



Colorado Springs Utilities

It's how we're all connected

July 31, 2013

Mr. David Benbow
General Services Engineer
Pueblo County Department of Engineering and Public Works
33601 United Avenue
Pueblo, CO 81001

Re: Maxwell concerns

Dear David:

Colorado Springs Utilities is aware that issues related to the Southern Delivery System (SDS) construction project were raised at the July 15, 2013 Board of Pueblo County Commissioners meeting by Mr. Dwain Maxwell, who resides at 1123 N. Kirkwood Drive in Pueblo West. In response, I wanted to provide some background information on our past and current interactions with the property owner that may be helpful to you. Colorado Springs Utilities has worked diligently with Mr. Maxwell to address issues he has raised for several years, and we continue to collaborate with him as we revegetate the former construction area on his property.

As you are aware, Colorado Springs Utilities was required to acquire temporary and permanent easements on more than 140 properties in Pueblo West to build the SDS water pipeline. By January 2012, we had reached agreements on final compensation with virtually all the owners of these parcels. Mr. Maxwell was one of only three property owners with whom we could not reach an agreement for final compensation. With the acquisition of an easement, we purchase the right to use the property but the property owner actually retains ownership and use of the property subject to easement and setback requirements.

Based on an appraisal performed for Colorado Springs Utilities, we offered Mr. Maxwell \$2,200 for temporary and permanent easements across his property, which he declined. As a settlement proposal, we offered him \$3,000. Mr. Maxwell refused both offers and opted to have his case heard in the Pueblo County Court to determine final compensation. In March 2012, a Pueblo County jury of six citizens awarded Mr. Maxwell \$1,850 for the temporary and permanent easements and awarded none of the damages he requested. Colorado Springs Utilities compensated Mr. Maxwell per this jury decision. In addition, Mr. Maxwell's appraisal was paid for by Colorado Springs Utilities, as were his direct expenses and court costs.

Pipeline construction began on his property in September 2011. At the end of this process, Mr. Maxwell signed an agreement in which he released "... Colorado Springs Utilities, and its contractors, agents and employees, from any and all claims and demands of whatsoever nature related to construction and revegetation of the Southern Delivery System..." to the extent activities occurred prior to September 10, 2012.

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>



July 31, 2013

To honor our commitments to property owners in Pueblo West and comply with our Pueblo County 1041-land use permit, we began revegetating areas impacted by SDS construction in 2012, including Mr. Maxwell's property. Mr. Maxwell entered into a revegetation license agreement on the property in 2012 to allow SDS to better manage its revegetation efforts on the property. A native seed mix, selected for its drought tolerance and compatibility with the natural climate in this region, was planted last fall. Mr. Maxwell and others impacted by construction received additional compensation for allowing us to continue to access their property to plant, water, establish and monitor the growth of native grass seed.

The SDS vegetation restoration plan was developed in collaboration with independent experts from the Colorado Natural Heritage Program at Colorado State University. In addition, we have consulted with Pueblo County's independent expert to develop the best plan to establish vegetation in an arid climate using best management practices. Furthermore, the revegetation contractor, in consultation with the independent experts, carefully developed the irrigation plan balancing the water needs of the native seed mixes with the responsibility to use water wisely and efficiently during the current drought conditions.

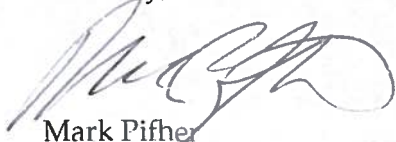
The amount of water applied and length of time each irrigation zone operates fluctuates based on specific soil conditions and soil moisture content within each zone. Among other factors that affect the water schedule is terrain, precipitation, and periods of root growth for the seedlings.

We are continuing to communicate with Mr. Maxwell to address his concerns regarding the revegetation progress on his property. While seeds are starting to germinate, growth varies in areas and may be somewhat limited during the hotter summer months. As noted, we are monitoring the progression closely and communicating with Mr. Maxwell about our plans. The objective remains full and continuous compliance with the restoration obligations found in the 1041 permit.

We will continue to work to minimize disruption to Pueblo West residents including Mr. Maxwell. Our construction facilitators in Pueblo West meet with residents frequently to answer questions. Property owner interaction has and continues to be a top priority for SDS.

If you have any questions or comments or would like Colorado Springs Utilities to brief the Commissioners on the topic, please do not hesitate to contact me directly. I can also provide additional reference materials upon request. See attachments.

Sincerely,



Mark Pifher
Permitting and Compliance Manager
Southern Delivery System

CC: Joan Armstrong

SDS Pueblo County Citizen Call Log Excerpts - Q3 2011 through July 2013

Date	Name of Caller	Reason for Call	Response	Follow Up	Disposition
11/21/2011	Dwayne Maxwell	Concern about unexpected fencing activity in easement.	Fencing crews were given direction to leave the area and recheck their plans for type of fence for these properties.	Reschedule fencing crews to do these properties in chain link, rather than orange construction fencing.	Resident was accepting of new fence plan and were cordial as chain link was placed on the easement a few weeks later.
3/13/2012	Dwain Maxwell	Dust complaint	Contacted resident engineer, who had water truck apply more water in the affected area. Air quality readings taken within the easement were within acceptable levels.	None requested	Resident satisfied with outcome.
3/19/2012	Dwain Maxwell	Dust complaint, concern about night vehicle maintenance near his home.	Contacted resident engineer, who had water truck apply more water in the affected area. Air quality readings taken within the easement were within acceptable levels. Also asked resident engineer to make sure night maintenance is further from the Maxwell home. This work was two lots away.	None requested	Resident satisfied with outcome.
3/20/2012	Dwain Maxwell	Question about our grading to final contours.	Shared information with him about our commitment and obligations to return land to original contours.	None requested	Resident satisfied with outcome.

6/7/2012	Dwain Maxwell	Questions about installation/location of Pueblo West's trail	Explained that gravel staged in the construction area will not stay there and will be used for trail only, and that trail will not be on Mr. Maxwell's property.	None requested	Resident seemed satisfied.
6/15/2012	Dwain Maxwell	Called to inquire about the timing of final items associated with his court proceeding.	The land team coordinated with Mr. Maxwell to address his questions.	None requested	Resident seemed satisfied.
8/19/2012	Dwain Maxwell	Concerned about potential impact to the stucco of his home stemming from construction earlier in the year.	Contacted project manager who requested monitoring data to investigate any potential impacts to nearby property.	Monitoring data supported that there was no activity that would have caused damage to nearby property. Information was shared with the property owner.	Resident concerned, but seemed satisfied after several meetings.
6/7/2013	Dwain Maxwell	Resident called to inquire about his watering schedule, his missing that day's watering, and express his concern that the area needs more water.	SDS called Mr. Maxwell and discussed the watering schedule and that sometimes it does vary. SDS indicated they would see if a representative was able to manually start his zone for some auxiliary watering.	No representatives were available to stop by the property. Reveg team indicated enough water had been applied to last through weekend.	Mr. Maxwell was very concerned and expressed his displeasure that watering needs to be followed through on more consistently.
6/10/2013	Dwain Maxwell	Resident called to inquire about his watering schedule, his missing that morning's watering, and express his concern that the area needs more water.	SDS called him back and indicated the timer should have initiated his Monday watering. An irrigation specialist stopped at the property to check that the system was operational.	The system was operational, however it was found that the system had not been restarted for the week until after Mr. Maxwell's morning cycle would have initiated. SDS manually ran his sprinklers to catch up on the water cycle.	Mr. Maxwell was very concerned and expressed his displeasure that watering needs to be followed through on more consistently.

6/14/2013	Dwain Maxwell	Resident called to inquire about his watering schedule, his missing that afternoon's watering, and express his concern that the area needs more water.	SDS called him back and let him know that the irrigation schedule is being reset, so his times would vary as the contractor prepares the new schedule for the following week.		Mr. Maxwell was very concerned and expressed his displeasure that watering needs to be followed through on more consistently.
7/12/2013	Dwain Maxwell	Resident called to inquire about the watering schedule and requested specific times and days of the week for watering. He expressed concern about oversaturation of irrigation water on the property and its effect on revegetation.	SDS spoke with him to better understand his concern about oversaturation and began exploring irrigation options to address his concern. SDS requested a few days to seek a solution.	Mr. Maxwell expressed his interest in having his request addressed immediately. SDS suggested to have a representative meet with him the upcoming week to further discuss the revegetation efforts on his property. Following the call, SDS began a new discussion with the SDS revegetation team related to watering schedules.	Mr. Maxwell was very concerned and expressed his displeasure that his request could not be met immediately.
7/19/2013	Dwain Maxwell	Resident called SDS representative who he saw at his next door neighbors and requested that he stop by to discuss activities on his property.	SDS stopped by to discuss options with Mr. Maxwell related to irrigation timing on his property. The SDS representative indicated that they were continuing to inquire about options to address his concerns related to watering oversaturation while still achieving the necessary water penetration.	SDS indicated they would work with their revegetation team to identify potential refinements to the irrigation process so runoff was not occurring on the property and the necessary amount of water was still being maintained. SDS and the property owner agreed to get together in the coming week to see if conditions improved and discuss irrigation.	Mr. Maxwell seemed satisfied and willing to let the SDS revegetation team determine what other approach for irrigation might be feasible. He indicated he understood the difficulty of meeting his exact request, but if SDS could assure him that the proper water amount was being applied he would be satisfied.

7/26/2013	Dwain Maxwell	SDS and Mr. Maxwell spoke about conditions at the property. Mr. Maxwell said he has not noticed any changes. The SDS representative indicated some refinements had been made to prevent runoff.	SDS and Mr. Maxwell discussed meeting during a watering cycle to better visualize how the system is operating. Mr. Maxwell expressed his displeasure that his original request for specific days and times for watering could not be met.	Mr. Maxwell requested to be kept updated about changes to irrigation on his property.	Mr. Maxwell expressed his displeasure with the revegetation progress and requested to be kept informed about adjustments to his irrigation and a day to meet to discuss runoff on his property.
7/31/2013	Dwain Maxwell	Resident called to let SDS know a sprinkler head was misaligned and causing an irrigation issue. Mr. Maxwell also requested an update on what day might work to meet an SDS representative to walk through his property to further discuss the revegetation and irrigation process.	SDS representative agreed to meet with Mr. Maxwell the following day to observe the sprinkler head and to further discuss the revegetation and irrigation process on his property.	On-going, SDS is working with Mr. Maxwell and the SDS revegetation team to realign the sprinkler head and check the other heads on the adjoining properties and will continue to monitor.	In Process

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Place an Ad

Holdouts question SDS compliance

Three holdouts await a response from county commissioners.

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Posted: Tuesday, July 19, 2011 12:00 am | Updated: 6:59 am, Tue Jul 19, 2011.

By CHRIS WOODKA | cwoodka@chieftain.com

Pueblo West holdouts facing condemnation of land under the Southern Delivery System don't think Colorado Springs is living up to its end of a bargain made with Pueblo County.

Two landowners, who obtained a 30-day breather from District Judge Victor Reyes, and a third landowner with an August court date, who says she cannot afford to pay costs associated with eminent domain, want commissioners to step in and enforce conditions under a 1041 land-use permit for SDS.

"I can afford to hire my own attorney, but if I do this as the Lone Ranger, it doesn't do anyone

any good," said Branson Haney, a real estate broker facing condemnation for easements on two Pueblo West properties. "Some of us mean business, and we're not going to be scared sheep."

Haney wrote a letter to commissioners on June 29 claiming violation of the 1041 permit condition, which says landowners would have no out of pocket expenses for land or easements acquired by SDS.

Commissioners still have not drafted a formal response to Haney's letter, according to commission Chairman John Cordova.

It's not the first time commissioners have been asked whether the 1041 conditions are being followed. In February, they questioned SDS project Director John Fredell on another provision that says eminent domain would be used only as a last resort.

The result was a delay in eminent domain procedures, which already had been authorized by Colorado Springs City Council. Colorado Springs has filed for eminent domain on 23 of 170 properties along an 18-mile route in Pueblo County.

Colorado Springs Utility officials say they have continued to work with property owners, even those in court.

"We consider previous negotiations with the more than 100 property owners in Pueblo West to be successful as we were able to reach agreements," said Janet

Rummel, SDS spokeswoman. "Our negotiations are handled on a case by case basis with each owner depending on individual circumstances. . . . We're continuing to work to reach agreements with the remaining property owners and address their specific concerns."

A different property negotiator, Lyman Ho, a Denver consultant hired by Colorado Springs, met with Haney following Reyes' decision to give Colorado Springs 30 days to work out a deal.

"It was a drastic change in the way I've been approached," said Haney, who supports SDS but says he and other property owners have gotten a raw deal.

He provided copies of correspondence with Wilson & Co. that showed he offered to sell the two lots outright to SDS in 2010. The response from Wilson real estate specialist Clara Lucero was to explain the procedures by which he would be taken to court.

Colorado Springs Utilities claims 19 contacts with Haney since February 2010, but Haney said many of those were just voice messages.

He said his meetings with Ho were the first time Colorado Springs negotiated, rather than simply reiterating the initial offer.

Haney stands by his June 29 letter, and said homeowners may be racking up costs that don't show up in court, or may not know they had other options.

Colorado Springs interprets the costs associated with SDS to mean the real estate transaction only, based on a memo from a Pueblo County consultant in December 2008, when the SDS 1041 hearings were commencing, Rummel said.

Haney said that's not the way he reads the condition as it was written in the final version of the conditions approved in March 2009.

Dwain Maxwell, whose property on Kirkwood Drive lies in the path of SDS, said Ho offered him \$800 more than the initial offer of \$2,220 for an easement across the back of his property. Maxwell thinks the money is a pittance for the inconvenience SDS will cause.

He said he also has assurances Colorado Springs will pay his court costs, even though he doesn't intend to accept the offer.

"I'd rather not have to deal with them at all rather than take their money," Maxwell said. "We would love for it to be over. They've worn us down."

Lavetta Kay, who will lose about a half-acre on her Ranch Road property to SDS, on Monday was able to set a new court date for Aug. 17 for a hearing on her case.

Kay is unable to afford an attorney to represent her, and said she continues to feel pressured to accept Colorado Springs' offer of \$5,300 after meeting with Ho.

"I think it's all for show for the judge," Kay said. "They've never come back with another figure."

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GRANTED

The moving party is hereby **ORDERED** to provide a copy of this Order to any pro se parties who have entered an appearance in this action within 10 days from the date of this order.

Victor I. Reyes

District Court Judge

DATE OF ORDER INDICATED ON ATTACHMENT

COMBINED COURT, PUEBLO COUNTY, STATE OF COLORADO (10th Judicial District)

Court Address: 320 W. 10th Street

Pueblo, Colorado 81003-2953

Telephone No.: (719) 583-7000

Petitioner: CITY OF COLORADO SPRINGS, COLORADO

vs.

Respondents: DWAIN B. MAXWELL and HELEN E. MAXWELL, individuals; WELLS FARGO BANK, N.A., a national association; NICHOLAS GRADISAR, Pueblo County Public Trustee; and DEL OLIVAS, Pueblo County Treasurer.

FILED Document - District Court

2011CV334

CO Pueblo County District Court 10th JD

Filing Date: Apr 1 2012 7:31PM MDT

Filing ID: 43409784

Review Clerk: N/A

▲COURT USE ONLY▲

Case Number: 2011CV334

Div.: C

RULE AND ORDER

THIS MATTER having come before the Court for a two day trial to a jury on March 22 and 23, 2012, and the jury, having returned its verdict, and the Court, being fully advised in the premises, hereby FINDS THAT:

1. The court has full and complete jurisdiction of the subject matter and the parties and service of process has been made on all interested parties.
2. This is a condemnation action filed by the Petitioner, the City of Colorado Springs (the "City"), to acquire a permanent easement and a temporary construction easement across portions of a parcel of real property located in Pueblo County, Colorado known as 1123 North Kirkwood Drive, Pueblo West, Colorado 81007.
3. Respondents Dwain B. Maxwell and Helen E. Maxwell are the record owner of the property referred to in paragraph 2 above.
4. The easements acquired by the City are described in Exhibit A and Exhibit B attached hereto and incorporated herein by this reference (the "Property").
5. The jury, in its verdict, awarded the Maxwells \$1,850.00 for the value of the permanent and temporary construction easements being acquire by the City in this action and no other amounts.
6. No respondents, other than the Maxwells, appeared at trial or have asserted any claim to the proceeds to be paid by the City in this case.

THEREFORE, it is hereby ORDERED that:

1. The easement interests in the property described in Exhibit A and Exhibit B have been duly and lawfully taken and condemned by the City of Colorado Springs pursuant to the statutes and the Constitution of the State of Colorado, and title to these easements is hereby vested in and conveyed to the City according to the terms described in Exhibit A and Exhibit B free and clear of any interest of the Respondents herein; and,

2. A certified copy of this Rule and Order shall be recorded and indexed in the office of the Clerk and Recorder of Pueblo County, Colorado, in like manner as if it were a deed of conveyance from the Respondents and parties interested to the City.

4. The Clerk of this Court is ordered to issue a check in the amount of \$1,850.00 payable to Dwain and Helen Maxwell and to send that check to them at the following address:

Dwain and Helen Maxwell
1123 North Kirkwood Drive
Pueblo West, Colorado 81007

5. The Clerk of this Court is ordered to issue a check in the amount of all remaining funds deposited in this action payable to the City of Colorado Springs and to send that check to the City addressed as follows:

Anne Turner, Esq.
Assistant City Attorney
30 S. Nevada Avenue, Suite 501
Colorado Springs, CO 80901-1575

Done and ordered this ____ day of _____, 2012

BY THE COURT:

District Court Judge

This document constitutes a ruling of the court and should be treated as such.

Court: CO Pueblo County District Court 10th JD

Judge: Victor I Reyes

File & Serve

Transaction ID: 43347294

Current Date: Apr 01, 2012

Case Number: 2011CV334

Case Name: CITY OF COLORADO SPRINGS COLORADO and MAXWELL, DWAIN B et al

Court Authorizer: Victor I Reyes

/s/ Judge Victor I Reyes

**Dwain & Helen Maxwell
1123 N. Kirkwood Dr.
Pueblo West, Colorado, 81007**

COPY

May 11, 2011

To: Colorado Springs Utilities
Re: Southern Delivery System

Sirs:

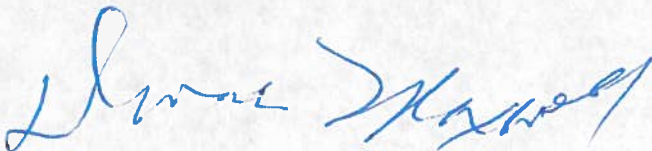
Enclosed is a copy of the bill for appraisal for the above property.

This is submitted to you per the 1041 permit as issued by Pueblo County.

Once this statement has been satisfied (in the amount of \$4,000.00) we will be glad to discuss it with you. There are no provisions for us to furnish you with a copy of the appraisal in the 1041.

We would expect this billing to be satisfied no later than the posted due date of 5/24/11 and confirmation of payment and any other correspondence by e-mail at sirappy@msn.com.

Regards,

A handwritten signature in blue ink, appearing to read "Dwain Maxwell", is written over the "Regards," text.

05-11-11P02:23 RCVD



INVOICE

Date: 5/9/2011
INVOICE # 20

TO

Dwain and Helen Maxwell
1123 N. Kirkwood Drive
Pueblo, CO 81007

Salesperson	Job	Payment Terms	Due Date
		Net 15	5/24/2011

Description	Qty	Unit Price	Line Total
SDS Pipeline- Eminent Domain appraisal	1	\$4,000.00	\$4,000.00
Subtotal:			\$4,000.00
Sales Tax:			\$0.00
Total:			\$4,000.00

Thank you for your business!

Make all checks payable to: Larson & Associates, LLC

16090 Highway 83
Colorado Springs, CO 80921
US

Phone (719)243-7206 Fax brad@larsonandassociatesllc.com



Colorado Springs Utilities

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June 7, 2011

Larson & Associates, LLC
c/o Brad Larson
16090 Highway 83
Colorado Springs, CO 80921

HAND DELIVERED

Subject: Payment for Invoice #20 (Dwain and Helen Maxwell)

Dear Mr. Larson:

Enclosed please find check number 196324 in the amount of \$4,000.00 as full and complete payment for an appraisal prepared on 1123 N. Kirkwood Drive, Pueblo, CO 81007 for Dwain and Helen Maxwell. Payment for this appraisal is being made in compliance with commitments made with Pueblo County as a part of the Southern Delivery System project for the City of Colorado Springs and Colorado Springs Utilities.

Should you have any questions concerning this matter, please feel free to contact me. During business hours, I may be reached at (719) 668-3756.

Sincerely,

Lyman R. Ho
Land Acquisition Manager
Southern Delivery System
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>

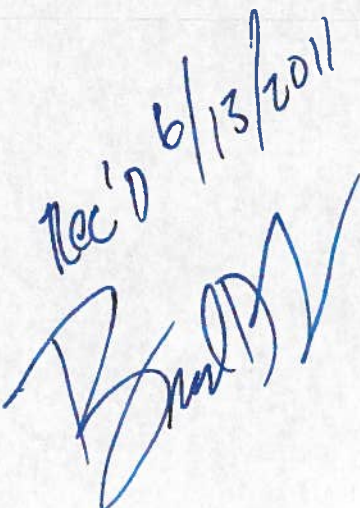
No. 196324

Colorado Springs Utilities
 (719) 668-8550

Check Date: 06/03/2011

LARSON & ASSOCIATES LLC, 16090 HIGHWAY 83, COLORADO SPRINGS CO 80921, UNITED STATES

(12141)

Description	Date	Gross Amount	Discount Amount	Net Amount Paid
20	05/09/11	\$4,000.00	\$0.00	\$4,000.00
				
Totals		\$4,000.00	\$0.00	\$4,000.00

Detach at Perforation Before Depositing Check

Page 1 of 1


Colorado Springs Utilities

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ACCOUNTS PAYABLE SECTION

P.O. BOX 1103

COLORADO SPRINGS, CO 80947-0929

PAY Four Thousand Dollars AND 00 Cents

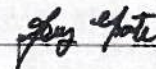
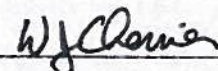
 JPMorgan Chase Bank N.A.
 Columbus, OH 43271
 56-1544/441

Check No. 196324

 Check Date
 06/03/2011

 Check Amount
 \$ ****4,000.00
TO THE
ORDER
OF
LARSON & ASSOCIATES LLC
 16090 HIGHWAY 83
 COLORADO SPRINGS CO 80921
 UNITED STATES

(12141)

⑈0000196324⑈ ⑆044115443⑆ 634866024⑈

FILED IN
2012 MAY 17 PM 2:38
PUEBLO COMBINED COURT
CLERK OF COURT

**Dwain B. Maxwell
Helen E. Maxwell
1123 N. Kirkwood Dr.
Pueblo West, Colorado, 81007
(719) 647-5815**

EFILED Document – District Court
2011CV334
CO Pueblo County District Court 10th JD
Filing Date: May 17 2012 8:40AM MDT
Filing ID: 44421014
Review Clerk: N/A
44CV334-C

May 17, 2012

**Judge Victor Reyes
Your Honor,**

Per your order, the billing for Colorado Springs Utilities/Southern Delivery System is enclosed.

This was authorized by the 1041 agreement between CSU/SDS and the Pueblo County Commissioners dated April 21st, 2009.

Just so you will know, your honor, this in no way includes compensation for the worries and woes, blood, sweat and tears inflicted on our household for this past three years and the future year for easement rights.

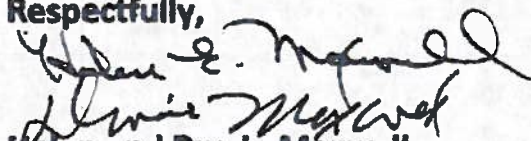
It does not include the noise and dust from the heavy equipment five days a week nor the lights on our home at night and the sound of working on industrial equipment late at night, literally in our own back yard.

It does not cover the loss of animal life that always came our way such as rabbits, deer, antelope, coyote and quail that the Colorado Game and Fish folks say will be away for two to three years ... and may never come back.

Oh yes, and we will certainly never forget the application of an "outhouse" literally in our own back yard. (We have pictures – that we were not allowed to show – as proof of this "monstrosity" that we were able to look at for several days. I don't know the amount that would be due if harassment was billable, but I feel certain it would far outweigh the attached figures.

Lyman Ho stated that we could bill him directly but we felt that your court order should not be ignored. In speaking with the appraiser, Ho is paying him direct.

Respectfully,


Helen and Dwain Maxwell

**BILLING STATEMENT FOR CSU/SDS
PER 1041 AGREEMENT BETWEEN
CSU/SDS AND PUEBLO COUNTY COMMISSION
DATED: APRIL 21ST, 2009**

AS OF: May 17, 2012

Mileage figured at \$.55 per mile

**1 day court appearance, 12 miles each way, total 24 miles ... \$13.20
2 day court appearance, 12 miles each way, total 48 miles ... \$26.40
7 trips to Post Office, Reg. Mail, Return Receipt 10 miles each way \$77.00
7 trips to court answer, Reg. Mail, Return Receipt, 10 mi. each way \$77.00
2 trips CSU/SDS City Council – 35 mi. each way, 140 total ... \$77.00
1 trip Bureau Reclaim, 12 mi. each way, total 24 miles ... \$13.20**

**Certified Mail cost, Reg. Mail, Return Receipt ,... \$66.37
District Court Filing ... \$158.00
District Court Search ... \$5.00**

Delivery of this document to Pueblo County Court/Judge Reyes ..24 mi. ... \$13.20

TOTAL DUE: \$526.37

Note: This does not include any property damages that may be due at the time of completion.

SENDER: COMPLETE THIS SECTION

1. Article Addressed to:
EDWARD J. BLIESZNER
1125 17th St.
DENVER, CO., 80202

2. Article Number:
7011 2000 0001 0172 9939

3. Service Type:
☐ Certified Mail
☐ Registered
☐ Insured Mail
☐ Express Mail
☐ Return Receipt for Merchandise
☐ C.O.D.

4. Restricted Delivery? (Extra Fee)
☐ Yes

5. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below:

6. Signature: [Signature]
7. Received by (Printed Name): [Signature]
8. Date of Delivery: [Signature]

9. Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
10. Print your name and address on the reverse so that we can return the card to you.
11. Attach this card to the back of the mailpiece, or on the front if space permits.

SENDER: COMPLETE THIS SECTION

1. Article Addressed to:
EDWARD J. BLIESZNER
1125 17th St.
DENVER, CO., 80202

2. Article Number:
7011 2000 0001 0172 8604

3. Service Type:
☐ Certified Mail
☐ Registered
☐ Insured Mail
☐ Express Mail
☐ Return Receipt for Merchandise
☐ C.O.D.

4. Restricted Delivery? (Extra Fee)
☐ Yes

5. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below:

6. Signature: [Signature]
7. Received by (Printed Name): [Signature]
8. Date of Delivery: [Signature]

9. Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
10. Print your name and address on the reverse so that we can return the card to you.
11. Attach this card to the back of the mailpiece, or on the front if space permits.

COMPLETE THIS SECTION ON DELIVERY

1. Article Addressed to:
Hon. Vreton Keyer
320 W. 10th St.
Pueblo, Co., 81003-2953

2. Article Number:
7011 2000 0001 0172 8598

3. Service Type:
☐ Certified Mail
☐ Registered
☐ Insured Mail
☐ Express Mail
☐ Return Receipt for Merchandise
☐ C.O.D.

4. Restricted Delivery? (Extra Fee)
☐ Yes

5. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below:

6. Signature: [Signature]
7. Received by (Printed Name): [Signature]
8. Date of Delivery: [Signature]

9. Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
10. Print your name and address on the reverse so that we can return the card to you.
11. Attach this card to the back of the mailpiece, or on the front if space permits.

COMPLETE THIS SECTION ON DELIVERY

1. Article Addressed to:
Hon. Vreton Keyer
320 W. 10th St.
Pueblo, Co., 81003-2953

2. Article Number:
7011 2000 0001 0172 2299

3. Service Type:
☐ Certified Mail
☐ Registered
☐ Insured Mail
☐ Express Mail
☐ Return Receipt for Merchandise
☐ C.O.D.

4. Restricted Delivery? (Extra Fee)
☐ Yes

5. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below:

6. Signature: [Signature]
7. Received by (Printed Name): [Signature]
8. Date of Delivery: [Signature]

9. Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
10. Print your name and address on the reverse so that we can return the card to you.
11. Attach this card to the back of the mailpiece, or on the front if space permits.

U.S. Postal Service™
CERTIFIED MAIL™ RECEIPT
 (Domestic Mail Only; No Insurance Coverage Provided)
 Delivery information visit our website at www.usps.com

Postage \$ 4.55
 Certified Fee 2.95
 Return Receipt Fee (Insurance Required) 2.35
 Scaled Delivery Fee (Insurance Required)
 Total Postage & Fees \$ 9.85

PUEBLO WEST CO 81003
FEB 10 2012
USPS

To Reyes
 Apt. No. 81003
 Box No.
 State, ZIP+4

Form 3800, August 2006 See Reverse for Instructions

Petition Known

Trans: 5/31/*****
 PUEBLO COMBINED COURT
 328 WEST 10TH STREET
 PUEBLO, CO 81003

TERMINAL ID: 001040164
 MERCHANT ID: 187274323991

VISA
 *****9400
 SALE
 BATCH: 000604 INVOICE: 0043628100
 DATE: MAY 31, 11 TIME: 09:30
 SO: 002 AUTH NO: 112585

Payor: Case #: + 24 MILE 40
 CITY OF AND TOTAL Fwy \$158.00

MAXWELL
 RCP #: CUSTOMER COPY

Description	Amount
Civil Filing Fee	45.00
Stabilization Fund - USER	40.00
Justice Center Cash Fund	68.00
Court Security Cash Fund	5.00

Receipt Total.....	\$158.00
Amount Tendered.....	\$158.00
Due.....	\$0.00
Payment Type.....	CRED
Amount Receivable Due....	\$0.00

Transaction.
 2/7/2012 12:08 PM AGM TL105103
 District Court, Pueblo County
 PUEBLO COUNTY JUDICIAL BUILDING
 320 WEST 10TH STREET
 PUEBLO, CO 81003
 719-583-7000

Case # : 2011CV-000334
 COUNTY OF COLORADO SPRINGS COLORADO
 (WELL, DWAIN B et al)
 Case # : 2011CV-000334-0004

Description	Amount
Arch of Records (On Sit	5.00
Receipt Total.....	\$5.00
Amount Tendered.....	\$5.00
Amount Due.....	\$0.00
Payment Type.....	CASH
Amount Receivable Due....	\$0.00

by dwain maxwell in cash

PAID IN FULL POST OFFICE
 44 S. W. 10TH BLVD STE 2
 PUEBLO, CO 81003-2054
 USPS PERMIT NO. 2651
 PUEBLO, CO 81003

Sale

VISA

Case #: 000011
 Court Tran #: 052

All bills must be paid in full
 Refunds for bills not paid in full

USPS
 In to USPS
 for all bills

2299 0172 2299

5391

U.S. Postal Service™

CERTIFIED MAIL™ RECEIPT

(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com

COLORADO SPRINGS CO 80947

Postage	\$ 0.44	0976
Certified Fee	\$2.80	01
Return Receipt Fee (Endorsement Required)	\$2.50	Postmark Here
Restricted Delivery Fee (Endorsement Required)	\$0.00	7998
Total Postage & Fees	\$5.54	02/04/2011

CO SPRINGS UTILITIES

Sent To
Street, Apt. No.
or PO Box No. 121 S Tejon St MC930

City, State, ZIP+4
COLO SPRINGS, CO, 80947-0976

PS Form 3800, August 2005 See Reverse for Instructions

U.S. Postal Service CERTIFIED MAIL™ RECEIPT <i>(Domestic Mail Only; No Insurance Coverage Provided)</i>	
For delivery information visit our website at www.usps.com	
COLORADO SPRINGS CO 80947	
Postage	\$ \$3.07 0976
Certified Fee	\$2.85
Return Receipt Fee (Endorsement Required)	\$2.00
Restricted Delivery Fee (Endorsement Required)	\$4.00
Total Postage & Fees	\$ \$8.22

Sent To _____
 Street, Apt. No.: _____
 or PO Box No. _____
 City, State, ZIP+4 _____

PS Form 3800, August 2006
 See Reverse for Instructions

*Copies for
Count*

WELCOME TO POSTNET OF
Pueblo West
(719) 547-3493

Store:00120 Clerk:165 Register:1
04/09/2012 10:49:50
Transaction#: 184051

BW Prints 8.5x11 Bond 20lb White 1S		
80¢	0.08	6.40

Merchandise Total:		6.40
Standard:		0.25

Balance Due:		6.65
*****0209 CCard:		6.65

Change:		0.00

Thank you for shopping here!
Track your packages at
www.postnet.com
.25 Color Copies
8.5x11 24lb Wh 1 Side

COMBINED COURT, PUEBLO COUNTY, STATE OF
COLORADO (10th Judicial District)
Court Address: 320 W. 10th Street
Pueblo, Colorado 81003-2953
Telephone No.: (719) 583-7000

Petitioner: CITY OF COLORADO SPRINGS, COLORADO

vs.

Respondents: DWAIN B. MAXWELL and HELEN E.
MAXWELL, individuals; WELLS FARGO BANK, N.A., a
national association; NICHOLAS GRADISAR, Pueblo County
Public Trustee; and DEL OLIVAS, Pueblo County Treasurer.

Attorneys for Petitioner:

Office of the City Attorney
CHRISTOPHER J. MELCHER,
CITY ATTORNEY/CHIEF LEGAL OFFICER
Anne H. Turner (Reg. #: 38287)
30 S. Nevada Avenue, Suite 501
Colorado Springs, Colorado 80903
Phone Number: (719) 385-5909
FAX Number: (719) 385-5535
E-mail: aturner@springsgov.com

Edward J. Blieszner (Reg. #: 11161)
WELBORN SULLIVAN MECK & TOOLEY, P.C.
1125 17th Street, Suite 2200
Denver, Colorado 80202
Phone Number: (303) 830-2500
FAX Number: (303) 832-2366
E-mail: ebleszner@wsmtlaw.com

▲ COURT USE ONLY ▲

Case Number: 2011CV334

Div.: C

PETITIONER'S RESPONSE TO BILL OF COSTS

PETITIONER, the City of Colorado Springs, Colorado, by and through the law firm of Welborn Sullivan Meck & Tooley, P.C. submits the following in response to the Respondents Maxwells' Bill of Costs:

1. Respondents Dwain and Helen Maxwell sent a letter to the Court dated May 17, 2012 in which they have requested, among other things, reimbursement of certain costs in the amount of \$526.37.

2. No copy of this letter was provided to the City; however, a copy was noted in the Court's file during a review of the computer files in the Lexis/Nexis system. This is not the first time the Maxwells have corresponded with the Court without providing a copy of their papers to counsel for the City. Since these parties are pro se, they may not be aware of their obligation to provide counsel for the City with copies of any and all correspondence or other documents sent to the Court, regardless of the nature of those letters, and the City requests that they be reminded of their obligation to do so.

3. Upon review of the requested costs, the City notes that many of these fall outside of the types of costs that are compensable. For example, litigants are not normally able to recover the cost of commuting from their homes to the courthouse in their hometown. Additionally, there are unexplained trips, such as one that appears to be to the Bureau of Reclamation.

4. Nevertheless, given the amount at issue, the City has no objection to the requested costs of \$526.37. Additionally, as noted in the Maxwells' letter, the City has paid the fees of the Maxwells' appraiser directly.

5. In agreeing to the pay the costs in this case the City is in no way agreeing that all of these costs are normally compensable and reserves the right to object to similar costs if requested in any other action.

WHEREFORE, the City of Colorado Springs has no objection to the requested costs of \$526.37.

DATED this 6th day of June, 2012

CHRISTOPHER J. MELCHER,
CITY ATTORNEY/CHIEF LEGAL OFFICER
ANNE H. TURNER
City Attorney/Senior Attorney

WELBORN SULLIVAN MECK & TOOLEY, P.C.

s/ Edward J. Blieszner
Edward J. Blieszner
ATTORNEYS FOR PETITIONER

CERTIFICATE OF SERVICE

I hereby certify that on this 6th day of June, 2012, I electronically filed a true and correct copy of the foregoing by and through LexisNexis File and Serve and have designated notification of the filing to the following:

Donald J. Banner
Banner & Bower, P.C.
503 Main Street, Suite 221
Pueblo, CO 81003

Helen E. Maxwell
Dwain B. Maxwell
1123 N. Kirkwood Dr.
Pueblo West, CO 81003

Wells Fargo, N.A.
c/o Corporation Service Company
1560 Broadway, Suite 2090
Denver, CO 80202

s/Jo Cooks



**REVEGETATION LICENSE AGREEMENT
(YEAR ONE)
Pueblo County**

APN: 9520004010

Owner: Dwain and Helen Maxwell Tenant: NA
Address: 1123 Kirkwood Drive,
Pueblo West, CO 81007
Contact Info: 719-647-5815
Property Address: 1123 Kirkwood Drive, Pueblo West, CO 81007

Owner ("Licensor") hereby authorizes the City of Colorado Springs, a home rule city and municipal corporation, on behalf of its enterprise, Colorado Springs Utilities ("Licensee"), its agents or contractors to enter upon said property for the purpose of Revegetation Activities within the lands described in Exhibits B and C attached hereto and incorporated herein by reference. These Revegetation Activities shall include the following: seeding, re-seeding, irrigation, irrigation installation, irrigation and irrigation maintenance, soil preparation, soil amending, minor grading, fence installation, fence maintenance, fence removal, and/or weed control. Any activities outside these defined activities are subject to the property owners consent.

Licensor hereby certifies that he/she is the owner of the property at the address indicated above.

As consideration for the rights granted by this License, the Licensor shall be compensated the sum of Three Hundred and no/100 Dollars (\$300.00), and other good and valuable consideration upon execution and acceptance of this License.

This License shall commence on Sept. 10th, 2008 and terminate one year thereafter. This License shall be non-exclusive and may be terminated by Licensor upon thirty (30) days written notice.

This License shall not be recorded at the Office of the Clerk and Recorder for the county in which the property is located.



This License shall be construed in accordance with the laws of the State of Colorado.

Notices shall be sent to the following addresses:

if to Licensor:

Dwain &
Helen Maxwell
1123 Kirkwood Drive
Pueblo West, CO 81007

if to Licensee:

Colorado Springs Utilities
c/o Deputy Program Director
P.O. Box 1103, Mail Code 930
Colorado Springs, CO 80947-0930

10th Sept.
Dated this 30th day of ~~August~~, 2012

Owner/Licensor:

Helen Maxwell

Dwain Maxwell

Colorado Springs Utilities/Licensee:

[Signature]

APPROVED AS TO FORM
CITY OF COLORADO SPRINGS
CITY ATTORNEY'S OFFICE

[Signature]
Name: *Christopher Seltzer*

PARCEL DESIGNATION:	9520004010	DATE:	December 3, 2009
OWNER:	MAXWELL, DWAIN B. & HELEN E., (Owner current as of the date of certification hereon)		

EXHIBIT A

LOT 9, BLOCK 5, TRACT NO. 237, PUEBLO WEST COLORADO, located in the Southeast Quarter of Section 20, Township 19 South, Range 65 West of the Sixth Principal Meridian, Pueblo County, Colorado, according to the plat thereof recorded in Book 1679 at Page 219 of the records of Pueblo County.



Prepared for and on behalf of Colorado Springs Utilities by: Thomas W. Shaughnessy, L.S. 38166, of CRITIGEN, LLC, 90 South Cascade Ave., Suite 700, Colorado Springs, Co, 80903

9520004010_EXA.doc

PARCEL DESIGNATION:	9520004010	DATE:	December 3, 2009
OWNER:	MAXWELL, DWAIN B. & HELEN E., (Owner current as of the date of certification hereon)		

EXHIBIT B
LEGAL DESCRIPTION

A permanent easement situated in LOT 9, BLOCK 5, TRACT NO. 237, PUEBLO WEST COLORADO, located in the Southeast Quarter of Section 20, Township 19 South, Range 65 West of the Sixth Principal Meridian, Pueblo County, Colorado, according to the plat thereof recorded in Book 1679 at Page 219 of the records of Pueblo County, more particularly described as follows:

The east 52.51 feet of the west 60.01 feet of said Lot 9.

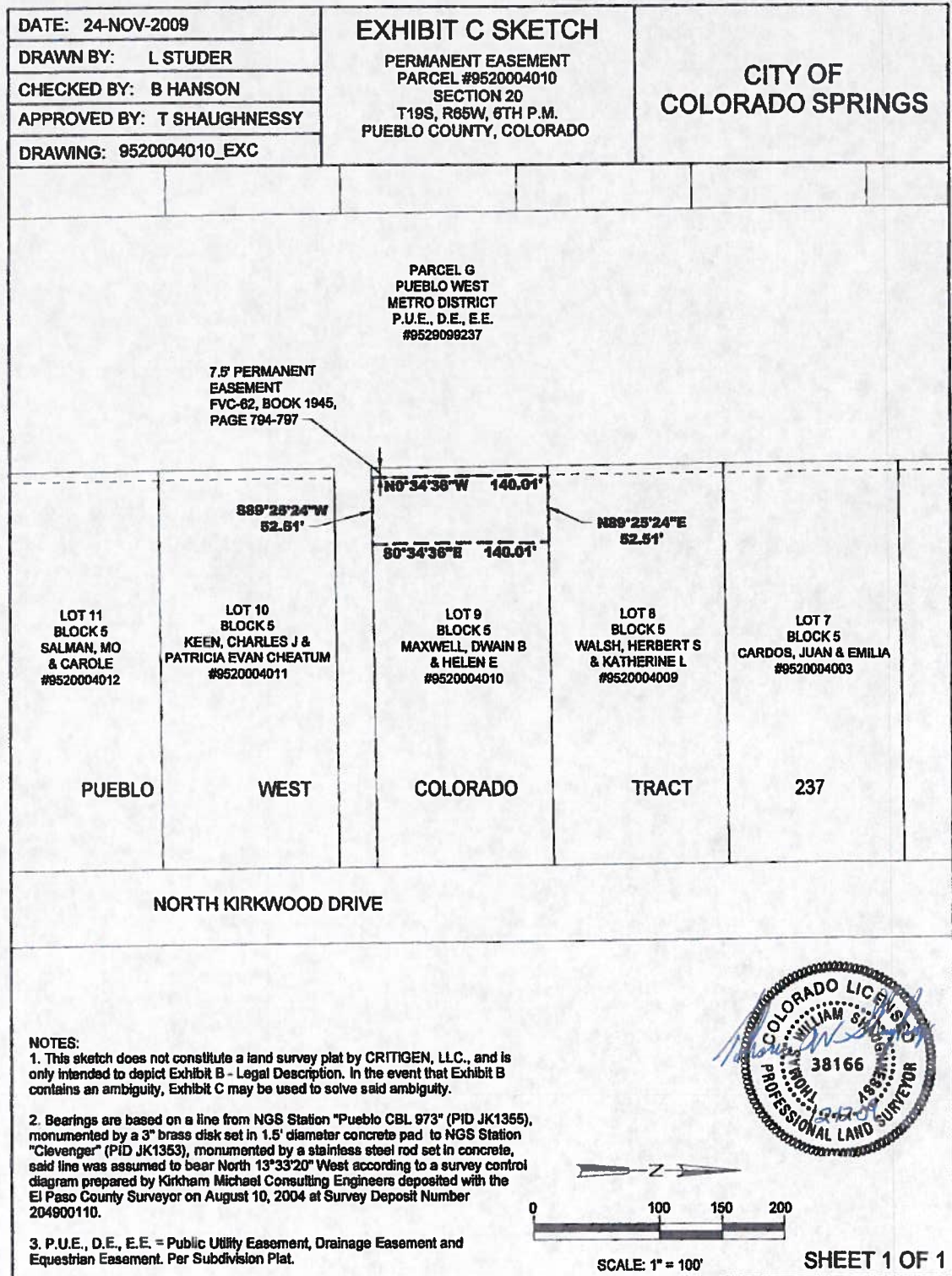
Said easement contains 7,352 square feet or 0.169 acres more or less.

EXHIBIT C SKETCH is attached hereto and is only intended to depict Exhibit B – Legal Description. In the event that Exhibit B contains an ambiguity, Exhibit C may be used to solve said ambiguity.



Prepared for and on behalf of Colorado Springs Utilities by: Thomas W. Shaughnessy, L.S. 38166, of CRITIGEN, LLC, 90 South Cascade Ave., Suite 700, Colorado Springs, Co, 80903

9520004010_EXB.doc



PARCEL DESIGNATION:	9520004010	DATE:	March 17, 2010
OWNER:	MAXWELL, DWAIN B. & HELEN E. (Owner current as of the date of certification hereon)		

EXHIBIT A

LOT 9, BLOCK 5, TRACT NO. 237, PUEBLO WEST COLORADO, located in the Southeast Quarter of Section 20, Township 19 South, Range 65 West of the Sixth Principal Meridian, Pueblo County, Colorado, according to the plat thereof recorded in Book 1679 at Page 219 of the records of Pueblo County.



Prepared for and on behalf of Colorado Springs Utilities by: Thomas W. Shaughnessy, L.S. 38166, of CRITIGEN, LLC, 90 South Cascade Avenue, Suite 700, Colorado Springs, Colorado, 80903

9520004010TE_EXA.doc

PARCEL DESIGNATION:	9520004010	DATE:	March 17, 2010
OWNER:	MAXWELL, DWAIN B. & HELEN E. (Owner current as of the date of certification hereon)		

EXHIBIT B
LEGAL DESCRIPTION

A temporary construction easement situated in LOT 9, BLOCK 5, TRACT NO. 237, PUEBLO WEST COLORADO, located in the Southeast Quarter of Section 20, Township 19 South, Range 65 West of the Sixth Principal Meridian, Pueblo County, Colorado, according to the plat thereof recorded in Book 1679 at Page 219 of the records of Pueblo County, more particularly described as follows:

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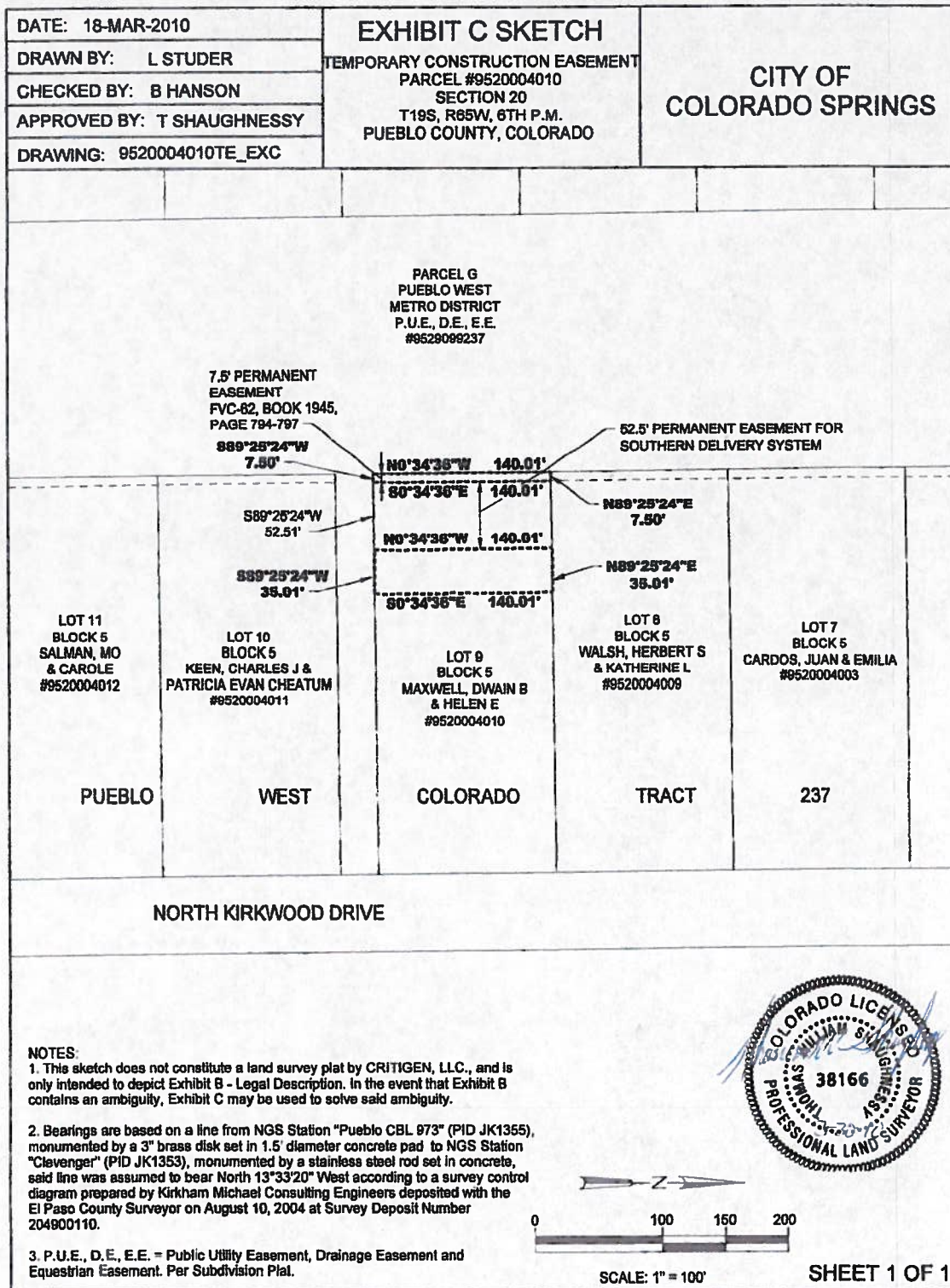
Said easement contains 5,952 square feet or 0.137 acres more or less.

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Prepared for and on behalf of Colorado Springs Utilities by: Thomas W. Shaughnessy, L.S. 38166, of CRITIGEN, LLC, 90 South Cascade Avenue, Suite 700, Colorado Springs, Colorado, 80903

9520004010TE_EXB.doc



RELEASE

The undersigned hereby acknowledge(s) receipt from Colorado Springs Utilities (CSU), the sum of One and no/100 dollar (\$1.00) and other good and valuable consideration as full and final payment for any claims of damage or loss related to the construction of the Southern Delivery System Project on the real property described in the attached Exhibit A. The undersigned hereby releases the City of Colorado Springs acting by and through Colorado Springs Utilities, and its contractors, agents and employees, from any and all claims and demands of whatsoever nature related to construction and revegetation of the Southern Delivery System to date, including but not limited to stucco damage, loss of use and restoration to property directly or indirectly resulting from said construction. This agreement does not release SDS/CSU from any claims arising out of future construction or revegetation activities.

Signed and delivered this 10th day of Sept., 2012.

Owners:

Dwain B. Maxwell
Dwain B. Maxwell

Helen E. Maxwell
Helen E. Maxwell

Approved as to Form:

Andy Brellack
Assistant City Attorney - Utilities

Approved:

Kevin R. Ali
~~Real Estate Services~~
Island Town
W.R.G.
SDS Deputy Director

PARCEL DESIGNATION:	9520004010	DATE:	December 3, 2009
OWNER:	MAXWELL, DWAIN B. & HELEN E., (Owner current as of the date of certification hereon)		

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Prepared for and on behalf of Colorado Springs Utilities by: Thomas W. Shaughnessy, L.S. 38166, of CRITIGEN, LLC, 90 South Cascade Ave., Suite 700, Colorado Springs, Co, 80903
9520004010_EXA.doc

PARCEL DESIGNATION:	9520004010	DATE:	December 3, 2009
OWNER:	MAXWELL, DWAIN B. & HELEN E., (Owner current as of the date of certification hereon)		

**EXHIBIT B
LEGAL DESCRIPTION**

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Prepared for and on behalf of Colorado Springs Utilities by: Thomas W. Shaughnessy, L.S. 38166, of CRITIGEN, LLC, 90 South Cascade Ave., Suite 700, Colorado Springs, Co, 80903

9520004010_EXB.doc

DATE: 24-NOV-2009

DRAWN BY: L STUDER

CHECKED BY: B HANSON

APPROVED BY: T SHAUGHNESSY

DRAWING: 9520004010_EXC

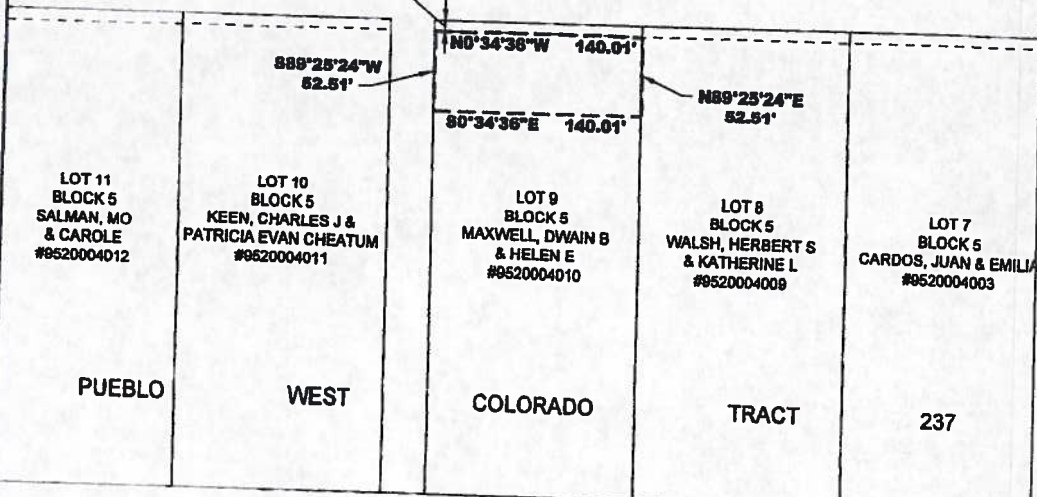
EXHIBIT C SKETCH

PERMANENT EASEMENT
PARCEL #9520004010
SECTION 20
T19S, R85W, 6TH P.M.
PUEBLO COUNTY, COLORADO

CITY OF
COLORADO SPRINGS

PARCEL G
PUEBLO WEST
METRO DISTRICT
P.U.E., D.E., E.E.
#9529088237

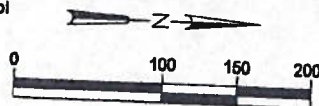
7.5' PERMANENT
EASEMENT
FVC-62, BOOK 1945,
PAGE 794-797



NORTH KIRKWOOD DRIVE

NOTES:

1. This sketch does not constitute a land survey plat by CRITIGEN, LLC., and is only intended to depict Exhibit B - Legal Description. In the event that Exhibit B contains an ambiguity, Exhibit C may be used to solve said ambiguity.
2. Bearings are based on a line from NGS Station "Pueblo CBL 973" (PID JK1355), monumented by a 3" brass disk set in 1.5' diameter concrete pad to NGS Station "Clevenger" (PID JK1353), monumented by a stainless steel rod set in concrete, said line was assumed to bear North 13°33'20" West according to a survey control diagram prepared by Kirkham Michael Consulting Engineers deposited with the El Paso County Surveyor on August 10, 2004 at Survey Deposit Number 204900110.
3. P.U.E., D.E., E.E. = Public Utility Easement, Drainage Easement and Equestrian Easement. Per Subdivision Plat.



SCALE: 1" = 100'

SHEET 1 OF 1

PARCEL DESIGNATION:	9520004010	DATE:	March 17, 2010
OWNER:	MAXWELL, DWAIN B. & HELEN E. (Owner current as of the date of certification hereon)		

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Prepared for and on behalf of Colorado Springs Utilities by: Thomas W. Shaughnessy, L.S. 38166, of CRITIGEN, LLC, 90 South Cascade Avenue, Suite 700, Colorado Springs, Colorado, 80903

9520004010TE_EXA.doc

PARCEL DESIGNATION:	9520004010	DATE:	March 17, 2010
OWNER:	MAXWELL, DWAIN B. & HELEN E. (Owner current as of the date of certification hereon)		

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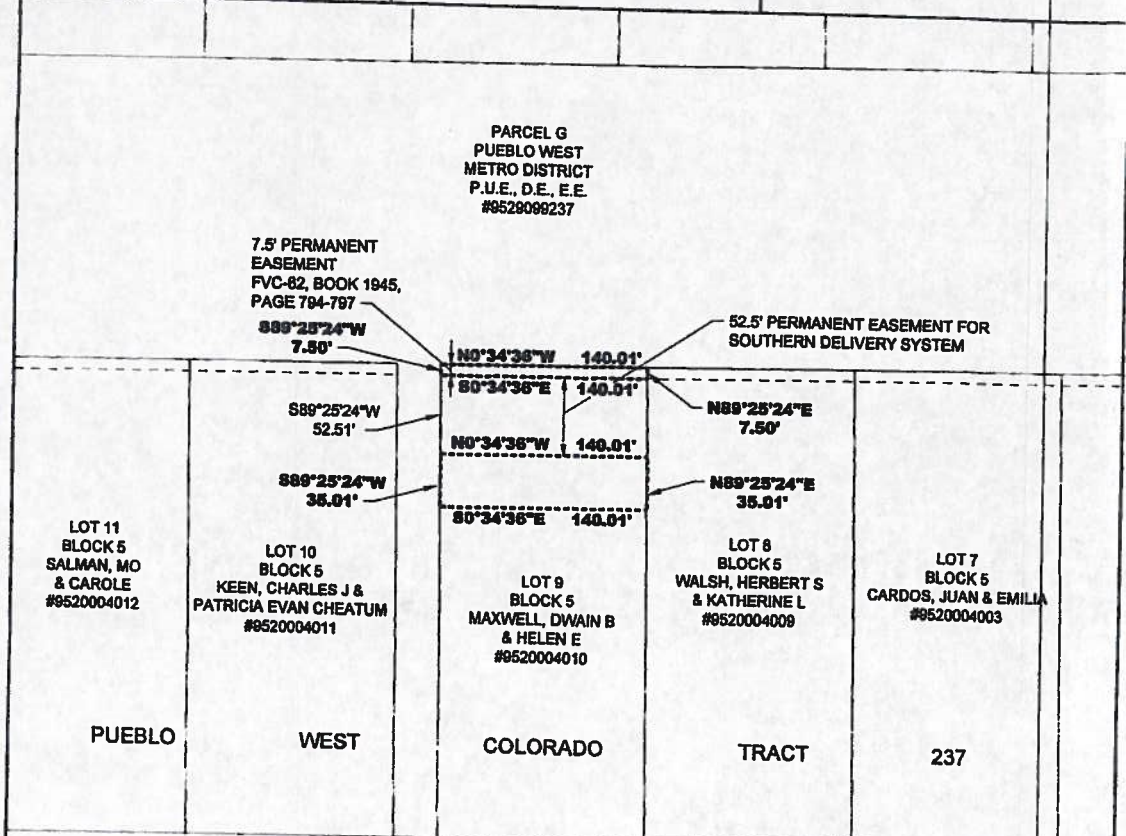
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Prepared for and on behalf of Colorado Springs Utilities by: Thomas W. Shaughnessy, L.S. 38166, of CRITIGEN, LLC, 90 South Cascade Avenue, Suite 700, Colorado Springs, Colorado, 80903
9520004010TE_EXB.doc

DATE: 18-MAR-2010	EXHIBIT C SKETCH TEMPORARY CONSTRUCTION EASEMENT PARCEL #9520004010 SECTION 20 T19S, R65W, 6TH P.M. PUEBLO COUNTY, COLORADO	CITY OF COLORADO SPRINGS
DRAWN BY: L STUDER		
CHECKED BY: B HANSON		
APPROVED BY: T SHAUGHNESSY		
DRAWING: 9520004010TE_EXC		



NORTH KIRKWOOD DRIVE

NOTES:

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SCALE: 1" = 100'

SHEET 1 OF 1