

**FREMONT COUNTY  
PLANNING COMMISSION MEETING MINUTES  
JANUARY 6, 2009**

CHAIRMAN TOM PILTINGSRUD BROUGHT THE JANUARY 6, 2009 MEETING OF THE PLANNING COMMISSION TO ORDER AT 7:00 P.M.

**MEMBERS PRESENT**

Tom Piltingsrud, Chairman  
Bill Jackson  
Herm Lateer  
Dean Sandoval  
Mike Schnobrich  
Keith McNew  
Tom Doxey

**STAFF PRESENT**

Bill Giordano, Planning Director  
Vicki Alley, Planning Assistant

**MEMBERS ABSENT**

None

**1. APPROVAL OF THE DECEMBER 2, 2008 PLANNING COMMISSION MEETING MINUTES**

- 2. REQUEST: SRU 08-005 I. C. E. Office of Detention & Removal - Fremont County**  
Request approval of a **Special Review Use Permit, Department file #SRU 08-005 I. C. E. Office of Detention & Removal - Fremont County, (Immigration and Customs Enforcement)** for the operation of a removal and detention facility for the processing of illegal aliens, usually not to be detained for more than ten (10) hours, by JIOL, LLC. The property is located *on the west side of Colorado State Highway 67, approximately 0.8 mile south of the intersection of U.S. Highway 50 and Colorado State Highway 67, north of Florence, Colorado. The property is described as Lot 38, Airport Industrial Park, Filing No. 1, located in the Industrial Park Zone District and contains 7.54 acres.*

**REPRESENTATIVE:** *Thomas A. Duke, Architect, T. A. Duke & Associates*

- 3. REQUEST: SRU 08-004 SOUTHERN DELIVERY SYSTEM-Continued from December 2, 2008 meeting so as to allow Planning Commission additional time to review the application and additional information provided at the meeting.**

Request approval of a **Special Review Use Permit, Department file #SRU 08-004 Southern Delivery System (Public utilities buildings, regulators and substations)** for the construction of a water intake and pump station, along the Arkansas River, two additional pump stations (all pump stations will contain an electric substation), seventeen (17) miles of a sixty-six (66) inch diameter pipeline and an electric substation and transmission facilities, (to be operated and owned by Black Hills Energy and which will require a separate SRU application), by **Colorado Springs Utilities**, for property owned by various property owners. The proposed river intake and Pump Station #1 is to be located *on the north side of the Arkansas River, west of Colorado State Highway 115, just east of the Fremont Sanitation District treatment plant, which is located east of Florence,*

Colorado. Pump Station #2 is proposed to be located north of 3<sup>rd</sup> Street approximately one-third (1/3) mile east of the extension of A Street to the north, in the Beaver Park Area. Pump Station #3 is proposed to be located approximately one-quarter (1/4) mile west of Colorado State Highway 115 and approximately two (2) driven miles north on Colorado State Highway 115 from its intersection with Fremont County Road #F45. The proposed stand-alone electric substation will be located approximately 0.6 miles south of the intersection of Colorado State Highways 115 and 120, southeast of the Rainbow Park Area, which is located east of Florence, Colorado. The properties to be purchased or leased for the project will consist of approximately four-hundred and thirty-one (431) acres, within the Agricultural Forestry, Agricultural Living and Agricultural Estates Zone Districts.

**REPRESENTATIVE:** Colorado Springs Utilities, John Fredell

4. **OTHER ITEMS FOR DISCUSSION**  
Discuss any items or concerns of the Planning Commission members.
  5. **APPROVAL OF PLANNING COMMISSION MEETING DATES**
  6. **ELECTION OF FREMONT COUNTY PLANNING COMMISSION OFFICERS**
  7. **ADJOURNMENT**
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Chairman Tom Piltingsrud called the meeting to order at 7:00 pm and the Pledge of Allegiance was recited.

1. **APPROVAL OF THE DECEMBER 2, 2008 PLANNING COMMISSION MEETING MINUTES**

Chairman Piltingsrud asked if there were any changes, additions or corrections to the December 2, 2008 Fremont County Planning Commission Meeting Minutes. Hearing no changes, he said the minutes stand approved as written. Chairman Piltingsrud complimented the Department on the thoroughness of the minutes.

2. **REQUEST: SRU 08-005 I. C. E. Office of Detention & Removal - Fremont County**

Mr. Thomas A. Duke, Architect, T. A. Duke & Associates, was present to request approval of a Special Review Use Permit, Department file #SRU 08-005 I. C. E. Office of Detention & Removal - Fremont County, (Immigration and Customs Enforcement) for the operation of a removal and detention facility for the processing of illegal aliens, usually detained for not more than ten (10) hours, by JIOL, LLC. The property is located on the west side of Colorado State Highway 67, approximately 0.8 mile south of the intersection of U.S. Highway 50 and Colorado State Highway 67, north of Florence, Colorado. The property is described as Lot 38, Airport Industrial Park, Filing No. 1, located in the Industrial Park Zone District and contains 7.54 acres.

Chairman Piltingsrud explained the way this item will be conducted tonight. First Mr. Duke will make his presentation. Then the Planning and Zoning Department will make their comments. Although this is not a public hearing, the Planning Commission will take public

comment. Then Mr. Duke will have a last opportunity to rebut anything that was discussed. The Planning Commission will then deliberate and make a decision.

Mr. Duke said he hoped that everyone had a chance to read the submittal packets, so the presentation will be fairly brief. We are planning on building a 11,000 square foot office for I.C.E., which is the Immigration, Control and Enforcement for the U.S. Government. We are only developing a third of the property that is considered Lot 38. The total acreage is 7.54, and we are developing about two and one-half to three acres for this facility. We have designed the building to accommodate all code requirements, and have paid particular attention to the esthetic nature, because it is a fairly visible site, as far as traffic goes. The building itself is predominantly brick with some cast stone features at the base and porcelain panels at the top. The facility will be a single-story building, with a security fence that goes around the back side, and public access at the front.

Mr. Giordano showed a video of the property and the surrounding area. He then briefly discussed the Department Review. He noted that the first seven recommended conditions are standard requirements that are included in all Special Review Use (SRU) Permits. Regarding the recommended conditions specific to this use, the days and hours are not limited, any light to be used shall be directed to avoid casting light onto other properties, the I.C.E. Office shall be serviced by a fire suppression sprinkler system, and the Frontage Road across the property shall be constructed to County standards. Regarding the Frontage Road, the applicant proposed construction across one side of the property, and the Department is proposing that the road be constructed across the entire property frontage, to service other lots in the subdivision. The remaining specific recommended conditions are compliance with any requirements of the Fremont County Noxious Weed Control Office, and compliance with any requirements of the Fremont County Reviewing Engineer. Recommended conditions N and O are, again, standard conditions of a SRU Permit. Mr. Giordano also summarized the recommended contingencies and the additional notification requirements.

Regarding the applicant's waiver request, Mr. Giordano noted that under the regulations, buffering is required based on the standards listed in Section 5.2.6 of the Zoning Resolution. However, in this particular instance, because of the uses being compatible on all sides of the subject property, the applicant is asking for a waiver of those requirements. They are not asking for a waiver of the landscaping altogether, because they are proposing some landscaping, but their proposal will not meet the standards of Section 5.2.6 of the Zoning Resolution. The Department has no concerns regarding this waiver, because the intent of the regulation is to protect residential properties, and there are no residential properties in this area.

Chairman Piltingsrud asked the Planning Commission if they had any questions of the Department. Hearing none, he asked Mr. Duke if he had any comments regarding the Department's recommendations.

Mr. Duke answered that he thought the water tap had already been purchased from the City of Florence. Also, he thought he had already provided the quit claim deed to Fremont County for a fifty foot right-of-way for the frontage road.

Mr. Giordano responded that the Department Review may have been completed before receipt of the quit claim deed.

Mr. Duke stated that they plan to meet with the Fremont County Noxious Weed Control Officer when the project is about a month or a month and a half from being completed to tour the grounds, see if there are any noxious weeds, develop a remedy program if there are, and determine what needs to be done to make sure that any noxious weeds don't come back.

Mr. Giordano noted that this requirement was made a condition which must be met prior to operation, instead of a contingency which would have to be met prior to recording. This will give the applicant an opportunity to work with the Weed Control Officer.

Chairman Piltingsrud asked if any members of the public would like to give comments. No one in the audience came forward.

### **MOTION**

Mr. Sandoval moved to **approve** request SRU 08-005 I.C.E. Office of Detention & Removal – Fremont County with the following:

### **Recommended Conditions:**

- A. Special Review Use Permit shall be issued for life of use.
- B. The Department shall review the permit annually to determine compliance with the conditions of the permit and forward it to the Board for their review as required by regulations. It shall be the responsibility of the permit holder to provide the Department with copies of other permits, licenses, or other documentation showing compliance with the requirements of any other governmental agency (*to include items such as changes to the documents, updates, renewals, revisions, annual reports*). Further it shall be the responsibility of the permit holder to provide the Department with copies of any documents that would affect the use of the subject property, such as but not limited to updated or renewed leases for use of or access to the subject property. Copies of these documents shall be submitted to the Department prior to the anniversary date of the approval of the use permit each year. If the Department has to notify the permit holder that the anniversary date has passed and / or request said documentation, then a penalty fee shall be charged to the permit holder. If the required documentation and penalty fee are not submitted to the Department within twenty (20) days following notification to the permit holder, then violation procedures may be commenced, which could result in termination, revocation, rescission or suspension of the use permit.
- C. The Applicant shall conform to all plans, drawings and representations submitted with or contained within the application except as may be inconsistent with the other provisions of the permit.
- D. The Applicant shall comply with all laws and regulations of the County of Fremont, its agencies or departments, the State of Colorado, its agencies or departments and the United States of America, its agencies or departments, as now in force and effect or as the same may be hereafter amended.

- E. Applicants shall obtain, prior to operation, and keep in effect, throughout operation, all other permits, licenses or the like, including renewals, required by any other governmental agency and as otherwise may be required by Fremont County and shall provide copies of such to the Department. Revocation, suspension or expiration of any such other permits shall revoke, suspend or terminate the permit authorized hereunder, as the case may be.
- F. If a Special Review Use is abandoned, discontinued or terminated for a period of six (6) months, the approval thereof shall be deemed withdrawn, and the use may not be resumed without approval of a new application. Provided, however, if the holder of the permit intends to or does temporarily cease the special review use for six (6) months or more without intending to abandon, discontinue or terminate the use, the holder shall file a notice thereof with the Department prior to the expiration of the six-month period stating the reasons thereof and the plan for the resumption of the use. The requirement of a notice of temporary cessation shall not apply to applicants who have included in their permit applications a statement that the use would continue for less than six (6) months in each year and such fact is noted on the permit. In no case, however, shall temporary cessation of use be continued for more than two (2) years without approval by the Board.
- G. If a Special Review Use Permit is to be transferred it shall comply with all applicable Federal, State and County regulations regarding such transfer.
- H. Days and hours of operation shall not be limited.
- I. Any lighting to be used shall be directed to avoid casting light onto other properties.
- J. I. C. E. office shall be serviced by a fire suppression sprinkler system as per the Florence Fire Protection District.
- K. Documentation as to construction of the Frontage Road across the property to County standards, prior to operation.
- L. Documentation as to compliance with any requirements of the Fremont County Noxious Weed Control Office as related to the noxious weed plan, prior to operation.
- M. Documentation as to compliance with the requirements of the Fremont County Reviewing Engineer, as per letter dated November 12, 2008, prior to operation.
- N. The County shall retain the right to modify any condition of the permit, if the actual use demonstrates that a condition of the permit is inadequate to serve the intended purpose of the condition. Such modification shall not be imposed without notice and a public hearing being provided to the Applicant at which time applicant and members of the public may appear and provide input concerning the proposed modifications to the conditions of the permit.
- O. Only the named party on the permit shall be allowed to operate this Special Review Use Permit. Board approval shall be required prior to allowing any other person or entity to operate at the site under the conditions of this permit. All persons, entities or others

requesting Board approval to operate under this Special Review Use Permit must agree to abide by all terms and conditions of this Special Review Use Permit and shall be required to be named on this Special Review Use Permit as additional parties who are bound by the terms and conditions of this Special Review Use Permit.

**Recommended Contingencies:**

The approval recommendation is made contingent upon, at a minimum, the following items being provided to the Department, by the applicant, within six (6) months (*no extensions except through regulatory process*) after approval of the application by the Board of County Commissioners:

1. Documentation as to purchase of water tap from the City of Florence, Colorado.
2. Quit-claim deed to Fremont County for a fifty (50) foot right-of-way for the frontage road from south property line to the north property line.
3. The final site plan drawings shall note the following:
  - a. All exterior boundary dimensions. (A broken line is acceptable for entire lot dimension).
  - b. Building dimensions.
  - c. Zoning classification for property to the north of this property (Industrial Park).
  - d. Written scale.
  - e. Vicinity map site designation does not represent location of the site. Please correct.
  - f. Locate and dimension drainageways, drainage ditches, detention ponds and areas.
  - g. Provide dimensions for all right-of-ways, roadways, etc.
  - h. If there are no pedestrian walkways or areas provide a note stating such, otherwise they shall be shown located, dimensioned, identified as to type, width, thickness, etc.

**Additional Notification Requirements:**

In addition to the notifications required by regulation, the following shall also be notified in accordance with regulations:

1. City of Florence Planning Department
2. Fremont County District 2, County Road Foreman
3. Fremont County Airport Manager
4. Colorado Department of Transportation
5. Fremont County Sheriff
6. Fremont / Custer Historical Society
7. Fremont County Weed Control Officer

**The Planning Commission recommended granting the following:**

**Waiver Request:**

1. The applicant has requested a waiver of Section 5.2.6 as noted below, as landscaping is not warranted since the property to the south and north is Industrial Park, which is compatible to the proposed use and to the west is the Prison property, which is also compatible. **It should however be noted that some landscaping is proposed as per site plan drawing.**

**5.2.6 BUFFERING & LANDSCAPING REQUIREMENTS:** The applicant shall be required to provide screening or a buffering strip, which will act as an opaque visual barrier, unless waived by the Board. Where, in these regulations, any such screening or buffering strip is required to be provided and maintained, such buffering strip shall consist of a row of trees or continuous un-pierced hedge row of evergreens or shrubs of such species as will produce within three (3) years a screen height of at least six (6) feet and shall be of the following minimum sizes at time of installation:

Deciduous shrubs	4' height
Spreading evergreens	30" spread
Tall evergreens	3' height
Screen planting ( <i>evergreen</i> )	4' height
Trees	2 and ½" caliper
Ground cover	2 and ½" pot

The entire buffer strip shall be immediately adjacent to the lot line or portion thereof, with consideration given to utility or drainage easements. The remainder of the strip shall be used for no other purpose than the planting of shrubs, flower beds, grass, or a combination thereof. The buffer strip shall be at least eight (8) feet in width and shall be graded and planted with grass seed or sod and such other shrubbery or trees. The entire area shall be attractively maintained and kept clean of all debris and rubbish.

In required buffer strips where a natural buffer strip is considered to be impractical or inappropriate, an opaque fence may be substituted in whole or in part for a natural buffer provided its specifications are approved by the Board.

**SECOND**

Mr. Lateer seconded the motion.

Chairman Piltingsrud asked Mr. Sandoval if he would like to cite any approval criteria.

Mr. Sandoval listed the following approval criteria:

1. The procedural requirements of this section have been met.
2. The proposed use will not have detrimental effect on property values. The proposed site and use will not impair public health, welfare, prosperity and safety by creating undesirable sanitary conditions, overburdening of utilities or adverse environmental influences.
3. The site is sufficient size to accommodate the proposed use together with all yards, open spaces, walls and fences, parking and loading facilities, landscaping and such other provisions required by this resolution.
4. The proposed use, if it complies with all conditions on which approval is made contingent, will not adversely affect other property in the vicinity or the general health, safety and welfare of the inhabitants of the County, and will not cause significant air, water, noise or other pollution.

5. The location of the proposed use is compatible and harmonious with the surrounding neighborhood.

Chairman Piltingsrud called for discussion on the motion.

Mr. Doxey noted that on the drawing, a one inch gas line is shown, coming into the site and feeding the whole property. He said that seems kind of small. Is that an error? There is a gas-fired generator, a full kitchen, and the heating of the building.

Mr. Duke answered that there is not a full kitchen. To clarify, the engineering aspect of this project, including the size of the gas line and the size of the generator, which is proposed to serve as backup for emergency power, those requirements just got finalized. We will be going back to look at all the utility lines and all the sizes to make sure that we are where we need to be. As soon as we get a complete set of engineered drawings, we will provide copies.

Mr. Doxey asked if the gas line might be made bigger before the plans are finalized.

Mr. Duke answered that gas line size could change.

Mr. Doxey asked if the surface material has been selected yet, five inch concrete or asphalt.

Mr. Duke answered that will depend on the economic situation, how expensive oil is in the next four months or so.

Regarding the entranceway, Mr. Doxey said he noticed that there is a swale and not a culvert. Is that because there is such a shallow grade there?

Mr. Duke answered that there is a swale on the south side of the property which runs all the way back to the detention pond.

Mr. Joe Gagliano, civil engineer for the project, stated that there is not enough grade change at that location to put a culvert. We are at the top of a hill in that area, with grade breaking just slightly, so that is why we have a driveway pan instead of a culvert.

Mr. Doxey asked if Mr. Gagliano thinks the swale will carry the water during a heavy rain.

Mr. Gagliano answered that it appears so. All that drainage drains to the southwest corner of the property. On the site itself we have a detention pond system to collect all of the runoff.

Mr. Doxey noted that on the pond area, they mention rip-rap. Is that going to be hard to maintain once it starts filling up with silt? Have you ever tried to sweep sand out of rip-rap?

Mr. Gagliano responded that is something we might want to work with the owner on, and go to concrete. Rip-rap is very hard to maintain.

Chairman Piltingsrud asked if there was any other discussion or questions on the motion. Hearing none, he called for a vote. The motion passed unanimously.

### **3. REQUEST: SRU 08-004 SOUTHERN DELIVERY SYSTEM**

The request for approval of a Special Review Use Permit (SRUP), Department file #SRU 08-004 Southern Delivery System (Public utilities buildings, regulators and substations) **was continued from the December 2, 2009 meeting to allow the Planning Commission members additional time to review the application and the additional information which was provided at that meeting.**

Chairman Piltingsrud stated that we have already had the presentation from the applicant, Colorado Springs Utilities (CSU), we have already had the Department's comments, and we have already had some public input. This is not a Public Hearing that goes before the Board of County Commissioners. The Planning Commission is not required to take public input, but we always do and always will as long as I am Chairman. He asked if there is anyone present from the public who did not speak at the last meeting who would like to speak at this time.

#### **Mr. Tony Keenan, 50905 Highway 50 West**

I represent the Arkansas River Outfitters Association. I am the Water Resources Chairman or Advisor. (*Mr. Keenan distributed a handout titled "Proposal for Agreement between Fremont County and Colorado Springs Utilities – Voluntary Flow Management Program"*) Our association is a trade group that represents probably 90% of the commercial activity on the Arkansas River as far as rafting and fishing goes. Our primary focus is to protect and sustain flows that are conducive to a healthy tourism economy for the protection and future of our industry. Colorado Springs Utilities is one of the few municipalities that we have not yet brought on board to support and cooperate with what is known as the Voluntary Flow Management Program. This is a year-round flow program that sustains flows for not only the fishery, but there is a summer component that goes from July first to August fifteenth, that is designed to sustain a flow for rafting and river recreation. This includes not only commercial rafting, but also private boating as far as kayakers and people who own their own rafts and such. The Voluntary Flow Management Program is going into its eighteenth year of existence. It is a model of cooperation and mutual respect between water owners, providers, and the rafting and tourism industry. This is a golden opportunity for us to help to protect a very important industry in this county which is tourism, not just rafting. There are a lot of peripheral businesses that depend on the tourism dollars that come into this county from the rafting industry. Colorado Springs Utilities is probably the biggest out-of-valley water user of the Arkansas River. The Southern Delivery System does not really affect us one way or another as far as that they are going to build it, which we are not opposed to, or where they build it. In our perspective, it doesn't matter whether it comes through Fremont County or down I-25. What matters to us is that Colorado Springs Utilities agrees to some stipulations that respect the flow program, particularly during the summer component from July first to August fifteenth. What can happen is, as water users and providers draw water from the river when we are trying to maintain a minimum level of 700 cubic feet per second (cfs) at Wellsville, that causes us to request the Bureau of Reclamation to bring down more water. Every bit of water that gets taken out, they have to bring down more. We are allotted a beginning amount of 10,000 acre-feet per year. If that doesn't make it all the way to August fifteenth, then it creates problems within our industry and it causes us to go back to the table with the Bureau to ask for more water. As they are earmarking water for recreational flows and some other entity is exchanging it out of the river, it causes us to run out early or beg for

more water. We are the orphans in all this. We own no water rights. The Bureau of Reclamation and the Southeast Colorado Water Conservancy District have gone a long way in the last eighteen years to assure us that we get that minimum flow of 700 cfs. It is our intention to protect that. By adding the stipulation that I handed out to you to whatever contractual agreement you may come up with, with Colorado Springs Utilities, only helps us to protect our industry and the economic viability of tourism in the county in general. Thanks for letting me talk.

Chairman Piltingsrud said he had a speaker's information slip for Mr. Jack L. Tyler.

Mr. Tyler stated that his organization had spoken at the last meeting. (*Mr. Gary Ratkovich, President of Beaver Park Water Irrigation Board, commented on the Southern Delivery System at the December 2, 2008 Planning Commission meeting.*)

Mr. Schnobrich asked if Mr. Tyler had anything new to add, because Beaver Park Water submitted another comment letter to the Department.

Mr. Tyler answered that the letter describes our situation and our concerns very clearly.

**Mr. Doug Koehn, 1102 Vine Street, Cañon City**

I am concerned about this project because of the possible instability of the river. I am not an engineer, but it seems to me that the quicker you draw water out of the river, the lower it is going to get. Drawing water out below Florence, you don't provide the stability of the dam, and that backup effect. Also, as we are all aware, agriculture is under pressure from animal rights activists, and everywhere you turn. Without water, there is basically no agriculture. Everybody can do without gas. We can walk if we have to, but we have to eat. Therefore, I would request that you take this into consideration. We have just gone through a big ordeal and not through it yet, with the fuel situation. We see what happens when we depend on other people to raise our food. The same thing could happen here. If agriculture water continues to be in peril, and there are fewer and fewer people to farm and grow food, we would be paying a tremendous cost and economic burden on every person. I would hope that you take these points into consideration and take agriculture into consideration in your decision. Thank you very much.

Chairman Piltingsrud called for further comments from the public. Hearing none, he asked Mr. Giordano if he had anything to add.

Mr. Giordano answered no.

Chairman Piltingsrud asked if the applicant would like to make a final comment.

Ms. Jennifer Hunt, Special Council to Colorado Springs Utilities, submitted a response letter to the staff immediately prior to the beginning of the meeting, and asked that the letter become part of the record. This letter is a response to all the public comments that had been received during the last meeting and afterwards.

Chairman Piltingsrud asked if there would be any other comment from the applicant. Hearing none, he said the Commissioners will begin their discussion and deliberation, which will probably require an interchange between the Commissioners as they have questions, the applicant, and the Department. He called for questions or discussion from the Commissioners.

Mr. Doxey stated that he got some literature from the meeting in Pueblo last week between the Commissioners (*Pueblo County*) and CSU. He read the following quote from the literature: "When SDS is operational, there will be a fluctuation in lake levels, much like there are today. Historically, the lake fluctuates up to 60 to 70 feet during a season. When SDS is fully operational in the year 2046, lake levels will be on an average of three and one half feet lower over the course of the entire year. Lake levels are generally the highest in March and the lowest in October, which would not change with SDS. Construction is anticipated to begin in 2009 and be completed by 2012." Mr. Doxey asked for a clarification on the date, 2046. Is that a misprint? Is it going to extend that far out? That is a long way out there to predict.

Mr. Keith Riley, CSU Permitting and Environmental Manager, answered that the date 2046 is based on the end of the planning period for the Environmental Impact Statement that was done by the Bureau of Reclamation. The reason 2046 was chosen is that we are asking to enter into forty year contracts for storage of our water in Pueblo Reservoir, including conveyance and exchange through that facility. The Bureau is looking at what the water demands will be at the end of the contract period and how the project will operate at that point in time.

Mr. McNew referred to the discussion at the December 2, 2008 Planning Commission meeting regarding the condemnation ability for gaining right-of-way for the pipeline. He asked if CSU has the power to condemn in Fremont County.

Ms. Brenda Jackson, Fremont County Attorney, answered that they do, but the application indicates that they have chosen not to go down that road. They are obtaining easements through voluntary sales and purchases. Condemnation is a last, last resort.

Mr. McNew said that is his main concern. When I sat on the Board of County Commissioners, I was very, very reluctant to pursue condemnation, and that was for the benefit of the people of Fremont County. I definitely wouldn't want condemnation in Fremont County for the benefit of El Paso County. I think that would be a detriment to the land values in Fremont County.

Mr. Schnobrich asked if CSU has the power of condemnation in Pueblo County.

Ms. Jackson answered yes they have that power, but they are choosing not to exercise it.

Regarding the letter distributed by CSU, Mr. Sandoval asked if it would be appropriate to provide a copy of this letter to the referenced entities that are represented here tonight. I would like to see what their response is to this response, so that we can be better prepared to make a decision tonight.

Chairman Piltingsrud called for a ten minute recess to allow the Department to make sufficient copies of the applicant's response letter.

Chairman Piltingsrud called the meeting back to order. He said that he has been advised that the January 6, 2009 letter from CSU constitutes their final presentation. While copies were made for interested parties whose comments are addressed in this CSU letter, I am not going to take more comments from those entities tonight. However, if there are written comments that some of the entities would like to make to the Board of County Commissioners for their consideration, based on what they have seen in this January 6, 2009 letter, that would be most pertinent, and I highly suggest that they do so.

Mr. Schnobrich asked Ms. Jackson if the groups present tonight will get a chance to raise any concerns they have at the Public Hearing held by the County Commissioners. Will the public have another opportunity to comment?

Ms. Jackson answered that there will be another full Public Hearing in front of the Board of County Commissioners.

Chairman Piltingsrud called for any other discussion items from the Planning Commission.

Mr. Doxey asked what CSU's relationship is with Beaver Park Water and Penrose Water. You are both water entities. How do you get along?

Mr. Gary Bostrom, General Manager of Water Supply for CSU, answered that relationship is an ebb and flow relationship. We have had issues over the years to work through. It is my understanding that some of the water rights that CSU currently owns originally were part of the Beaver Park water system. As a result, there are issues that we have to work on between Colorado Springs and Beaver Park. Over my years of working with utilities, I have dealt with Beaver Park on a variety of issues and we work at those. We are committed to working in a cooperative way to resolve those issues that we face, whether with Beaver Park or others.

Mr. Doxey asked right now as it stands, do you have a good relationship with them?

Mr. Bostrom answered we have issues that we are working with them. Over the break I was visiting with Beaver Park Board members, talking about opportunities to work on as far as storing water in a cooperative manner and water rights administration issues that we are still trying to resolve between Beaver Park, Colorado Springs, and other Beaver Creek Basin entities. Those issues are not just between Colorado Springs and Beaver Park. They extend to other water rights within the Beaver Park Basin.

Mr. Doxey said he has lived here ten years and he has heard the same story. What hope lies out there for us? This sphere is getting wider and wider and older and older. Is there some hope for the six thousand people who live here? Can you see some light at the end of the tunnel? If this pipeline goes through could you share with us an opportunity to take water out of that pipe to help the community of eastern Fremont County?

Mr. Bostrom replied that as we have mentioned in the past, if the pipeline goes through Fremont County, there is opportunity to work with Penrose Water, Beaver Park, and possibly others as far as cooperation. We have said that from the beginning and we continue to have that position.

Mr. Lateer said he would like to follow that question up with at what cost and whose cost?

Mr. Bruce McCormick, CSU Chief Water Services Officer, responded we would have to look at a particular partnership in terms of who it benefits, what are the impacts, etc. Obviously, in a partnership to convey water, we would not necessarily do that at no cost, but we certainly believe that there could be an arrangement that is beneficial to both parties, in both an economic and environmental sense. We think there is a good way to partner with a number of entities, including Penrose, Beaver Park, and potentially others. As we said on December 2nd, we are open to cooperative relationships. That is how projects like this get done and get done well, and we are willing to work with folks. To be able to know what the costs would be, I can't tell you that, but we believe it is more beneficial to all parties than going on your own, and we would see that as the case here.

Chairman Piltingsrud said he has a number of proposed contingencies, and he distributed a handout to the Planning Commission members. These are just my proposals, and if we can't come to any agreement on these, we can just throw them out and start over. These are based on some comments I heard last meeting. I also have some approval criteria which is standard in any application. Whether you choose to recommend approval or disapproval, I think that these approval criteria still might be of some use to the Commissioners as they make the final decision.

Mr. Schnobrich said if there will be several proposed contingencies, my concern is that we are not going to be able to have them all in front of us when we finally vote. We are going to have an administrative problem. I suggest that we vote on each contingency as proposed, so we don't have to go back and ask what we talked about 20 minutes ago.

Chairman Piltingsrud moved the following proposed contingency for consideration:

**Proposed contingency number 1: "Applicant is amenable to mutual partnerships, with special consideration for the Penrose Water District and Beaver Park Water, Inc. proposals given legal, permitting and mutual agreements by all potential partners."**

Mr. Schnobrich seconded the motion.

Chairman Piltingsrud called for discussion on proposed contingency number 1. Hearing none, he called for a vote. Proposed contingency number 1 was accepted unanimously.

Chairman Piltingsrud said another proposed contingency is based on Penrose Water District's letter:

Proposed contingency number 2: “The applicant shall ensure that at any crossing or placement within a County right-of-way that the pipeline will be at a sufficient depth to not incur other utilities that have the same right of use excessive costs to those utilities.”

Chairman Piltingsrud said the intent is so that if Penrose Water wants to run a water line across the pipeline, they don’t have to go twenty feet underneath it to do so. He moved that be included as a contingency.

Mr. Schnobrich seconded the motion.

Mr. Lateer said that “excessive” can be a nebulous term. Who is going to determine what excessive is?

Chairman Piltingsrud said “excessive” depends on the utility that is using the easement. Gas lines are different from water lines.

Mr. Lateer said that he agrees with the proposed contingency in principle.

Chairman Piltingsrud said he is not sure they are going to be able to nail the wording down to any real specificity. It gives a feeling, and obviously the Commissioners are going to be able to tweak this if they’d like to whatever standard they choose to do so.

Ms. Jackson said there are regulations in place that govern the depth of utility placement for different types of utilities. The pipeline cannot interfere with the normal depth at which utilities are placed, because they all have an equal right to use the right-of-ways. So the pipeline would have to be on the bottom, then the other utilities could be on top, in accordance with street cut regulations and county road regulations.

Mr. Schnobrich suggested that the contingency be changed to read “in accordance with applicable regulations.”

Chairman Piltingsrud amended the wording to read:

**Proposed contingency number 2: “The applicant shall ensure that at any crossing or placement within a County right-of-way that the pipeline will be at a sufficient depth in accordance with Fremont County regulations and any pertinent codes.”**

Chairman Piltingsrud called for a vote on proposed contingency number 2 and it passed unanimously.

Chairman Piltingsrud said that the third proposed contingency came up last time and was based on a comment from the County Engineer. We had some discussion about this. He made a motion to accept the following contingency:

**Proposed contingency number 3: “The applicant will obtain from CDOT in writing that the narrow Highway 115 easement will allow for Highway 115 to be eventually widened given the east side of steep cliffs and the pipeline abutting their ROW.”**

Mr. Jackson seconded the motion.

Chairman Piltingsrud called for discussion regarding the contingency.

Mr. Lateer asked doesn't the Colorado Department of Transportation (CDOT) have to approve the CSU right-of-way anyway?

Chairman Piltingsrud answered that CSU has received a verbal commitment from CDOT that the placement of the water line closer to Highway 115 where the cliffs are located isn't going to negatively impact CDOT's ability to widen the highway. I don't want CDOT to come back and say we can't widen the highway because there is a pipe there. Hearing no further discussion, he called for a vote and the motion passed unanimously.

Chairman Piltingsrud said the fourth proposed contingency shouldn't be an issue. He made a motion that the following be a contingency:

**Proposed contingency number 4: "The applicant should be aware that adequate stormwater design and construction will be required by Fremont County to obtain a Certificate of Occupancy for each pump station."**

Mr. Schnobrich seconded the motion.

Chairman Piltingsrud called for discussion. Hearing none, he called for a vote and the motion passed unanimously.

Chairman Piltingsrud said the next proposed contingency was discussed at the December Planning Commission meeting. He moved for adoption of the following proposed contingency:

**Proposed contingency number 5: "The applicant has agreed to install, at applicant's expense, a USGS compatible river monitoring gage immediately below the CSU intake structure and above the Fremont Sanitation District discharge point to insure 190 cfs at the new river gage."**

Mr. Jackson seconded the motion.

Mr. Lateer asked if this gage will guarantee the 700 cfs?

Chairman Piltingsrud answered no, all it will guarantee is 190 cfs at the Fremont Sanitation Discharge Point, so that the flows from the Sanitation District are diluted and maybe increase their treatment requirements. The 190 cfs is an agreed-to measurement that almost all water court cases have agreed to when they are discussing the sanitation district. There is a gage for Salida too, but the gage in this proposed contingency is only pertinent to the sanitation district. He called for a vote on the motion and it passed unanimously.

Chairman Piltingsrud asked if there are any other contingencies to be discussed.

Mr. Sandoval said he has a question for the Black Hills Energy representative. Last month I asked about the overhead electrical transmission infrastructure, the overhead wires, and asked about the Pueblo County application, and was told that a good percentage of the Pueblo County application included underground wires. According to your application, we are not looking at any underground wires in Fremont County. That concerns me. What are the overhead electrical transmission infrastructure plans for the El Paso County side of your project?

Mr. Bruce Spiller, Program Director for SDS with CH2M Hill, answered that the El Paso transmission lines are all going to be overhead facilities because they are at the same voltage that we would be looking at in Fremont County, 115 kV, which is what we are proposing to be overhead. In Pueblo County, the 13.2 kV voltage lines, a much lower voltage, can be put underground. That is the difference. El Paso lines will be overhead.

Mr. Sandoval asked if their application has been approved in El Paso County.

Mr. Spiller answered that the permitting process is not as far along in El Paso County, so we haven't gone to El Paso County for approval yet.

Chairman Piltingsrud asked the applicant, this proposal tonight is for an Action Alternative using federal facilities. In the event that you are not given a preferred alternative, could you still elect to use the Highway 115 corridor for a No Action Alternative? You just wouldn't be allowed to use federal facilities, such as Pueblo Reservoir or Turquoise or any of those. You would have to just go it on your own. Is that still an option?

Mr. Schnobrich asked what a No Action Alternative is.

Chairman Piltingsrud answered that the applicant is proposing to use Pueblo Reservoir to store water to help their exchanges to take the water out. If the Bureau of Reclamation, who owns the dam, says they can't use Pueblo Reservoir, they could still build the pipeline.

Mr. John Fredell, CSU Project Director, answered that one of the alternatives that the Bureau is legally required to study is the No Action Alternative. We could build that. I am here to tell you that we would rather not, but we will if we have to build the No Action Alternative.

Chairman Piltingsrud asked if you did go forward with a No Action Alternative Highway 115 project, would it be easier to work partnerships because the federal facilities wouldn't be used and an EIS (*Environmental Impact Study*) wouldn't be required?

Mr. Fredell answered that CSU hasn't really contemplated all those issues. We aren't that far along. I do believe that it is possible to add other participants to the Highway 115 alternative, as long as all the right steps are taken in terms of making sure that the environmental effects are studied appropriately, the water is provided by the participant, etc.

Chairman Piltingsrud asked if it is safe to say that the No Action Alternative would make partnerships easier to do than the Action Alternative.

Mr. Fredell answered no, not necessarily. We really haven't thought that through. I was referring to the Action Alternative, whether or not it is really possible to develop additional partnerships. As we said before, it absolutely is, it is not just pie in the sky. He explained the No Action Alternative. In this situation, it means no federal contracts for storage, conveyance, or exchange for this project from the Bureau. Potentially, there would be other federal action in terms of a permit, a 404 permit for example, but there would not be any of the three actions that will be undertaken by the Bureau related to one of the Action Alternatives. The whole reason we are in this federal permitting process is that we have asked for three major federal actions. We are seeking three permits from the Bureau. The No Action Alternative doesn't mean no action will occur. That term comes from the EIS process, the NEPA (*National Environmental Policy Act*) process, which defines what a No Action Alternative is.

Mr. Schnobrich said he has a couple of contingencies that he would like to add as well. You should already have them, they come from the information we received from Mr. Dennis Jones. I propose to add a contingency that the applicant follows Fremont County and not just Weed Control Board recommendations regarding noxious weed mitigation.

Chairman Piltingsrud noted that contingency is already in the Department Review.

Mr. Schnobrich proposed a contingency for a performance bond to be posted on new construction to make sure they are meeting requirements. Proposed wording: "The CSU post performance bonds for the work they propose on County-owned properties such as right-of-ways, roads and bridges. This should be no less than several million dollars, to be determined by the County." This provision would not be unlike any other conditions that would be imposed on public utilities companies.

Ms. Jackson stated that it may be better to require as a condition that CSU require performance bonds of their contractors. If they were doing the work themselves, it would be different, but any contract has to include a performance bond, and probably a payment bond too, to ensure sufficient and complete construction. So CSU would not be posting the bonds, but their contractors would be posting bonds with CSU.

Mr. Schnobrich moved for adoption of the following proposed contingency:

**Proposed contingency number 6: "CSU will require their subcontractors and contractors to post performance and payment bonds."**

Mr. McNew seconded the motion.

Chairman Piltingsrud called for discussion. Hearing none, he called for a vote on the motion and it passed unanimously.

Chairman Piltingsrud asked if there were any other contingencies that the Commissioners would like to consider. There were no other contingencies. Chairman Piltingsrud allowed a member of the audience to make a comment.

**Mannie Colon, 3165 Grandview Avenue, Cañon City, Colorado**

At the last meeting, I asked a question about the right-of-way, and it was designated that the utility line itself, the waterline, is one-hundred feet wide, and the power line is one-hundred feet wide, for a total of two-hundred feet. You take any farm land, ranch land, anything between the river and Colorado Springs, and take a two-hundred foot swath all the way through, in perspective, that is two-thirds the length of a football field, right up the middle of that property. I cannot see where you can make that all-inclusive. I can understand where there is an area where you have to go so deep with the waterline that it would require a wider width, but two-hundred feet is just unacceptable.

Chairman Piltingsrud asked if this is an easement, and not fee simple, so the surface owner could still use the property?

Ms. Jackson answered yes, after construction of the pipeline.

Chairman Piltingsrud said the property owner can't build a structure in the easement, but he could still farm it, he could still use it.

Mr. Colon responded you can, but it sure does limit what can be done with that property.

Chairman Piltingsrud said it is not like that is two-hundred feet which can never be used again. It could be used for growing hay.

**MOTION**

Mr. Lateer moved to **approve** the request for SRU 08-004 Southern Delivery System subject to all the contingencies that have been identified:

Mr. Giordano asked if the motion was to include all the conditions and contingencies recommended in the Department Review, plus all the contingencies proposed at this meeting, and the following changes that have been previously discussed:

1. There was a correction to the **Lower** Arkansas Water Conservancy District in the Additional Notifications.
2. Penrose Water District and Beaver Park Irrigation Company were added to the Additional Notifications, although, now we have received written comments from those two entities.
3. USGS (U.S. Geological Survey) was also added to the additional notifications in a previous discussion.
4. The applicant asked to change the timeframe for the four recommended contingencies in the Department Review from six months to one year.

5. The applicant also asked that the requirement for application and approval of a Special Review Use Permit for the stand-alone electrical substation be made a Condition instead of a Contingency.

Chairman Piltingsrud noted that the motion should also include the five contingencies that I proposed and the contingency that Mr. Schnobrich proposed.

Mr. Lateer agreed to amend his motion to include all the items Mr. Giordano addressed including the five contingencies that Chairman Piltingsrud proposed and the contingency that Mr. Schnobrich proposed.

## **SECOND**

Chairman Piltingsrud seconded the motion, which in its entirety is:

**Approve** request for SRU 08-004 Southern Delivery System with the following:

### **Recommended Conditions:**

- A. Special Review Use Permit shall be issued for life of use.
- B. The Department shall review the permit annually to determine compliance with the conditions of the permit and forward it to the Board for their review as required by regulations. It shall be the responsibility of the permit holder to provide the Department with copies of other permits, licenses, or other documentation showing compliance with the requirements of any other governmental agency (*to include items such as changes to the documents, updates, renewals, revisions, annual reports*). Further it shall be the responsibility of the permit holder to provide the Department with copies of any documents that would affect the use of the subject property, such as but not limited to updated or renewed leases for use of or access to the subject property. Copies of these documents shall be submitted to the Department prior to the anniversary date of the approval of the use permit each year. If the Department has to notify the permit holder that the anniversary date has passed and / or request said documentation, then a penalty fee shall be charged to the permit holder. If the required documentation and penalty fee are not submitted to the Department within twenty (20) days following notification to the permit holder, then violation procedures may be commenced, which could result in termination, revocation, rescission or suspension of the use permit.
- C. The Applicant shall conform to all plans, drawings and representations submitted with or contained within the application except as may be inconsistent with the other provisions of the permit.
- D. The Applicant shall comply with all laws and regulations of the County of Fremont, its agencies or departments, the State of Colorado, its agencies or departments and the United States of America, its agencies or departments, as now in force and effect or as the same may be hereafter amended.
- E. Applicants shall obtain, prior to operation, and keep in effect, throughout operation, all other permits, licenses or the like, including renewals, required by any other governmental agency

and as otherwise may be required by Fremont County and shall provide copies of such to the Department. Revocation, suspension or expiration of any such other permits shall revoke, suspend or terminate the permit authorized hereunder, as the case may be.

- F. If a Special Review Use is abandoned, discontinued or terminated for a period of six (6) months, the approval thereof shall be deemed withdrawn, and the use may not be resumed without approval of a new application. Provided, however, if the holder of the permit intends to or does temporarily cease the special review use for six (6) months or more without intending to abandon, discontinue or terminate the use, the holder shall file a notice thereof with the Department prior to the expiration of the six-month period stating the reasons thereof and the plan for the resumption of the use. The requirement of a notice of temporary cessation shall not apply to applicants who have included in their permit applications a statement that the use would continue for less than six (6) months in each year and such fact is noted on the permit. In no case, however, shall temporary cessation of use be continued for more than two (2) years without approval by the Board.
- G. If a Special Review Use Permit is to be transferred it shall comply with all applicable Federal, State and County regulations regarding such transfer.
- H. Days and hours of operation shall not be limited.
- I. An executed copy of the Fire Protection Plan Form and compliance with any requirements of the Florence Fire Protection District.
- J. Documentation as to compliance with any requirements of the Fremont County Noxious Weed Control Board as related to the noxious weed plan.
- K. Copies of any required Fremont County Flood Damage Prevention permits for construction of work done in any FEMA flood hazard areas.
- L. Documentation as to compliance with any requirements outlined in the letter from Dean Winstanley, Director, Colorado State Parks, dated June 13, 2008.
- M. A copy of a Programmatic Agreement, executed by all appropriate authorities.
- N. Documentation as to compliance with the requirements of the Fremont County Reviewing Engineer, as per letters dated November 18, 2008 and October 10, 2008.
- O. A copy of all permits listed in Exhibit 44.1 of the application or documentation as to why they were not required.
- P. The County shall retain the right to modify any condition of the permit, if the actual use demonstrates that a condition of the permit is inadequate to serve the intended purpose of the condition. Such modification shall not be imposed without notice and a public hearing being provided to the Applicant at which time applicant and members of the public may appear and provide input concerning the proposed modifications to the conditions of the permit.

- Q. Only the named party on the permit shall be allowed to operate this Special Review Use Permit. Board approval shall be required prior to allowing any other person or entity to operate at the site under the conditions of this permit. All persons, entities or others requesting Board approval to operate under this Special Review Use Permit must agree to abide by all terms and conditions of this Special Review Use Permit and shall be required to be named on this Special Review Use Permit as additional parties who are bound by the terms and conditions of this Special Review Use Permit.
- R. **An application and approval of a Special Review Use Permit will be required for the “stand-alone” 115 kV electrical substation, located southwesterly of the intersection of CSHs 115 and 120.**

**Recommended Contingencies:**

The approval recommendation is made contingent upon, at a minimum, the following items being provided to the Department, by the applicant, within **one year** (*no extensions except through regulatory process*) after approval of the application by the Board of County Commissioners:

1. Proof of ownership for all parcels and/or documentation as to right of use of the property for all parcels or easements. A subdivision or similar process in accordance with the Fremont County Subdivision Regulations may be required for the creation of the final SRUP parcel(s).
2. All final site plan drawings shall note the setbacks, distances between structures, etcetera, for all structures etcetera, for each parcel.
3. Submission and approval of any required zone changes shall be in accordance with the Fremont County Zoning Resolution (FCZR) to assure compliance with minimum lot size requirements, allowed uses of property, etcetera.
4. **Applicant is amenable to mutual partnerships, with special consideration for the Penrose Water District and Beaver Park Water, Inc. proposals given legal, permitting and mutual agreements by all potential partners.**
5. **The applicant shall ensure that at any crossing or placement within a County right-of-way that the pipeline will be at a sufficient depth in accordance with Fremont County regulations and any pertinent codes.**
6. **The applicant will obtain from CDOT in writing that the narrow Highway 115 easement will allow for Highway 115 to be eventually widened given the east side of steep cliffs and the pipeline abutting their ROW.**
7. **The applicant should be aware that adequate stormwater design and construction will be required by Fremont County to obtain a Certificate of Occupancy for each pump station.**

8. **The applicant has agreed to install, at applicant's expense, a USGS compatible river monitoring gage immediately below the CSU intake structure and above the Fremont Sanitation District discharge point to insure 190 cfs at the new river gage.**
9. **CSU will require their subcontractors and contractors to post performance and payment bonds.**

**Additional Notification Requirements:**

In addition to the notifications required by regulation, the following shall also be notified in accordance with regulations:

1. City of Florence Planning Department
2. Fremont County District 2, County Road Foreman
3. Fremont County Environmental Health Office
4. Fremont County Building Department
5. Colorado Department of Transportation
6. Fremont County Sheriff
7. Fremont / Custer Historical Society
8. Arkansas Headwaters Recreation Area
9. Colorado Division of Wildlife
10. U.S. Army Corps of Engineers
11. El Paso County Planning Department
12. Pueblo County Planning Department
13. The Nature Conservancy
14. Southeast Water Conservancy District
15. Upper Arkansas Water Conservancy District
16. **Lower** Arkansas Water Conservancy District
17. Pueblo Board of Water Works
18. **Penrose Water District**
19. **Beaver Park Irrigation Company**
20. **U.S. Geological Survey**

Chairman Piltingsrud called for discussion on the motion.

Mr. McNew stated that he planned to vote against the motion because the proposal will have a detrimental effect on property values for the following reasons:

1. The two-hundred foot easements through the subject properties
2. Taking the water from the river instead of from Pueblo Reservoir could have a negative effect on water rights in Fremont County
3. The possible condemnation of properties with no benefit to Fremont County

Mr. Schnobrich said that he fully supports what Mr. McNew said. I think that this project has some substantial loose ends that need to be tightened up in terms of other impacts it is going to have on future development of this County and how this County is going to be able to deal with economic development and other sorts of impacts. I still have a lot of concerns about whether

the Penrose Water District is going to be adequately taken care of in this situation and the future development of that area of the County is going to be in serious question with this project. I think it needs to be fully explored by the County Commissioners. At this point in time, I can't support this project because of the questions that are still pending. I also have a grave concern about the fact that this is not the optimal development choice for Colorado Springs. CSU actually wants to take the water out of the reservoir and put it through Pueblo County. I think that is the direction they should be looking at going in. This being the fall-back project, I think is somewhat insulting to this County and the people of this County and how it has a negative impact on us. It shows that we are a weak second sister that doesn't matter to the two bigger cities to the east and north. In the end, that is not in the best interest of Fremont County. Finally, there are some significant questions that need to be raised on the economic benefits of the river itself, as well as the environmental impacts that aren't being addressed. I plan to vote no as well, for Mr. McNew's reasons as well as mine.

Mr. Sandoval stated that he is going to vote no as well. He echoed Mr. McNew's and Mr. Schnobrich's concerns. I don't think the County Commissioners can make this decision on their own, and I don't think they really want to. I think they need as much input as possible from those of us that might be able to contribute, whether it is the entities out here, even Colorado Springs people. My concern has been the overhead wires. You have not addressed this application yet with El Paso County. I am really interested to see what the public response will be to overhead wires through some of those affluent subdivisions just north of the County line. If I was part of a community and I had overhead lines coming through, and I'd invested quite a bit in my property, I would not be happy. I would want underground utilities. I think that is where we should be. This is along Highway 115 and that may seem insignificant to some, but to quite a few those types of things do matter. I do think it would have a detrimental effect on real estate values.

Mr. Jackson said I think we are seeing a proposal here that leaves many questions unanswered, and I am sure that it is still in just the proposal stage. There are a lot of questions that we don't have answers for, and I'm not sure just how that will work out in the long run. I think that we really need more answers. I notice we don't even have in our packets the final EIS statement. We have a draft, and even though it doesn't impact the project greatly, it still has a bearing. So I will vote no also.

Chairman Piltingsrud called for more discussion on the motion. Hearing no more discussion, he called for a roll call vote, and the vote was as follows:

Mr. Sandoval	<input type="checkbox"/> Nay	<input type="checkbox"/> Aye
Mr. Lateer	<input type="checkbox"/> Nay	<input checked="" type="checkbox"/> Aye
Mr. Schnobrich	<input type="checkbox"/> Nay	<input type="checkbox"/> Aye
Chairman Piltingsrud	<input type="checkbox"/> Nay	<input checked="" type="checkbox"/> Aye
Mr. Jackson	<input type="checkbox"/> Nay	<input type="checkbox"/> Aye
Mr. McNew	<input type="checkbox"/> Nay	<input type="checkbox"/> Aye
Mr. Doxey	<input type="checkbox"/> Nay	<input type="checkbox"/> Aye

The motion failed by a vote of 5 to 2.

Ms. Jackson said another motion is required. Failure to approve is not a denial.

**MOTION**

Mr. McNew moved to **deny** the request for SRU 08-004 Southern Delivery System with the same reasons mentioned before.

**SECOND**

Mr. Schnobrich seconded the motion.

Chairman Piltingsrud called for discussion on the motion. Hearing none, he called for a roll call vote, and the vote was as follows:

Mr. Sandoval	Nay	<input type="checkbox"/> Aye
Mr. Lateer	<input type="checkbox"/> Nay	<input type="checkbox"/> Aye
Mr. Schnobrich	Nay	<input type="checkbox"/> Aye
Chairman Piltingsrud	<input type="checkbox"/> Nay	<input type="checkbox"/> Aye
Mr. Jackson	Nay	<input type="checkbox"/> Aye
Mr. McNew	Nay	<input type="checkbox"/> Aye
Mr. Doxey	Nay	<input type="checkbox"/> Aye

The motion passed by a vote of 5 to 2.

Chairman Piltingsrud called for a short recess.

**4. OTHER ITEMS FOR DISCUSSION**

Chairman Piltingsrud asked if there were any other items for discussion.

Chairman Piltingsrud asked if the Planning Commission will interface with the County Commissioners still, or will the County Manager have a role?

Ms. Jackson said she does not know if the County Manager will have a direct role, because his responsibilities don't really intersect. He may be supervising Mr. Giordano, and in that respect he may have a role. If you want to meet him, have him come to a meeting, I'm sure he will be amenable to that. I think that would be a good idea. I will pass that along if you want to get to know him. His name is Mr. George Sugars, and he works for El Paso County right now. He is an engineer by education, and he has worked in all kinds of areas including transportation. Right now, he is an upper-level supervisor in the department under their public works, involving roads and bridges. He has some Human Resources experience, which is part of what the duties are going to be. He starts on Monday, and I'm sure he will be making the rounds to get to know everybody. I'll make sure he knows you would like to have him here, maybe for your February meeting, to get to know him and he can get to know all of you.

**5. APPROVAL OF PLANNING COMMISSION MEETING DATES**

Chairman Piltingsrud asked if the members had reviewed the proposed schedule, and if there were any problems.

Mr. Giordano pointed out the meeting scheduled for the Wednesday after Election Day.

Chairman Piltingsrud noted that there was a Planning Commission meeting once on Election Day and it was a nightmare.

## **6. ELECTION OF FREMONT COUNTY PLANNING COMMISSION OFFICERS**

### **Chairman**

Mr. Doxey made a motion to re-elect Mr. Piltingsrud as Chairman.

Mr. McNew seconded the motion.

Chairman Piltingsrud said if elected, I will serve.

Chairman Piltingsrud asked for other nominations.

Mr. McNew made a motion that nominations cease.

Mr. Jackson seconded the motion.

The vote was unanimous to re-elect Mr. Piltingsrud as Chairman.

### **Vice Chairman**

Mr. Doxey made a motion to elect Mr. Sandoval as Vice Chairman.

Mr. McNew seconded the motion.

Chairman Piltingsrud asked for other nominations.

Mr. McNew made a motion that nominations cease.

Mr. Jackson seconded the motion.

The vote was unanimous to elect Mr. Sandoval as Vice Chairman.

### **Secretary**

Mr. Doxey made a motion to elect Mr. Jackson as Secretary.

Mr. McNew seconded the motion.

Chairman Piltingsrud asked for other nominations.

Chairman Piltingsrud made a motion that nominations cease.

Mr. McNew seconded the motion.

The vote was unanimous to elect Mr. Jackson as Secretary.

Chairman Piltingsrud asked if there was any other business for the Planning Commission.

Ms. Jackson asked the Planning Commission members how often they would like her to attend their meetings. It is always kind of up in the air. Many of the items that you consider, such as two lot splits, don't really require legal advice. I have a hard time knowing when you would like me to be present.

Mr. Jackson said I think we would like you present most of the time. I have been on the City Planning Commission and our City Attorney attends all those meetings and is very beneficial. We get stuck sometimes and run around and around, and an attorney can tell us one way or another.

Chairman Piltingsrud said for minor items, we don't need to have you here, but obviously, for items like Black Range, and Southern Delivery System, yes.

Ms. Jackson said my standing practice has always been that by request of the Planning Commission or of the Planning Department, I will be here. I would rather not be here if it is not necessary. I would rather be here than see you table something because you don't know what to do, or when you need more information and it is not there and it is something I can provide you.

Chairman Piltingsrud said if there are agenda items that any of the Planning Commission members feel Ms. Jackson should be here for, either give myself or Mr. Giordano a call.

Ms. Jackson said just let me know and I will plan on being at that meeting.

**7. ADJOURNMENT**

With no other items for discussion, Chairman Piltingsrud adjourned the meeting at 8:35 p.m.

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CHAIRMAN, FREMONT COUNTY PLANNING COMMISSION

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DATE