

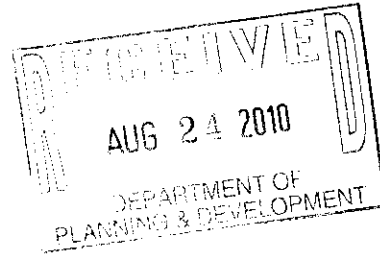


Colorado Springs Utilities

It's how we're all connected

August 19, 2010

Mr. Kim B. Headley
Director of Pueblo County
Planning and Development
229 West 12th Street
Pueblo, CO 81003



Subject: Southern Delivery System, Pueblo County 1041 Permit No. 2008-002, Condition 8 – Sediment Control/Dredging

Dear Mr. Headley:

As you know, during the Pueblo County Commissioners work session on August 5, 2010, the Commissioners expressed interest in a possible payment in lieu of the dredging and construction of sediment collection devices required under Condition 8 of the Pueblo County 1041 Permit No. 2008-002 for the Southern Delivery System project. As part of that discussion, and in response to the Commissioners' request, we presented the following estimated costs that are projected to meet the requirements of Condition 8. Additionally, based on subsequent discussions, Pueblo County clarified that it expects SDS to include 10 percent to cover project management expenses and 10 percent to cover contingencies.

This results in a total projected financial investment in satisfying Condition No. 8 as follows:

Stream channel sediment sampling and analysis	\$ 35,000
Dredging	500,000
Sediment collection devices	1,300,000
Project management	183,500
Contingency	<u>183,500</u>
Total	<u>\$2,202,000</u>

The construction cost estimates for dredging, developed by CH2M HILL and independently verified by K.R. Swerdfeger Construction, Inc., as well as the cost estimate developed by Streamside Systems for the sediment collection devices were provided during the Commissioner's work session.

121 South Tejon Street, Third Floor
P.O. Box 1103, Mail Code 930
Colorado Springs, CO 80947-0930

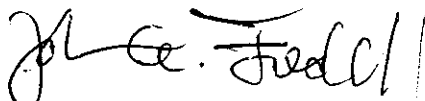
Phone 719/668-4800
Fax 719/668-8734
<http://www.csu.org>

We are prepared to move forward with the dredging and construction of the sediment collection devices to meet the terms of Condition 8. Condition 8, which incorporates the provisions of Section 5.2.4 of the FEIS for the SDS, contemplates that projects will be accomplished that address sediment and flood protection in the City of Pueblo. Considering the Commissioners' interest in a possible payment in lieu of the specific projects described in Condition 8, which would be applied specifically to other projects to improve the condition of Fountain Creek, we are requesting direction from you on how Pueblo County intends for us to proceed. Based on your email of August 9, 2010, we believe that the foregoing proposal to make a payment in lieu of actual construction meets the Commissioners' expectations. We would appreciate your confirmation with a prompt written response that accepts this understanding and further confirms that this approach to satisfying the sediment removal and flood protection provisions of Condition 8 is not a "material change" that would require a permit amendment pursuant to Condition 5 of the Permit.

We also understand the requirements of Condition 8 that such a change to the described sediment removal project will have to result in alternate project(s) that meet the conditions of section 5.2.4 of the FEIS prepared by the Bureau of Reclamation. As soon as we receive your written response, we will promptly inform the Bureau of Reclamation so that we can successfully complete this part of our obligations to the Commissioners and to the Pueblo community.

Please contact me at 719-668-8037, or Keith Riley at 719-668-8677, with any questions. Thank you.

Sincerely,



John A. Fredell

Southern Delivery System Program Director
Colorado Springs Utilities

cc: Jeff Chostner, Pueblo County Commissioner
Anthony Nunez, Pueblo County Commissioner
John Cordova, Pueblo County Commissioner
Greg Severance, Pueblo County Dept. of Public Works
Gary Raso, Outside Counsel, Pueblo County

J.E. CHOSTNER
CHAIRMAN
DISTRICT 3



ANTHONY NUÑEZ
DISTRICT 1

JOHN B. CORDOVA, SR.
DISTRICT 2

KIM B. HEADLEY
DIRECTOR
planning@co.pueblo.co.us

August 30, 2010
DEPARTMENT OF PLANNING AND DEVELOPMENT

John A. Fredell
Southern Delivery System Program Director
Colorado Springs Utilities
P. O. Box 1103, Mail Code 930
Colorado Springs, CO 80947-0930

**RE: SOUTHERN DELIVERY SYSTEM, PUEBLO COUNTY 1041 PERMIT
NO. 2008-002; CONDITION 8: SEDIMENT CONTROL/DREDGING**

Dear Mr. Fredell:

I have reviewed your letter of August 19, 2010, concerning the above-referenced matter and have shared the same with the Board of County Commissioners. The purpose of my letter is to respond to your request for direction from Pueblo County on how it intends for Colorado Springs Utilities to proceed on the subject of compliance with Condition No. 8 of the SDS Permit.

The Board of County Commissioners has requested that I confirm its determination that a payment in lieu of dredging and installation of sediment collection devices is an acceptable approach to satisfying the requirement of Condition No. 8. It is the Board's determination that this approach, i.e. the acceptance of a payment in lieu of actual construction, is not a material change that would require a permit amendment pursuant to Condition No. 5 of the SDS Permit. Given the determination of the Board on each of these issues, it is our understanding that Colorado Springs Utilities will present funds in the amount of \$2,202,000.00 payable to Pueblo County within a reasonable period of time not to exceed thirty (30) days from the date of this letter.

Our interpretation of Condition No. 8 is that the funds so received will be used for another project designed to assist the City of Pueblo in restoring and maintaining sufficient flood protection to allow its existing levy systems to withstand a 100-year flood and, further, that any such project will be subject to the approval of the Bureau of Reclamation. As to whether or not that project meets the conditions of Section 5.2.4 of the FEIS will be a matter left to the Bureau of Reclamation and to Colorado Springs Utilities. While the Board of County Commissioners will fully commit to expending funds on a project, subject to BOR approval, which meets the language of Condition No. 8, the Board is not, through the acceptance of these funds, making any representation that

such projects will satisfy CSU's obligations under the FEIS. Further, the Board of County Commissioners is not making a finding or a determination through its acceptance of these funds that amounts to (or which could even be argued as being) a waiver of the requirements of the Adaptive Management Program to which Colorado Springs Utilities has committed. If Colorado Springs Utilities has a different understanding of the import of the payment in lieu, then we would definitely request that it state its objections and participate in a future meeting on the subject in order to achieve a mutual understanding as to the effect of the payment in lieu and what it does satisfy and what it does not satisfy.

Please contact me after you have had a chance to review this letter. I will try to address any questions or concerns in an effort to reach the mutual understanding referenced above.

Thank you for your consideration.

Sincerely,



Kim B. Headley
Director, Pueblo County Department of Planning and Development

pc Board of County Commissioners
Gary J. Raso, Assistant County Attorney
Greg Severance, Director, Pueblo County Department of Public Works
Raymond Petros

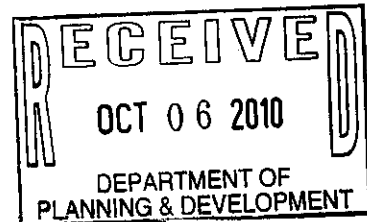


Colorado Springs Utilities

It's how we're all connected

September 29, 2010

Board of County Commissioners of Pueblo County
215 West 10th Street
Pueblo, CO 81003



Re: Pueblo County 1041 Permit for SDS

Dear Commissioners:

On Monday, September 27, 2010, I hand-delivered a check to Pueblo County in the amount of \$2,202,000.00. The payment represented by this check is in fulfillment of the SDS participants' obligations to comply with Condition No. 8 of 1041 Permit No. 2008-002 for the Southern Delivery System. The payment has been made in accordance with our mutual understandings and agreements set forth in letters from Colorado Springs dated August 19, 2010 and from Pueblo County dated August 30, 2010. In accordance with the terms of these letters we understand that the SDS participants have now completely fulfilled their obligations to comply with Condition No. 8.

Thank you for your cooperation in arriving at this resolution.

Regards,

John A. Fredell
Southern Delivery System Program Director

- c: Kim Headley, Director, Pueblo County Department of Planning and Development
Jerry Forte, Chief Executive Officer, Colorado Springs Utilities
Bruce McCormick, Chief Water Services Officer, Colorado Springs Utilities
Keith Riley, SDS Planning and Permitting Program Manager, Colorado Springs Utilities

121 South Tejon Street, Third Floor
P.O. Box 1103, Mail Code 930
Colorado Springs, CO 80947-0930

Phone 719/668-4800
Fax 719/668-8734
<http://www.csu.org>

282111107 NEW 01/08 8810004306

HOLD DOCUMENT UP TO THE LIGHT TO VIEW TRUE WATERMARK

HOLD DOCUMENT UP TO THE LIGHT TO VIEW TRUE WATERMARK

CASHIER'S CHECK



9056303216 ²⁵⁻³/₄₄₀

Date 09/27/2010

Remitter COLORADO SPRINGS UTILITIES

Pay: TWO MILLION TWO HUNDRED TWO THOUSAND DOLLARS AND 00 CENTS

\$ *****2,202,000.00 ***

Pay To The Order Of PUEBLO COUNTY

Drawer: JPMORGAN CHASE BANK, N.A.

Michael Andrews

Senior Vice President
JPMorgan Chase Bank, N.A.
Columbus, OH



340-340000-3413.20





PUEBLO

City of Pueblo
Stormwater Utility

Memorandum

TO: Earl Wilkinson, City of Pueblo Public Works
Kim Headly, Pueblo County Planning

FROM: Dennis Maroney

DATE: 12/13/10

SUBJECT: Suggested Projects for SDS Funds in Lieu of Dredging, Pueblo, Colorado

The following projects have been priorities with estimated cost.

1. Sediment haul and removal of bedload sediment collected by the streamside demonstration project:	\$ 252,000
300 yd ³ /day at \$4.60/yd ³ x 365/2 (Assumes operation on ½ time system)	
1a . USGS Sediment Transport Study	\$ 70,000
Required for Levee Certification	
1b. Fountain Creek Levee Certification	\$ 80,000
2. Annual Vegetation Control & Levee Repairs	\$ 200,000
\$20,000/year x 10 years	
3. Pinch Valve Installation at Storm Drain Outlet Impacted by sediment aggradaton	\$ 36,000
4. Installation of the Streamside system at the 8 th Street bridge as proposed by Colorado Springs Utility	\$1,202,000
5. Buried riprap installation south of 4 th Street Bridge	\$ 60,000
Total Estimate	\$1,909,750

Additional projects dependent on Levee Certification (Pending):

- | | |
|---|-----------|
| 1. Union Pacific Railroad crossing bridge removal or alternative Levee decertification: UP removal of bridge structure and Westerly approach – pending. | Unknown |
| 2. Flood Insurance if East-side levee is decertified | \$ 67,500 |
| 3. UP westerly bridge approach removal | \$ 10,000 |