



PUEBLO COUNTY

C O L O R A D O

Planning and Development Department

October 16, 2020

NOTICE

RECONSIDERATION OF CONDITIONS NO. 6 AND NO. 7 OF BLACK HILLS ENERGY 1041 PERMIT NO. 2019-003

On October 15, 2020, pursuant to Resolution No. 20-280, the Pueblo County Board of County Commissioners voted to reconsider Conditions No. 6 and No. 7 of Black Hills Energy 1041 Permit No. 2019-003. A full copy of Resolution No. 20-280 and a verbatim copy of the text of said Conditions No. 6 and No. 7 are included for your reference.

You are advised that you may submit written argument and/or comment on Permit Conditions No. 6 and No. 7 which may include suggestions for changes, additions, and/or deletion(s) to said Conditions. Your written argument and/or comment shall be delivered to:

Carmen Howard
Director of Planning and Development
229 W. 12th St.
Pueblo, CO 81003-2810

or by e-mail to

planning@pueblocounty.us

and must be received on or before **November 18, 2020**. Thereafter, reconsideration will be conducted and concluded in accordance with the procedure set forth in Resolution 20-280.

Certificate of Mailing Attached

I, Carmen Howard, Director of the Department of Planning and Development do hereby certify that I gave Notice: Reconsideration of Conditions No. 6 and No. 7 of Black Hills Energy 1041 Permit No. 2019-003 by depositing the same in U.S. Mail October 16, 2020 to the following persons who testified and/or submitted correspondence to the Board of County Commissioners hearings, at the following addresses:

Black Hills Energy
c/o Seth Boutilier, Project Manager
105 South Victoria Avenue
Pueblo, CO 81003

Black Hills Energy
c/o John Vigil, Senior Program Manager
105 South Victoria Avenue
Pueblo, CO 81003

HDR Engineering, Inc.
c/o Pamela McWharter, Project Manager
1670 Broadway, Suite 3400
Denver, CO 80202

Stuart D. Bastin
1066 East Marengo Drive
Pueblo West, CO 81007-1258

Eugene P. Bidon
3050 County Road 137
Westcliffe, CO 81252-9623

Sandra L. "Sunny" Davis
648 East McCulloch Boulevard
Pueblo West, CO 81007-1478

Excel Pueblo West Market Place, LLC
22407 East Hidden Trail Drive
Parker, CO 80138-8846

John J. Kosovich
270 East Parkridge Drive
Pueblo West, CO 81007-1326

Pamela Kuhrt
1237 North Parkridge Drive
Pueblo West, CO 81007-1347

Melvin L. Manrose
228 East Parkridge Drive
Pueblo West, CO 81007-1326

Daniel Mielke
1261 North Parkridge Drive
Pueblo West, CO 81007-1347

Kathleen M. Mikatich
242 East Parkridge Drive
Pueblo West, CO 81007-1326

Emily Price
1021 North Market Plaza, Unit 107
Pueblo West, CO 81007

Lewis A. Quigley
1225 North Parkridge Drive
Pueblo West, CO 81007-1347

Barbara S. Elliott
445 G Street
Penrose, CO 81240-9740

Hoshi H. Mistry
1245 East 3rd Street
Penrose, CO 81240-9212

Penrose Neighbors for a Better Route
c/o Janet S. Jordan
1415 4th Street
Penrose, CO 81240-9799

Lawrence W. Swisher
707 Cedar Hills Road
Penrose, CO 81240-0000

Marcella De Foe; Marcia De Foe
211 S. Spaulding Ave.
Pueblo West, CO 81007

David and Diane Iko
610 Q Street
Penrose, CO 81240-9530

William A. and Deborah A. Johnson
5649 Pike Street
Golden, CO 80403-1242

David and Janis Kawecki
284 E. Parkridge Drive
Pueblo West, CO 81007

Karen Olmen
1381 3rd Street
Penrose, CO 81240-9799

The Nature Conservancy In Colorado
c/o Matt Moorhead, Director of Business, Development & Strategic Partnerships
5398 Manhattan Circle
Boulder, CO 80303



Director of Department of Planning and Development

**THE BOARD OF COUNTY COMMISSIONERS
OF PUEBLO COUNTY, COLORADO**

**APPROVING THE TEMPORARY SUSPENSION PENDING RECONSIDERATION OF
THE BLACK HILLS ENERGY 1041 PERMIT NO. 2019-003 FOR SITE SELECTION
AND CONSTRUCTION OF A MAJOR FACILITY OF A PUBLIC UTILITY FOR THE
CAÑON WEST RELIABILITY PROJECT**

WHEREAS, on October 1, 2020, pursuant to Resolution No. 20-263 the Pueblo County Board of County Commissioners ("Board") in its capacity as the Permit Authority approved, with eleven (11) conditions, the application of Black Hills Energy ("BHE") for a permit to engage in the construction and operation of a 115-kilovolt electric power transmission line and associated facilities in unincorporated Pueblo County; and

WHEREAS, BHE permit no. 2019-003 was issued following a series of six (6) public hearings over an eleven-month period at which the Board received oral evidence in the form of testimony and informational statements, and written evidence in the form of letters, statements, comments, recommendations, reports, studies, and other documentation submitted by BHE, County Staff, and members of the general public; and

WHEREAS, BHE has submitted a letter to the Pueblo County Department of Planning and Development expressing concerns with certain of the conditions imposed on the permit. BHE has requested re-evaluation and reconsideration of certain of the permit conditions; and

WHEREAS, the Office of the Pueblo County Attorney has reviewed the BHE request and, has advised the Board that the permit may be reconsidered based upon the evidence previously submitted to the Board and, as such, the permit hearing need not be re-opened; and

WHEREAS, the Office of the Pueblo County Attorney has further advised that while the Board considers and deliberates on the question of reconsideration, whether or not the same generates any change to the conditions of the approval, that fairness to the Applicant and members of the general public requires that the finality and operation of the permit be temporarily suspended in order to preserve the rights of judicial review of the Applicant and all interested citizens such that the permit will only become final for purposes of further review upon the date that reconsideration is completed and a decision made; and

WHEREAS, the Board, has considered the request of BHE and the advice of the Office of the Pueblo County Attorney.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Pueblo County, Colorado that Black Hills Energy 1041 Permit No. 2019-003 be and the same hereby is temporarily suspended pending reconsideration by the Board, such reconsideration to be completed by the Board and a final decision made and entered by Resolution no later than December 18, 2020.

RESOLUTION NO. 20-280 (CONTINUED)

BE IT FURTHER RESOLVED that the Office of the Pueblo County Attorney working in conjunction with the Department of Planning and Development shall forthwith notify BHE and other persons who testified at the previous hearings on BHE permit no. 2019-003 of the passage of this Resolution. Such notice shall include a copy of this Resolution and shall direct the attention of the recipient to the procedure outlined herein for further participation, if desired, in the reconsideration process.

BE IT FURTHER RESOLVED that the persons receiving the notice referenced above are advised that they may submit written argument and/or comment on permit conditions numbered six (6) and seven (7) which may include suggestions for changes, additions, and/or deletions to said conditions and the same shall be tendered to Pueblo County in the manner prescribed in the notice no later than November 18, 2020

BE IT FURTHER RESOLVED the Office of the Pueblo County Attorney and Department of Planning and Development are directed to assemble and transmit to the Board the written arguments and/or comments submitted in response to the notice as well as the advice and recommendations of Pueblo County professional staff on or before November 25, 2020. Thereafter, the Office of the Pueblo County Attorney is directed to place the matter of reconsideration of the BHE 1041 Permit on the agenda of a regular public meeting of the Board of County Commissioners on or before December 11, 2020.

BE IT FURTHER RESOLVED that in the event reconsideration is not completed and a decision made on or before December 18, 2020, unless further extended by official action of the Board, the temporary suspension made by this Resolution shall be automatically lifted and the finality of the permit as originally issued shall be reinstated effective December 21, 2020.

PASSED AND ADOPTED this 15th day of October, 2020, in Pueblo County, Colorado.

**THE BOARD OF COUNTY COMMISSIONERS
OF PUEBLO COUNTY, COLORADO**

BY: _____

Garrison Ortiz, Chairman

ATTEST:

BY: _____

Gilbert Ortiz, County Clerk

RESOLUTION NO. 20-263 (CONTINUED)

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 applicant's 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 November 26, 2020, 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.

6. All project transmission lines which are: 1) New (not in replacement of existing lines); 2) More than 100 feet away from an existing overhead transmission or distribution lines, and; 3) To be located within 2,640 feet or less from the nearest property line of any adjacent parcel that permits a residential use shall be installed underground. The applicant shall use its best efforts to minimize the amount of time excavations for underground facilities are left open.

7. The Applicant shall be responsible for the costs of retaining an independent consultant to conduct an analysis of the financial impact to owners of property adjacent to any area where new (not in replacement of existing), overhead transmission lines are to be installed. Prior to installation, the Applicant shall submit to Pueblo County its final design and construction plans for the project indicating the location of new overhead transmission lines and Pueblo County shall select within a reasonable time the independent consultant with input from the applicant and any interested parties and shall impose a timeframe for the completion of the analysis. If any property owner feels that it requires legal representation in this process, the reasonable cost of such representation shall be paid by the Applicant. If it is determined by the independent consultant that there is a negative financial impact to the property owner(s), the Applicant shall pay to the property owner(s) an amount equal to the full amount of the impact finally concluded by the independent consultant. Payments shall be made within a reasonable period thereafter as designated by Pueblo County in conjunction with and at the conclusion of the impact analysis.