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DEPARTMENT OF PLANNING AND DEVELOPMENT

MEMORANDUM

TO: Pueblo Board of County Commissioners

FROM: Jeffrey Woeber, Planner II 

DATE: August 3, 2011

SUBJECT: 1041 2008-002 (Southern Delivery System 1041 Permit)
Determination Re. Conditions of Approval
Colorado Springs Utilities (Applicant)

Work Session Discussion Item

PURPOSE

The applicant is seeking the Board's concurrence regarding activities related to two conditions of approval for the approved 1041 Permit for the Southern Delivery System. Specifically, the applicant requests concurrence with the following:

- Applicant will soon begin conducting pre-construction condition assessments, which is a requirement of one of the conditions of approval for the 1041 Permit. The applicant is seeking the County's concurrence that these pre-construction assessments are a pre-construction activity.
- In conducting these pre-construction assessments as required, the applicant may need to operate outside of the approved "work hours" in order to accommodate property owners' schedules. The Permit restricts work hours to 7:00 a.m. to 6:00 p.m., Monday through Friday, for construction activities. The applicant is seeking the County's concurrence that this does not constitute construction, and could therefore be done outside of the specified work hours.

DISCUSSION

The Condition of Approval regarding the Pre-Existing Condition Assessment reads as follows:

MITIGATION APPENDIX

C-5, Pre-existing Condition Assessment

Applicant shall determine the condition of Pueblo County residents' existing property so that it can be restored to preconstruction condition or better.

1. Perform an examination of pre-construction existing conditions of land surface, drainage, vegetation and structures adjacent to the construction site that could

- be damaged or altered by construction operations. **The property owner will be invited to attend** (emphasis added).
2. Perform periodic reexaminations, if required, to document any changes, including, but not limited to, cracks in structures, settlement, leakage, and similar conditions. Examinations may include photography, sampling and expert assessments of existing or current conditions.
 3. Document examinations in writing, and by photographs and audio-video recordings. Photography shall be by a professional commercial photographer, experienced in shooting interior/exterior construction photos, in daylight and nighttime conditions, and in good and inclement weather.
 4. Provide a copy of documentation to property owner for review and acceptance. A copy of the documentation shall be provided to the County. Applicant and the County shall each maintain a copy of the documentation. Such documentation shall be used as indisputable evidence in ascertaining whether and to what extent damage occurred as a result of Applicant's operations.

The applicant has submitted an email, attached as Exhibit 1, "asking for confirmation that you agree that this is indeed a pre-construction activity."

It is staff's opinion that the pre-construction condition assessment is clearly not "construction," which leads to the applicant's second assertion regarding work hours. Work Hours for the SDS Project are limited as follows:

MITIGATION APPENDIX

C-6, Work Hours

Applicant shall limit work hours to minimize disturbance to Pueblo County residents.

1. Perform work within the hours of 7:00 a.m. to 6:00 p.m. Monday through Friday. Work outside of these hours will be restricted to maintenance of traffic, safety, and construction controls, maintenance of construction equipment, and approved exceptions. Pueblo County and residences within 500 feet of the affected portion of the work site shall be notified 48 hours in advance of work outside of these hours, other than maintenance or emergency work.

Staff noted the requirement, in Condition C-5 (above), where the applicant is to invite property owners to be involved in the Pre-existing Condition Assessments. In order to accommodate property owners' schedules, there very well could need to be assessments outside of the time limits of C-6. Staff does not see any issues with the applicant conducting assessments outside of the time limitations, if needed to accommodate property owners' schedules. These assessments should cause little or no disturbance to residents.

With the Board's concurrence, staff will provide the applicant a letter stating a) The Pre-existing Condition Assessments are a pre-construction activity, and b) Conducting Pre-existing Condition Assessments outside of the time limitations does not violate Condition C-6.

jmw

Attachment, Exhibit 1 – Email from Colorado Springs Utilities

Woeber, Jeff

From: AMosser@csu.org
Sent: Monday, August 01, 2011 3:31 PM
To: Armstrong, Joan
Cc: Benbow, Dave; KRiley@csu.org; Woeber, Jeff
Subject: Pre-Construction activity concurrence request

Joan,

This email is to follow up on our meeting last week.. We appreciate your help with these questions as we move toward construction.

We would like to request another concurrence consideration for pre-construction activity in the South 2 (S2) pipeline alignment.

In the 1041 permit, Condition C-5 - Pre-existing Condition Assessment is a requirement to conduct pre-construction condition examinations and involves property owners affected or potentially affected by SDS construction activities. Garney Construction, the S2 contractor, in collaboration with Colorado Springs Utilities, would like to move forward with coordination of this effort and is asking for confirmation that you agree that this is indeed a pre-construction activity. We also anticipate that some of these assessments, in order to accommodate property owner schedules, will need to be conducted outside of the hours designated in Condition C-6 - Work Hours, which states work must be performed between 7:00 am to 6:00 pm Monday through Friday. While this work does not constitute construction, it does not technically fall within the time limits of the condition.

All of the work associated with the terms of this condition is non-invasive. As the property owners are invited to attend and will be notified well in advance of the activity, we are beginning our process by coordinating with you, as administrator of this permit.

In addition, Garney Construction intends to have a land survey crew in the field prior to this activity to ensure they are covering all of the SDS construction footprint and have the construction easements well delineated.

Please let me know if you have any questions regarding this request for concurrence.

Thanks,
Allison

*Allison Mosser
Southern Delivery System
Colorado Springs Utilities*

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