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PUBLIC HEARING

The Board of Commissioners of the County of Fremont, State of Colorado, met in Special Session on February 1, 2012, 615 Macon Avenue, Room LL3, Fremont County Administration Building, Cañon City, Colorado. Commissioner Chairman Debbie Bell called the meeting to order at 9:00 A.M.

Debbie Bell	Commissioner	Present
Michael J. Stiehl	Commissioner	Present
Edward H. Norden	Commissioner	Present
Katie Barr	Clerk and Recorder	Present
Brenda Jackson	County Attorney	Present

Also present: County Manager; Bill Giordano, Planning and Zoning Director; Jody Blausen Deputy Clerk, and Denise Miller Official Time Keeper.

The Morning Prayer was given by Fremont County Treasurer Pat McFarland.

Those present recited the Pledge of Allegiance to the Flag of the United States of America.

Commissioner Bell went over the process and guidelines for the public hearing today. The applicant will first give their presentation. This will be followed by the Planning and Zoning Departments presentation. Then citizens will be called in the order of receipt of speaker slips by the County Clerk. Individual speakers will be given three minutes to speak. Organizations and Institutions will be given ten minutes to speak. The applicant will be allowed time at the end of the day to address issues heard today. She noted that written comments are being accepted from everyone, no matter where they reside.

PUBLIC HEARINGS SCHEDULED FOR 9:00 A.M.

Request: TUP 11-008 OVER THE RIVER (OTR)

Request approval of a Temporary Use Permit to allow a temporary work of art consisting of fabric panels suspended horizontally over approximately 5.9 miles of a 42.4 mile portion of the Arkansas River, more specifically 2.5 miles in the Parkdale area, 0.9 miles at Spikebuck, 0.5 miles at Three Rocks, 0.3 miles at the County Line (a portion of the last segment will be in Chaffee County), between Canon City and Salida, by the Over the River Corporation. The event will include providing an information center, rest stop and first aid station on the north side of US Highway 50 in the "Eight-mile Hill" area (referenced as the Fremont Road Information Center), a limited rest stop and first aid station on the north side of the Arkansas River at Texas Creek, a limited rest stop and first aid station on the north side of the Arkansas River between Coaldale and Howard at the Vallie Bridge on Fremont County Road 45. A construction staging area, "event management command post" and an emergency helicopter will be located at Texas Creek. Over The River (The Project) is a no-fee visitor event. The Project exhibit areas are all located in the Agricultural Forestry or Agricultural Farming & Ranching Zone Districts which allows a spectator event with the issuance of a temporary use permit. The Project is expected to span approximately two and one-half years for installation, exhibition and removal with a restoration phase that could vary dependent on re-vegetation success.

The project will involve four phases:

1. Installation – The installation phase will be accomplished over approximately two years in five progressive stages (1) survey anchor points, (2) install anchors, (3) install anchor transition frames (ATFs), (4) install cables, and (5) install fabric panels.
2. Exhibition – The exhibition phase will be 2 weeks long and is planned for the first two weeks of August 2014.

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3. Removal – In the removal stage the system of cables and anchors and other above-ground materials will be dismantled, removed and recycled. The removal is expected to take approximately three months, weather permitting.
4. Restoration – The restoration phase will consist of earth work and re-vegetation of areas disturbed during the other three phases of the project. Earth work and re-vegetation will be accomplished as soon as possible after removal; it may take more than one growing season to determine if the restoration has been successful.
Representative: Jonita Davenport, OTR Project Director

Jonita Davenport, OTR Project Director, introduced some of the OTR team members including: Vince Davenport, Chief Engineer of Construction; Lori Potter and Brooke McKinley, Legal Counsel; Steve Coffin and Miles Graham, Communications; Ralph Trapani, Traffic Engineer; and Artist Christo Javacheff.

Christo Javacheff, OTR Artist, told the Board he started this process 16 years ago. He is sorry that Jean-Claude is not here. Christo is glad so many people came today as they are part of the work of art. He appreciates all comments and suggestions from the public. Christo pointed out this discussion has been going on for 16 years on art that does not exist. He asked what other artist in the world has had to undergo such scrutiny. Christo thanked the Board and all who participated in this event.

Lori Potter, OTR Attorney, gave a presentation for the OTR Project. The project will have 5.9 miles of porous fabric panels suspended high above the Arkansas River. The exhibition period will be for two weeks in August of 2014 at the earliest. Of the 42 miles of river between Salida and Canon City only 2/10 of a mile of the project will run into Chaffee County. The Bureau of Land Management (BLM) selected an independent agent to conduct the Environmental Impact Study (EIS) that took three years to complete. The BLM issued their permit for the project in November 2011. The Division of Parks & Wildlife and the State Land Board issued their approvals of the project in 2011 as well. In addition to the permit from Fremont County, permits will also be needed from Chaffee County, CDOT and the Colorado State Patrol. The Event Management Plan (EMP) is a planning process involving all of the coordinating agencies and the applicant. She went over the four phases of the project and the economic benefits to the community. The OTR website will have information regarding the location of any construction sites throughout the process.

Ralph Trapani, OTR Traffic Engineer explained the Adaptive Traffic Management plan allows for safe passage of emergency vehicles and will minimize travel delays to the public. A CDOT Special Use Permit will be obtained and similar traffic control will be used. The use of a 400 foot work zone will have a lane closure. However no closures are allowed from Memorial Day to Labor Day. Never will both lanes be closed at the same time. Delays are expected to be ten minutes or less through the corridor. The temporary lane closures are expected for only 27 days during the construction phase. He said there will be temporary speed reductions of ten miles per hour near the fabric panels during the exhibition phase. The Travel Demand Management (TDM) Plan will help reduce peak period travel delays during the exhibition phase.

Lori Potter explained there are over 100 mitigation measures that will be implemented to reduce the environmental impacts on the project site. OTR has begun implementing a bighorn sheep habitat treatment project with help from the Colorado Division of Wildlife. During the restoration phase all visible elements of the project will be removed and the surface-level holes will be refilled with BLM approved top soil. The ground will be restored to its original contours. If needed, seeding will be done with a native plant mix. She stated that 86% of the river within the project area will remain untouched.

Bill Giordano, Planning and Zoning Director, reviewed the recommended requirements for the permit. Many items cannot be addressed until the final Event Management Plan (EMP) is completed.

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There will be an organization of a complete Event Management Plan Command Team as well. Publication was completed per regulation. There is no Planning Commission Review of this application. Public Comments received by the Planning and Zoning Department have been posted to the website. It is recommended that OTR reimburse the County for staff time spent reviewing the OTR application from 2008 until the project is completed. The Fremont County Department of Transportation (FCDOT) requests that monetary damages are held in escrow against Permit Bond to bring County Roads back to standards prior to the project. The applicant will need to comply with any requirements of the Fremont County Sheriff's Department, County Reviewing Engineer, the County Environmental Health Office, the County Building Department, the County Office of Emergency Management, the County Airport Manager, and the County Weed Control Manager. The Department is asking the applicant to be compliant with other State and Federal Agency requirements. The County cannot enforce the requirements of these other agencies but requests to be notified of compliance. Documentation of authorization is required from all private landowners whose property will be used in the project. It is recommended that the County be able to apply additional mitigation measures or alter the terms of the permit if changes to area conditions or circumstances of the project arise in order to protect the health, safety and welfare of the public. He requested that OTR provide Fremont County a monthly report concerning the progress and any incidents that occurred. Proof of general liability insurance for all phases of the event in amounts deemed appropriate by the Board of County Commissioners. Commissioner Norden said that Fremont County may not have direct jurisdiction, and what the other agencies do may influence how the County needs to react to certain situations.

Commissioner Bell said they had received approximately 475 letters and emails regarding the OTR Project. She told citizens they did not need to speak if they had already submitted their comments in writing.

Chairman Bell opened the Public Hearing at 9:58 A.M.

Public Comments:

Doug Shane, Executive Director of the Canon City Chamber of Commerce supports the OTR Project. He pointed out this is a \$100,000,000 gift from Christo. The Chamber has already received calls from people wanting to know where they can apply for the jobs to be created by the project. Advertising Value Equivalency (AVE) cannot be estimated at this time. Residual revenue will be generated from this project for our community for many years to come.

Steve Kaverman, Royal Gorge Route Railroad General Manager said they enthusiastically support OTR. His organization will offer their support before during and after the project in any way possible. He said this is an unprecedented opportunity for the entire region and requests the Commissioners approve the project.

Tony Greer, Canon City Mayor, supports the project as an elected official and as a citizen. He said the conditions need to be mitigated the best way possible. Canon City Council Member Colby Katchmar hopes the community can come together and remain a close knit community regardless of the outcome. Colby is in favor of the art project. Canon City Council Member Ron Bates said this is a once in a lifetime opportunity. He feels as if the project is guaranteed to succeed due to the procedures OTR has already gone through. Canon City Council Member Pat Freda said there will never be agreement on what art is and Fremont County has the chance to become a part of art history. Canon City Council Member Kevin Ditmore said this is a golden opportunity for our community and hopes we do not let it slip away. Canon City Council Member Darrell Robinson said this is a risk but much caution has been taken to see this project through.

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Bill Edrington represents anglers on the Citizens Task Force for the Arkansas Headwaters Association. He said he has gone from being against the project to being in favor of it. Bill is convinced the OTR team has done everything possible to prevent problems for anglers. However, the Canon City River Walk will be utilized by anglers during the construction process. In Table 421 of the EIS Statement it shows a loss of \$225,000 to the angling community. He suggested that OTR make a donation in that amount to the Canon City Area Recreation District. Commissioner Norden noted for the record he had spoken to the Recreation District yesterday and their Board has not been able to meet regarding this matter as of yet. Commissioner Norden would like to be able to hear from the Recreation District Board as part of this process. County Attorney Jackson stated the Commissioners should wait until the conclusion of the Public Hearing to see if they want to leave it open for public comment.

Rudl Mergelman requested approval of Christos' OTR Project. He has served on the Fremont County Tourism Council, the Florence Planning Commission and on the Florence Chamber of Commerce. Rudl believes this opportunity will revitalize the tourist industry in Fremont County for many years.

Ellen Bauder, ROAR Inc. Vice President, opposes the OTR Project. She said the TUP application is premature as the Fremont County Zoning Resolution states the application shall be complete when submitted. Contingencies for documents to be delivered at a later date are not allowed. The Event Management Plan has not been developed yet which will contain critical information such as crowd control, traffic and public safety. The ROD speaks of the Unified Command but there is no accountability to the public. She hopes the Fremont County Commissioners will not promote personal gain if it is at the expense of others.

Janice Yalch lives in Howard and is against the project. She believes this project has already cost tax payers money and will continue to do so. She feels her rights are being violated. Janice asked if the project will be shut down if OTR does not follow all of the rules, or will they just have to pay a fine. She wanted to know if written comment submitted before November was accepted or needs to be resubmitted.

Dan Ainsworth is the President of Tallahassee Trucking and he disagrees with the OTR Project. He is very concerned with the construction delays and public safety. The people coming to see this "drive thru" project will view it, take pictures and be gone.

Yvonne Nelson is a member of ROAR and spoke against the project. She lives on the river in Swissvale and has requested the exact locations of the proposed project. Yvonne asked if there is any compensation for residents who are disturbed by the dust, drilling and noise during construction.

Jim Lockhart is against the OTR Proposal. He spoke about the environmental impacts and traffic concerns. No pedestrian travel will be allowed within a half a mile of the fabrics and there are no locations where cars may stop and view the project. Cars will have to travel through the project at 35 miles per hour. He feels visitors will be disappointed when they are not allowed to stop along the highway and wonders how we can enforce this policy.

Opal Ryman King said she loves art and it has been a big part of her life. Her concern is wherever there are large groups of people there is a possibility of terrorism. She suggests the Commissioners listen to the concerns of the Sheriff as well.

Paul Kendall is in support of the OTR Project. He is an energy activist who hopes that Christos' project brings economic stimulus to our Community.

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Jim Hoar spoke as a citizen who supports the OTR. He said the Arkansas River is the lifeblood of our community and we need to address the mitigation issues. Jim explained this is a once in a lifetime opportunity that we need to act upon.

Eva Colgate is against the OTR. Her main concern is about the wind speeds through the canyon. She said the wind will cause the fabrics to blow down is this is dangerous.

Richard Upton of the Florence Merchants Association said he has a petition of support signed by all of the members of the Florence Merchants Association. This would be an economic boost to local businesses in bringing tourists to our community.

Dawn Hayward is in favor of the OTR. She said Christos' art project is meant to inspire and bring out the natural beauty of our river. Dawn hopes the art will inspire all of the children in our community. The OTR Project is being funded completely by Christo. It has the potential to bring in \$100,000,000 to our community. She hopes some of the revenue generated will go to the schools.

Pat Bernhardt of the Sangre De Cristo Electric Association addressed concerns regarding the placement of some of the fabrics in relation to their power lines. Some of the fabrics will be parallel to or underneath the power lines. Regulations do not allow equipment to be within a certain distance of the power lines. He is concerned with the safety of the equipment operators during construction. As the fabrics can only sustain up to 40 MPH winds he worried they may come loose and land on the power lines. This may cause injury or death as well as a power outage for their customers.

Ellie Reiser pointed out there will be 8,992 nine foot rock anchors of which 88% of them will be left in place upon project completion. She is worried what these anchors will look like in years to come and the destruction they can cause.

Amy Long of the Colorado Springs Convention Visitors Bureau and Pikes Peak Country Attractions Association supports the OTR Project. She said this phenomenal art project is bigger than Canon City and Colorado as it will be recognized worldwide. If this TUP gets approved they will be able to market the project regionally, nationally and internationally. These organizations will put their time, money and staff behind the OTR Project.

William Colon is a lifelong resident of Canon City. He was instrumental in building the Whitewater Park on the Arkansas River at Centennial Park. His goal is to make Canon City a destination. As a rafting business owner he respects the concerns of the citizens who utilize the river for fishing, rafting, boating and viewing the Big Horn Sheep. William pointed out that Christo goes to the problem and mitigates it where most people would give up when faced with diversity.

Dick Miles is a Project Manager and Bridge Specialist for a small company in Denver and has a Master of Fine Arts Degree in Sculpture. He believes this project is the glue that holds a community together. The communities that have been host to Christo's art in the past are still in support of them long after project completion. He has worked directly with Ralph Trapani on the I-70 project and said he is one of the best traffic engineers in the business.

Andy Neinas is the owner of Echo Canyon Rafting and Campground and the 8 Mile Bar & Grill on top of 8 Mile Hill. The OTR Project will bring a heightened awareness to the Royal Gorge Region and its amenities as well as lasting economic benefits. Rarely are we afforded a seat to history in the making which is the opportunity Fremont County will have with this project. Commissioner Norden asked Mr. Neinas about concerns with access from the Harvey Bridge on County Road 157 and Highway 50. Mr. Neinas believes his concerns with access will be addressed at the Event Management Plan meetings.

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Mr. Neinas believes there will be traffic control at any and all intersections as well as access at all AHRA (Arkansas Headwaters Recreation Area) sites. Norden asked how many “put in” and “take out” sites are along the corridor from Parkdale to Salida. Neinas said there are several AHRA sites as well as some private properties that are used by rafting outfitters that will need to be accessible.

Donna Murphy is a Fremont County resident in favor of OTR. She believes the planning and studies will allow for growth. The canyon is not completely natural due to the railroad and work that was done to the banks. Donna said the art will bring people together and will be remembered even after the project is gone.

Jay Bouton and Dan Brown of the Fremont Community Foundation support the project. Jay said OTR will be in art books and college text books for many years to come. This is the first art project to go through an EIS and is a monumental opportunity for Fremont County. Their organization works year round trying to promote our Community and the exposure from the OTR Project will benefit all of us. Dan said the money their foundation makes goes back to the local community. He urged the Board to approve the project.

Captain John Lupton of the Colorado State Patrol (CSP) said they understand the traffic management phase of the project. They are looking forward to working with the Commissioners, CDOT, the Sheriff and the OTR Corporation. The CSP has no opinion on if the OTR Project should move forward or not. As the EIS is complete it will allow for the EMP negotiations to begin. The EMP and traffic mitigation will benefit the community regardless of whether or not the project is approved. The EMP will devise alternate routes in the event of any type of emergency. The CSP is ready to assist in any way possible to keep the public safe. Commissioner Norden said he is concerned with the daily commerce activities of the citizens of Fremont and Chaffee Counties. Lupton said they will address all of the Commissioners concerns during the EMP process.

Ben Goodin lives in Coaldale and is against the OTR Project. He suggested the project run from Texas Creek to Parkdale to allow for egress. County Road 45 between Swissvale and Howard will need to be improved to allow for auto use. This would mean a bridge needs to be placed over Badger Creek.

Marvin Eller is currently a business owner in Fremont County. He lived in Garfield County in 1973 and witnessed Christo’s curtain project go up and down without any problems. This art will be recognized internationally as are Christo and Jean Claude.

Judith Hicks opposes the OTR Project. She asked why the BLM decision was made in Washington not locally and without an EMP in place. She said Big Horn Sheep Canyon does not have the capacity to handle this industrial size project.

LaDonna Abbadusky said this project frightens her. She lives on Highway 50 in Howard and the only way to leave her home is on Highway 50. It is difficult for her to believe the money this project will bring is worth even one human life. She is fearful that emergency services will not be accessible to those who need them during the 3 year project.

Jessica Smith expressed her support for OTR. She explained that other industrial projects such as the Royal Gorge Bridge and the railroad have enhanced our community and our part of our history. Jessica has been inspired by Christos’ videos and also by people on both sides of the issue.

Charlie Brown is in favor of the project but is concerned with the cleanup process. He believes funds from the revenue generated should be put in the budget as a contingency for the cleanup of the project. If not needed these funds could be used to improve county roads affected by the OTR Project.

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Tony Keenan of the Arkansas River Outfitters Association (ROA) represents about 85% of the commercial outfitters on the river. ROA has been actively involved with this project since the beginning and will continue to do so. ROA passed a resolution endorsing the OTR Project more than 12 years ago, and again a few weeks ago. The Flow Management Program puts water into the river and will be in affect during the project. Tony estimates there are between 15 and 20 AHRA access points between Parkdale and Salida that will be affected during the project. Vehicle access is already a challenge to these points and throughout the Canyon. ROA will be actively involved in the EMP process with many suggestions.

Dennis Wied is the current President of the Arkansas River Outfitters Association (ROA) and the owner of a rafting company. He thinks it would be a disaster from the outfitters operational stand point to turn the AHRA sites into parking lots. He said they will work on creative ways to deal with traffic issues. Dennis is strongly in favor of the OTR project and hopes the Commissioners will endorse it.

Commissioner Bell asked if all of the petitions submitted are part of the record. County Attorney Jackson explained if these were submitted prior to November 16, 2011 they will not be part of the record unless they are re-submitted.

Chairman Bell recessed the meeting at 11:58 A.M.

Chairman Bell called the meeting back to order at 1:30 P.M.

Cathey Young said it is noted in the memorandum of understanding that the primary responsibilities of the Fremont County Commissioners are Planning and Zoning, emergency services, and law enforcement. Her main concern is that traffic slowdowns and stoppages will result in delayed emergency services and loss of life, degradation of medical care and loss of property. She urged the Commissioners to deny the TUP request.

Chris McGarry said as long as you do no harm by intent she believes this is a wonderful gift of art. She pointed out the OTR Team has been challenged by issues and have addressed all of them. Chris appreciates the Commissioners listening to all of the comments and being fair in finding a balance between the two oppositions.

Lynn Lemmon-Oliver had to leave but left a statement that was read by Donna Murphy. She said the tourists that come to view this world class exhibition will result in money for our community. She is in favor of this rare opportunity as a business owner and a member of the Florence Arts Council.

Mike Bandera, General Manager of the Royal Gorge Bridge, said they endorse the OTR Project but is speaking on behalf of Action 22 today. The Action 22 organization is trying to give a voice in shaping the future of Southern Colorado. They want to build relationships to enhance economic stability. Action 22 represents 22 Counties in Southern Colorado and is in support of OTR. This art project offers economic stimulation without spending any taxpayer money. They encourage Fremont County to do everything possible to expedite the approval process of this once in a lifetime opportunity.

David Reynolds of the Fremont Economic Development Corporation (FEDC) said he has been a part of this organization for 20 years. During this time the FEDC has been trying to generate some positive energy in Fremont County. In the past ten years there has only been a 1% increase in population. This may due in part to being branded as "The Prison Capital of Colorado". This is a golden opportunity to re-brand Fremont County and create a new image.

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Fremont County has lost 1000 students in the past ten years as young families are moving to where they can find jobs. The FEDC urges the Commissioners to approve the TUP and will support the project in any way.

Ron McFarland said there is deception with the traffic portion of the FEIS for this project. The information is based off the Highway Capacity Manual 2000 Edition. He said the OTR Corporation used this manual in their traffic analysis and based their information on the wrong classification for this portion of Highway 50 as a mountainous two lane highway.

Jill McFarland said this section of Highway 50 is currently classified as a long distance Class 1 two lane highway of which speed and mobility are the primary functions. When the primary function of a road is for sightseeing it must be designated as class two highway. She urged the Commissioners to hire an independent traffic engineer to review the project.

Marie Vernarsky opposes the OTR permit request. Art should be on a wall or in a park but not over the river. She said if one sheet comes loose it could land on a moving car and cause injury or death. Marie asked if an accident occurs who will be held responsible for it.

Blake Milteer Director and Curator at the Colorado Springs Fine Art Center strongly encourages the approval of the TUP. Blake explained our region was a national focal point for the arts since the 20th Century. He is convinced that every reasonable concern will be addressed. This is the first art project to ever undergo the EIS process. This vision took years of planning and thousands of people working together to accomplish the historic work of art. Christo chose the Arkansas River over 85 other U.S. rivers for this significant gift of art.

Hal Brown lives in Salida and spoke against the OTR Project. He finds it hard to believe that the micro organisms in the soil will not be damaged by the drilling, heavy equipment and cement used during construction. Hal said Christo did not adhere to the requirements of his fencing project in California and does not believe he will here either.

Judy Fritcher has some safety concerns. She is worried about the citizens living in the canyon who need emergency services. During high winds the flight for life helicopters are grounded. Judy suggested we listen to the Sheriffs recommendations for public safety.

Candy Thompson asked the Commissioners to consider the sacrifices that local businesses have made to keep going in this economy. She said we have to have a vision even when we consider the risks involved. Candy said we do not know what the total benefit may be, but if we do not go forward nothing will happen.

Denise Bell said she has followed Jean Claude and Christo very closely. She said the additional emergency services will be paid for by Christo and he has been very generous to property owners. She said this project will benefit all of Colorado.

Kate Colby spoke about the challenges the “Jack in the Box” restaurant faced when trying to open in Canon City. The City Council never turned it down but kept adding conditions and increasing the cost until they finally went away. Fremont County needs to have a new attitude to bring new enterprise and money to our community. Kate does not know of anyone else who would go through the negative obstructing that the OTR Corporation has incurred on this project.

Zach Reynolds of the Fremont Center for the Arts explained they were the first Art Center west of the Mississippi. Jean Claude and Christo are some of the most recognized artists in history and it is an honor to be able to host their project in Fremont County. By being here today the people and the process are part of Christos art.

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The immense scale of this work of art is a marvel in itself. Multiple engineers have reviewed this project and the OTR Project has been approved at the state and federal levels.

Benita Gowdy lives at the top of 8 mile hill. The last few years there has been new life added to 8 mile hill. She wants our children to have more than just a prison town to grow up in. Benita hopes the Commissioners will approve this project.

Carol Maslow said her parents taught her the value of making art part of everyday well being. She encouraged the Commissioners to recognize that Fremont County has been instrumental in Christos' legacy.

George Turner expressed his support of the OTR Project. This is a one in several life time opportunities. The one thing that lasts from a society is its art. He hopes our community will be recognized as a good host to a world class event.

Sonny Smaller wants the OTR Permit to be approved. While in Germany he saw Christos' art project that draped the Capitol Building which was a huge success. He said this is a positive for our community.

Lori Potter, Attorney for OTR Corporation addressed some of the concerns brought up today. She pointed out the panel locations were made clear on the maps from 2010 for the EIS statement. The maps are part of the EIS, on the BLM website, and online at fcotr.com. The data the Sangre De Cristo Electric representative had was regarding a prior location where the panels would have been close to power lines. OTR hired an internationally known wind engineering company, RWDI for wind tunnel testing. These tests were part of the BLM application in 2006 and were reviewed in the EIS and DEIS process. Lori stressed that any complex projects are always subject to conditions subsequent to the permit the fulfillment of which after the issuance of the permit is standard. The reclamation process will begin with a three month removal process followed by reseeded. The OTR Corporation must post a \$14,000,000 bond to meet the BLM requirements. The BLM bonding requirement extends to all federal land, all private land within the project area. The BLM bond has a multiplier factor and the coverage is complete. There is a separate bond being required by the State Land Board for just under \$300,000. Commissioner Stiehl asked if a Type 2 Incident Management Team will be required. Ms. Potter explained that is a subject on the agenda for the EMP group to address. The EMP group is sub-divided into task forces, one of which is an Incident Management. Commissioner Bell asked what speed winds were tested for safely draping the fabrics. Ms. Potter said she would need one of the engineers to explain the complex wind study. Commissioner Norden asked if Christo ignored compliance during the running fence project and extended the fence beyond what was permitted. Ms. Potter said she will have to research the running fence project to determine this. There has never been a monitoring set of requirements on any project as extensive as what has been placed on OTR by BLM and the State. BLM intends to hire a person whose only responsibility will be to monitor compliance of the OTR Project. In addition to this monitoring any of the permitting agencies will be able to monitor the compliance of their imposed conditions. Commissioner Norden asked if this BLM monitoring person would monitor the conditions of all of the agencies or just the BLM. County Attorney Jackson said this person will not monitor the County's conditions. Keith Berger of the BLM said they had not yet discussed if this person would be shared by all of the agencies involved as there is not a Memorandum of Understanding (MOU) in place yet.

Ralph Trapani, OTR Corporation Traffic Engineer reiterated they will be implementing CDOT standards and procedures for traffic control. They will still observe the impacts to traffic and can adjust the plan if necessary. Mr. Trapani has met with the County Engineer and the County Director of the Transportation Department to see if there have been problems in the past with diversions to county roads during CDOT road closures.

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He was told there was not any documentation or recollection of this happening in the past. Mr. Trapani said variable message signage will be used to alert the public of any potential traffic delays. These signs can be changed and updated as needed during the entire project. If need be, flaggers will be used for access from driveways, pullouts, parking areas and county roads within the construction zone. Public safety is the number one concern for residents who live along Highway 50 corridor. The traffic control specialist will be on site to respond to any potential problems with access.

Commissioner Norden asked for a response to the letter from Front Range Aggregate regarding bridge maintenance. Ms. Potter said she has had communication with them regarding the minimal use of Harvey Bridge. Heavy equipment will be loaded onto rail cars in Canon City or Texas Creek and transported to the loading or staging area. There will be some need for OTR to cross Harvey Bridge due to the panel locations to the east and west of this bridge. Ms. Potter said the intersection of County Road 157 and Highway 50 will have a flagger or temporary signal during the exhibition phase. There will also be a U-Turn opportunity just west of Texas Creek with either a flagger or temporary signal during the exhibition event. CDOT will be addressing turning issues in the EMP.

Ralph Trapani explained the CDOT Special Use Permit will have to address these issues. He has documentation from CDOT that traffic will not be diverted to County Roads during the construction period. Commissioner Norden stated they intend to rely on the traffic counts they have made during the past several years versus the traffic counts made during the construction and exhibition phases. Commissioner Bell asked how OTR will handle people who are driving through the project that try to stop and take pictures or pull over during the exhibition phase. Mr. Trapani said this will be an enforcement issue handled by both law personnel and traffic personnel. Ms. Potter said Christo has designed drive by projects before and they have functioned adequately. Mr. Trapani explained they hope to increase vehicle occupancy during the exhibition phase with carpooling and vans. He does not expect people to avoid traveling through the corridor. Commissioner Stiehl asked if their CDOT Permit will be handled by more than one region. Mr. Trapani said they have been instructed by CDOT to submit one permit and it will be coordinated by Region 2. He clarified that BLM hired an independent agency called AE Com to conduct their own traffic study this company was not hired by the OTR Corporation.

Commissioner Bell asked why some of the anchors would be left behind. Ms. Potter replied it would cause more damage to remove the anchors than it would to leave them in place. These anchors are similar to anchors used for highway construction. The anchors will be 12 inches below the ground surface or placed in rock and covered with grout. Before any hole is drilled there will be a Geotechnical Engineer on site to make sure of the stability of the drilling site. All of the anchors will be on the north side of the highway.

Commissioner Norden expressed his concern for the additional calls that will be coming into the 911 dispatch center. He asked if there will be a 211 informational number for the public to use. Ms. Potter said there will be two visitor centers, one in Salida, and one on 8 Mile Hill. Information will also be posted on the website for visitors to utilize. Mr. Trapani said the EMP has a public safety committee that will address this as a priority at the February EMP meeting.

Commissioner Stiehl said the OTR Corporation has posted bonds at the federal and state levels but are reluctant to post a bond at the county level. He is concerned that something may arise in the EMP that will not be financially covered without a bond. Ms. Potter said there is a draft of the EMP submitted in 2008 and a draft of the EMP submitted with the EIS statement. Ms. Potter explained there may be some costs that the County may be reimbursed for. The bonds in reference to this project are set for removal and restoration. Commissioner Norden said there will be significant expenses incurred by the Sheriff and the taxpayers want assurance the bills will be paid. Ms. Potter said the services the county staff provides need to be deemed reasonable and necessary OTR Corporation would expect to reimburse the County for reasonable tasks.

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This form of payment process has worked quite well with BLM. Commissioner Norden asked if it would be a cash deposit the County could draw from as expenses are incurred rather than the County funding everything upfront. Ms. Potter said that if this were done on a quarterly basis it would be a reasonable approach. The OTR Corporation is willing to work with the County on reimbursement issues. Ms. Potter explained the EMP must exist and be approved by the BLM before construction can start per the BLM's requirements.

Commissioner Norden said he has read the 475 previously submitted letters that have been received to date. He thanked all of the County Staff involved in this process.

Commissioner Stiehl thanked all of the participants for their comments and for being so courteous throughout the process.

Commissioner Bell thanked the applicants and their staff for being here today to answer all of the questions presented today.

Chairman Bell recessed the hearing at 4:15 P.M. until 5:00 P.M. on February 2, 2012.

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Chairman Bell called the hearing back to order at 5:00 P.M. on February 2, 2012 at the Cotopaxi School gymnasium, 345 County Road 12, Cotopaxi, Colorado.

Those present recited the Pledge of Allegiance to United States of America.

Jonita Davenport, OTR Project Director introduced the OTR Corporation project team consisting of Vince Davenport, Chief Engineer; Lori Potter, Attorney; Steve Cofflin and Miles Graham, Communications; Ralph Trapani, Traffic Engineer; and Artist Christo.

Lori Potter, OTR Attorney gave a shortened version of the project presentation. The project exhibition period will be for two weeks hopefully during August 2014. In November 2011 the BLM released their decision of record for the EIS. They are in the process of working with Chaffee County for a Special Events Permit as well as a CDOT permit. She explained the construction process and time frame for the project.

Ralph Trapani, OTR Traffic Engineer explained the most important priority for the project is public safety. Measures are being implemented to prevent diversion to county roads through the Adaptive Traffic Management plan. Emergency vehicles will be given priority through the construction zones. Cumulative delays should be less than 10 minutes and only during daylight hours. Lanes in both directions will never be closed at the same time. Construction will not take place during the summer months from Memorial Day to Labor Day.

Planning and Zoning Director Bill Giordano highlighted the requirements and conditions of the permit request. He provided a copy of the permit for the public and it is on line at the County web site.

Public Comments: Began at 5:36 P.M.

Carl Grashof lives in Howard and has been a raft guide for numerous years. He strongly supports OTR as it will inspire our young people. He looks forward to this epic event.

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Shelly Young spoke against the OTR Project. She believes the County only wants the project here for the money it will generate and is not interested in what is best for the residents of Fremont County.

Lyle Latvala asked the Board not to take away the choices of the residents by allowing this art project to proceed. The residents will not have the freedom of choice to view art but will be forced to see it every day for three years.

April Prout-Ralph is the Marketing Director for the Chaffee County Visitors Bureau. She said it is an honor to have this opportunity to work with Christo on this project. She has had over 30 journalists from all over the world come to Chaffee County to see the proposed site.

Jerry Mallett is a former Chaffee County Commissioner and has reviewed the project extensively. He has reviewed over 500 Environmental Impact Statements and 1100 Environmental Assessments in past years. His concern was always how wildlife would be impacted by the proposed activities. He found no adverse impacts from the OTR project on wildlife, fishing and the Big Horn Sheep.

Thomas Kainz explained he is a concerned citizen that is fearful of someone with deep pockets coming to our pristine community and leaving behind an environmental mess. He asked the Commissioners to allow the citizens to be able to vote on this issue.

James Burnham owns the Arkansas River KOA and Loma Linda Motel in Cotopaxi with his wife Amy Burnham. He and many of his customers are appreciative of the abandoned rail cars that were removed from the canyon because of the OTR Project. He feels the costs and risks are well worth the benefits to local businesses. He hopes the broadband and cell phone communications will be improved upon as well.

Amy Burnham owns the Arkansas River KOA and Loma Linda Motel in Cotopaxi and supports the OTR Project. She suggested the project could be a help to the people in the canyon by bringing in cell phone and internet service.

Mark Moffett said he was an employee for Christo and Jean-Claude at the Gates Project in New York. He has a unique perspective as he is also a firefighter and has a Bachelors Degree in Fine Art. Gratitude needs to be given to the people of the community that will be impacted in their daily lives by this project. Mark said it would be a mistake not to approve this special event.

William Holt of the Colorado State Patrol (CSP) said they have been dealing with the project since its inception. The CSP has a successful track record with large projects such as the Democratic National Convention, a visit by Pope John Paul, and the Economic Summit. The CSP has no position on the OTR Project. Commissioner Stiehl asked if there will be an increase in patrol during the construction phase. Master Sergeant Holt said there is nothing in place at this time.

Greg Ralph represents Monarch Mountain Ski Resort in Chaffee County and they are 100% in favor of this project. Most of their customers will be using the Highway 50 corridor during the construction phases and they will do their best to relay construction information to their customers. The project will be a huge tourism boost which is vital to the area.

Elizabeth Ritchie thanked the Commissioners for conducting such a fair, honest and thorough process. She believes this is democracy in action and was impressed with the hearing yesterday as well. Christos' intention is to do no harm but only bring beauty and joy to our area. The mitigation measures required by the BLM have the potential to increase the Big Horn Sheep population.

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Pete Sandachuck asked the Commissioners not to approve the TUP request. The wildlife have no say on the project and will not benefit from it in any way. The Colorado Division of Parks and Wildlife Commission unanimously rejected any kind of vote for the OTR Project.

Brent Bruser lives in Westcliffe and is in favor of the project. He recently had conducted a workshop with 29 people in attendance for one week. The estimated economic impact for the community from this event was \$35,000 to \$40,000 for hotels, meals and transportation. The OTR Project has the potential to bring in over 400,000 visitors to our area which will be an enormous economic boost.

Joan Anselmo said many details are missing for this permit. Public safety will be compromised by the project. The County could be held liable for any damage done to the environment and the area residents. She urged the Commissioners to rule against the TUP request.

Reta Martinez is neither for nor against the OTR Project. She wants to know how the project will benefit the school and children. Due to state budget cuts to education the Cotopaxi School is at risk of losing their art program. She hopes there is a way to use some of the revenue generated from the project for this school district.

Rob Canterbury is a lifelong resident of Fremont County and is concerned with access to the Cotopaxi Church. The Church has never been contacted about the OTR Project and how it will affect them during construction and the Exhibition Phase. It will be difficult to get to the Church or park at the Church during the event.

Yvonne Schaefer is from Colorado Springs and is for the TUP request. She lived in Atlanta while the Olympic Stadium was being built and had to drive through the construction every day. It was not a problem and was a much larger project than this will be.

Dianne Keil feels the project is ill advised and a decision has already been made to go forward with it. How can 300,000 plus people view the display in two weeks. The tourists who come to see it will not be happy with the viewing restrictions and will have a negative image of our community.

Commissioner Bell stated that no decision has been made and that is why the Board is having the hearings to listen to public input.

Anne Langford is the manager of the Cotopaxi General Store. She is concerned with the pull outs along Highway 50 being closed as they contain restrooms and many people will be using their restrooms. Over the two year period the extra drive time will add up for many people on their daily commute. She hopes the Board will vote against the OTR Project.

Robert Johnson drives through the canyon to work every day. The canyon is already beautiful and does not need artificial enhancement. Commissioner Norden asked where he commutes from and at what time of day. Robert said he drives from Cotopaxi to Salida from 6:30 A.M. and back from Salida to Cotopaxi between 4:30 P.M. and 6:00 P.M.

Bob Hamel owns Arkansas River Tours in Cotopaxi and is a member of the Arkansas Outfitters Association he voted against the OTR Project. He is Chairman of the Arkansas Headwaters Citizens Task Force and they voted to not support this project. In the BLM's Record of Decision the OTR Corporation will offset money the State Parks will lose but are not reimbursing other businesses such as anglers and rafters who will also see a negative impact. They may not be able to run raft trips during the exhibition as the logistics will not work.

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Bill Canterbury said agriculture is the second largest industry in Colorado with tourism and recreation being the first largest industry. During the month of August he cuts hay between Westcliffe and Salida and will not be able to get onto Highway 50 with his tractor. He said there are ranchers with federal grazing permits issued by the BLM for the land that runs next to the railroad tracks and he wants to know if they will be restricted during the two year construction phase. They need to have access at all times to their cattle that graze on the land in the river corridor.

Kenneth Owens is concerned that the Big Horn Sheep will not have water as the guzzlers are to be filled with rain water. We have been in a draught for the past several years. He wants to know how county roads will be able to be used for the heavy construction equipment but residents can't even drive an ATV on them.

Robert Alleson owns a ranch on Highway 69 in Hillside. The residents of the area will be subject to noise, dust, dirt, and traffic delays for more than two years. This project needs to be stopped as it uses public right of ways and public land.

John Walker said residents who live in rural areas are inconvenienced every day but manage to survive every day. Traffic gets congested in the summer with tourists and skiers in the winter. He lives right in the middle of the project area and is excited to see it take place. He asked the Board to make the County Office of Emergency Management a liaison for local Emergency Management Services. Commissioner Norden said if the project proceeds the Commissioners would insist that all of the Fire and Emergency Services for Western Fremont County be at the Emergency Management Plan meetings.

Jeremy Cole is a rancher in the area and his kids go to the Cotopaxi School. He understands the economic benefits to the state but what is the benefit for Cotopaxi and Texas Creek.

Ray Bush owns a small business in Salida and does not believe his business will directly benefit from the OTR Project. He said the Community will benefit from the millions of dollars that will be generated from it. He is excited to float under the project several times.

Derek Cocovinis is a fine art appraiser and opposes the OTR Project. This will be a disruption to the wildlife and the native soils. It will negatively impact the working people of Texas Creek, Howard, Coaldale and Cotopaxi every day. The 9000 holes that will be drilled on the fragile land will never be put back to its natural state.

Byron Alsup is a Coaldale resident with a business in Howard. He was undecided for a long time but is now in support of the project. This will be a unique opportunity to see world class art in his own back yard. It is an economic plum being handed to our County with exposure that you can't buy or create.

These Citizens spoke again:

Ellen Bauder wonders how the impact of rain, hail and wind will impact the fabrics. The EIS states that an engineer will certify the project. Within the last six months wind gusts of 60 to 100 miles per hour have occurred in the area. There are no reports of the velocity tests in the EIS. The Big Horn Sheep will be negatively affected by the collars placed on them and the helicopters used in this process.

Janice Yalch said this project has been compared to the New York City Gates project. She would not object to it if it was in the Royal Gorge Park. Many of the area residents do not have water and it has to be trucked in. Some residents have physical therapists who need to drive to their homes or have oxygen and medicine delivered. How will these services be impacted?

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Jill McFarland commented on the FEIS Table 4-21 that references the socioeconomic impacts to local residents. The increased costs to local residents for traffic delays will total \$836,000 to be absorbed solely by the residents. In Section 5.14 the FEIS states that no mitigation measures were identified. She suggested an escrow account should be established that is dedicated to the compensation of verifiable losses to affected citizens.

Ron McFarland was impressed that the Commissioners were able to obtain answers to some of their question to the applicant at the previous hearing. He said the part of his research on the traffic study was a basis for the lawsuit that was just filed against the OTR Corporation. In section 18A of the TUP application it states the County has the right to obtain professional views if deemed necessary. Ron encouraged the Board to obtain an independent traffic study.

Ben Goodin a Coaldale resident said he trusts only two law enforcement agencies, the Fremont County Sheriff's Department and the Colorado State Patrol. He asked that Christos' security team not be armed or allowed to concealed carry weapons. If this project is approved the residents of the canyon will not have the option of refusal.

Judith Hicks said no amount of money or jobs is worth the amount of harm that will be done to the Arkansas River and five other rivers. She asked the Commissioners to deny the TUP as it is the smartest decision possible.

Dan Ainsworth of ROAR said he is the President of ROAR and is against the OTR Project. The two year construction period is more likely to be three or four years of interruptions. The section of Parkdale to Texas Creek is only 15 miles and can't meet the FEIS requirements during construction for this section. The jobs that will be produced will be medial temporary jobs. There is no place in this region to purchase the materials needed for the project. He said that Highway 50 starts in Washington D.C. and runs to San Francisco it is the main artery for Fremont County. He does not believe the rafting companies insurance will allow them to raft under the fabrics during the construction or exhibition phase. Dan urged the Commissioners to say no to the project.

Cathey Young said the BLM states four times in their EIS Record of Decision that all other permitting agencies are not obligated to approve this project. The TUP application states that counterweight will be used in place of outriggers. The equipment can't be operated without the outriggers no matter how heavy the counterweights are. As the equipment is construction equipment is larger than the highway lane both lanes will need to be closed at one time. This violates what the OTR Corporation has said.

Lori Potter, Attorney for OTR Corporation suggested the gentleman with the BLM grazing leases address the BLM with any concerns. Commissioner Stiehl said they are concerned with the lack of fencing to keep the animals away from the project. Ms. Potter said this should be addressed with the BLM. Commissioner Norden had a phone conversation with Tim Canterbury regarding the project if fences are disturbed during construction to be sure they are repaired immediately so cattle do not get onto the Highway. Ms. Potter said their permit does not call for any removal of fencing on federal land. Commissioner Stiehl said many of the areas are not fenced now and the cattle go to the river and potentially to the work site. Ms. Potter said they do not have a right to erect fencing on the Union Pacific right of way. Tim Canterbury explained by statute if they want to keep the ranchers cattle off the land they have to build a fence. The railroad fence is gone. The lessee's cattle will go onto the project area in several areas during the entire construction. Keith Berger from the BLM said they can as stipulations into the BLM plan regarding this issue.

Lori Potter explained the size of the machinery to be used will fit into one lane and both lanes of traffic will not be closed at any time per the CDOT guidelines.

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Commissioner Bell asked what type of law enforcement personnel the OTR Corporation will be using during the staging process. Ms. Potter said the CSP has the manpower to staff the event as is one of the mitigation conditions.

Commissioner Norden asked if they recognize the fact that traffic will increase on County Roads 28, 45, and 1A during the exhibition phase. Ms. Potter said the county roads will be restricted to residents during the exhibition phase. Commissioner Norden said residents will use these roads to conduct daily business. Ms. Potter said no large equipment will be allowed on those roads to bring wear and tear to the roads. Ralph Trapani said the intent is to restrict use of the county roads to local residents who live on those roads. Commissioner Norden asked what they consider to be “both ends” of County Road 45. Mr. Trapani believes it is at the two intersecting County Roads 4 and 5. Ms. Potter said the barricades will be set up where the County believes they will be most effective for the two weekends during exhibition. Commissioner Norden asked which intersections will have temporary signals. Mr. Trapani said temporary signals will be placed at Highway 50 where it intersects: Highway 9, Highway 69, Harvey Bridge, County Road 45, Spike Buck, Pinnacle Rock, and County Road 1A per their BLM permit.

Commissioner Stiehl asked if there could be an effort from the artist to visit the Cotopaxi School and inspire this generation. Ms. Potter said Christo has visited numerous schools and could visit this one as well. There is a curriculum for Teachers available on the website for K-12 grades.

Commissioner Bell said the hardest impact will be on the residents in Howard, Cotopaxi, Coaldale and asked if the OTR Corporation will consider reimbursing these residents for loss of revenue. Ms. Potter explained the panel areas are not in these areas and it is not warranted here. Commissioner Bell believes the placement of the panels will directly affect these residents.

Ralph Trapani reiterated that construction will only take place during day light hours in the winter months. The OTR Corporation has to work through their CDOT Special Use Permit in order to give a commitment to the Colorado State Patrol.

Commissioner Norden said that Fremont County reserves the right for safety and welfare of the Citizens to impose additional conditions. Ms. Potter said to add conditions to a permit once it has been issued is not in the code. This has been a very long and thorough process and they need to know upfront what costs and conditions to expect. Commissioner Norden said he is looking for some other assurance to be able to handle unexpected issues. His only other alternative would be for a “No Vote”. Ms. Potter said the County has listed 36 conditions and these will address all of the issues that have been raised as these are supplementary to the Federal and State conditions. Commissioner Stiehl said it is hard to impose conditions now as the EMP is not yet complete. Ms. Potter said the EMP process is the proper forum for all of the agencies to address changes.

Chairman Bell closed the Public Hearing at 8:30 P.M.

Commissioner Bell motioned to keep the written public comment period open until 4:30 P.M. on Thursday February 9, 2012. Commissioner Norden seconded the motion. Upon Vote: Commissioner Bell, aye; Commissioner Norden, aye; Commissioner Stiehl, aye. The motion carried.

Commissioner Norden moved to table the TUP 11-008 Over The River request until the Fremont County Board of County Commissioners Meeting on Tuesday February 28, 2012 at 9:30 A.M. Commissioner Stiehl seconded the motion. Upon Vote: Commissioner Norden, aye; Commissioner Stiehl, aye; Commissioner Bell, aye. The motion carried.

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Chairman Bell adjourned the meeting at 8:34 P.M.

Clerk and Recorder