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DEPARTMENT OF PLANNING
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via E-mail July 21, 2014

Review and Rebuttal Report:

City of Colorado Springs, Colorado v. Walker Ranches, LLLP, et al Combined
Court, Pueblo County, Colorado
Case No. 2011 CV 313, Division D

Reports Under Review:

Expert Report of Edward F. Redente, Ph.D. and David L. Buckner, Ph.D.
Dated March 21, 2014
Buttner Associates Expert Witness Report Dated
March 28, 2014

Prepared for:

Duncan, Ostrander & Dingess, P.C.
Donald M. Ostrander and Richard Rodriguez
3600 South Yosemite Street, Suite 500
Denver, Colorado 80237-1829

Prepared by:

Total Terrain, Inc.
Marty Garcia, President/CEO
725 Desert Flower Blvd.
Pueblo, CO 81001

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Duncan, Ostrander & Dingess, P.C.
3600 South Yosemite Street, Suite 500
Denver, Colorado 80237-1829

June 14, 2014

Dear Mr. Ostrander:

Pursuant to your request. I have reviewed the Expert Report of Edward F. Redente, Ph.D. and David L. Buckner, Ph.D. dated March 21, 2014 and Buttner Associates Expert Witness Report dated March 28, 2014.

Total Terrain has an ongoing relationship with Colorado Springs Utilities. Our working connection includes being the successful revegetation contractor for the SDS Revegetation Test Plot Services at Walker Ranches and the unsuccessful prequalified revegetation contractor for RFP SDS Revegetation Services for Segments S2 and S3. Total Terrain, Inc. is the current revegetation contractor for SDS Pueblo Dam Connection (PDC1B) and has an ongoing multi-year project with Colorado Springs Utilities for Revegetation/Erosion Control Services of Construction Sites.

Respectfully submitted,



Marty Garcia
President/CEO
Total Terrain, Inc.

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INTENDED USER AND INTENDED USE

It is my understanding Duncan, Ostrander & Dingess, P.C. representing Walker Ranches, LLLP intends to use the assignment results as part of expert testimony in pending City of Colorado Springs, Colorado v. Walker Ranches, LLLP, et al Combined Court, Pueblo County, Colorado Case No. 2011 CV 313.

PURPOSE OF THE REVIEW AND REBUTTAL

The purpose of this review and rebuttal is to determine if the respective conclusions of revegetation are reasonable, supportable, and credible.

IDENTIFICATION OF REPORTS UNDER REVIEW

The subjects of this review assignment are the two, specific reports referenced below:

Expert Report of Edward F. Redente, Ph.D. and David L. Buckner, Ph.D. dated March 21, 2014. Buttner Associates Expert Witness Report dated March 28, 2014.

EFFECTIVE DATE OF REVIEW

The effective date of this review and rebuttal is June 14, 2014.

EXTRAORDINARY ASSUMPTIONS AND HYPOTHETICAL CONDITIONS

This review and rebuttal are not subject to any extraordinary assumptions or hypothetical conditions.

IDENTIFICATION OF SUBJECT PROPERTY

The subject property of both reports is Walker Ranches in Pueblo County, Colorado.

SCOPE OF WORK

The scope of work undertaken in this review included:

- I reviewed the referenced reports.
- The review was conducted in the context of the subject property.
- I reviewed both reports Edward F. Redente, Ph.D. and David L. Buckner, Ph.D. and Buttner Associates.
- I inspected the subject property presented and analyzed in both reports.
- I made conclusions of as to the credibility of the information presented in the reports under review.

OVERVIEW OF PRIMARY RUBUTTAL POINTS

This review and reports under review are conducted in the conformance with revegetation criteria for Southern Delivery System S-3 Walker Ranches in Pueblo County.

Concerning Edward F. Redente, Ph.D. and David L. Buckner, Ph.D. Expert Report
March 21, 2014

Summary Of Opinions And Reasons For Opinions

- I disagree that "The revegetation specifications that were followed for seed bed preparation, seeding, mulching and irrigation represent the industry standard." Additionally, the exclusivity of the performance requirements, including the prequalification criteria required has shown that this is not an industry standard project and in fact a very unique project with exceptional standards of performance within a defined time period which have not been delivered.
- I disagree that the mulching technique used on the S3 easement were appropriate for the project. The documented failures have caused sediment displacement, lack of vegetation establishment and the requirement of ongoing re-establishments.
- I disagree that the irrigation system that was designed, installed and used on the S3 easement was appropriate and highly effective. As designed, and installed it has produced an inconsistent early patchwork of vegetation.
- I disagree that appropriate steps have been taken for erosion control and plant community establishment.
- I disagree with the statement "If the S3 segment through the Walker Ranch were regraded and reseeded as requested by Walker, the outcome would be less satisfactory than the successful result that currently exists."

Concerning Buttner Associates Expert Witness Report dated March 28, 2014

IV. RESPONSE TO MEMO RESTORATION EXHIBIT (MRE)

- I disagree that the revegetation of the easement is rapidly approaching closure specifically with the latest defective areas only recently repaired and at the earliest stage and well short of acceptance for closure.
- The comment "Lastly, it appears that the unit costs are from the high bidder on the S3 project. Hence, they do not reflect unit prices from a competitive bid project, which would be lower." This statement is nonsensical since this project was a Request for Proposal which included a technical and price element. As such the "high bidder" as referenced above was actually the next choice to perform the work by CSU.

CONCLUSIONS

Based on my review of the reports prepared by both Edward F. Redente, Ph.D. and David L. Buckner, Ph.D. and Buttner Associates I believe their respective conclusions of revegetation performance are not credible. It fails to adequately address the current shortcomings of the revegetation of Walker Ranches. Their conclusions do not address the fact that after almost two years of revegetation efforts many areas are back to the starting point. Their comments apply conventional methods and reference industry standard practices when extraordinary practices are necessary for performance on such a distinct property. They fail to address and recognize the fact that practices currently in place are simply not working.

CERTIFICATION

I certify that to the best of my knowledge and belief:

- The statements of fact contained in this report are true and correct.
- The reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions and are my personal, impartial, and unbiased professional analyses, opinions and conclusions.
- My engagement in this assignment was not contingent upon developing or reporting predetermined results.
- My compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value.
- I have personally inspected the subject property.
- No one provided significant professional assistance to the person signing this report.



Marty Garcia
President/CEO
Total Terrain, Inc.

MARTY GARCIA, PRESIDENT AND CEO TOTAL TERRAIN, INC.

EDUCATION

B.S., Business Administration

University of Northern Colorado, Greeley, Colorado – 1983

ENDURING EDUCATION

31 Years of Field and Academic Experience in the Revegetation Field

PROFESSIONAL REGISTRATIONS

International Erosion Control Association

Colorado Department of Highways Professional Contractor

Master Service Contractor Pioneer Natural Resources

MEMBERSHIPS and COMMITTEES

Chairman's Committee YMCA

Pueblo Economic Development Corporation

Historic Arkansas River Walk of Pueblo

EMPLOYMENT HISTORY

Total Terrain, Inc. Founder, President and CEO, 1983-Present

AREAS OF SPECIALIZATION

Professional Landscape, Irrigation and Revegetation Contractor. Successfully develops new revegetation strategies throughout Southern Colorado. Teaming arrangements with numerous entities, consultants and scientists to continue the advancement of vegetation in the semi-arid climate found in Southern Colorado in particular, Pueblo County. Has developed in collaboration with a leading seed scientist, proprietary technology that is part of Total Terrain's pro-seed system. Negotiates, prepares contracts and revisions, changes and additions to contractual agreements with architects, consultants, clients, suppliers and subcontractors.

REPRESENTATIVE PROJECT EXPERIENCE

Landscape, Irrigation and Revegetation Contractor

President and CEO of Total Terrain since its inception – With the mission to position Total Terrain as the leading revegetation contractor. A recognized expert contractor in the revegetation industry. With a specific focus on customers' needs and the ability to integrate professional expertise and highly specialized equipment to each project. The primary area of

work and expertise is in Southern Colorado. By implementing innovative, proven and sustainable results, we are recognized as the most experienced revegetation contractor in Southern Colorado. Total Terrain is the only revegetation contractor to be named Company of the Year by Colorado Business Magazine.

REPRESENTATIVE PROJECTS

Pioneer Natural Resources located in Las Animas County. Total Terrain is required to restore and revegetate construction sites for oil and gas development. This work is provided to meet the requirements of the owner and State of Colorado Oil and Gas Conservation Commission. The sites are difficult and diverse in topography and climate. Each project falls under the strict rules of COGCC. These areas include drainage ways, wetlands and mountainous terrain. Permanent and sustainable revegetation is delivered consistently that meets strict and definable requirements. Corrective methods and Total Terrain's proprietary technology is implemented. Total project cost to date is over \$3,300,000 with work ongoing. We are a master vendor/contractor for Pioneer Natural Resources. Pioneer Natural Resource representative is James Roybal 719-845-4323.

Historic Trinidad Interchange located in Trinidad, Colorado. The work runs directly through the heart of Trinidad Colorado and the Purgatory River. It is part of a complete redesigned interchange that encompassed the construction of several bridges, highway and downtown improvements. Total Terrain had to meet the required environmental permit obligations of the Colorado Department of Transportation. We installed and achieved a sustainable native stand of grass. The project required the use of a Total Terrain designed and installed irrigation system. Our landscape and revegetation work was performed in sensitive areas that included wetlands, parks, and easements. Actual date of substantial completion was October 2011. No delays. Total Project Cost: \$1,251,927

CDOT I-25 and Eagleridge Interchange located in Pueblo County and just a few miles from SDS-S3 pipeline. The owner is Colorado Department of Transportation. The revegetation on this project runs the linear distance of about 7,500 linear feet and was part of a complete redesigned interchange that encompassed bridge and highway construction, new utility placement, and revegetation. Total Terrain revegetated within a public easement that required environmental permitting/controls that included coordination with the Colorado Department of Transportation, and the General Contractor Kiewit Western. Installed and achieved a sustainable native stand of grass. The project required the use of a Total Terrain designed and installed irrigation system. Included are several water taps, waterline, rotors, controller and apparatuses. This as a major utility corridor and required coordination with interested parties that included the Pueblo Board of Water Works, City of Pueblo, and CDOT. The site work on this

project was about 20% rural and 80% urban. It required additional coordination by Total Terrain with all area businesses. Each business was satisfied with perfect coordination and implementation of CDOT's promised improvements. There was acclaim for our work with each vested party. Final Contract Schedule was complete spring 2009. The final contract value of our work was \$781,191.

The project was recognized and received an environmental award at CDOT Environmental Winter Conference. This project was used as a model for more sustainable revegetation practices. The projects included revegetation which incorporated the use of drill, imprinting and hydro-mulch. CDOT representative Karen Rowe, Program Engineer, 719-546-5704 Karen.Rowe@dot.state.co.us is knowledgeable with the project.

RELEVANT REFERENCES

Colorado Department of Transportation - Tom Wrona, Regional Transportation Director - 719-546-5452 Thomas.Wrona@dot.state.co.us, Karen Rowe, Program Engineer - 719-546-5704 Karen.Rowe@dot.state.co.us

City of Pueblo - William Zwick, Senior Urban Design Planner - 719-553-2259 bzwick@pueblo.us

Pioneer Natural Resources - James Roybal, Reclamation Manager- 719-845-4323 James.Roybal@pxd.com

Waste Management of Colorado- Tom Schweitzer, Engineering Manager – 303-914-1445 tschweit@wm.com

COURT TESTIMONY SINCE 1995

Case	Court Location	Client	Date of Court Testimony
Clarence Garcia v. Sonia M. Soltz and James Houghton	Pueblo, Colorado	Mickey W. Smith	July 2007

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Proposal

To: Walker Ranches, LLC

Project: Walker Ranches - Restoration of Disturbed Easement and Associated Work as Listed

Scope: Restoration of Disturbed Areas and Associated Tasks as Listed

Date: 6/15/2014

Qualifications: Total Terrain, Inc. is an SDS prequalified revegetation contractor and will execute, deliver and meet the strict provisions of the SDS reclamation standard. We are a certified local business.

Walker Repair Costs-On-Easement		Est		Unit	
Item Description		Qty		Price	Total
1	Treatment 1 Repair - with Excess Soil Used for Onsite Repair	18,892	CY	9.75	\$ 184,197
2	Treatment 1 Repair - Excess Subsoil Hauled Offsite	5,161	CY	17.50	\$ 90,318
3	Treatment 2 - Excess Soil Hauled Offsite	2,567	CY	17.50	\$ 44,923
4	Treatment 3 - Except for Steel Hollow	29,111	CY	9.25	\$ 269,277
5	Treatment 3 - Steel Hollow	2,075	CY	10.25	\$ 21,269
6	Treatment 3 - Steel Hollow Erosion Control Matting	6,222	SY	4.20	\$ 26,132
7	Import and Place Topsoil (assumes 20% of area lost topsoil)	13,633	CY	42.00	\$ 572,586
8	Near-Term Maintenance - 3 years	1	LS	1,387,500.00	\$ 1,387,500
9	Long-Term Maintenance - 5 years	1	LS	337,000.00	\$ 337,000
10	Restoration of Recycle Pipeline	1	LS	175,500.00	\$ 175,500
11	Remove Rip Rap Channel at 898+00 to 901+00	1	LS	48,500.00	\$ 48,500
12	Remove Channel at 918+20	1	LS	9,750.00	\$ 9,750

Walker Repair Costs-On-Easement \$ 3,166,951

Walker Repair Costs-Off-Easement		Est		Walker Area	
Item Description		Qty	Unit	Unit Price	Total
1	Off-Easement Pond Replacement	1	LS	799,800.00	\$ 799,800
2	Vegetation Methods	1	LS	124,500.00	\$ 124,500
3	Stilling Basin & Spreader Dam w/Rip Rap Chan Sta 898+ 80	1	LS	67,850.00	\$ 67,850
4	Stilling Basin & Spreader Dam w/Rip Rap Chan Sta 918+ 20	1	LS	46,520.00	\$ 46,520
5	Sediment Traps at two Track Berm	15	Ea	4,575.00	\$ 68,625

Walker Repair Costs-Off-Easement \$ 1,107,295

Subtotal Additional Repair Costs \$ 4,274,246

Walker Easement Revegetation Services		Est		Unit	
Item Description		Qty	Unit	Price	Total
1	Pre-vegetation Services	1	LS	59,287.50	\$ 59,288
2a	Mobilization (Maximum 5 percent of Total Bid)	1	LS	156,240.00	\$ 156,240
2b	Demobilization (Minimum 5 percent of Total Bid)	1	LS	156,240.00	\$ 156,240

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3	Post Revegetation Photographic/ Videographic Documentation	1	LS	13,950.00	\$ 13,950
4	Health and Safety	1	LS	14,647.50	\$ 14,648
5	Temporary Environmental Controls	1	LS	19,181.25	\$ 19,181
6a	Storm Water, Sediment, and Erosion Control	1	LS	94,181.50	\$ 94,182
6b	Bank Stabilization	2,790	SY	8.00	\$ 22,320
6c	Supplemental Stormwater, Sediment and Erosion Control BMPs	1	LS	784,000.00	\$ 784,000
7	Dust Control	1	LS	66,262.50	\$ 66,263
8	Irrigation Water	1	LS	1,189,237.50	\$ 1,189,238
9	Noxious Weed Control	1	LS	64,518.75	\$ 64,519
10	Site Security	1	LS	17,437.50	\$ 17,438
11	Traffic Control	1	LS	6,626.25	\$ 6,626
12a	Revegetation	104	AC	3,571.00	\$ 371,384
12b	Add Transplant Shrubs and Shrubs to Seed Mix	1	LS	25,495.00	\$ 25,495
13a	Maintenance and Monitoring Two Years	1	LS	925,000.00	\$ 925,000
14	Temporary Work Limit Fence Removal	14,731	LF	0.75	\$ 11,048
15	Alternative Vegetation Methods	1	AC	14,996.25	\$ 14,996
16	Soil Amendments	1	LS	20,925.00	\$ 20,925

Walker Easement Revegetation Services \$ 4,032,979

Total of All Extended Bid Unit Prices \$ 8,307,225

Conditions: This bid is conditional on purchase order or subcontract terms that are fully acceptable to Total Terrain, Inc. All material is guaranteed to be as specified, and the above work to be performed in accordance with this proposal including any drawings and/or specifications submitted for above work and completed in a substantial workmanlike manner. Payment will be monthly progress payments. Any alteration or deviation from above specifications involving extra costs, will be executed only upon verbal or written orders. Total Terrain is not responsible for strikes, accidents or delays beyond our control or acts of God. Should Total Terrain find it necessary to pursue legal action to collect unpaid amounts reasonable attorneys' fees and court costs will be paid by the client. Past due accounts will accrue interest at 15% per annum. Total Terrain, Inc. will carry Workmen's Compensation and Liability Insurance on the above work. Please be noted officers themselves not liable for damages. Accepted The above prices, specifications and conditions are satisfactory and hereby accepted. You are authorized to do the work as specified.

Authorized Signature

Written Name & Title

Date: _____

Respectfully Submitted,


Marty Garcia
President