



PUEBLO COUNTY

C O L O R A D O

Planning and Development Department

MEMORANDUM

TO: Pueblo Board of County Commissioners

FROM: Gail L. Wallingford-Ingo, Deputy Director *GLW*

THROUGH: Carmen Howard, Director *CH*

DATE: August 28, 2020

SUBJECT: **1041 PERMIT NO. 2019-003**
Seth Boutilier, Project Manager, Black Hills Energy (Applicant)
Black Hills Energy, Gary R. and Georgia A. Walker and Pueblo West Metropolitan District (Owners)
HDR Engineering, Inc., c/o Pamela McWharter (Representative)
Cañon West Reliability Project, Construction of 115kV Electric Transmission Line

PURPOSE

Black Hills Energy (BHE) is requesting approval of a permit by the Pueblo Board of County Commissioners, as the designated Permit Authority, pursuant to Title 17 - Land Use, Division II. Areas and Activities of State and Local Interest, Chapter 17.168 *Site Selection and Construction of Major Facilities of Public Utilities (1041 Permit)* of the Pueblo County Code for construction of a 115-kilovolt electric transmission line in unincorporated Pueblo County. The transmission line would start in Pueblo West and traverse toward Cañon City. The proposed Cañon West Reliability Project will occupy a 125-foot wide right-of-way, crossing about 16.9 miles of land in Pueblo County on lands in the A-1, Agricultural; S-1, Public Use; and I-2, Light Industrial Zone Districts.

In Pueblo County, all of the proposed line is to be built: (1) in existing utility easement corridors that are intended to be used for projects exactly like this one and which BHE has an existing "use by right", (2) on Walker Ranch where there is approval from the landowner; and (3) in an easement that is located on property owned by the Pueblo West Metropolitan District located near the Pueblo West Industrial Park. No other private property is necessary for the Project in Pueblo County.

The overhead transmission line will be constructed within the existing Wild Horse Creek and West Station utility corridors; structures will be between 70-90 feet high and spaced about every 500 feet. Structures in the industrial park area will be steel tangent monopoles that are between 90-105 feet high. The wood H-frame structures will be 60-80 feet high and spaced about every 600 feet.

PROJECT DESCRIPTION

The Cañon West Reliability Project will generally occupy a 125-foot-wide right-of-way, crossing about 39 miles of land in Pueblo and Fremont Counties. The new transmission line will cross land owned by Bureau of Land Management (BLM), the State of Colorado, Pueblo West Metropolitan District and private landowners. In Pueblo County, the transmission line project crosses about 16.9 miles of land, of which 12.7 miles are private property on Walker Ranch and 4.2 miles are owned by Pueblo West Metropolitan District.

UPDATED INFORMATION

The Board of County Commissioners opened the hearing for 1041 Permit No. 2019-003 at its November 26, 2019 public hearing. After receiving public testimony, the Board of County Commissioners voted to continue 1041 Permit No. 2019-003 to its January 9, 2020 hearing to allow for the submission of additional correspondence from all parties both in support of and in opposition to the proposed project.

At a public hearing held on December 2, 2019, the Board of County Commissioners provided a list of issues/concerns to the applicant, those in opposition and other affected and/or concerned parties and requested additional information be provided. The information requested by the Board of County Commissioners was collected by the Department of Planning and Development and compiled into a staff memorandum dated January 2, 2020.

At its public hearing of January 9, 2020, the Board of County Commissioners acknowledged receipt of the requested information and indicated it would allow for the submittal of additional correspondence in rebuttal to information previously submitted until January 27, 2020. All Information that was submitted to the Department of Planning and Development was included in a staff's January 28, 2020 memorandum.

In a letter dated (and received) February 13, 2020, the applicant requested the public hearing on the project be continued to the July 9, 2020 Board of County Commissioners public hearing. The Board of County Commissioners granted the request for continuance at its public hearing of February 13, 2020 with a direction that the submittal of any additional correspondence would not accepted until the July 9, 2020 public hearing.

On July 9, 2020, the Board of County Commissioners opened the hearing for the 1041 Permit No. 2019-003 and in order to be able to accommodate public testimony and a facility large enough to adhere to the social distancing requirements caused by the current COVID-19 pandemic continued the public hearing to August 13, 2020 with the direction no additional correspondence would be accepted and all testimony at the public hearing would be limited to a summary format with a time limit of ten (10) minutes each for the proponents, opponents and rebuttal presentations.

The Board of County Commissioners held a public hearing on August 13, 2020, took testimony from the applicant and opponents. Following discussion, the Board voted to continue the hearing to the September 10, 2020 public hearing in order to render a determination on the project.

All documents provided by staff, the applicant and the opposition associated with the application from its onset are available on-line at:

<http://www.co.pueblo.co.us/cgi-bin/webformbroker.wsc/cases3.p?caseNum=1041%202019-003>.

STAFF RECOMMENDATION

Throughout the public hearing process, staff has not modified its original recommendation other than to correct a typographical error. Following the discussion at the August 13, 2020 public hearing and based upon comments made at said hearing, staff is providing the following recommendation, noting the only change would be to the date in proposed Condition No. 5 which was originally intended to impose a one (1) year review based upon the original scheduling of the 1041 PERMIT No. 2019-003.

Staff recommends approval of 1041 Permit No. 2019-003 (Cañon West Reliability Project) within Pueblo County, contingent on the following conditions of approval:

1. This permit shall not constitute an exemption from zoning, health, building permits, or other applicable regulations. Issuance of this permit is subject to approval by any regulatory agency where required by regulation or statute.
2. The Cañon West Reliability Project construction and activity shall be according to the plans and information in the materials submitted by the applicant for 1041 Permit No. 2019-003, attached hereto as Exhibit 1. The applicant's description of Construction Activities, Operations and Maintenance Activities for the Project within the application materials, including but not limited to Permit area, safety, dust and erosion control, re-vegetation and reclamation, measures to protect wildlife, environmental and other impacts, and other required permits, shall be strictly adhered to. Noncompliance may result in the Department of Planning and Development scheduling a Show Cause Hearing before the Permit Authority to review the Permit approval.
3. The Permit shall be approved for the areas within the applicants submitted legal descriptions and maps, noting minor changes could be taken under consideration through the submission of an amendment with substantial changes requiring the submission of a new 1041 permit for review and consideration. The Department of Planning and Development shall review and approve site plans, drawn to scale, depicting specific locations of all components, equipment, facilities and structures, prior to the applicant receiving approval for a building permit to begin construction.
4. The applicant shall provide to the Department of Planning and Development copies of all subsequent permit approvals by other regulatory agencies within sixty (60) days of said permit approvals being received by applicant.
5. On or before September 10, 2021, the applicant shall submit a report to the Department of Planning and Development, detailing the overall status and viability of the Project. The report shall address compliance with each of the approved Conditions of Approval for 1041 Permit No. 2019-003. The Department of Planning and Development may request subsequent, similar reports regarding the Project status.

OTHER AGENCY CONDITIONS:

1. The applicant is required to apply for an access permit from every County Road and an excavation permit for the crossing of County right-of-ways with the Pueblo County Department of Engineering and Public Works and comply with the conditions of those permits.
2. The applicant shall comply with the requirements of the Pueblo West Metropolitan District's Public Works Department relative to the submission of a Stormwater Management Plan (SWMP) and Right-of-Way Use Permit and any conditions of those permits.

3. The applicant shall address the requests from the Nature Conservancy District relative to providing more acknowledgement of the presence of the easement(s) and their purpose to protect populations of rare plants, the mapping, monitoring and controlling of invasive species (weeds) and consultation for future seed mixtures during reclamation.

GLI

c: Seth Boutilier, Project Manager Black Hills Energy*
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Nina Vetter, District Manager, Pueblo West Metropolitan District*
Matt Moorhead, Nature Conservancy District*

*sent via email only