



July 12, 2013

Carlie A. Ronca, Chief, Resources Division
US Dept of the Interior – Great Plains Region
11056 West County Road 18E
Loveland, Colorado 80537-9711

Re: PCAR for Southern Delivery System

Dear Ms. Ronca:

Colorado Springs Utilities (CSU) is in receipt of a copy of the Pueblo County Department of Planning and Development correspondence to you dated June 26, 2013, which discusses the permit compliance status of the Southern Delivery System (SDS). As indicated therein, the SDS Participants are committed to ensuring continued compliance with all of the terms of the Pueblo County 1041 permit. That said, I would like to supplement the attached Project quarterly reporting matrix with the following additional detail on those areas of concern noted by the County.

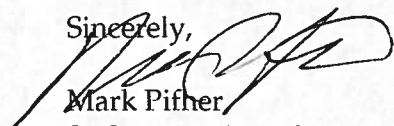
1. Pueblo West and Condition #9: Both Pueblo West and CSU are aware of the conditions set forth in the settlement agreement. CSU will continue to work with Pueblo West to ensure there is full compliance with those conditions as they currently exist or may be modified, by mutual agreement, in the future.
2. CSU and Stormwater Control: Most importantly from an SDS perspective, the new City Drainage Criteria Manual, which reflects the type of regulatory program contemplated under Condition #23 of the 1041 permit (Stormwater Management), is set to be adopted by City Council as soon as final review is completed by the Colorado Department of Public Health and Environment. As Pueblo County staff is aware, CSU and the City of Colorado Springs have been devoting substantial time and money to addressing stormwater concerns. Colorado Springs Mayor Bach and Council President King indicated in recent correspondence to Pueblo County Commissioner Pace that together, the City and CSU, intend to spend in excess of \$46M on stormwater related projects in 2013, well in excess of the annual average investments of \$18M under the prior Stormwater Enterprise. Further, CSU has been actively engaged with its neighboring jurisdictions in a regional Stormwater Steering Committee effort designed to identify suitable, long-term stormwater governance and funding options for the future. A preliminary draft timeline of planned Steering Committee activities is attached. Pueblo County is being kept fully apprised of both Steering Committee and City efforts and, in fact, County staff attends Steering Committee meetings. Their input is very much appreciated.

July 12, 2013

3. Wastewater System Improvements: In response to requests by Pueblo County, additional documentation has been provided relative to wastewater expenditures under Condition #7 of the 1041 permit (e.g., see last year's PCAR response). That said, CSU will have the CSU manager who leads and tracks such activities meet, upon request, with County staff in an effort to fully understand what additional information may be helpful. CSU will continue to ensure that adequate monies are allocated in its annual budgets to meet the 2024 commitment.
4. Pueblo Reservoir Management Plan: As indicated in response to last year's PCAR, the Southeastern Colorado Water Conservancy District (SECWCD) and the Bureau of Reclamation have primary jurisdiction over reservoir operations and have not yet pursued a management plan for the reservoir. CSU will ensure that these two parties are aware of the County's concern and will cooperatively participate in such plan development once SECWCD and Reclamation have made the decision to move forward.
5. Monetary Mitigation to FCWFCD: As alluded to in the County's correspondence, the parties have been exchanging drafts of a letter outlining the calculation methodology for the indexed payments to the Fountain Creek Watershed Greenway and Flood Control District (District) and have identified the actual index to be used. Though this dialogue has not progressed beyond the staff level, it is CSU's understanding that staff are very close to agreement. That said, the District Board recently adopted a resolution (copy attached) requesting that the SDS Participants and Pueblo County consider a different payment schedule than originally contemplated in order to obtain monies to fund the District's administrative costs until such time as the SDS principal payments are due under the permit. This will lead to further discussions between CSU and the County.
6. Walker Ranches: Pueblo County correctly noted that Mr. Walker has expressed concerns about the reclamation activities on his property. Meetings have been held with Mr. Walker and his consultants, along with County staff, in an effort to resolve those concerns. A recitation of the additional work to be performed by SDS can be found attached to the recent correspondence to Mr. Walker, a copy of which is provided herewith.
7. Section 401 Certification: CSU is also awaiting the appellate court decision.

Should you be in need of any additional information or explanation relative to the above or upon the quarterly matrix report, please do not hesitate to contact me.

Sincerely,



Mark Pifher
SDS Permitting Manager

cc: Mike Collins, Area Manager, BOR Great Plains Region
Mike Ryan, Regional Director, BOR Great Plains Regional Office
Anne Castle, Assistant Secretary for Water and Science, Department of the Interior
Joan Armstrong, Director, Pueblo County Planning and Development

Plan for Establishing Stormwater Governance and Funding

Date	Action	Desired Outcome
7/15/2013	Steering Committee mtg	Brief review of report for electeds, discuss next steps & timeline
July, 15th or later	Stormwater workshop CS Utilities Board	Bring all of council up to snuff on Utilities connection to SW management
Aug. 2013	8/21? Joint CS City Council / EPC Commish report out on Phase II	Understand possible actions & needed next steps, ask to fund consultants
	Meeting of key individuals with Mayor	Discuss next steps
	Steering Committee mtg	Finalize work plan/timeline for economics, legal & survey; form Communications Subteam
	Work begins on select economics, legal & survey items	
Sept. 2013	Communications Subteam meeting (key stakeholders)	Develop draft plan & program
	Steering Committee mtg	Report outs
Oct. 2013	CH2MHill work complete	Report out to Boards
	Steering Committee mtg	Report out / discussion of work completed to date
Nov. 2013	Draft all recommendations	
	Meeting of key individuals with Mayor	Discuss next steps
	Steering Committee mtg	Report out / discussion of work, formulate recommendations
	Joint CS City Council / EPC Commish report out on Phase II	Report out to Boards jointly, approve model
Dec. 2013	Survey	Get pulse of electorate
Jan. 2014	Steering Committee mtg	Review IGAs, survey, plan communications
	Present IGA's to City Council, EPC Commissioners & others	Finalize model
Jan-Nov	Education & outreach, Steering Committee & others as appropriate	Gain support
Nov-14	Something on ballot	Gain approval

_____ moved and _____ seconded
the adoption of the following Resolution. The vote was _____ in favor and _____ opposed
and the Resolution passed.

RESOLUTION NO. 2013-03—GENERAL

**BOARD OF DIRECTORS
FOUNTAIN CREEK WATERSHED, FLOOD CONTROL,
AND GREENWAY DISTRICT**

**RESOLUTION TO SEEK FUNDING FROM THE CITY OF COLORADO SPRINGS THROUGH
COLORADO SPRINGS UTILITIES AND PUEBLO COUNTY FROM SOUTHERN DELIVERY
SYSTEM (“SDS”) INDEXED REVENUE DERIVED FROM SDS PUEBLO COUNTY 1041
PERMIT AND AUTHORIZATION TO USE SAID FUNDING FOR THE DISTRICT’S
OPERATIONS, EXPENSES, MAINTENANCE, AND PROJECTS FOR THE YEAR BEGINNING
JANUARY 1, 2014.**

WHEREAS, pursuant to § 32-11.5-102(1)(e), C.R.S., the Colorado Legislature created and authorized the Fountain Creek Watershed, Flood Control, and Greenway District (“District”) to primarily manage, administer, and fund the capital improvements necessary in the Fountain Creek Watershed and the Fountain Creek Watershed Management Area in order to prevent and mitigate flooding, sedimentation, and erosion, address water quality and water quantity issues, improve drainage, acquire and protect open space, develop public recreational opportunities, improve wildlife and aquatic habitat, and restore, enhance, establish, and preserve wetlands; and

WHEREAS, pursuant to § 32-11.5-102(2)(d), C.R.S., to accomplish these purposes, the Legislature made available for the District all legal and available funding sources including gifts, grants, and donations from public, private, and not-for profit sources; and

WHEREAS, pursuant to both the Intergovernmental Agreement dated December 15, 2008, signed by the Represented Public Bodies, and as subsequently codified at § 32-11.5-205(2)(i)(I), C.R.S., until such time as the District has sufficient funding to operate independent of funding from the Represented Public Bodies, the District is authorized to request from the Represented Public Bodies appropriate staff, resources, and funding support; and

WHEREAS, to date, the District’s operations, expenses, and projects have been funded primarily by contributions of \$300,000.00 each from the Lower Arkansas Valley Water Conservancy District and the City of Colorado Springs on behalf of its enterprise, Colorado Springs Utilities, under the terms of an Intergovernmental Agreement dated August 28, 2009, and recorded at Reception No. 209120487 in the records of the El Paso County Clerk and Recorder’s Office, and through fees for contract and grant administration. There will not be sufficient remaining funds from those sources to operate the District after December 31, 2013; and

WHEREAS, there will be funding available to the District pursuant to the terms of the Pueblo County 1041 Permit of Colorado Springs Utilities beginning on January 15 of the year following completion and commencement of water deliveries through the Southern Delivery System (“SDS”) Pipeline from Pueblo Reservoir to Colorado Springs, which is currently projected to be in 2016; and

WHEREAS, the Board of Directors of the District (“Board”) has determined that it is not in the best interest of the District, the Represented Public Bodies, or the citizens of Pueblo County and El Paso County to submit a ballot question to the electors of the District to authorize a mill levy to support the operation and projects of the District at either the 2013 election, because there is not sufficient time or funding available, or the 2014 state-wide election, because the District does not want to interfere with efforts for a possible ballot question regarding regional stormwater by either El Paso County or the City of Colorado Springs; and

WHEREAS, pursuant to Paragraph 6 of the terms and conditions of the Pueblo County 1041 Permit for the SDS Pipeline, “[i]n the event completion of the SDS Project is delayed beyond 42 months after the effective date of the permit because of an affirmative decision made by Applicant [Colorado Springs Utilities], then the payments to be made by the Applicant pursuant to this paragraph shall begin to be made on such date, without regard to project construction status, or such payments shall be subject to annual indexing commencing 42 months after the effective date of the permit, to increase the amount of such payments as required to preserve their present values, using the Colorado Front Range Producer Price Index, but not to exceed a maximum annual increase of 3.5%,” and

WHEREAS, Colorado Springs Utilities (“CSU”) is scheduled to begin making such payments of indexed revenue in January 2017, and has indicated that it would be interested in making funding based on those payments available to the District beginning in January 2014; and

WHEREAS, in order for the District to use such funding, authorization must be obtained from the Board of County Commissioners of Pueblo County, the Permit Authority for the Pueblo County 1041 Permit for the SDS Pipeline; and

WHEREAS, the Board believes it is necessary and in the best interest of the District, the Represented Public Bodies, and the citizens of Pueblo County and El Paso County at this time to request funding from the City of Colorado Springs through CSU of SDS 1041 Permit payments of indexed revenue and to request authorization from the Board of County Commissioners of Pueblo County to use funding from those payments for the District’s operations, expenses, maintenance, and projects beginning in January 2014; and

WHEREAS, in addition to this funding request, the Board will also request funding from the Represented Public Bodies of the District.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Fountain Creek Watershed, Flood Control, and Greenway District that the Board hereby formally requests from the City of Colorado Springs through Colorado Springs Utilities funding based on payments of indexed revenues pursuant to the Pueblo County 1041 Permit for the SDS Pipeline to begin in January 2014.

BE IT FURTHER RESOLVED, the Board also hereby formally requests that the Board of County Commissioners of Pueblo County authorize the City of Colorado Springs through Colorado Springs Utilities to make funding based on those payments available to the District beginning in January 2014.

BE IT FURTHER RESOLVED, the District shall have sole authority and discretion over the expenditure of said funds paid to the District, which shall include but not be limited to operations, expenses, maintenance, and projects pursuant to the District's statutory purposes.

BE IT FURTHER RESOLVED that the Chairman of the District, or the Vice Chair in the Chairperson's absence, is hereby authorized to execute on behalf of the District this Resolution and any other documents that may be necessary to accomplish the intent of the Board in this matter. The Board hereby directs the Executive Director to present this Resolution to the City of Colorado Springs through Colorado Springs Utilities and to the Board of County Commissioners of Pueblo County.

DATED this 28th day of June, 2013, at Fountain, Colorado.

**FOUNTAIN CREEK WATERSHED,
FLOOD CONTROL, AND GREENWAY
DISTRICT**

ATTEST:

By: _____
_____, Secretary

By: _____
Gabriel Ortega, Chairman



Colorado Springs Utilities

It's how we're all connected

June 27, 2013

Gary R. Walker
Walker Ranches
7170 Turkey Creek Ranch Rd
Pueblo, CO 81007

Re: Easement Reclamation

Dear Mr. Walker:

I wish to thank you and your consultants for meeting with Colorado Springs Utilities (CSU) and Pueblo County representatives on June 20. The meeting afforded the parties an opportunity to discuss all of the reclamation work that has been performed to date, and to further explore the issues identified on the attached Issues List (List), including the nature of the additional work SDS is prepared to undertake in response to the concerns you have expressed. We hope to commence that work, as further described in the "Responses" section of the List document, as soon as possible.

SDS acknowledges that the List represents only those concerns identified to date by the parties based upon the information currently available, and it is possible that additional issues, of which the parties are not now aware, could arise in the future. However, as stated at the meeting, a never ending "do loop" must be avoided and closure must be achieved.

As noted at the meeting, CSU desires to continue to collaborate with you in undertaking the reclamation activities, and will therefore periodically update you and your consultants on the timing, nature and results of the work performed at the site. You should certainly feel free to contact me (719-668-8693) or Kevin Binkley (719-668-3748) at any time should you or your consultants have any information or suggestions related to the work that you would like to share.

In regards to the additional temporary access agreements or licenses that will be needed to complete a couple of the discussed items, per your instruction, we have contacted Mr. Ostrander and Mr. Turner with those requests.

Should you have any questions or comments relative to the above, please do not hesitate to contact me at any time.

Sincerely,

Mark Pifher
SDS Permitting Manager

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>

Issues List

1. Issue: A six-inch (approximate) mound remains in various areas on each side of the easement.

Response: Southern Delivery System (SDS) will correct this by leveling the mounds where they exist. The SDS revegetation contractor, Western States Reclamation, Inc. (WSRI) will accomplish this task.

2. Issue: Ensure that the topsoil in the reclaimed area was not imported.

Response: SDS has confirmed through the project managers that no topsoil was imported to the site; however, some soil from the north end of the Walker Ranches property was transported to the south end of the Walker Ranches property. A copy of the pertinent soil analysis data from the south end of the ranch property can be provided upon request.

3. Issue: There appears to be non-native rocks in the easement.

Response: In discussions with the contractors and project managers, SDS has confirmed that the rocks in the easement originated from within the construction site. However, some of the rocks undoubtedly came from a depth below the topsoil. Some rocks have already been hand-picked and removed from the site; however, SDS is willing to provide some soil amendments in identified “rocky” areas to aid in the revegetation effort if requested.

4. Issue: There appears to be crowning in middle of the easement.

Response: SDS has enclosed a copy of the available survey data, which appears to show very minimal changes in ground surface elevations between pre and post construction conditions, i.e., less than one foot deviation. This minimal variation is consistent with standard industry practices and, SDS believes, County expectations. SDS has investigated, and material was removed from the site in order to ensure proper site restoration. That said, in select identified areas SDS, in consultation with the experts assisting Mr. Walker, can undertake appropriate

grading efforts in areas where drainage patterns may be adversely affected by current contours as part of efforts associated with issue #5 below.

5. Issue: There exists an uneven grading pattern in easement areas that may promote a poor drainage pattern.

Response: As referenced above, SDS can undertake appropriate grading efforts in areas where drainage patterns may be adversely impacted by current contours. The exact locations will be determined in consultation with the experts assisting Mr. Walker. The parties agree to minimize, to the extent practicable, the temporary movement of existing irrigation lines.

6. Issue: The sprinkler heads do not adequately cover the easement revegetation area.

Response: SDS believes the sprinkler system is adequate to meet revegetation needs. See attached Redente Ecological Consultants (REC) memorandum, which addresses sprinkler head spacing. Parties must keep in mind that there is no permit requirement to irrigate. SDS will be held to the Colorado Department of Public Health and Environment (CDPHE) construction stormwater and Pueblo County 1041 permit revegetation standards.

7. Issue: The check dams must be maintained and removed when appropriate.

Response: SDS will maintain the check dam structures for their useful life as stormwater management Best Management Practices and remove them once vegetation is re-established.

8. Issue: Any underground springs must be maintained so as to ensure their future availability.

Response: A commitment was made in Appendix C-20 of the Pueblo County 1041 permit to prevent injury to springs. During construction, the springs were located with the assistance of the Walker Ranches foreman and the Controlled Low-Strength Material (CLSM) levels in the trench were adjusted to ensure unimpeded flow of the springs.

9. Issue: The access road along the west side of the easement is too deep and will cause drainage flow problems.

Response: The former site of the road has been ripped, fluffed, and reseeded. Close attention was been paid to drainage contours in the completion of this work.

10. Issue: A drainage arroyo is blocked where the concrete improvement was installed.

Response: SDS will rectify this once Mr. Walker grants access to areas surrounding the arroyo, which are outside the easement boundaries for SDS.

11. Issue: It is necessary to ensure that Mr. Walker is able to cross the easement with a new water pipe.

Response: This should not be an issue given the depth of the SDS pipeline. The parties need to coordinate when any trenching for such a pipe is scheduled to occur.

12. Issue: The blow-off valve area needs additional rip-rap for channel protection.

Response: SDS will extend the rock area once Mr. Walker grants access to areas immediately downgradient, which are outside the easement boundaries for SDS. SDS will also provide information on the flow capacity of the blow-offs.

13. Issue: There is off-easement erosion in the Steele Hollow area.

Response: SDS agrees that this is an issue in the northwestern portion of the drainage channel, immediately outside of the existing SDS easement boundary, and will rectify the condition once Mr. Walker grants access to the area outside of the easement.

14. Issue: Revegetation needs to include native plants like cholla as well as grasses.

Response: These species were pulled to the side during construction and pulled back over the alignment as part of the final restoration efforts. The replaced topsoil material included seeds and vegetation from the pre-existing site condition and were mixed with the seeds planted during the revegetation efforts. Applicable permit revegetation requirements will be met.

15. Issue: Concern was expressed that the contractor would be prematurely released from the stormwater permit obligations.

Response: WSRI will continue to hold the CDPHE construction stormwater permit until the revegetation percent threshold under the CDPHE stormwater permit is met.

16. Issue: Was appropriate mulch utilized to avoid weeds/foreign species?

Response: SDS has confirmed that only certified weed free mulch was used. Documentation will be provided.

17. Issue: Identify the porosity of the CLSM material.

Response: SDS we will provide this information. Please also refer to the response to Issue 5, indicating that CLSM levels in the trench were adjusted to ensure unimpeded flow of identified springs.

18. Issue: Are there unacceptable weeds growing on the north end of the alignment along the up-slope?

Response: SDS will have Colorado Natural Heritage Program and/or Pueblo County's revegetation consultant, Dr. Keammerer, confirm what species are growing in this area and its acceptability (as a nurse crop) under the revegetation plan or mitigate appropriately.