

October 16, 2015

Pueblo County Board of County Commissioners
Pueblo County Courthouse
215 W. 10th Street
Pueblo, CO 81003

RE: Continuation of Public Hearing on SDS Reclamation and Revegetation

Dear Commissioners:

In conjunction with the public hearing held before the County Commissioners on September 25, 2015, Colorado Springs Utilities (CSU) submitted for the record a Revegetation Compliance Summary notebook. Based on questions arising during the course of that hearing, and at the request of the Commissioners, CSU has prepared, and provided to County staff, a supplemental submission consisting of seventeen (17) specific questions and a response thereto (attached). In addition, in light of concerns expressed at the hearing over the current status of contour restoration work associated with disturbed areas, as compared to revegetation efforts per se, CSU has also assembled correspondence from each of the Southern Delivery System (SDS) pipeline construction contractors for each of the construction segments located in Pueblo County. The correspondence describes their assessment of the contour restoration work performed on behalf of SDS, with each contractor indicating that the lands in question were restored in accordance with standard industry practices. A copy of those letters is also attached hereto and provided for the record.

Condition # 22 and Appendix C-9 of the Pueblo County 1041 permit for SDS establish the requirements governing revegetation. Additional measurement metrics were identified and agreed upon by the various subject matter experts. The bottom line relative to regulatory compliance is the achievement of a vegetative cover which cannot "be less than 90% of the pre-construction vegetation cover with similar species diversity." There is an accompanying directive that "the security bond shall be released in full to the Applicant two years following the final completion of the construction contract, upon successful revegetation...." As evidenced by all of the expert reports and testimony, this condition has been met.

As regards the restoration of disturbed lands to their pre-construction condition, it must be observed at the outset that the Notice for this hearing referenced only the revegetation requirements of Condition # 22 and Appendix C-9. Hence, CSU is surprised and somewhat confused by the current line of inquiry, and must object thereto to the extent that it

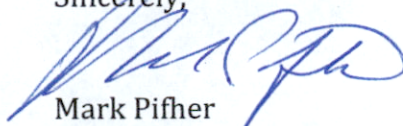
extends beyond the scope of the Notice. That said, Condition # 20 of the 1041 permit and Appendices C-5 and C-9 contain the requirements applicable to the re-establishment of pre-existing contours. The former is simply a list of a number of subjects to be addressed through project construction mitigation, while Appendix C-5 requires "an examination of pre-construction existing conditions of land surface, drainage, vegetation and structures...." Appendix C-5 goes on to mandate periodic re-examinations of conditions during construction, and further indicates that a copy of the associated documentation is to be provided to the property owner and the County. Such documentation is to "be used as indisputable evidence in ascertaining whether and to what extent damage occurred as a result of Applicant's operations." Finally, Appendix C-9 provides that Applicant must "grade disturbed areas to preconstruction contours so pre-construction drainage paths are reestablished."

As evidenced by the documentation in the administrative record, including the contractor correspondence submitted herewith, SDS has fully complied with each of the above land restoration conditions. It photographed all of the properties, and provided copies of the photos to the owners and the County. During construction, the contractors followed design specifications and restored the property following accepted industry practices. To the extent any property owners expressed a concern with land contours, and there were only a couple such owners, SDS promptly addressed their issue. See Tab 2 of Public Communications Section of Notebook. Simply stated, though this is not the specific subject of the instant hearing, SDS has successfully completed all of the requirements set forth in the 1041 permit related to the re-establishment of preconstruction contours. No evidence to the contrary has been submitted into the record.

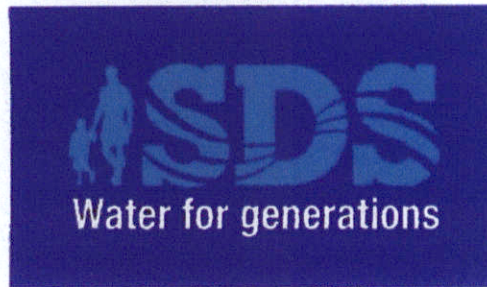
CSU would add, however, that it intends, in coordination with Pueblo West, to undertake some further reclamation work on a small patch of ground at the very north end of Segment S2. This work, which will be above and beyond that required under the SDS 1041 permit, is designed to assist with the modification of historic drainage patterns that resulted, after heavy precipitation events, in some standing water on a parcel of property outside of the SDS easement area. It is an enhancement to the property in question. See attached project description.

CSU reiterates its request that the Board of County Commissioners find that the SDS project is in full compliance with the reclamation and revegetation conditions of the 1041 permit, and that it approve the release of the revegetation bonds posted by CSU for segments S1, S2, and S3 of the project as located in Pueblo County.

Sincerely,



Mark Pifher
SDS Permitting Manager
Colorado Springs Utilities



Memorandum

To: Joan Armstrong, Pueblo County Planning and Development Director

From: Colorado Spring Utilities, Southern Delivery System (SDS) Program

Date: 10/5/2015

Re: **September 25, 2015 Public Hearing Regarding Revegetation Conditions**

During the September 25, 2015 public hearing on the revegetation conditions of the SDS 1041 permit, the Commissioners, staff and public raised a number of questions. The Commissioners decided it would be beneficial if the Southern Delivery System (SDS) staff would address those questions in writing. SDS offered to do so within ten (10) days of the hearing so that the responses would be available well in advance of the October 19, 2015 work session of the Commissioners, at which time discussion of this subject is scheduled to resume.

The attached list of questions and answers is based upon notes taken by SDS staff at the September 25 hearing. If Pueblo County believes that there are additional questions, or that SDS staff has misinterpreted any of the questions, upon request, SDS will gladly supplement these responses.

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Pueblo County Follow-Up Questions

Received September 25, 2015

- 1. Is SDS willing to address revegetation issues brought to its attention by individual property owners located along the alignment prior to project completion and implementation? If so, how does it propose to do so?**

Yes, the SDS Program has, and will continue to, address questions and evaluate needs brought to its attention by individual property owners regarding revegetation in the former construction area. SDS has made extensive efforts to monitor property owner satisfaction over the last several years and address issues as they arose. Accordingly, SDS has adjusted grading in specific areas, reseeded some areas, and replaced ornamental plants for two property owners as requested.

SDS is not aware of any unresolved concerns regarding revegetation at this time. After many outreach efforts, as described to the Commissioners on September 25, 2015 and outlined in the Public Communications section of the Revegetation Compliance Summary Notebook submitted to Commissioners, all revegetation issues identified by, or brought to the attention of, SDS have been addressed. The project will continue to maintain a telephone hotline through the end of 2016 in order to provide a single point of contact to property owners along the alignment. As referenced in Question 10, pre-construction photographs and videos for each property are available, which allows for an assessment of changed conditions should a future concern arise. Pueblo County is in possession of a copy of these photos and videos.

- 2. Is it possible that there will be erosion issues along the alignment in the future that will damage revegetated areas? If so, will SDS address these issues?**

Given the nature of the topography, soils and precipitation events in the area of the SDS alignment, erosion has occurred in this landscape over the millennia and will continue to occur in the future. These erosion features are, in fact, the primary type of topographic relief in this region. As indicated by the expert reports and testimony, the SDS Program was a state-of-the-art effort that achieved all objectives.

In the event future storms occur of a severity to disrupt existing vegetative cover, it would stand to reason such a storm event would have disrupted vegetation even in the absence of SDS. In other words, given the 90 percent of pre-disturbance criteria applied to the project, which exceeds the State's 70 percent post-construction stabilization criteria under the stormwater program, the post-construction vegetative condition is the same or better than the pre-construction condition. The environment will react to severe storm event in the same manner. Nevertheless, as further referenced in response to Question(s) 3, 6, and 13, the SDS project partners have a significant, long term investment

Pueblo County Follow-Up Questions

Received September 25, 2015

underground which they will continue to attempt to protect from future damage, and a permanent easement, the conditions of which they will continue to honor.

3. **Relative to noxious weed control along the SDS alignment, who is specifically responsible for it, for what period of time does such control obligation run, and at whose expense will the work be performed?**

The Record of Decision (ROD) issued by the US Bureau of Reclamation requires List A and List B noxious weeds be monitored and mitigated for a period of three (3) years following construction. In addition, the Pueblo County 1041 Mitigation Appendix Construction Condition C-16 (Noxious Weed Control) states, "Applicant shall control spread of noxious weeds resulting from the project construction, including both Class or List A and B species." SDS has, and will continue to, monitor and mitigate these listed noxious weeds along its permanent easement. SDS will also monitor and attempt to control the spread of List C species on the pipeline alignment and associated permanent easements. This will occur for three years following construction. With a long history in southeast Colorado, the SDS project partners are committed to maintaining and protecting the local landscape and their assets located within Pueblo County, and to do so in accordance with the conditions of the permanent easements.

4. **Is SDS willing to work with the Turkey Creek Conservation District relative to noxious weed control and, if so, who will be the SDS contact person?**

The SDS project partners are willing to work cooperatively with the Turkey Creek Conservation District relative to noxious weed control and the implementation of a control program within the project limits (ref. Mitigation Appendix Construction Condition C-16, Project Detail 3). The SDS revegetation project manager has contacted the District and set up a time to meet and discuss use of weed identification field guides for SDS operations staff to utilize. Operations staff will be on the alignment most frequently, and will be provided protocols for contacting the appropriate Colorado Springs Utilities department to mitigate weeds, as referenced in the response to Question 3 above, should List A, B or List C noxious weeds be observed on the alignment.

5. **Are there any remaining areas of measurement within any of the various soil types along the SDS alignment where even though the soil type met the standard following the agreed upon methodology, these individual areas continue to fall short of the 90% benchmark? If so, is there a plan to address them?**

The only areas where plant cover may fall below the 90 percent benchmark are limited to specific transect locations. However, the agreed upon sampling methodology and permit standard is not based on individual transect results but rather allow calculation of an average across transects, within soil groups.

Pueblo County Follow-Up Questions
Received September 25, 2015

Within the sampling methodology used in the 2014 and 2015 studies, the mean value of plant cover was determined using randomly located 50-meter transects. In all work package/soil group units, the sampled mean exceeded the applicable standard. As was expected, among the 10 to 15 transects sampled in each of these sampling locations, plant cover varied upward and downward. In both natural vegetation and natural vegetation developed through revegetation, plant cover is not spatially uniform. This lack of homogeneity or uniformity is the result of varying environmental conditions, especially soils.

Although many locales that were extremely bare in pre-construction have achieved strong cover, some locales with the most severe soil limitations simply cannot support high plant cover. Where cover is low in post-revegetation sites, it is also true that pre-construction cover was low. As a result of the influence that pre-construction soil conditions play in the ability of plants to establish and grow, there are no plans to address these areas as they simply represent the heterogeneity of plant cover that existed prior to construction and will continue into the future.

6. Are there any identified areas where "sink holes" or similar such features continue to present a concern relative to pre-existing contour restoration?

No. The isolated areas of differential settling above the pipeline in the southern portion of the SDS S3 work package alignment were repaired in 2014 and restored. Based on post-construction and warranty inspections, no other areas of differential settling have been identified in the S1, S2 or S3 alignments to date. Although not anticipated, if areas of differential settling are identified above the pipeline in the future, the SDS team will repair the area(s) and restore the surface to the match the surrounding area as part of the SDS Programs continued operation and maintenance commitments to protect the pipeline.

7. Is it expected that the revegetated areas will continue to meet the 90% revegetation criteria in the future given the absence of irrigation and a variable climate?

Plant cover naturally varies from year to year depending upon weather patterns, climatic conditions, and uses of the area, such as grazing, electric utility maintenance, etc. Below average precipitation years will normally show some reduction in plant cover and above average precipitation years will show some increase in plant cover. What is most important is that the revegetation process has been very successful in establishing native plants that are highly adapted to the growing conditions in Pueblo County. Given the success observed to date, in future years these plants, and their offspring, can be expected to maintain a cover that will equal or exceed the plant cover observed in natural areas adjacent to the pipeline easement.

Pueblo County Follow-Up Questions

Received September 25, 2015

8. **Is the 90% criteria a "continuing" or ongoing expectation under the permit?**
Condition #22 of the SDS 1041 permit states, in part: "....The revegetated area will be considered acceptable if its cover will not be less than 90 percent of the pre-construction vegetation cover with similar species diversity. Applicant shall provide to Pueblo County a security bond equal to \$2,000/acre of land in permanent or temporary construction easement in each work package. The security shall be released upon establishing 90 percent of pre-construction vegetation cover on the impacted land segment. See Mitigation Appendix C-9."

Mitigation Appendix C-9 of the SDS 1041 permit provide construction conditions which call for the replacement of vegetative cover with "the same seasonal variety native to the area....," with seeding and planting of the disturbed area to "be conducted during the first normal period for favorable planting conditions after final preparation for seeding or planting." The Appendix goes on to reiterate the 90 percent revegetation requirement and, most importantly for purposes of this question, states that: "....The security bond shall be released in full to the Applicant two years following the final completion of the construction contract, upon successful revegetation, as described above." Thus, revegetation "success" is measured based upon the achievement of the 90 percent metric in the two year timeframe.

There is no continually or perpetually applicable compliance threshold, which is logical given the property owners have regained control over the temporary easement, while the Program has only limited control over the use of the permanent easement area (e.g., grazing or other activities that could occur in the future). Further, there exists the potential of totally natural events (e.g., prolonged drought or torrential rains) that could influence vegetative cover not only along the easement, but throughout this geographic area.

9. **Will there continue to be variability in vegetation stands in the future?**
As discussed above in Questions 5, and 7, it is normal for variability in environmental conditions in space and in time to elicit differing levels of plant growth which will yield variability in vegetation stands in the future.
10. **Is there data or other information in the SDS permit record concerning the pre-construction condition and the restoration of the properties located along the SDS alignment to pre-existing contours? If so, what does that information tell us?**
In finalizing the location of the SDS alignment and as part of the initial design process of the SDS pipeline through Pueblo County, the SDS alignment was surveyed from the ground and the air to develop one-foot contour maps of the pipeline alignment and associated project boundaries. These one-foot contour lines were included in the construction drawings and were used by the

Pueblo County Follow-Up Questions

Received September 25, 2015

construction contractors as a baseline to return the areas disturbed by construction to within a one-foot tolerance of the pre-existing contour grade. This baseline and tolerance approach was discussed with, and accepted by, Pueblo County staff during regular monthly meetings at the time of the restoration activities.

In accordance with Mitigation Appendix C-9, Project Detail 2, SDS conducted a pre-construction evaluation of existing vegetation as part of the pre-existing condition assessment requirement outlined in Mitigation Appendix C-5 of the 1041 Permit. This included a measurement of pre-existing cover conducted by the Colorado Natural Heritage Program (CNHP) in 2011 of the entire SDS alignment through segments S1, S2 and S3 in Pueblo County prior to any construction disturbance, in addition to photographic and video documentation of the pre-existing vegetation condition of each parcel conducted prior to the start of construction for each individual Pueblo County work package. A copy of the 2011 CNHP report is included under Tab 2 of the Technical Section of the Revegetation Compliance Summary Notebook submitted to Commissioners.

Copies of the Mitigation Appendix C-5 pre-existing condition assessment photographs and videos were provided to each property owner with copies of all documentation provided to the Pueblo County 1041 permit administrator in accordance with Mitigation Appendix C-5, Project Detail 4, to "be used as indisputable evidence in ascertaining whether and to what extent damage occurred as a result of the Applicant's operations." Samples of the SDS pre-construction communications regarding the pre-existing condition assessment are included under Tab 1 of the Public Communications section of the Revegetation Compliance Summary Notebook submitted to Commissioners.

Following construction and prior to commencement of revegetation activities, SDS developed a process for obtaining property owner acceptance of post-construction contours for each work package. A summary of this process is outlined under Tab 2 of the Public Communications section of the Revegetation Compliance Summary Notebook submitted to Commissioners. Approximately five individuals, apart from Mr. Walker with whom an agreement is now in place, expressed contour related concerns at that time, and all of them were appropriately addressed. Tab 4 of the Public Communications section additionally documents recent communications with property owners following completion of the revegetation efforts.

Pueblo County Follow-Up Questions

Received September 25, 2015

11. **To the extent there was damage along the SDS easement as a consequence of the 2014 rainstorms, has there been remedial work since that time and what is the condition of those areas today?**
Several isolated areas on the southern portion of the SDS S3 work package alignment were repaired following rainstorms in 2014. No other areas of the SDS easement through Pueblo County were significantly impacted during these events. As part of the restoration efforts, the repaired areas were re-graded and reseeded with the native seed mix. The restored areas were re-sampled in August 2015 and the sampling data confirms that the 90 percent pre-construction vegetative cover criteria has been met in the repaired areas. Additional fencing work and flow management work is being conducted on the southern portion of the S3 alignment in accordance with a confidential settlement agreement with the landowner. That work is not expected to impact the 1041 Permit Condition 22/Mitigation Appendix C-9 findings presented by the third-party subject matter experts.
12. **What is the stated criteria under the SDS 1041 permit which governs the release of the posted bonds?**
As referenced in the response to Question 8, the bonds are to be released upon achievement of the "90 percent of the pre-construction vegetation cover with similar species diversity." As noted by the experts in this proceeding, that threshold has been met.
13. **Once the bonds are released, what assurances will there be that future problems surrounding revegetation and/or weed control will be addressed?**
Colorado Springs Utilities is a long established, public entity with over 90 years of history and is committed to maintaining and protecting its assets through Pueblo County in accordance with the permanent easement agreements and sound maintenance and stewardship practices. This includes working with the Turkey Creek Conservation District relative to control noxious weeds along the alignment as further referenced in response to Questions 3 and 4, above.
14. **Is the Midway Ranches area a more difficult area to revegetate and, if so, why?**
No. Aside from issues of grazing animals causing damage to young seedlings, the area's soils are not poor. The operative control here is that Soil Group C had the second highest standard, thus the vegetation of Soil Group C revegetated areas had further to go during establishment and growth to reach the threshold of success.

Pueblo County Follow-Up Questions

Received September 25, 2015

<i>S3 Soil Group</i>	<i>Required % Cover</i>
<i>Group A,</i>	<i>15.5</i>
<i>Group B</i>	<i>23.9</i>
<i>Group C</i>	<i>31.5</i>
<i>Group D</i>	<i>15.3</i>
<i>Group E</i>	<i>21.0</i>
<i>Group F</i>	<i>37.2</i>

2015 measurements of levels of cover in undisturbed portions of the laydown/staging area (located in Midway Ranch) established that cover by acceptable species was at 41.5 percent (exceeding the required 31.5 percent). Barring the effect of grazing by domestic livestock, all expectations are that plant cover on Soil Group C will continue to improve with time as these soils have favorable plant growth characteristics.

15. **Did the fact that the first half of 2015 proved to be quite wet serve to skew the revegetation results in some manner that the parties should be concerned about?**

No. By far the bulk of data that was brought to bear on the question of compliance with the 90 percent of pre-existing cover requirement were collected in 2014. The 2015 data was collected on Soil Group C areas at the far north end of work package S3 and on reworked areas of mostly Soil Group B in the S3 work package.

In the 2015 measurements of first year cover in the reworked Soil Group B areas, mean cover by acceptable species in that young cover averaged somewhat above the standard of 23.9 percent. It should be noted that that standard (23.9 percent) was skewed upward in 2011 sampling by omitting the pre-construction data from the six samples in the S3 area later reworked. This was done to compensate for the poor vegetation cover present in these excluded areas. Actual sample data (six samples that were not allowed to contribute to the standard) from the reworked Soil Group B areas in 2011 in S3 showed an average cover by acceptable species of only 13.7 percent. Thus, meeting the standard of 23.9 percent cover represent an increase of over 10 percent over what was actually present in pre-construction conditions.

Therefore, the fact that 2015 proved to be wetter than normal did not skew the revegetation results in a manner that the parties should be concerned about.

16. **Is SDS currently aware of any existing, factually supported restoration of pre-existing contours issue on the Maxwell property?**

SDS was not aware of any outstanding issues with Mr. Maxwell's property until the September 25, 2015 hearing before Commissioners. At that time, Mr. Maxwell identified a grading concern that he had not mentioned during many

Pueblo County Follow-Up Questions

Received September 25, 2015

previous interactions with SDS Construction Facilitators. As recently as August 2015, Mr. Maxwell requested and oversaw removal of an underground sprinkler line on his property by SDS. At that time he made no mention of grade issues or other revegetation related concerns. This grading question may be related to an area of his property that was reviewed and modified at his request in July/August 2012 before seeding was performed. At that time, a release of claims regarding construction and revegetation was signed. (Reference attached release.) Nevertheless, SDS has continued to try to work cooperatively with Mr. Maxwell. On September 28, and again on September 30, SDS staff contacted him to set up a meeting. Mr. Maxwell stated that he could not meet until the week of October 5th. SDS staff will attempt to meet with him at his convenience to review this matter.

17. Will there be a "normalization" of vegetation density along the SDS alignment over time?

Revegetation of the SDS pipeline easement was performed using the latest state-of-the-art revegetation techniques. The effort was designed to achieve a high restoration standard and will result in an easement that will blend in with the surrounding landscape, with no "scar" such as may be associated with past revegetation efforts following earlier pipeline construction projects. As noted previously, the revegetation experts have stated the revegetation efforts in Pueblo County incorporated state-of-the-art methodology which achieved the high threshold set by the County.

If by "normalization" it is meant establishment of a homogeneous cover of plants such as would be expected in a lawn, the answer is no. If by "normalization" it is meant establishment of a diverse assemblage of native species that have the opportunity to perpetuate the semi-arid grasslands typical of the area, the answer is yes. Reference response to Question 5 above for more information on vegetation diversity and cover in semi-arid environments. There will be no "scar" across the landscape given the techniques and success standards employed in association with this project.



**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 2011 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

Charles B. [Signature]
Name: *Charles B. [Signature]*

Addenda 1 For Revegetation

Southern Delivery System

Property Address: 1123 Kirkwood Drive, Pueblo West, CO 81007

Property Owner: Dwain and Helen Maxwell

Segment Work Package: S2

Colorado Spring Utilities (CSU) or its representatives will remove the existing temporary chain link construction fence from the property owners property.

Colorado Springs Utilities or its representatives will install a new commercial grade 5-foot high chain link fence as indicated on the attached drawing. Separate end posts shall be installed at the northwest and northeast corners adjacent to the neighbors' fence line, but shall not be connected to the neighbor's fence. The fence shall consist of: commercial grade posts and top rails matching the neighbor's fence, concrete post footers, one 8-foot double swing gate near the northwest corner of the fence, one pedestrian gate near the house and two 12-foot double swing gates next to the house along the southeast and northeast corners of the fence. The poles shall be located at maximum 8-feet on center. The property owner will allow CSU, SDS and/or its contractors access to areas inside and outside the area described in the attached exhibit A for the purposes of fence installation. The owner shall own and maintain such fence, poles, posts and gates upon completion of the installation.

Owner shall sign any necessary application or permit required for the construction of the fence by the Pueblo West Architectural Committee or designee. Any permit fee shall be paid for by CSU or its agents.

CSU, SDS or any other agency will not modify or remove any fencing without permission from the property owner. If fencing is to be removed, it will only be removed if there are no other methods to complete any projects within the permanent easement.

Should it become necessary to remove or modify the fence, CSU will take full responsibility for the cost, replacement or repair of the fence.

CSU may only allow any other entity, business, city, town, county, state or government to use this easement or install anything on this easement with written consent from the property owner.

Irrigation shall consist of an underground temporary line and sprinkler heads located inside the Permanent Utility Easement area that is fenced.

The property owner will accept \$400 in lieu of SDS planting yuccas and pear cacti in the easement to replace those plants that were removed or damaged during construction.

Owner shall sign the attached Release

HOUSE

WALL

12-foot double gate
single gate
12-foot gate

12-foot gate
12-foot gate
12-foot gate

on at
left
S

Look

8-foot double gate
12-foot gate
12-foot gate

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:

Anthony Brubaker
Assistant City Attorney - Utilities

Approved:

Ruan R. Ali
Real Estate Services
Island Team
[Signature]
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)		

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)		

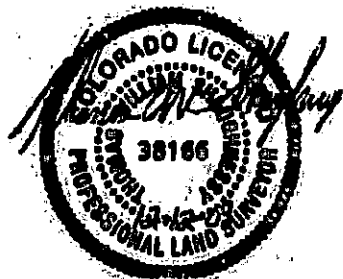
**EXHIBIT B
LEGAL DESCRIPTION**

A permanent easement situated in LOT 9, BLOCK 6, TRACT NO. 237, PUEBLO WEST COLORADO, located in the Southeast Quarter of Section 20, Township 19 South, Range 85 West of the Sixth Principal Meridian, Pueblo County, Colorado, according to the plat thereof recorded in Book 1678 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.

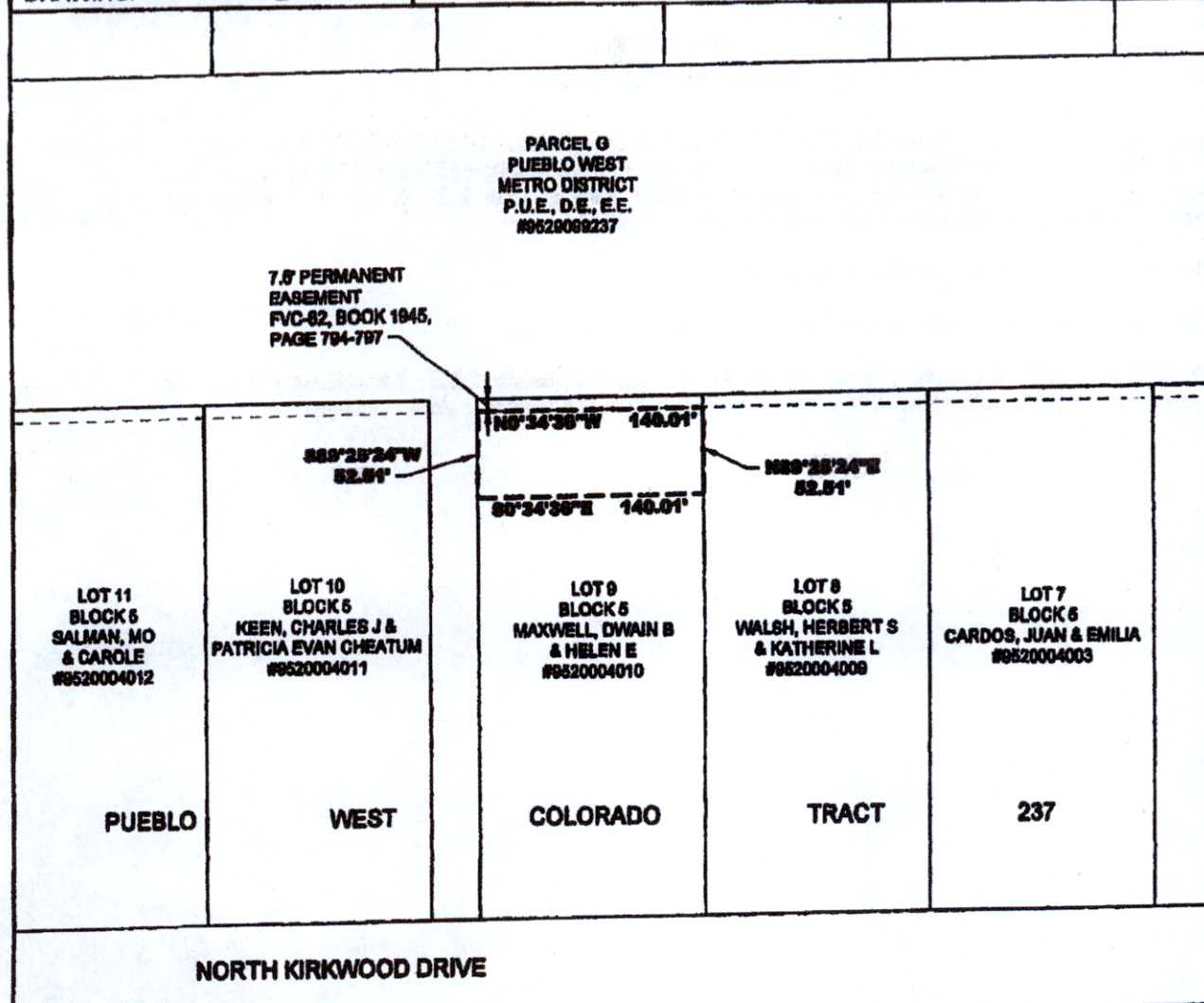
Said easement contains 7,352 square feet or 0.169 acres more or less.

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, 80 South Cascade Ave., Suite 700, Colorado Springs, Co, 80903

DATE: 24-NOV-2009	EXHIBIT C SKETCH PERMANENT EASEMENT PARCEL #9520004010 SECTION 20 T18S, R85W, 6TH P.M. PUEBLO COUNTY, COLORADO	CITY OF COLORADO SPRINGS
DRAWN BY: L STUDER		
CHECKED BY: B HANSON		
APPROVED BY: T SHAUGHNESSY		
DRAWING: 9520004010_EXC		

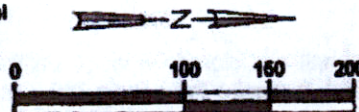


NOTES:

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 JK1363), 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 Kriham 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).		

EXHIBIT A

LOT 9, BLOCK 5, TRACT NO. 237, PUEBLO WEST COLORADO, located in the Southeast Quarter of Section 20, Township 19 South, Range 85 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:

The west 7.50 feet and the east 35.01 feet of the west 95.02 feet of said Lot 9.

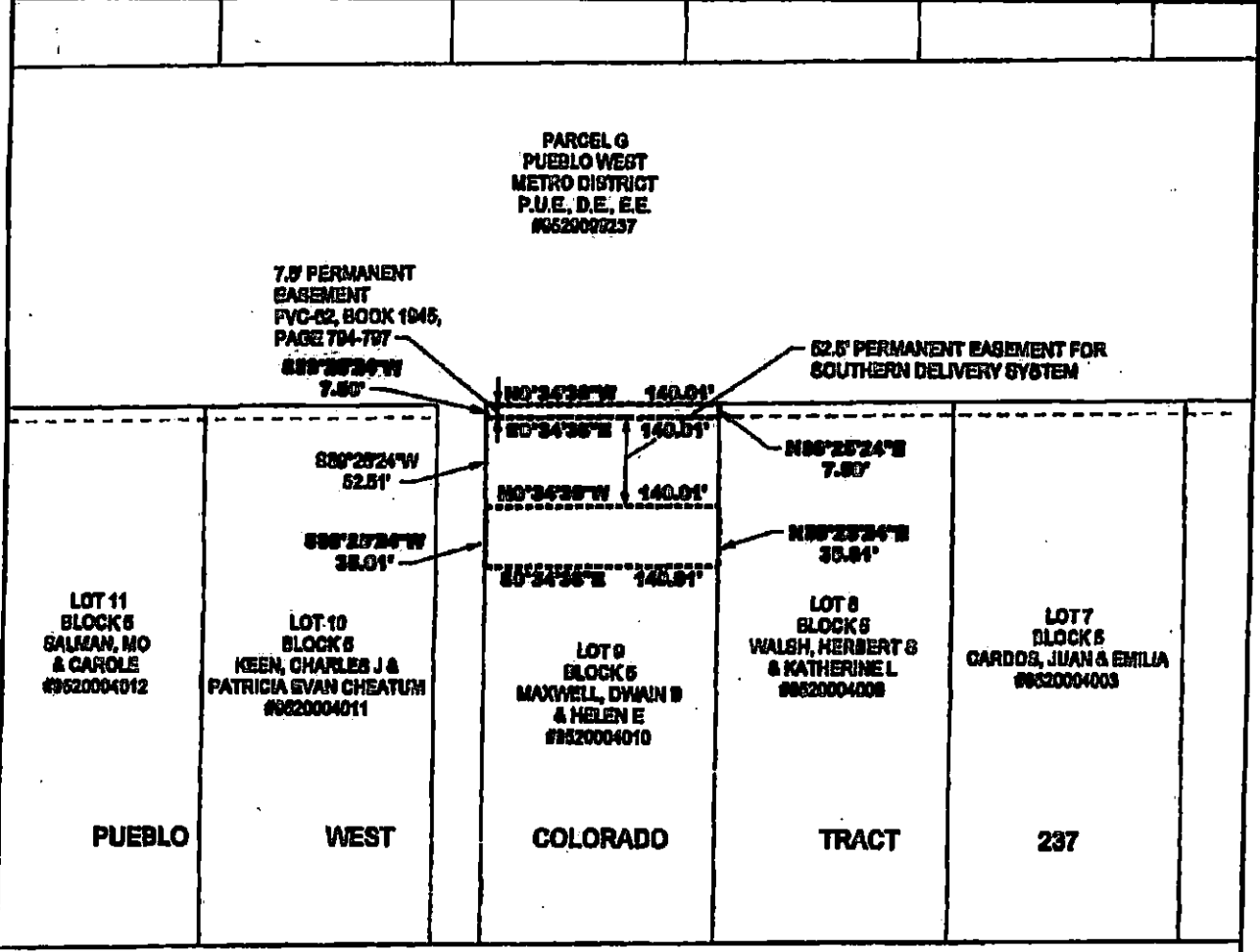
Said easement contains 5,952 square feet or 0.137 acres more or less.

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 Avenue, Suite 700, Colorado Springs, Colorado, 80903

DATE: 18-MAR-2010	EXHIBIT C SKETCH TEMPORARY CONSTRUCTION EASEMENT PARCEL #9520004010 SECTION 20 T19S, R85W, 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		



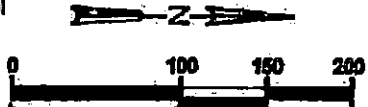
NORTH KIRKWOOD DRIVE

NOTES:

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 "Cleverger" (PID JK1353), monumented by a stainless steel rod set in concrete, said line was assumed to bear North 13°35'20" West according to a survey control diagram prepared by Northam Michael Consulting Engineers deposited with the El Paso County Surveyor on August 10, 2004 at Survey Deposition Number 204900110.

3. P.U.E., D.E., E.E. = Public Utility Easement, Drainage Easement and Easement Easement. Per Subdivision Plat.



SCALE: 1" = 100' **SHEET 1 OF 1**

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October 15, 2015

Board of Pueblo County Commissioners
215 W. 10th Street
Pueblo, CO 81003

Dear Commissioners:

HCP Constructors, Inc., a subsidiary of ASI Constructors, Inc., was retained by Colorado Springs Utilities (CSU), on behalf of the Southern Delivery System (SDS) partners, to perform construction work associated with the installation of the SDS raw water pipeline along segment S1 of the pipeline alignment in Pueblo County. That work occurred from approximately September 2011 – January 2013 and is now complete.

This work was undertaken pursuant to a contract with CSU which included a requirement to restore the disturbed land, upon completion of pipeline installation, to preconstruction contours in accordance with standard industry practices. HCP/ASI has many years of experience in the pipeline construction industry, and I can represent to you that this restoration work was successfully completed along the entirety of segment S1, with all disturbed areas graded so as to ensure that preconstruction drainage patterns and contours were re-established.

HCP/ASI is unaware of any outstanding property owner complaints regarding this restoration work and we believe that we fully addressed any questions that arose during our construction activity to the landowners' satisfaction.

Sincerely,

ASI Constructors, Inc.

A handwritten signature in blue ink that reads "Randy Brown". The signature is fluid and cursive, with a long horizontal stroke at the end.

Randy Brown
CFO



7911 Shaffer Parkway, Littleton, CO 80127
Phone: 303.791.3600
Fax: 303.791.1801
www.garney.com

Board of Pueblo County Commissioners
2015215 W. 10th Street
Pueblo, CO 81003

October 15, 2015

Dear Commissioners:

Garney Construction was retained by Colorado Springs Utilities (CSU), on behalf of the Southern Delivery System (SDS) partners, to perform construction work associated with the installation of the SDS raw water pipeline along segment S2 and segment PDC1B of the pipeline alignment in Pueblo County. Work began in 2011, and was completed in 2014.

This work was undertaken pursuant to a contract with CSU which included a requirement to restore the disturbed land, upon completion of pipeline installation, to preconstruction contours in accordance with standard industry practices. Garney has more than 50 years of experience in the pipeline construction industry, and I can represent to you that this restoration work was successfully completed along the entirety of both segments, with all disturbed areas graded so as to ensure that preconstruction drainage patterns and contours were re-established.

Garney is unaware of any outstanding property owner complaints regarding this restoration work and we believe that we fully addressed any questions that arose during our construction activity to the landowners satisfaction.

Sincerely,

Sincerely,
GARNEY COMPANIES, INC.

A handwritten signature in black ink, appearing to read "Bill Williams", with a stylized flourish at the end.

Bill Williams
Project Manager



October 15, 2015

Board of Pueblo County Commissioners
215 W. 10th Street
Pueblo, CO 81003

Dear Commissioners:

This firm was retained by Colorado Springs Utilities (CSU), on behalf of the Southern Delivery System (SDS) partners, to perform construction work associated with the installation of the SDS raw water pipeline along segment 3 of the pipeline alignment in Pueblo County. That work occurred from approximately November 14, 2011 to July 27, 2012 and is now complete.

This work was undertaken pursuant to a contract with CSU which included a requirement to restore the disturbed land, upon completion of pipeline installation, to preconstruction contours in accordance with standard industry practices. Layne Heavy Civil, Inc. has many years of experience in the pipeline construction industry, and I can represent to you that this restoration work was successfully completed along the entirety of segment 3, with all disturbed areas graded so as to ensure that preconstruction drainage patterns and contours were re-established.

Layne Heavy Civil, Inc. is unaware of any outstanding property owner complaints regarding this restoration work and we believe that we fully addressed any questions that arose during our construction activity to the landowners satisfaction.

Sincerely,

A handwritten signature in blue ink, appearing to read "Kevin F. Strott", is written over a faint, larger signature.

Layne Heavy Civil, Inc.
Kevin F. Strott
Vice President

HEAVY CIVIL

1775 E. 69th Avenue, Denver, CO 80229 | Office: 303.287.7700 | Fax: 303.287.1790 | layne.com

**PUEBLO
RESERVOIR**

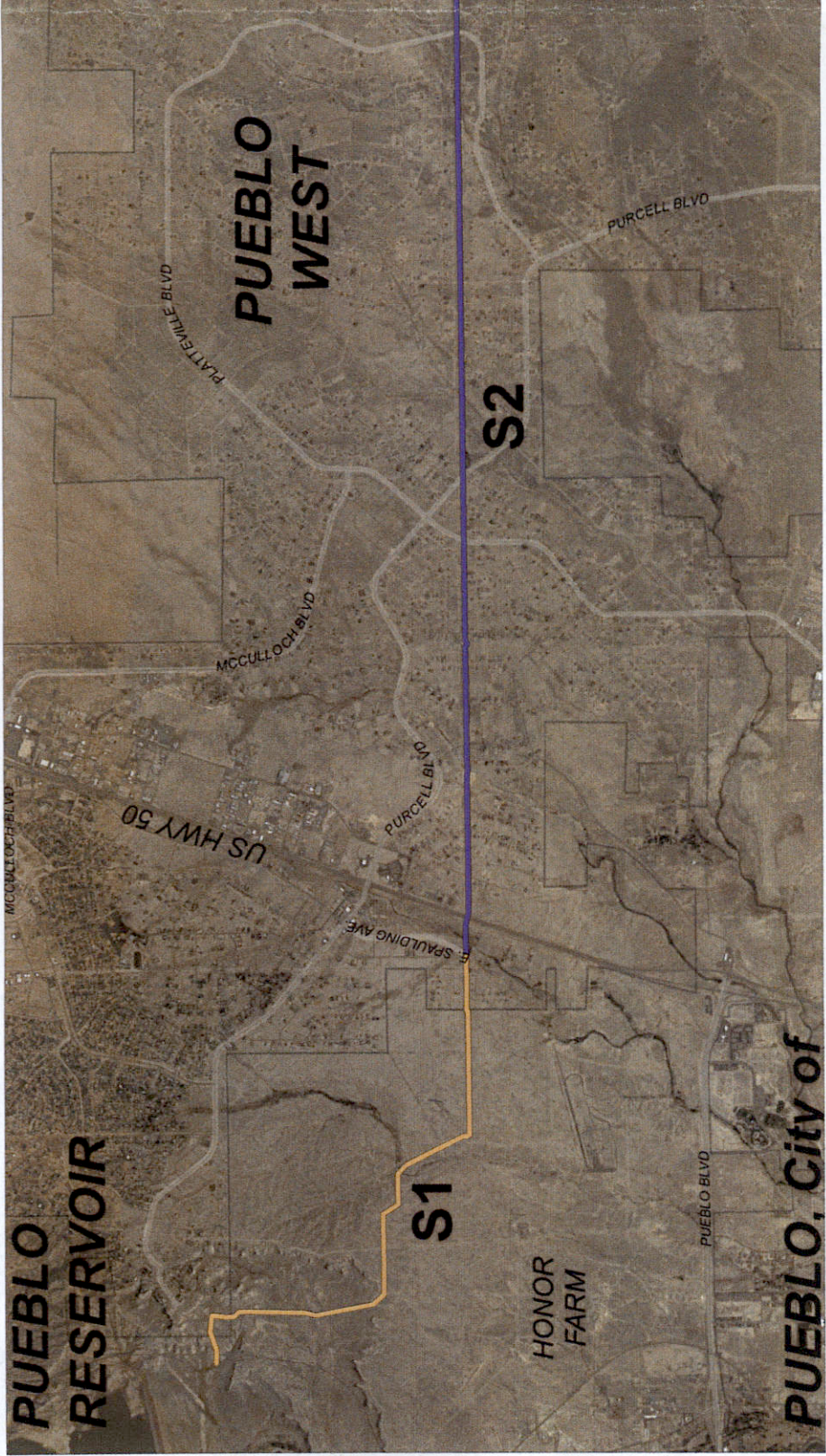
S1

**HONOR
FARM**

**PUEBLO
WEST**

S2

PUEBLO, City of



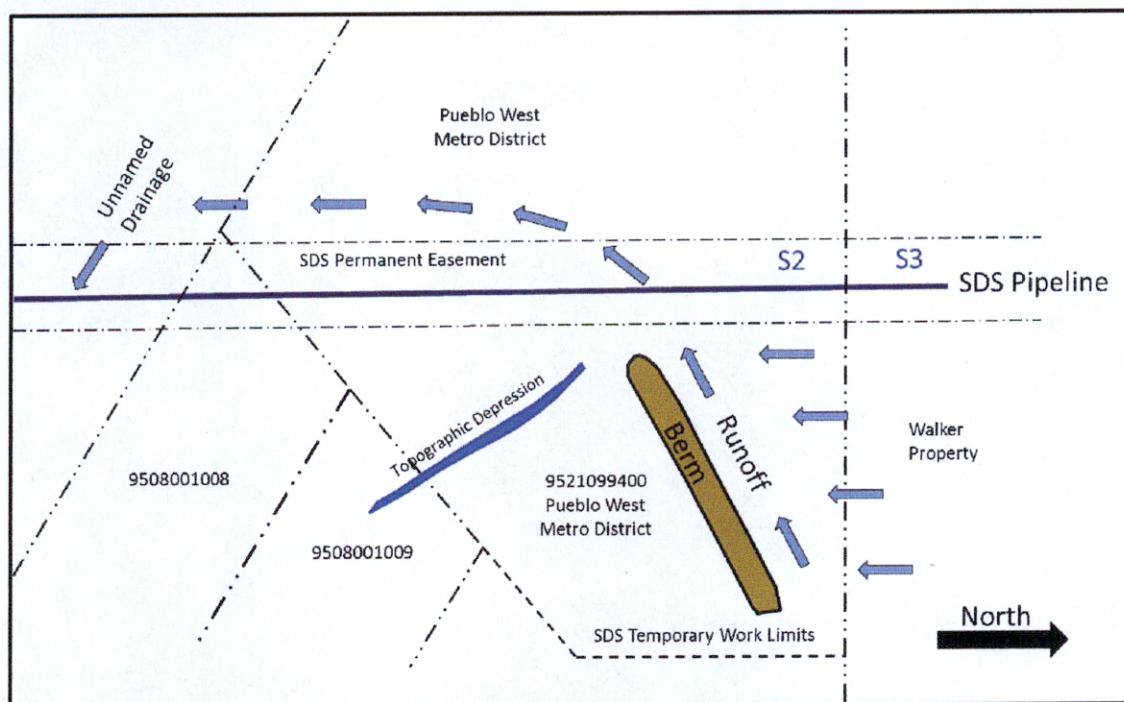
SDS Pipeline Segment S2 (North End S2/South End S3)

Enhancements to Address Observed Effects of Stormwater on Adjacent Property

The northern-most end of Segment S2 of the SDS pipeline alignment is located within Pueblo West and abuts the Walker property. The southern-most limit of the permanent easement for SDS Segment S3 is located on the Walker property.

The restoration of disturbed ground that followed SDS pipeline construction in this area returned the contours to their pre-project condition. Pre-project terrain in the area contained a depression in the topography approximately one foot deep that covers portions of the SDS easement and an adjacent property outside the SDS easement. Prior to SDS construction, overflows from this depression following heavy rainfall events result in inundation of a corner of the adjacent property.

The area is located within Pueblo County Tax Assessor Parcel Number 9521099400 owned by Pueblo West Metropolitan District and a privately-owned Parcel Number 9508001009 as shown in the figure below.



CSU is coordinating with Pueblo West Metropolitan District regarding alternative solutions to enhance the area beyond the requirements for restoration to pre-project conditions. Improvements planned will modify the pre-project drainage conditions in this localized area and thereby redirect stormwater runoff across the SDS easement and away from the adjacent privately-owned parcel. To accomplish this, CSU anticipates construction of a small berm across the temporary easement area which will intercept runoff from contributing areas and direct it away from the adjacent property and across the SDS easement where it will then flow back to the unnamed drainageway to the south. Final determination of the approved solution is anticipated in November 2015 and construction will be performed along with additional restoration activities currently underway on the adjacent property in Segment S3.

Pueblo County Revegetation Contractor Costs to Date
Southern Delivery System (SDS) Work Packages S1, S2 and S3

SDS Construction Work Package	Revegetation Notice to Proceed	Original Revegetation Contract Cost	Revegetation Costs to Date
S1	February 28, 2013	\$1,131,900.00	\$1,189,386.64
S2	May 9, 2012	\$1,318,270.09	\$1,412,458.73
S3	May 9, 2012	\$1,711,396.45	\$2,781,916.37
Total		\$4,161,566	\$5,383,762

*Above costs include seeding, irrigation system, irrigation water, permit compliance, noxious weed control, revegetation maintenance and monitoring, and system removal.

** Above costs do not include SDS staff or Subject Matter Expert (SME) related time, materials or labor for management or oversight of revegetation efforts.