

Anthony Nuñez
District 1
Chair-2008

John B. Cordova, Sr.
District 2

J.E. Chostner
District 3



Kim B. Headley
Planning and Development
Director
planning@co.pueblo.co.us

**BOARD OF COUNTY COMMISSIONERS
DEPARTMENT OF PLANNING AND DEVELOPMENT**

May 22, 2008

TRANSMITTED VIA US MAIL AND E-MAIL (jfredell@csu.org)

Mr. John Fredell
Southern Delivery System Project Director
Colorado Springs Utilities
Plaza of the Rockies, 3rd Floor
121 S. Tejon, MC 930
Colorado Springs, CO 80947-0930

Re: Fee Estimate for Pueblo County Determination on the Request for a Finding of No Significant Impact ("FONSI") for the Southern Delivery System Project ("SDS"); Pueblo County 1041 Permit No. 2008-002

Dear Mr. Fredell:

Colorado Springs Utilities, on behalf of the project participants, submitted a request for a FONSI for the proposed SDS project in Pueblo County by your letter to me dated March 26, 2008. The SDS participants requested my determination as to the need to submit a permit application to Pueblo County under its regulations for Areas and Activities of State and Local Interest under Title 17, Division II of the Pueblo County Code. A FONSI may be determined "...if the construction or operation of the project, without mitigation, in its proposed location is unlikely to have any significant adverse impact to the County in consideration of the Permit Application Approval Criteria..." of the regulations (Section 17.172.090 and 17.164.020).

The purpose of this letter is to notify Colorado Springs Utilities of my estimate of a fee to be paid by the SDS participants to cover costs of determining whether a FONSI or a permit is required (Section 17.172.080(C)). The estimate is to include the cost to Pueblo County of copying, mailing, publications, labor, overhead, and retention of consultants, experts and attorneys that the County deems necessary to advise it in making the FONSI determination.

In making the fee estimate, I am taking into consideration the large amount of information we need to review in regard to the FONSI request. Your five-page letter details the varied components of the SDS project in Pueblo County, along with the twelve pages of technical maps, drawings and specifications of the facilities and the pipeline easements over twenty miles in length. Your letter raises a number of legal and technical issues to be addressed in the FONSI determination. The FONSI request also relies upon the Bureau of Reclamation's draft Environmental Impact Statement ("DEIS") dated February 29, 2008 (itself the result of a five-year study process on the SDS); that the DEIS and accompanying technical appendices and data compilations are several

Letter to Mr. John Fredell
Colorado Springs Utilities
Re: Fee Estimate FONSI determination SDS
May 22, 2008
2

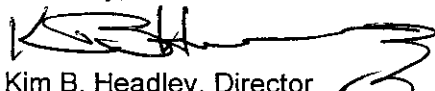
thousand pages in length. Your letter also states that Colorado Springs Utilities reserves all rights and arguments of the SDS participants in their pending litigation against the County challenging the applicability of the County regulations to the SDS project. Additionally, on March 27, 2008, another lawyer for Colorado Springs Utilities, Mr. David Eason of Berenbaum, Weinshienk & Eason P.C., wrote a three-page letter to the County's attorneys in connection with the FONSI application "...to confirm certain matters with respect to that submission and any application made to Pueblo County."; that letter recites several legal positions and objections by Colorado Springs Utilities.

A pre-application meeting on the FONSI request was held on April 23, 2008 in our offices, and it was continued to another meeting on May 14, 2008. The City's representatives at the meetings were Mr. Bruce Spiller, P.E., an engineer with CH2M Hill; Mr. Daniel Higgins, Construction and Delivery Program Manager of SDS for Colorado Springs Utilities; and Mr. David Robbins, an attorney representing Colorado Springs Utilities. Pueblo County's representatives included me; Mr. Jeff Woeber, County Planner; Mr. Gary Raso, Special Assistant County Attorney; and Mr. Ray Petros, Special Counsel on water and land use matters.

These meetings, about eight hours in total, were informative and productive. In response to our questions, the representatives of CSU provided several technical supplemental reports and information. We also have the benefit of the numerous documents and information about the SDS made available by Colorado Springs Utilities as part of the discovery process in the litigation.

As discussed at our May 14th meeting, given these considerations, my estimate of fees is in the amount of \$25,000 to reimburse Pueblo County for its costs. Please provide a check in that amount made payable to Pueblo County, which will be deposited in a separate interest bearing account established by the Pueblo County Treasurer for this purpose. The account will be drawn upon to cover the County's costs incurred in the FONSI review process. Per our regulations, we will not proceed further on the FONSI determination until receipt of these funds. The County has an existing timekeeping and cost allocation system for its employees, and a separate line item has been established to track departmental time and costs spent on the FONSI since receipt of your request. Outside counsel for the County also have separate timekeeping and billing accounts for this matter at their standard hourly rates charged on other County matters.

Sincerely,



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

C: Pueblo County Board of Commissioners
Daniel Kogovsek, Pueblo County Attorney
Gary Raso, Special Assistant County Attorney
David Robbins, Hill and Robbins

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**BOARD OF COUNTY COMMISSIONERS
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September 29, 2008

TRANSMITTED VIA US MAIL AND E-MAIL (jfredell@csu.org)

Mr. John Fredell
Southern Delivery System Project Director
Colorado Springs Utilities
Plaza of the Rockies, 3rd Floor
121 S. Tejon, MC 930
Colorado Springs, CO 80947-0930

Re: Fee Estimate for Pueblo County Review of the Southern Delivery System
("SDS") 1041 Permit Application; Pueblo County 1041 Permit No. 2008-002

Dear Mr. Fredell:

Colorado Springs Utilities (CSU), on behalf of the project partners, the City of Fountain, Security Water District, the Pueblo West Metropolitan District and CSU have submitted an application to Pueblo County under its Regulations for Areas and Activities of State and Local Interest, commonly referred to House Bill 1041 Regulations or simply 1041 Regulations. More specifically, the Application is intended to address Title 17, Chapter 17.172, "Regulations for Efficient Utilization of Municipal and Industrial Water Projects" and Title 17, Chapter 17.164, "Local Regulations of Site Selection and Construction of Major New Domestic Water and Sewage Treatment Systems and Major Extensions of Existing Domestic Water and Sewage Treatment Systems".

The purpose of this letter is to notify Colorado Springs Utilities of my estimate of a fee to be paid by the SDS participants to cover costs of processing the application. The estimate includes the cost to Pueblo County of reviewing and processing the application, including costs of copying, mailings, publications, labor, overhead and retention of consultants, experts and attorneys that the County deems necessary to advise it on the application package.

In making the fee estimate, I am taking into consideration the massive volume of information we need to review in processing the application and the staff meetings, public input, public meetings and hearing process. As you are aware the application and supplemental information is presented in a series of twenty-six (26) three-ring binders including:

- Application
- Draft Environmental Impact Statement Summary
- Draft Environmental Impact Statement (DEIS)

- DEIS Appendices

Letter to Mr. John Fredell
Colorado Springs Utilities
Re: Fee Estimate SDS 1041 Permit Application
September 29, 2008


2

- 22 DEIS Technical Reports

The meeting held on September 24th to simply discuss the application lasted 7 ½ hours.

Given these considerations, my estimate of fees is in the amount of \$291,556.00 to reimburse Pueblo County for its costs. We acknowledge CSU submitted a check in the amount of \$50,000.00 in conjunction with the submittal of the application. Therefore, please provide a check in the amount of \$241,556.00 made payable to Pueblo County, which will be deposited in a separate interest bearing account established by the Pueblo County Treasurer for this purpose. The account will be drawn upon to cover the County's costs incurred in the FONSI review process. The County has an existing timekeeping and cost allocation system for its employees, and a separate line item has been established to track departmental time and costs spent on the review since receipt of the application. Outside counsel and consultants for the County also have separate timekeeping and billing accounts for this matter at their standard hourly rates charged on other County matters.

Sincerely,



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

C: Pueblo County Board of Commissioners
Daniel Kogovsek, Pueblo County Attorney
Gary Raso, Special Assistant County Attorney
David Robbins, Hill and Robbins

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**BOARD OF COUNTY COMMISSIONERS
DEPARTMENT OF PLANNING AND DEVELOPMENT**

February 2, 2009

TRANSMITTED VIA US MAIL AND E-MAIL (jfredell@csu.org)

Mr. John Fredell
Southern Delivery System Project Director
Colorado Springs Utilities
Plaza of the Rockies, 3rd Floor
121 S. Tejon, MC 930
Colorado Springs, CO 80947-0930

Re: Additional Fee Estimate for Pueblo County Review of the Southern Delivery System ("SDS") 1041 Permit Application; Pueblo County 1041 Permit No. 2008-002

Dear Mr. Fredell:

Colorado Springs Utilities (CSU), on behalf of the project partners, the City of Fountain, Security Water District, the Pueblo West Metropolitan District and CSU submitted an application to Pueblo County under its Regulations for Areas and Activities of State and Local Interest, commonly referred to House Bill 1041 Regulations or simply 1041 Regulations in August of 2008. In a letter dated September 29, 2008, I estimated the fee to be paid by the SDS participants to cover costs of processing the application to be \$291,556.00 to reimburse Pueblo County for its costs. We acknowledged Colorado Springs Utilities submitted a check in the amount of \$50,000.00 in conjunction with the submittal of the application and requested CSU provide a check in the amount of \$241,556.000. The additional funds were received by Pueblo County on October 10, 2008. The funds were deposited in an interest bearing account and have been used to reimburse Pueblo County for its expenses during the review of the application.

17.172.100 C. of the Pueblo County Code provides as follows:

"C. The actual costs incurred by the County to process the application shall be deducted from the application fee. The Administrator shall keep an accurate record of the actual time, and other costs, required for processing the application. If the balance of fees falls below a minimum balance established by the Administrator, additional billings shall be made to the Applicant commensurate with the additional costs incurred by the County. The County may cease processing the application pending receipt of additional installments."

As of January 20, 2009, Pueblo County has expended \$274,356.36 in its review of the SDS 1041 Permit Application. Attached is an accounting of those expenditures as well as an account balance including accrued interest. The balance in the

Letter to Mr. John Fredell
Colorado Springs Utilities
Re: Additional Fee Estimate SDS 1041 Permit Application
February 2, 2009
2

account as of January 20, 2009 is \$17,583.06. I have estimated Pueblo County's costs to complete the review of the Permit Application to be \$80,403.00. Please provide a cashier's check or other certified funds to Pueblo County so that we may continue our review of the Application.

Sincerely,



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

C: Pueblo County Board of Commissioners
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**SOUTHERN DELIVERY SYSTEM
TOTAL EXPENDITURES FROM 8-18-08 TO 1-20-09**

<u>Vendor Name</u>	<u>Total Exp. To Date</u>	<u>Revenue</u>
Banks and Gesso	\$ 122,619.46	\$ 50,000.00
Petros and White	\$ 99,995.15	\$ 133.79 (Interest)
Medina Court Reporting	\$ 3,354.00	\$ 241,556.00
Pueblo Chieftain	\$ 154.56	\$ 249.63 (Interest)
Sangre de Cristo Arts & Conference Center	\$ 621.50	
P&D Staff Hours/Mileage/Photocopies/Postage	\$ 16,134.82	
Gary Raso	\$ 20,895.00	
Public Works Staff	\$ 10,581.87	
TOTAL	\$ 274,356.36	\$ 291,939.42

Total Revenue as of 1-20-09	\$ 291,939.42 (includes interest)
Total Expenditures as of 1-20-09	\$ 274,356.36
Funds available as of 1-20-09	\$ 17,583.06
