



CONFIDENTIAL SETTLEMENT AGREEMENT

This Confidential Settlement Agreement (“Agreement”) is entered into by and between the City of Colorado Springs, Colorado (“City”), and Walker Ranches, LLLP (“Walker Ranches” which shall include Gary Walker, Georgia Walker and their family, together with their agents and attorneys) (collectively, the “Parties”) and shall be binding upon their successors and assigns.

Recitals

A. On May 11, 2011, the City filed a Petition in Condemnation to acquire certain property interests, including a permanent easement (“Easement”), from Walker Ranches. The condemnation action, filed in Pueblo County District Court, is styled as City of Colorado Springs, Colorado v. Walker Ranches, LLLP, et al., Case Number 2011-CV-313 (“Case”).

B. On May 6, 2015, following a nine day jury trial in the Case, the court entered judgment in the amount of \$82,900.00 for the easements acquired and \$4,665,000.00 in damages to the remainder. Pursuant to the Entry of Judgment, as of May 7, 2015, the City was required to pay \$5,779,954.40, and an additional \$1,192.60, for each day after that.

C. On May 8, 2015, the City deposited \$5,781,147.00 into the court registry, and the funds were to be placed into an interest bearing account.

D. On May 7, 2015, the City filed a Notice of Appeal. On May 14, 2015, Walker Ranches filed a Notice of Cross-Appeal. The City’s appeal and Walker Ranches’ appeal are referred to collectively as the “Appeals.”

E. On May 14, 2015, Walker Ranches filed its Bill of Costs and its Motion for Attorney Fees. The City’s response has not been filed pending this settlement.

F. As more fully set forth below, the Parties have reached an agreement to settle various matters, including, without limitation, the Case and the Appeals.

Agreement

For and in consideration of the foregoing recitals and of the conditions, covenants and agreements set forth below, the amount and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. The City shall, upon execution of this Agreement, dismiss with prejudice its appeal of the Case.

2. Walker Ranches shall, upon execution of this Agreement, dismiss with prejudice its cross-appeal of the Case.

3. Upon such dismissals, Walker Ranches shall be free to withdraw from the court registry the entire amount of the judgment, as deposited with the court on May 8, 2015, plus any accrued interest

4. Within seven days of the execution of this Agreement, Colorado Springs Utilities ("CSU"), on behalf of the City and the Southern Delivery System ("SDS") participants, shall provide to Walker Ranches a check in the amount of \$1,340,000 in full and final settlement of all claims for all costs and expenses in the Case and pursuant to the provisions of the Pueblo County 1041 Permit, No. 2008-002, for the SDS project ("1041 Permit"). The check shall be made payable to "Hamre, Rodriguez, Ostrander & Dingess, P.C. COLTAF Account" and delivered to the attention of Donald Ostrander at Hamre Rodriguez, Ostrander & Dingess, P.C., 3600 S. Yosemite Street, Denver, Colorado 80237. Walker Ranches shall make no further claims in any forum for either costs or expense reimbursement in conjunction with the City's acquisition of the Easement.

5. Walker Ranches acknowledges that the City has diligently undertaken efforts to revegetate and reclaim the Easement in compliance with conditions 20 and 22 of the 1041 Permit, and the associated Mitigation Appendices including, but not limited to, conditions C-9, C-12, and C-20. The Parties acknowledge that rain storms occurring over, and in the vicinity of, the Easement in the years since commencement of such revegetation and reclamation activities have delayed achieving full revegetation and reclamation of the Easement. In furtherance of the effort to satisfactorily complete such revegetation and reclamation, the parties agree that:

- a. CSU representatives will meet with Gary Walker for purposes of seeking his assistance in identifying those areas on the Easement in need of additional revegetation work in order to achieve the degree of revegetation success as referenced in condition 22 and Mitigation Appendix C-9 of the 1041 Permit on those areas. The focus shall be on those areas that were newly re-seeded in the fall of 2014. The areas covered by this provision are depicted on a map attached to this Agreement as Exhibit A, which is made a part hereof.
- b. CSU shall continue to perform revegetation and reclamation work on the Easement until such time as Pueblo County has determined that the obligations imposed by the 1041 permit have been met.

6. Walker Ranches agrees to allow temporary fencing of the Easement to the extent the City's experts have determined that such fencing is advisable in order to ensure revegetation success. Walker Ranches shall be compensated at an annual rate of \$300 per acre or portion thereof of land which is fenced. Fencing will include appropriate structures to allow reasonable passage for cattle at locations shown on Exhibit A.

7. The City is aware that Gary Walker and Walker Ranches are interested in placing one or more conservation easements on Walker Ranches' property in the vicinity of the Easement. The City shall not oppose the establishment of such conservation easements so long

as the easements are consistent with, and do not materially interfere with, the City's rights under its Easement. That said, should it be determined that the Easement language, including the right to construct future pipelines, is an impediment to the execution of a bona fide conservation easement agreement covering the property where the easement exists, the City represents that it is amenable to a modification of its Easement language which would eliminate or modify its right to install one or more additional water delivery pipelines from Pueblo Reservoir to the City along the Easement to the extent required by the proposed owner of the affected conservation easement(s). Even if the Easement is modified, the City reserves the ability to seek and obtain approval from the owner of the conservation easement and Walker Ranches to undertake to construct additional pipelines pursuant to applicable law at some time in the future.

8. Walker Ranches agrees that it shall not:
 - a. Request that Pueblo County impose any additional conditions upon the SDS project.
 - b. Provide information to Pueblo County in an effort to influence Pueblo County to make a determination of noncompliance with any of the 1041 Permit conditions placed upon the SDS project.
 - c. Challenge before Pueblo County or any other court or agency with jurisdiction over the SDS the adequacy of the reclamation work, including, but not limited to, the revegetation and recontouring efforts, as performed by the SDS on the Walker Ranches property or to seek additional compensation therefor.
 - d. Request that Pueblo County require CSU to provide additional reimbursement of costs and expenses, including under condition 15 of the 1041 Permit that provides for reimbursement of "out-of-pocket expenses."

9. The Parties agree to keep strictly confidential the terms and subject matter of this Agreement, and the discussions and negotiations leading up to this Agreement. Specifically, the Parties agree that no comments will be made to the media about this Agreement other than comments that are mutually agreed to in terms of both form and substance. The Parties will agree to comments confirming that these matters have been resolved. The Parties agree that CSU may inform Pueblo County that this Agreement was reached and that it resolves landowner concerns about compliance with Conditions 15, 20 and 22 of the 1041 Permit.

10. Notwithstanding the above, the Parties agree that they cannot be held responsible nor liable under this Agreement for any information that is presently disclosed within the general community, nor for any information dispensed by a third party prior to the execution of the Agreement. Also notwithstanding the above, the provisions of paragraph 9 shall not prevent the Parties from disclosing the terms of this Agreement as follows: (1) in connection with an action seeking to enforce the terms of the Agreement; (2) to their respective legal, tax or financial

advisors, including auditors, as may be necessary to obtain advice from any of them related to this Agreement; (3) as may be required to comply with a properly issued, lawful and valid judicial order, subpoena or other legal process, or requirement of or proper request from any securities regulatory or self-regulatory authority. If a court or if a lawful subpoena or other legal process, including a request under the Colorado Open Records Act, requests any information about this Agreement from a Party, that Party shall notify the other Party in advance of providing any such information. If the other Party so demands, the Party will cooperate in any effort by the other Party to contest, modify, condition or limit such request or demand for information. The Party demanding cooperation shall be responsible for all reasonable attorney fees and costs incurred by the other Party in the effort to contest, modify, condition, or limit such request.

11. Except as may be otherwise provided herein, Walker Ranches agrees to release CSU from any claims, liabilities, or damages related to site restoration, reclamation, site contours, drainage, erosion control, surface and groundwater hydrology, revegetation, and similar issues resulting from the City's use of the Easement.

12. Except as may be otherwise provided herein, the City, on behalf of the CSU participants, agrees to release Walker Ranches and Gary Walker from liability for damage to the Easement resulting from normal ranching operations on, or in the vicinity of, the Easement.

13. It is the intent of the Parties that this Agreement and its terms shall apply to all activities associated with the construction and reclamation of the current SDS pipeline installation only. Future construction activities on the Easement, not associated with the current SDS pipeline construction and reclamation, will be addressed separately, including any damages resulting from such future construction activities on a new or different pipeline or pipeline facility.

14. It is agreed and understood by the Parties that Walker Ranches believes that there are some additional surface drainage treatments ("Treatments") that would improve the ability of the Easement to manage and control stormwater flows on and across the Easement directing the water in a more beneficial way. In order to encourage these Treatments, Walker is willing to provide necessary and suitable material to construct the treatments if CSU will provide the construction equipment and labor. A description of the Treatments is provided in the attached and incorporated Exhibit B.

15. Walker Ranches expects that portions of the Treatments may extend off the Easement and it grants to CSU at no cost, the necessary right-of-way to construct the Treatments at the agreed upon locations off the Easement.. Walker Ranches agrees to identify the location and dimensions of the Treatments and the Parties agree that if the Treatments are constructed at the location and with the materials specified by Walker Ranches do not function as intended by Walker Ranches, then CSU will not be held responsible for any resulting damage to Walker Ranches' property and that CSU will be entitled to do any additional work required to protect the Easement and pipeline from risk of damage. If the facilities function as intended, CSU will

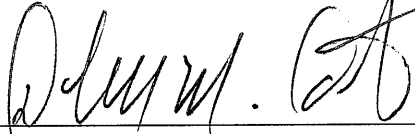
incorporate them into its ongoing Easement maintenance. To the extent that it is necessary to extend Treatments off the Easement, the location of the off-Easement Treatments will be described on a map incorporated into this Agreement as Exhibit A.

16. Any dispute about the terms of this Agreement or compliance with the terms of this Agreement shall be subject to mandatory, binding arbitration conducting in accordance with the rules of the American Arbitration Association, with the prevailing party to recover its costs and fees.

Respectfully submitted this _____ day of June, 2015.

HAMRE, RODRIGUEZ, OSTRANDER & DINGESS, P.C.


By:


Donald M. Ostrander, No. 12458
Richard F. Rodriguez, No. 25105
Joel M. Spector, No. 36561

ATTORNEYS FOR RESPONDENT WALKER RANCHES,
LLLP

HILL & ROBBINS, P.C.

By:


David W. Robbins, No. 6112

CO-COUNSEL FOR PETITIONER

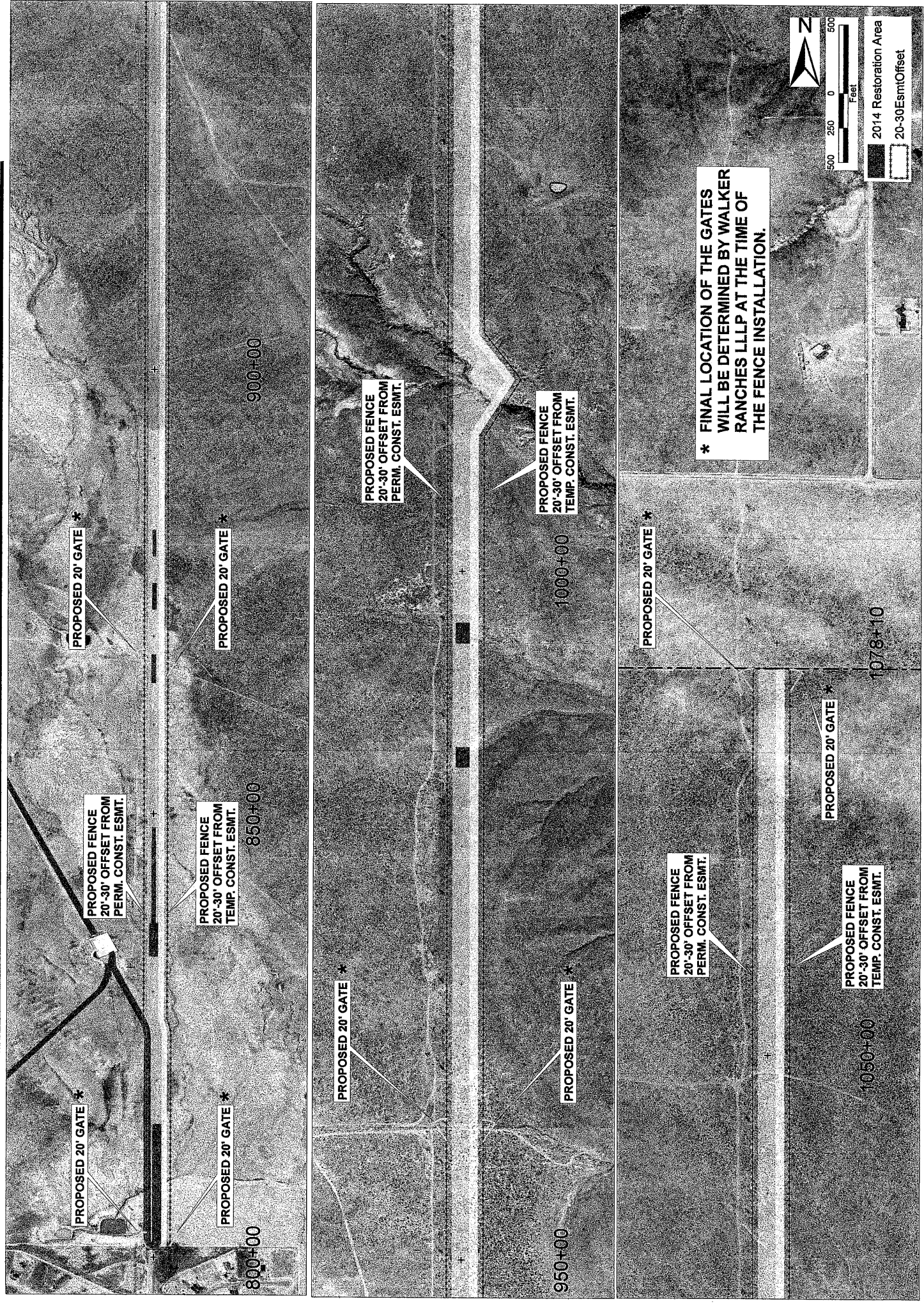
WELBORN SULLIVAN MECK & TOOLEY, P.C.

By:


Edward J. Blieszner, No. 11161

CO-COUNSEL FOR PETITIONER

EXHIBIT A - WALKER RANCH RESTORATION AREA FENCE



**EXHIBIT B TO CONFIDENTIAL SETTLEMENT AGREEMENT
BETWEEN WALKER RANCHES, LLLP AND COLORADO SPRINGS UTILITIES**

This Exhibit B is referred to in Paragraph 14 of the Confidential Settlement Agreement and is incorporated therein and made a part thereof.

The purpose of this Exhibit B is to describe in greater detail the agreed upon fencing as discussed in Paragraph 6 of the Agreement and the agreed upon additional surface drainage treatments discussed in Paragraphs 14 and 15 of the Agreement.

1. Fencing of Easement.

- a. The entire length of the SDS Easement on Walker Ranch will be fenced at the location depicted on Exhibit A to the Confidential Settlement Agreement.
- b. The fence will be of the type used by the Colorado Highway Department with a top wire at 42 inches above the ground and the bottom wire at an elevation of 12 inches above the ground.
- c. The fence material, upon the completion of Colorado Springs reclamation activities, will become the property of and the responsibility of Walker Ranches, LLLP to remove or maintain as Walker Ranches, LLLP determines.

2. Description of Additional Berms.

Mr. Walker has recommended that a maximum of 12 additional berms be constructed across the easement (including the temporary construction easement). The construction of each berm to start or commence approximately 20 feet beyond the edge of the current easement, traverse the easement diagonally downhill and terminate approximately 20 feet beyond the edge of the current easement.

- a. Mr. Walker will provide native material from Walker Ranches to construct the berms at no cost to Colorado Springs.
- b. Colorado Springs will provide the equipment and manpower to do the construction.
- c. It is acknowledged that the construction of these berms will result in some disturbance to the current revegetation activities and that additional revegetation on the disturbed areas will occur.
- d. It is acknowledged that the construction of the berms will disturb the lands both on and off the easement while berm construction occurs and this disturbance is anticipated and will be the subject of revegetation efforts.
- e. It is anticipated that the berms will be approximately 24 to 30 inches high with a crest of approximately 24 inches with a gradual slope off the crest downhill.

- f. The locations of the berms will be as agreed to by Mr. Walker and the designated representative from Utilities both by indicating the location on Exhibit A and by placing stakes in the ground showing the location and aspect of the berms.
- g. Mr. Walker has recommended that Colorado Springs utilize a local contractor to do the earth work for the placement of the berms.

3. Crossing Gates.

Colorado Springs will place 4 sets of gates in the fencing along the easement. One gate set will be located at the south edge of the Walker Ranch, one gate set will be placed at the north edge of the Walker Ranch and two gate sets will be placed at locations specified by Mr. Walker and Colorado Springs representative where current ranch roads already cross the easement. The “alleys” between the two gates across the easement will not be fenced.

4. Irrigation Pipeline.

Colorado Springs will move its current irrigation delivery pipeline from its current location parallel to the western edge of the easement to a location crossing Walker Ranch agreed to by Mr. Walker and the representative from Colorado Springs.

5. Temporary and Permanent Easements.

As part of this Agreement Walker Ranches, LLLP grants to Colorado Springs Utilities temporary and permanent easements to accomplish the purposes set forth above to include, but not by way of limitation:

- a. A temporary easement for the irrigation water supply pipeline that is being realigned.
- b. A temporary easement for the perimeter fencing on the east and west side of the easement.
- c. A temporary easement for any revegetation activity required on the former 50 foot temporary construction easement.
- d. A permanent easement for the construction and maintenance of the diagonal berms both across the easement and extending off either side of the Easement as described in Paragraph 2 above.

6. Need for Cooperation by the Parties.

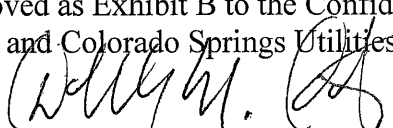
Colorado Springs will be operating its Southern Delivery System Pipeline for an extended period of time. Mr. Walker will continue to be the landowner over which the Pipeline traverses. As a result it is important for both parties to communicate and cooperate in the maintenance of the right-of-way. To that end Colorado Springs agrees to consult with Mr. Walker as set forth above in this Exhibit B and to continue to communicate and cooperate with

Mr. Walker as the above listed activities occur and as future maintenance activities occur. Mr. Walker agrees on his behalf and on behalf of Walker Ranches, LLLP to communicate and cooperate with Colorado Springs Utilities in the conduct of the above listed activities and future maintenance activities. Both parties recognize that this relationship will be a long term relationship and communicating and working issues out to the satisfaction of both parties is a preferable way to accomplish the mutual goal of completing the reclamation and proper maintenance thereafter of the SDS right-of-way.

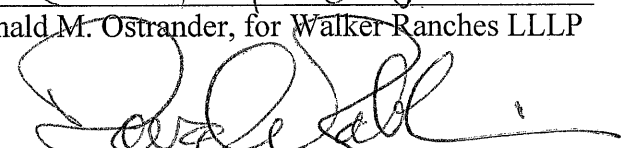
7. Point of Contact.

Colorado Springs Utilities agrees to designate Mr. Lyman Ho as the point of contact for Mr. Walker and the representatives from Walker Ranches, LLLP for the immediate future. At such time that Mr. Ho is no longer involved on behalf of Colorado Springs Utilities it is agreed that a replacement point of contact will be identified in writing and before that point of contact is designated Mr. Walker will be consulted.

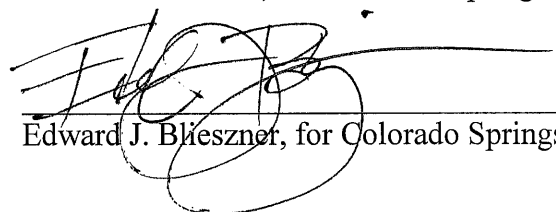
Approved as Exhibit B to the Confidential Settlement Agreement between Walker Ranches LLLP and Colorado Springs Utilities.



Donald M. Ostrander, for Walker Ranches LLLP



David W. Robbins, for Colorado Springs Utilities



Edward J. Blieszner, for Colorado Springs Utilities