that an amendment to the 1041 Permit

16   Application be filed if water from this project goes to

17   any entity other than the currently listed participants.

18   The rationale for this is that the impact of such

19   delivery of water to others has not been addressed in

20   this application.

21   Next.

22   COMMISSIONER CHOSTNER: Say that again, Paul,

23   I'm not sure I understand that.

24   MR. BANKS: There are four participants

25   involved, Springs, Fountain, Security and Pueblo West,

1   what we're saying is if -- if the Applicant delivered

2   water to some -- sold, leased or delivered water to some

3   other entity, the impacts of that delivery and use are

4   not covered in this 1041 Application, you would not have

5   had the benefit of knowing those impacts, so, very

6   simply, if they do that, we would suggest an amendment

7   to the 1041 Application so you could judge those

8   impacts.

9   Similarly, if -- the current application does

10 not contemplate the enlargement of Lake Pueblo, if that

11 becomes necessary in the future we would recommend an

12 amendment to the 1041 Application for exactly the same

13 rationale, the impacts of such a -- an enlargement have

14 not been addressed in this application.

15   Next.

16   Implement the Project According to the Plans.

17 That's self-explanatory.

18   Next, Don.

19   Obtain Flood Hazard Development Permits Prior

20 to Construction in Flood Plains. At this point we think

21 you have three FEMA flood plains under County

22 jurisdiction -- the Arkansas River, Wildhorse Creek and

23 possibly Dry Creek -- it's a fairly standard condition

24 requirement.

25   Next.

1   Provide Copies of All Necessary Permits.

2   There is a host of permits that the Applicant has to

3   obtain, and we feel that within 60 days of obtaining

4   those, submitting them to the County for the County

5   files would be appropriate.

6   Next.

7   The -- the project -- as the Applicant

8   mentioned, the project is going to require a new

9   substation and new overhead transmission lines. Your

10   regulations would require a 1041 Application for those

11   facilities if the power lines were over 115 kilo

12   volts -- kv -- we have been informed by Black Hills

13   Energy that it would be below that, so even at that,

14   even if it didn't require a 1041 Application, it would

15   require a Use By Review under your Code in the S1

16   District. So the recommendation is if it falls into the

17   1041, apply for a 1041 Permit for those facilities; if

18   it doesn't, apply for a Use By Review for those

19   facilities.

20   Next.

21   We would recommend -- the application that --

22   that was submitted contains a draft of the Programmatic

23   Agreement governing impacts to cultural resources. As

24   of a couple of weeks ago, when I talked to the

25   Applicant, it was not -- it had not been executed, it

1   would be certainly our recommendation that as a

2   condition that be executed and implemented.

3   The Applicant relies on something called

4   "adaptive management", which is monitoring and

5   mitigation. The monitoring, for example, impacts the

6   Fountain Creek. If something requires a change in -- in

7   the -- in the process or -- or the way -- the way the

8   project works or mitigation in the creek, then they

9   would then do that, that's fine, but we would request a

10   little bit more detail on adaptive management.

11   For example, when we represent a private

12   client -- for -- for example, a mining permit with the

13   state -- we do submit monitoring and mitigation plans,

14   but it's spelled out, "Here's the monitoring, here's the

15   threshold or the trigger that would require mitigation,

16   and here are some mitigation measures in increasing

17   order of severity that we would require" (indicating).

18   So the adaptive management on the face of it

19   is good, we would like a little bit more detail on

20   what -- what that means, what exactly that constitutes.

21   Next, Don.

22   Enforcement. I've talked with your

23   attorneys, and, obviously, enforcement is an important

24   part of this, and you will need a mechanism of

25   enforcement, and I think there are some options.

1   The first one is a Resolution with

2   Conditions. That's a fairly standard -- I assume you

3   pass resolutions all the time with conditions of

4   approval.

5   The second one is Development Agreement. A

6   lot of jurisdictions have what's called a "Development

7   Agreement", which is essentially entered into between

8   the Applicant and the county government, and contains

9   all the terms and conditions of any approval.

10   Third option is an Intergovernmental

11   Agreement, and I think -- next sentence -- I think as

12   part of this recommendation that we've made to you

13   that -- that your staff work with the Applicant on

14   mitigation, that part of that should be coming back to

15   you with a recommendation on an appropriate enforcement

16   mechanism.

17   Next, please.

18   Compliance Reviews. There are -- there --

19   there will be a -- a diligence period where -- where the

20   Applicant will be letting out contracts and -- and

21   setting up the construction project, there will be a

22   construction period where you might want to look at

23   compliance reviews, and, then, lastly, there will be

24   ongoing compliance with the terms and conditions of any

25   approval that you may have.

1   It is quite common across the state in

2   jurisdictions to require a periodic at some routine --

3   you know, some routine period of time for you to hold a

4   compliance review, or delegate your staff or others to

5   hold a compliance review with any terms and conditions

6   that you apply to the project.

7   Next, please.

8   Your Code allows you to request a financial

9   warranty to -- to guarantee that the project is built

10 and implemented according to the plans and the

11 conditions. The Applicant has not proposed that, we're

12 not necessarily recommending it, but it is quite common

13 and you are allowed to do so.

14   For example, for road work you do $20,000

15 worth of digging up of a county road, you have a $20,000

16 financial warranty to guarantee its replacement.

17   That's something that we will work with

18 Public Works Department and the Applicant on whether you

19 feel it is necessary or not.

20   Next category, Zoning and Land Use. Your --

21 the zoned categories that are affected by and adjacent

22 to this project are S1, A1, A3, A4, B4, R4 and R5,

23 commercial and residential districts primarily.

24   Pueblo Regional Development Plan. We have

25 found that with appropriate mitigation and appropriate

1   terms and conditions it can comply with the Pueblo

2   Regional Development Plan.

3   Construction Time Frame. Your -- the Code --

4   well, the Applicant has stated that the construction

5   time frame is 2009 to 2012, and in that three-year

6   period they could be building various parts of it

7   simultaneously, so they start in one place and continue

8   along the line -- they could be building a reservoir in

9   El Paso County, building things at the dam, building

10   parts of the pipeline, but that's their construction

11   period (indicating). Now, your Code -- or Code says

12   that construction must start within one year -- or

13   dili -- diligence towards that construction must start

14   in one year.

15   The Applicant hasn't requested an extension

16   of that time frame, but the Board may consi -- consider

17   some sort of a time frame or an extended time frame at

18   which the permit would expire were there no construction

19   or no diligence toward starting that construction. In

20   other words, you wouldn't want 5 or 10 years to go by,

21   no construction is started, nothing has happened, and

22   have the permit still be valid. And I think we can work

23   on that and present a recommendation to you on that.

24   For example, many jurisdictions have a -- a

25   three-year vesting period. You get approval for a

1 project, if you don't build it, if you don't start

2 building it within three years, you'll lose it.

3   (Reviewed documents.)

4   A -- Agency Referrals. We -- let me flip

5 back here (indicating).

6   (Reviewed documents.)

7   Kim Headley sent out a request for comments

8 to 78 entities -- and that list of who was requested

9 is -- is in the Staff Comments -- we've received, to

10 date -- not including the one that we heard about

11 tonight -- one, two, three -- six -- six letters, and

12 I'll just briefly summarize them.

13   Turkey Creek Conservation District sent a

14 letter requesting denial, and if it wasn't denied they

15 wanted -- they requested compensation for damage to

16 lands caused by the project.

17   That's not a recommendation we're making,

18 it's a summary of what their comment was.

19   Pueblo County Public Works Department, we

20 just mentioned what they had said.

21   El Paso County sent a letter of comment, but

22 it primarily pertained to construction aspects in Pueblo

23 County, and they went on to say that they have -- they

24 have a local land-use process there by which they will

25 judge this project, so I am not sure there is anything

1   you have to respond to to El Paso County's comments,

2   because they would govern it themselves involving

3   construction in their own county.

4   The Rocky Mountain Environmental Labor

5   Coalition and the Sierra Club sent a letter of comment

6   which was primarily comments on the Supplemental In --

7   Information Report issued by the Bureau, but they asked

8   it to be entered into your record, and it primarily

9   identified what they felt were impacts that the Bureau

10 didn't identify but should.

11   An attorney by the name of "Sandy McDougall"

12 submitted comments. Basically had stated that as a

13 result of a -- of a litigation that he had apparently

14 lost on behalf of some landowners along Fountain Creek,

15 the courts determined that Colorado Springs could not be

16 held responsible for damage to lands because they didn't

17 follow the drainage plans or implement the drainage

18 plans -- I don't -- I don't quite understand the legal

19 decision -- however, the conclusion of the letter was

20 that your regula -- your regulatory authority was -- was

21 kind of the -- the last resort to regulate impacts to

22 Fountain Creek.

23   And, lastly, The Pueblo Chieftain submitted a

24 letter of comments focused primarily on what they felt

25 were impacts to the county in general, and, quite

1 specifically, impacts to Fountain Creek.

2 (Reviewed documents.)

3 With that I would like Alex to talk -- Alex

4 Schatz to talk in a little bit more detail about the

5 approval criteria. Your regulations have numerous -- we

6 think we counted in excess of 40 approval criteria

7 against which you would judge this project to make your

8 decision.

9 And I will try to encourage him to be brief

10 'cause I know it's been a long day and a long evening

11 for the Board.

12 MR. SCHATZ: Thank you, Paul.

13 Alex Schatz, with Banks and Gesso, 720

14 Kipling Street in Lakewood, Colorado 80215.

15 MR. RASO: And, Alex, were you among those

16 witnesses sworn at the commencement of this evening's

17 proceedings?

18 MR. SCHATZ: Yes, I was.

19 MR. RASO: Thank you.

20 MR. SCHATZ: Just by way of introduction,

21 there are -- I appreciate Paul's introduction of my

22 credentials -- there are some familiar aspects of this

23 project, not just through my history with Banks and

24 Gesso, but I also started my career as a landscape

25 architect doing flood control projects, demonstration

1 projects specifically for urban runoff under Section 319

2 of the Clean Water Act, which deals with nonpoint source

3 pollution. So I have a long history with some of the

4 issues you see here tonight.

5   And, of course, I am going to be the one to

6 blame for the long meeting, right? I get left holding

7 the bag here at 9 p.m., and I will try to be brief

8 and -- and respect your time. I -- I appreciate your

9 attention.

10   I'm here to explain why to do the mitigation,

11 what are the impacts. The -- the quick answer, of

12 course, to why to do mitigation is there are impacts,

13 the long answer is very, very long.

14   And I do have more slides than -- than Paul

15 does, but I'm going to -- you will see the way we laid

16 them out they scroll out individually and, then, they

17 start to come at you page-by-page, which will simulate

18 for you, if you haven't already looked at the record,

19 the -- the review process. It -- it comes at you very

20 quickly, and I will try to be brief.

21   First slide, please.

22   I won't -- if you can bring up the first

23 point.

24   I won't go over what Paul's gone over before.

25 This is a 1041 Review with 1034 powers implicitly part

1 of it.

2   Next point.

3   And, of course, the distinction between this

4 process and the NEPA process has also been made for you.

5   And, of course, one of the -- the main

6 differences that our review focused on is what's

7 happening to Pueblo County, what are the impacts that

8 side of the county line, because that is really the

9 point of the 1041 Regulations, that is not a point of

10 the -- of the EIS process, that project looked at the

11 project as a whole.

12   Next slide, please.

13   So there are 44 -- I have the magic total for

14 you -- criteria; and I will hand it to your clerk, just

15 to remind you if you need it in a convenient format,

16 what those review criteria are (indicating).

17   Next point.

18   There are 15 criteria under Chapter 17.164,

19 I'll refer to those, as needed, as "164". You'll find

20 that they are letters when I refer to them in the

21 comments, A, B, C, D, those criteria.

22   And, then, next point.

23   The Sec -- the Chapter 17.172 are numbers,

24 and there are 29 of those.

25   Believe it or not, I will try to lay out for

1 you how we came to the conclusions about what mitigation

2 would be appropriate by -- by going over those in

3 clusters of -- of less to more not controversial, but

4 complex and definitely needing mitigation.

5   So with that bring up the next couple.

6   You will note at the end of the Section -- or

7 the Chapter 172 regulations there are also some

8 guidelines, and the handout is in front of you.

9   Next point.

10   The Applicant has the burden of proof in this

11 case, of course, I just want to make that point because

12 the Board will find the facts in this case and the

13 Applicant will need to comply with all those criteria.

14   Our recommendation is subject to your

15 questioning and -- and whatever you may see fit to ask

16 of the Applicant.

17   Next point.

18   So my plan -- next two points -- for review

19 of this is to quickly review all of the criteria, but

20 really tonight highlight major issues. I've used

21 shorthand in my presentation points here for some of the

22 criteria, I'm not going to phrase them in the full

23 sentences that you see in your regulations, and

24 sometimes I even turn -- avoid a negative, for example,

25 and -- to maintain a positive. Your review -- our

1   review is, of course, made on the literal wording of

2   that, but for convenience tonight and the -- just the

3   rubric of looking at this it's sometimes easier to

4   shorten it.

5   So with that, next line.

6   There are a -- a list of criteria with which

7   we are in general agreement with the Applicant, and it's

8   easy with many of those because they're not associated

9   with any sort of mitigation, they -- they don't produce

10   the type of impact that you need to mitigate, it is a

11   threshold type requirement in your regulations.

12   Next point.

13   The Staff Report is not a limit on your

14   discretion, you can determine that something I say we're

15   in general agreement, you're not in agreement. These

16   are threshold criteria that you have to look at.

17   So first one of these is the need for the

18   project. Is this project needed? There is a -- a great

19   deal of evidence that's been submitted by the Applicant

20   concerning water planning, projections on demand, those

21   are criteria A-27 and 29. Generally speaking, you can,

22   you know, mince words in terms of the planning horizon,

23   how far out should you look, what kind of assumptions

24   are you making, but we do generally agree with the

25   Applicant that there is a need for this project to

1   supply the participating communities.

2   Next point.

3   Another criteria is that the Applicant will

4   be able to obtain all permits, approvals, land rights

5   and interests in land to make the project happen.

6   That's criteria 0 and criteria 1.

7   You will see that there's a lot of

8   duplication -- not exact duplication, but a lot of these

9   are covered conceptually by both your 164 and your 172

10   Regulations.

11   Again, there are many, many approvals for

12   permits and land rights that need to be acquired for

13   this project, but the amount of effort that this

14   Applicant has put in, and the record that they

15   submitted, tend to support their compliance with that

16   criteria.

17   Next point.

18   The Applicant's expertise and technical

19   feasibility are criteria 4 and 5 respectively. We do

20   not debate that, and if you would like to look into that

21   threshold requirement I commend you to Appendix A of the

22   1041 Applications, the detailed Feasibility Study that

23   the Applicant produced.

24   Next point.

25   Criterion F is essentially, again, the rubric

1   here to avoid creating conflicting service, overlapping

2   districts, inefficiencies that might be associated with

3   a project that was ill-conceived, not conceived in a

4   larger context.

5   Here, of course, you have multiple

6   jurisdictions cooperating, we don't see a great deal

7   of -- of debate there. Again, subject to your

8   discretion.

9   One note, Pueblo West is participating in

10   this as a -- a user of the -- end user of the water, the

11   application does not cover other aspects of the Metro

12   District's service, so if they were to expand

13   geographically that would require a separate process,

14   separate application; if they were to do something

15   outside of the scope of this, like discharge into the

16   Pueblo Res -- Reservoir possibly in the future we are

17   not making any determination on that, it's simply not

18   within the scope of this application.

19   Next point.

20   This one appears here because the criterion J

21   and 6 are phrased risks to the project from natural

22   hazards. We're certainly aware that there's some

23   concern about flooding, but note that the criteria talk

24   about the -- is the project, is the pipeline placed at

25   risk by natural hazards? Does the pipeline cross a

1   geologic fault? Does it -- will it get washed out by

2   the Fountain Creek? The evidence on that specific

3   criteria is pretty clear, the -- the project is not in

4   any specific danger due to natural hazards.

5   And I will, of course, cover below the issue

6   of flooding and other impacts associated -- generated by

7   the project.

8   Next point.

9   Paul talked briefly about the archeological,

10 paleontological -- that's the biggest words I'll use --

11 resources, and the Programmatic Agreement under the EIS

12 is really the way that is resolved; otherwise, there is

13 actually very little data in the record because that

14 type of information, that survey, is confidential to

15 protect those resources. So that process has -- has

16 worked here.

17   The next point.

18   Hazardous Materials, Contain Hazardous

19 Materials. The record on this point is specific to the

20 construction process -- it is not really about the way

21 the criteria's written and the way the record was

22 produced by the Applicant, not really about incidental

23 events, not about do you mobilize Mercury in the

24 watershed because of this, that's covered under another

25 criteria -- this one we feel, fairly speaking, the

1   Applicant has demonstrated that the construction process

2   will not release hazardous materials.

3   Next slide.

4   So I got a question at the office, "What is a

5   minor but significant issue?" And my definition of that

6   is, is simply something where it's one or two points

7   under the criteria. It's not complex, it's not

8   something that I need to go on for a long time, there's

9   maybe one or two points, but you need to make a

10   fact-finding judgment as a Board on these, and -- next

11   point -- most of them have been covered by our

12   mitigation recommendations. In fact, I -- I would

13   gander that all of them are.

14   Next point.

15   Orderly Water and Sewer Development.

16   Next two points.

17   There's not a lot of information in the

18   record about what's going on in El Paso County, and

19   you've got to recognize that three of the four

20   participants are El Paso County, so though there isn't a

21   lot of information to say, "Yes, this is part of an

22   orderly water and sewer development", it's not part of

23   the record here, that -- that is occurring in the

24   background. So we don't see a big issue with criteria

25   B, again, subject to your fact-finding.

1   Next point. And the next two points there as

2   well.

3   "So will this generate" -- the criteria

4   reads, "Will this generate growth that's incompatible

5   with the financial capacity of -- of the utility?"

6   There is a large cost to this project, of course, and

7   the other concern that was mentioned in the Staff Report

8   is the taxpayer/ratepayer climate. That vacillates -- I

9   think that can be fairly said -- within the service

10   area.

11   But the Applicant pointed out the ballot

12   issue this year -- in fact, a couple of them --

13   supported the efforts of the utilities in general in

14   Colorado Springs to continue their efforts. So it is a

15   minor concern.

16   And we did also, in the Addendum, mention

17   that -- in that Appendix A of the 1041 Application --

18   there is a great deal of information about Colorado

19   Springs Utilities' financial health, and they are highly

20   rated in terms of their bonds.

21   Next point. Next two points after that as

22   well.

23   Is this consistent with adoptive plans of the

24   County? That's a couple of criteria, I and 3. Your

25   Comprehensive Plan, of course, is very thorough, it

1   talks about recreational interests, water and

2   environmental quality, those need to be maintained,

3   enhanced, and there's a vision to that effect. In

4   general, we feel that conditions will address those

5   concerns.

6   Next slide.

7   Criteria now talks about the best alternative

8   needed for water supply.

9   Next two points under that.

10   The other options have been gone over in some

11 detail tonight. The Fremont County Highway 115

12 alternative would have the same general -- I would just

13 like to point out it had the same general impacts to

14 Fountain Creek, but does not allow for this Board to

15 have any voice essentially in what controls will occur

16 there, so that is somewhat problematic.

17   Of course, the other primary point of

18 discussion is the downstream intake, that has some

19 issues that were also discussed previously.

20   And, then, the third alternative that's been

21 talked about -- back up on -- on the next -- on that

22 point L -- is conservation, and that's -- and that's

23 occurring in Colorado Springs Utilities in parallel with

24 this, and probably realistically cannot be talked about

25 as an alternative, but I wanted to note that for your

1   consideration.

2   And, of course, the other concern about

3   looking at alternatives and opening it up to an -- an

4   endless universe that's not well-defined by the 1041

5   process is that there is the Flow Management Program in

6   place today, and that assumes that the SDS will be

7   approved in, substantially, the alignment that we're

8   talking about tonight.

9   Next point.

10   Criterion M and 10 talk about avoiding

11   economic impacts. The Applicant would appreciate me to

12   note that they have talked about some benefits. There

13   is, during construction phase, very likely to be some

14   benefit to the construction industry in Pueblo County.

15   Next two points.

16   In terms of impacts, the concerns are

17   enumerated right in those criteria, they include

18   recreation as a part of the Pueblo County economy,

19   agriculture, livestock and the property tax base.

20   Paul's covered that to some extent.

21   Again, we feel conditions can cover that.

22   Next point, and the two after that.

23   Criteria 2 is that impacts -- impairments to

24   property rights should be avoided. You have, in fact --

25   another after that, one more -- three different sets of

1   property rights that are of concern. Direct-take

2   issues, of course, to properties along the alignment

3   that will need to be acquired or encumbered with an

4   easement for this; construction inconveniences, such as

5   blocked access or times of day when it will be hard to,

6   you know, fully use a property within the corridor; and,

7   then, the impacts of properties on the Fountain Creek.

8   Again, we have discussed some mitigation measures with

9   regard to these.

10   Next slide, please.

11   Avoid Un -- Undue Financial Burden.

12   I think I have three points under this, if

13 you would bring those up, please.

14   This is really related to the criteria right

15 above, impairment of property rights. If you impair

16 property rights that is some sort of financial burden

17 typically, so that finding could be made.

18   In terms of the effect on -- on Pueblo West,

19 just like to note that there is going to be a rate

20 adjustment necessary in Pueblo West, but that rate

21 adjustment is likely to be needed one way or another

22 because it is near capacity right now in terms of the

23 wall of water that it needs to be providing to that

24 community.

25   And, then, just for the record we need to

1   note that there may be an effect on junior water users

2   as a result of the conditional rights that would be

3   exercised by Colorado Springs. That's discussed in more

4   detail in the Staff Report.

5   But there is really no reason why this would

6   be a significant financial burden on Pueblo County. I

7   will be happy to answer questions about that at the

8   appropriate time if you have them.

9   Next point. And three under this.

10   There are two criterion related to efficiency

11   and conservation, there's a -- a limited presentation in

12   the 1041 Application -- I won't belabor this point --

13   but they talked about the efficiency of the -- the

14   motors that run the pumps. That -- that's not,

15   obviously, as far as one might go in a project of this

16   scale, we might be interested in hearing a little bit

17   more about that in -- in a future presentation. It can

18   be said, though, that this generally improves the water

19   yield for the participants, it's efficient in that

20   regard, and the goal is really to eliminate waste. We

21   don't see any reason, given the mit -- mitigation that

22   we have discussed tonight, that you would find

23   negatively on this, subject, of course, to your further

24   investigation.

25   Next slide.

1   Preserving Visual Quality. There's really

2   one issue here because the infrastructure is

3   underground, and that is the Juniper Pump Station. You

4   saw a very detailed presentation from the Applicant, and

5   I don't think we need to discuss it.

6   Next point. And the three under that.

7   See, it's coming at you faster.

8   Ecological Effects. There are three criteria

9   related to that wetland and riparian areas, there is the

10 Fountain Creek fringe that we are concerned about

11 generally, there was a big list provided by the

12 Applicant in their presentation of -- of species that

13 inhabit that or could inhabit that, the potential for

14 some restoration there; and, of course, there's the open

15 cut on the Arkansas River if the joint-use manifold is

16 built in terms of wetland and riparian areas. Those are

17 minor impacts, I think they can be mitigated.

18   In terms of wildlife, the major issue to --

19 to bring up is fisheries, and I do discuss under the

20 water quality criteria below a little bit more about

21 that.

22   In terms of plants -- which is criteria 19 --

23 there's some habitat on Walker Ranch that may be of

24 concern, just regionally speaking there are some species

25 located there. The Applicant does not feel that their

1 alignment affects those, but there are some issues of

2 concern. Again, we feel that the mitigation process,

3 performing appropriate studies and -- and having an

4 adaptive process in place may be sufficient to deal with

5 that concern.

6   Next point, and two after that.

7   Groundwater and Aquifer Recharge are related,

8 criteria 16 and 28. Our analysis fo -- focused on

9 pumping effects with criteria 16, that was a separate

10 binder in the DEIS. There's a little bit of cumulative

11 effect that make downstream related to Fountain pumping

12 in the long-run, but that is not likely to affect

13 groundwater quality, it's not likely to affect wells as

14 far away from that pumping activity.

15   In terms of aquifer recharge, there's limited

16 analysis in the application package, but it's related

17 to -- the concern is related to surface water quality

18 primarily, so I'll just ask you to pay attention when I

19 speak to that.

20   Next line.

21   So the major issues, typically multiple areas

22 of concern or multiple things that need to be studied

23 under each criterion.

24   Next.

25   The sub -- the mitigation for these would be

1   substantial.

2   And next.

3   Some further study may be required. Like I

4   said when I began, parsing the impact at the county line

5   is not an easy thing to do, especially given that the

6   EIS documentation didn't have that mission in place, so

7   you can appreciate the complexity of -- of the review

8   that you're looking at tonight.

9   Next slide.

10   Criterion G is notable because it

11   specifically requires mitigation. It requires

12   mitigation of, basically, all environmental act --

13   impacts and, then, it lists a few of specific concern,

14   those are right up there for you to take a look at,

15   agricultural productivity, aquatic life, water quality

16   and, then, flow conditions; and, then, there are a host

17   of small -- quote, unquote -- "unavoidable impacts" the

18   DEIS discusses, and the Applicant did develop some

19   suggested mitigation measures from that standpoint.

20   Our focus here is on Pueblo County, and in

21   relation to criterion G Paul discussed the mitigation

22   measures we're talking about; and, then, the specific

23   points of environmental impact are covered in our review

24   in other areas.

25   The next slide.

1   Criterion H is another broad one. It's --

2   it's -- and 24 as well -- basically about cost benefit.

3   Your Code requires a finding, under criterion H, that

4   the proposed activity has value to the County, and under

5   24 that it has benefits to the County. So keep that in

6   mind those -- that portion of the presentation by the

7   Applicant is very relevant to your review.

8   The way those criteria are -- are phrased you

9   must also account for opportunity costs, demands on

10   resources in the County, we believe that those are

11   reconciled with conditions in a mitigation package to be

12   developed in cooperation with the Applicant.

13   Next slide. Or next point, I guess I missed

14   that.

15   Criterion 8 pre -- prevents interference with

16   local government services. There are four points that

17   I've listed here -- they're not really related to each

18   other, they're related to the criteria Paul discussed --

19   road impacts during the construction and, of course,

20   there is a haul route that's going to be not just where

21   the cut or the boring occurs to cross Pueblo County

22   roads, but also roads that may be impacted by trucks

23   with materials that are coming to and from the

24   construction project. So that aspect of Paul's

25   discussion are very important from the standpoint of

1   this criterion.

2   If the, I should say, joint-use manifold is

3   the only way that water is drawn to SDS there is a

4   potential that the capacity of that could be reached and

5   exceed such that the various municipalities and other

6   entities with rights to it would be in conflict with one

7   another, so that's a concern.

8   There's a concern that there may be

9   emergencies during construction related to attractive

10   nuisance, that kind of thing, the Applicant has covered

11   that in their presentation, and we believe that that's

12   covered by some mitigation that we are suggesting as

13   well.

14   And, then, other utilities in and around the

15   corridor, meaning that if I -- the Fountain Valley

16   conduit that runs along the alignment through Pueblo

17   West that this will join was not an option for this

18   pipeline, not just because of engineering but -- but

19   potentially -- and -- and when you ask the Applicant,

20   "Why don't you go over where it looks like there's" --

21   if you looked at their slide -- "a lot of room between

22   these power lines?", they said, "Well, you -- you can't

23   ask these utilities to join each other, you can't ask

24   them to give up their rights in an easement."

25   So the concern is that we're -- we're taking

1   more and more ground here, and we need to make sure that

2   the easements are not exclusive of future uses that are

3   justified and can be accommodated in the corridor.

4   Next slide.

5   And, then, I guess that's coming out

6   separately. It's supposed to come faster and faster.

7   Avoid Recreational Impacts. This is a major

8   issue, again, for some distinct reasons. There's

9   cross-references in the other criteria, but the Lake

10   Pueblo issue, Paul talked at some length about that.

11   Again, it's not just about the state park but other

12   areas upstream, the shore line extends upstream and,

13   also, downstream, where I note the Flow Management

14   Program protects some recreational interests today; and,

15   also, Fountain Creek users, that's a passive

16   recreational use; but -- the Peaks to Prairie Program;

17   but some of these other projects that you saw the

18   Applicant talk about are distinctly recreational, and

19   that opportunity exists in Pueblo County as well.

20   Next slide.

21   Criterion 15 is a very significant issue,

22   Surface Water Quality. The 1041 standard states that,

23   "The project will not significantly degrade surface

24   water quality."

25   When you look at this in the context of

1 federal regulation or state regulation, there are

2 benchmark numeric criteria established, this does not

3 attach itself to any of those, we're looking against

4 backsliding. We do not want the project to produce

5 something that would contribute to an existing problem.

6 So what are the various problems we're

7 looking at? Metals in the Fountain Creek watershed.

8 Yes, selenium is one of them, but it's not the only;

9 Mercury is one that could be mobilized through the

10 development of water reservoirs, that's discussed in the

11 EIS. And, again, some mitigation there is appropriate

12 through water quality treatment and -- and

13 in-line/off-line type of things that, hopefully, we will

14 be able to talk to the Applicant about if you wish to

15 proceed in that direction.

16 Urbanization effects are the real issue -- I

17 don't want to say the only real issue, but the big

18 issue -- and those include a host of effects if not

19 mitigated, and that would be -- include flow

20 characteristics such as depth and velocity; you look at

21 the record, it shows that that has an effect on

22 wildlife; wastewater effluent concentrates nutrients, we

23 know that downstream areas in the Arkansas Valley have

24 eutrophic conditions due to those nutrients being

25 concentrated as they move down -- downstream through

1 municipal uses.

2   And, then, nonpoint source pollution,

3 nutrients, bacteria, metals all can occur as an urban

4 runoff problem.

5   And, then, finally, the Applicant talks about

6 emerging contaminants, and I just note that the EIS

7 stated, "Emerging contaminants may be a concern for

8 municipalities downstream of the wastewater treatment

9 plant, return flows under existing conditions -- under

10 existing conditions and all the alternatives looked at.

11 A substantial amount of the streamflow in Fountain Creek

12 would be treated wastewater."

13   Emerg -- emerging contaminants are synthetic

14 hormones, pharmaceuticals, household chemicals and other

15 illicit-dumping problems in municipal wastewater that

16 are not part of the treatment process, not captured, not

17 regulated, not monitored necessarily by that process.

18   So could there be backsliding of water

19 quality? Yes. And that is why I think it's best

20 stated -- and I am trying to be succinct -- but in the

21 Staff Report we say, "Pursuant to this piece of the

22 Code, County Staff is seeking reliable assurances under

23 this criterion that ongoing efforts to address water

24 quality in Fountain Creek will provide the anticipated

25 benefits and ability to confront future needs."

1   And, again, Paul spoke about that suggestion

2   for mitigation.

3   Next slide.

4   Criterion 20 is the sort of all-encompassing

5   geomorphology condition, and in English that's erosion,

6   sedimentation and flooding. The standard here, the

7   project will not cause significant erosion,

8   sedimentation and flooding.

9   There is a -- a tense and daunting history of

10   studies on this in Fountain Creek, it's a very

11   well-studied creek with a variety of conclusions because

12   it is an unstable creek, it's not in an equilibrium, and

13   that causes these effects that the Applicant presented

14   rather well earlier, I'll try to go very quickly through

15   this.

16   Urbanization produces what's called a "hungry

17   river effect", the more -- and the Applicants stated

18   that very well -- the more water you have, the more it

19   can carry in terms of sediment. So that -- that's what

20   produces this de -- this equilibrium in the -- in the

21   stream. The trend is upstream you pick up sediment,

22   downstream you deposit it. And that means that Pueblo

23   County is an aggradation area where there is sediment

24   accumulating overall.

25   The record shows that base flow causes

1   deposition in Pueblo County, and I actually have a quote

2   for you, if you have noticed, "Even during base flow

3   conditions sediment moves along Fountain Creek. While

4   there are numerous locations along the stream that erode

5   and pick up sediment, there are also many areas where

6   sediment is deposited during base flow conditions. In

7   general, the very lowest reaches of Fountain Creek

8   experience deposition during base flows."

9   So we don't debate the issue that when you

10 have a lot of water, a storm condition, that produces a

11 lot of deposition downstream, but it is a base flow

12 problem, and the record shows that approximately 100

13 tons of new deposition will occur daily because of the

14 project. The resolution of the study didn't really

15 facilitate any -- any guesswork on where that's

16 specifically going to accumulate, instead it's presented

17 in some of the Applicant's materials as a sheet of

18 paper.

19   That -- that's a -- that's a way of

20 visualizing how much a hundred tons is. A hundred tons

21 is not a whole lot, but if it all accumulates in the

22 same place, if it all accumulates where the levees are

23 and -- and the channel is confined, then it has a more

24 significant effect than if it -- it actually accumulates

25 over the entire channel. And it's more likely that it

1   accumulates in specific places than as a sheet of paper.

2   So I will just say, again, that it is a base

3   flow problem, but it is a problem of peak flows as well,

4   and a concern of this project is that urban runoff be

5   controlled in storm situations as well as the base flow

6   contributed by releases and -- and SDS direct effects.

7   So with that I'll move on to the next slide,

8   which is about flooding. And I think I've said a lot of

9   this in -- in my discussion of sediment, they are

10   related problems.

11   Urban growth creates an acceleration of

12   runoff generally, that means that the typical

13   engineering solution is to detain the water, also to,

14   hopefully, treat it for water quality purposes in the

15   process. The historical experience in Pueblo County is

16   that the levee system here is a site where that

17   aggradation, that deposition of sediment is occurring,

18   and with that you get a loss of your capacity to convey

19   the flood, so that's a concern.

20   And there's also examples of structures in

21   Pueblo County that have been vulnerable to smaller

22   storms, so the incremental effect of SDS, even though it

23   can be articulated as a thin sheet of water -- you would

24   even look at the -- the Highway 50 drawing that was

25   submitted by the Applicant and note that once that

1   reach -- once it's backed up behind the bridge and

2   you're in a hundred-year condition, it actually

3   inundates quite a bit more, though it may be just a few

4   inches, but at that extreme portion of the -- of the

5   hundred-year flood plain.

6   So it is a significant effect in our opinion,

7   it does con -- the project does contribute to an

8   existing erosion, sediment and flooding problem.

9   I want to just note separately that that's

10   our conclusion on that, mitigation strategies suggested

11   by the Applicant, discussed by Paul and discussed by the

12   Applicant tonight are a -- a good mechanism to look at

13   this problem, and that's our recommendation.

14   I also did want to note that we will look at

15   a condition regarding the pipe drains -- this is a very

16   minor point -- but they will drain the pipe every once

17   in a while for maintenance, emergencies, and those need

18   to be controlled as well, so these tribut -- small

19   tributaries in Pueblo County do not erode when that

20   regular maintenance occurs.

21   And I am almost done.

22   Next slide.

23   Final major issue is criteria 26, and -- and

24   it's noteworthy -- I don't know why that says

25   "flooding" because that shouldn't be there, strike that

1   from the record. We'll take care of that.

2   The two issues under your criteria 26 are

3   redundancy. The purpose of this project is to create

4   redundant capacity, and we believe that the criteria

5   does not preclude this project, but, as phrased, excess

6   capacity is an issue, so you need to look at it.

7   Pumping Limits are something that the

8   Applicant is a little bit reluctant to discuss, but a

9   lot more water could potentially be conveyed than was

10   modeled for the project.

11   So much like Paul talking about what if it

12   went to jurisdictions outside the potential control of

13   Colorado Springs' Stormwater Enterprise, there is also a

14   concern of the modeling here is not sufficient to show

15   what would happen if they pumped more through the pipe

16   than their acre-feet of, you know, average conveyance

17   that they need to get through the pipe, and that's a

18   legitimate issue to look at under criteria 26.

19   Moving on, next slide.

20   Some other issues that are not necessarily

21   major.

22   Next points.

23   The record is -- is just sketchy on a few

24   issues and that is, more or less, the product of the EIS

25   not being specifically focused on Pueblo County. Again,

1   wastewater's treated kind of like a black box in the

2   application, so to the extent that there is any concern

3   about capacity or what's occurring in the treatment

4   process the record should be elaborated.

5   Lands of Special Concern. There's no zoning

6   analysis, no land-use inventory in El Paso County so we

7   don't really know where the pipeline, if it were

8   breached, and -- you know, just before the pipe would be

9   shut off -- flowing across -- you know, full bore across

10   potentially-contaminated sites -- an old layout yard for

11   industrial materials or something like that -- we don't

12   really know a whole about that, or aquifer recharge

13   areas, and I talked about that under that criteria.

14   The Outlet Works. The North Outlet Works was

15   not discussed in great detail in the original

16   application because it was not the preferred alternative

17   just a few months ago, it is now, so we may need to get

18   a little more information on that. Again, Paul

19   discussed that.

20   And, then, finally, Conservation and

21   Efficiency, I discussed that earlier.

22   Next slide.

23   So a summary of our review is that there was

24   a commendable effort by the Applicant, I think it has to

25   be said that 20,000 pages -- that's just an estimate --

1   does produce a very thorough record; we're talking about

2   adding the 1041 process on top of a lot of review that's

3   come before.

4   Next two points.

5   The conclusion of our -- our Report -- and,

6   again, Paul discussed rather extensively -- that we

7   believe that a direct effort toward mitigation can

8   resolve issues with this application.

9   With that I'll yield to the facilitator.

10   MR. RASO: Thank you.

11   MR. BANKS: Gary, excuse me, these are CDs on

12   the presentation (indicating).

13   MR. RASO: I -- I would ask that those --

14   these are the CDs, we made those of -- of CSU

15   (indicating) . . .

16   MR. BANKS: This is ours (indicating).

17   MR. RASO: Right. Okay.

18   Well, I would like that marked as Exhibit 13.

19   Exhibit 12 is simply what Mr. Schatz

20   submitted earlier, which is just a re-statement of the

21   approval criteria under 6 -- 17.164, 0 through 0 -- 30,

22   and 17.672 -- 2, 1 to 30, and he asked that those be

23   made a part of the record.

24   (Exhibits 12 and 13 were marked for

25   identification.)

1   MR. RASO: Commissioners, where we go from

2   here, of course, is at your discretion. The agenda, if

3   we stay consistent with that, which was published, and

4   which we discussed previously tonight -- the -- the

5   appropriate manner would be move to continue to these

6   hearings to December 11th, 2008, here at the Jackson

7   Conference Room at 6 p.m.

8   COMMISSIONER NUNEZ: That's correct.

9   For now we will adjourn -- adjourn until

10 Thursday at 6:00.

11   Thank you all very much.

12   (The meeting was adjourned at the hour of

13   9:40 p.m.)

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1   C E R T I F I C A T E

2   STATE OF COLORADO   )
) ss.
3   COUNTY OF PUEBLO   )
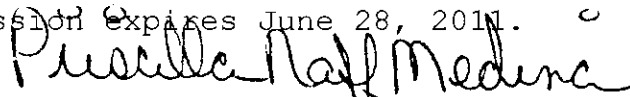
4   I, Priscilla Naff Medina, a Professional Court
     Reporter and Notary Public within and for the State of
5   Colorado, do hereby certify that said proceedings were
     taken in shorthand by me at the time and place
6   heretofore set forth, and was reduced to typewritten
     form under my supervision;

7
             That the foregoing is a true transcript of the
8   proceedings had;

9   That I am neither attorney nor counsel, nor in
     any way connected with any attorney or counsel for any
10   of the parties to said action, nor otherwise interested
     in the outcome of this litigation.

11
             IN WITNESS WHEREOF, I have hereunto set my
12   hand this 12th day of January, 2009.

13   My commission expires June 28, 2011.

14

15   Priscilla Naff Medina
                 Registered Professional Reporter
                 Notary Public

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