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**PUEBLO COUNTY
DEPARTMENT OF PLANNING AND DEVELOPMENT**

June 19, 2012

Ms. Valda I. Terauds, Special Assistant
United States Department of the Interior
Bureau of Reclamation
Great Plains Region
Eastern Colorado Area Office
11056 West County Road 18E
Loveland, Colorado 80537-9711

Subject: Environmental Monitoring of the Southern Delivery System Project (PCAR)

Dear Ms. Terauds:

We are in receipt of your letter requesting verification that the SDS project is meeting its commitments to Pueblo County's permits, approvals and agreements as described in the Record of Decision and relative to our review of the 2011 Permit Compliance Report. Based on information available to the county at this time, Pueblo County generally concurs with the 2011 Permit Compliance Report; however, there are some areas of concern that are further described below.

Pueblo West, as one of the proposed SDS Participants, has challenged the enforceability of Condition 9 in Pueblo County's approval of 1040 Permit No. 2008-002 (SDS 1040 Permit). Condition 9 requires all SDS Participants to cooperate in and comply with the Pueblo Flow Management Plan and its requirements for maintaining certain flows through Pueblo below Pueblo Reservoir by cessation of exchanges. Pueblo West filed a lawsuit against the County in Case No. 09CV695 in Pueblo County District Court to prevent the County's enforcement of this Condition 9. A Settlement Agreement, dated November 23, 2010, was executed between Pueblo West, Pueblo County, the City of Colorado Springs on behalf of its Utilities, and the Board of Water Works of Pueblo, under which the Parties agreed to stay further action in the lawsuit pending the satisfaction of several preconditions to settlement set forth in the Settlement Agreement, including a proposed exchange regimen by which Pueblo West could comply with Condition 9. The Settlement Agreement further provides that ***Pueblo West cannot utilize the features and facilities of the SDS Project*** until it dismisses its lawsuit against the County in accordance with the Settlement Agreement or until a final court judgment has been entered that Pueblo West is entitled to utilize the SDS features and facilities. As of this date, the preconditions to settlement have not been satisfied fully, though the Parties are working toward that end.

We disagree with Colorado Springs Utilities' statement at page 21, attachment 1 of the PCAR that the reporting on Stormwater controls is not due until after SDS is operational. ENF-1 (1)(y) &(z) of the Mitigation Appendix to the 1041 Permit requires quarterly reports **during project construction** on the "*status of stormwater management, drainage regulations and enforcement*" and on the "*status of stormwater and wastewater system improvements per permit commitments.*" We agree that E-2 (of the Mitigation Appendix) states that, at times water is delivered through SDS, CSU shall maintain stormwater controls to ensure Fountain Creek flows are no greater than existing levels. To be effective, the required stormwater controls and regulations must be in place prior to SDS operation, given the length of time to construct such improvements and pass such regulations; hence the requirement of reporting during construction.

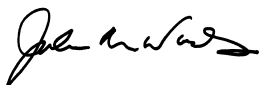
CSU may not be meeting its commitments related to stormwater controls, as expressed under condition 19 of the 1041 permit: "*Colorado Springs has established a Stormwater Enterprise Fund to finance the capital costs of needed stormwater control infrastructure. See Mitigation Appendix E-2.*" This is critical because under Condition 23 of the 1041 permit, the applicant committed to "*maintain stormwater controls and other regulations intended to ensure the Fountain Creek peak flows resulting from new development served by the SDS project within the Fountain Creek basin are no greater than existing conditions.*" In 2009 the City of Colorado Springs abolished its stormwater enterprise fund and has not put an alternative program in place. The County has relayed its concerns to the Colorado Springs City Council and is monitoring this issue to ensure alternative measures will continue to meet the intent of the 1041 permit requirement.

In the annual report, CSU describes under Appendix 7 its progress related to wastewater system improvements. Under condition 7, CSU committed to invest an additional \$75,000,000 in its wastewater system. Beginning in 2010, by January 31 of each year, CSU is to provide an annual report to Pueblo County describing such expenditures for the prior year. According to the 2011 report, CSU has expended \$5,338,489 for its LCERP and MHERP programs. The total expended to date is reportedly \$23.9M. However, there is no documentation provided by CSU to confirm the amount spent on these wastewater facility improvements.

Finally, it does not appear that the report addresses 1041 permit condition no. 16 that requires lake level management planning at Pueblo Reservoir. We are unaware of any efforts to implement this condition.

Thank you for the opportunity to comment. If you have any questions, I can be reached at 719-583-6100 or woodsja@co.pueblo.co.us.

Sincerely,



Julie Ann Woods, AICP/ASLA
Director
1041 Permit Administrator

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