

RECORD OF PROCEEDINGS

 O'Brien Prtg. & Stat. 90912

MINUTES OF THE APRIL 20, 2011 REGULAR MEETING OF THE PUEBLO CONSERVANCY DISTRICT

Directors Present: Sandstrom, Farley, Barela

Also Present: Administrator Rick Kidd, Councilor Don Banner

Guests: Jeremiah Johnston and Michael Trujillo from the Colorado Division of Wildlife

With a quorum present, the Pueblo Conservancy District board meeting was called to order at 8:07 am.

Minutes – The minutes of the March 16, 2011 Regular Meeting were reviewed. Farley moved to approve the minutes as posted. Motion passed.

Sandstrom posted meeting notices at the City Hall and Heritage the morning of Monday, April 18th. Banner provided a notice for posting at the Thatcher Building and Kidd emailed the notice with agenda to be posted at the County Courthouse on Monday also.

Treasurer's Report:

The accountant's report for March was not available, due to schedules for income tax returns. Farley had reported in March that Stifel Nicolaus has \$70,000 of cash that can be reinvested or used by the District to pay bills. Barela moved to redeem the \$70,000 from the Stifel Nicolaus fund and deposit it to the Vectra checking account and to pay the bills. Motion passed.

Bills – The following bills were posted for review and approval:

\$ 425.00	Black Hills Energy, Runyon Lake Electricity
\$ 300.00	MBD&G, Accountant fees
\$ 400.00	Don Banner, Attorney fees
\$ 500.00	Kidd Engineering, Administrator/Engineer fees
\$ 187.50	Kidd Engineering, Archives search with Heritage Center for display
\$ 94.35	Sandstrom, Director's Fee
\$ 56.61	Farley, Director's Fee
\$ 56.61	Barela, Director's Fee
\$ 72,123.70	Sun Construction, River Diversion and Dewatering
\$ 10,000.00	HARP Authority, Annual O&M Allocation

President's Report:

Sandstrom suggested that there be no discussion or action on the City's proposal for the Levee certification since no one from the City was in attendance for presentation and discussion. Sandstrom said that the most appropriate would be for the City to pay the District the assessments owed to them and then the District contract with an engineering firm for certification services. Sandstrom and Banner are to formulate a response to the City. We need to find out FEMA's current status on the requirements and dates for certification.

For the record – Sandstrom provided Kidd copies of the Pillars of Pueblo kick off invitation and a letter to the State Engineer regarding the Pueblo Dam storage deviation we requested in February.

RECORD OF PROCEEDINGS

 O'Brien Prtg. & Stat. 90912

April 20, 2011 Minutes, Page 2 of 2

Division of Wildlife Lake Runyon Lease – The DOW representatives stated that Lake Runyon is a highly used and valuable fishery. However, it is a high maintenance and law enforcement facility. The DOW would like to change the terms of the lease so that they are responsible only for the fishery and some other entity be responsible for the “park” area. Sandstrom stated that this is an issue for the District to consider as we move forward in exploration of dissolution of the District. The DOW is invited to come back in June or July after we know more about the potential for dissolution and turning our responsibilities over to the City or other entities. Sandstrom said that he would discuss the DOW’s concerns with the City and the County Sheriff also.

Pillars of Pueblo -- Farley reported that she attended the kick off. There was a lot of interest in the first phase of the Leadership Pueblo 2011 project and hopes to continue the project through build-out. Farley said that Steven Meir made a comment that he guessed the City would have to spread the rock pile at Pearl over the Pearl Street Parking Lot. The Board directed Kidd to contact Scott Hobson about this comment and inform him that these rocks belong to the Pueblo Conservancy District and are being stockpiled on District property for future work along the Levee.

Organization and Planning – No additional discussion at this time.

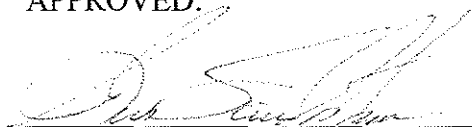
Old Business –

Maintenance Walk: Farley will not be available May 6-17 and Sandstrom will not be available May 22-29. It was decided to schedule the walk for the Runyon area at the end of the meeting on May 19th.

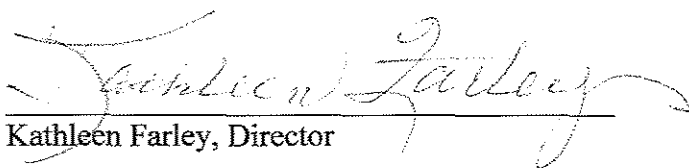
New Business – None.

There being no further business to come before the Board, the business meeting was adjourned at 9:05 am. The next regular meeting date will be May 19, 2011.

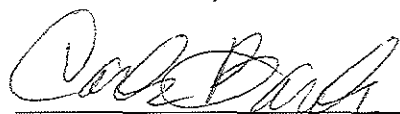
APPROVED:



Gus Sandstrom, Director



Kathleen Farley, Director



Carla Barela, Director

THE PUEBLO CONSERVANCY DISTRICT

NOTICE OF
REGULAR MEETING

DATE: APRIL 20, 2011 (WEDNESDAY) AT 8:00 A.M.
PLACE: SOUTHEASTERN COLORADO HERITAGE CENTER,
201 WEST B STREET, PUEBLO, COLORADO

AGENDA

1. ROLL CALL
2. APPROVAL OF THE MARCH 16, 2011 MINUTES
3. TREASURER'S REPORT
 - a. ACCOUNTANT'S COMPILATION REPORT
 - b. PAYMENT OF BILLS
4. CITY OF PUEBLO PROPOSAL FOR LEVEE CERTIFICATION
5. PRESIDENT'S REPORT
6. ADMINISTRATOR'S REPORT
 - a. LEVEE REPAIRS
7. CONSERVANCY DISTRICT ORGANIZATION AND PLANNING
8. OLD BUSINESS
9. NEW BUSINESS
 - a. LEADERSHIP PUEBLO "PILLARS OF PUEBLO" CLIMBING AREA KICK-OFF
 - b. SCHEDULE LEVEE SYSTEM WALK
10. OTHER BUSINESS AS MAY BE BROUGHT BEFORE THE BOARD

2011 MEETING DATES:

Regular meetings will generally be held on the third Thursdays of the month. Adjustments will be made as required. Special meetings may be scheduled as needed. Please contact the District's Administrator at 719-544-5239 to confirm dates and locations of all meetings.

April 20 (Changed)
July 21
October 20

May 19
August 18
November 17

June 16
September 1*
December 15

PUEBLO CONSERVANCY DISTRICT

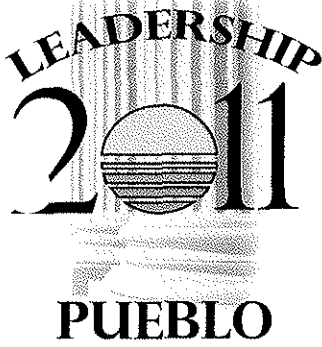
MARCH 2011 - APRIL 2011

RECEIPTS

VENDOR	ITEM	AMOUNT
First Clearing	Interest	618.96
First Clearing	Interest	756.12
First Clearing	Interest	867.92
Stifel Nicolaus	Interest	\$ 1,329.43
Stifel Nicolaus	Interest	\$ 1,307.03
Wells Fargo - Colotrust	Dividend	\$ 2.97
Wells Fargo - Colotrust	Dividend	\$ 3.05
Pueblo County Treasurer	Maintenance Fund Assessment	\$ 5,881.62
Pueblo County Treasurer	Maintenance Fund Assessment	\$ 15,705.66
		\$ 24,229.76

DEBITS

VENDOR	ITEM	AMOUNT	CHECK	CODE
Black Hills Energy	Electrical Billing	\$ 425.00	3809	105
MBDG, PC	Bookkeeping	\$ 300.00	3810	90
Don Banner - B&B, PC	Attorney Fees	\$ 400.00	3811	80
Kidd Engineering	Engineer/Admin Fees	\$ 500.00	3812	83
	Archive Search w/ Heritage Center for display materials	\$ 187.50	"	83
Director Sandstrom	Fees	\$ 94.35	3813	81
Director Farley	Fees	\$ 56.61	3814	81
Director Barela	Fees	\$ 56.61	3815	81
Sun Construction	River Diversion and Dewatering	\$ 72,123.70	3816	105
HARP Authority	Annual O&M Allocation	\$ 10,000.00	3817	112
		\$ 84,143.77		



Pillars of Pueblo

April 8, 2011

Pueblo Conservancy District
Ms. Carla Barela
P.O. Box 234
Pueblo, CO 81002

Dear Carla:

On behalf of the Greater Chamber of Commerce, Leadership Pueblo Class of 2011 we would like to **thank you** for your time and consideration in reviewing and supporting the **Pillars of Pueblo** Project. As you are aware, the Pillars of Pueblo Project is a vision to develop an urban rock climbing area and "Pillars Park" that will be a positive recreational venue and capital improvement initiative along the Arkansas River corridor that is attractive, clean, healthy, and accessible for all age groups and will provide memorable experiences, while also improving the quality of life in our community. Our vision to develop the Arkansas River Trail and compliment the White Water Kayak Park as a destination attraction will be another economic opportunity for Pueblo to attract visitors to our area, as well as provide an outdoor recreational activity for the citizens of Pueblo. This "unroped" rock climbing and bouldering experience along the Arkansas River with a park in the center of town will provide numerous future opportunities for our community, while supporting other activities offered along the Arkansas River trail such as kayaking, biking, picnicking, fishing, walking and hiking. The **Pillars of Pueblo** will provide the foundation to build partnerships that support a healthy, vibrant community with recreational opportunities for people of all ages.

Thank you for your visionary leadership in supporting the Leadership Pueblo Class of 2011 in establishing the *stepping stones* needed to develop a potential landmark and asset for our community that will benefit our citizens and visitors well into the future.

Please join us for a Groundbreaking and Project Kick off on Saturday, April 16, 2011 at 11:00 at the project site along the Arkansas River.

Sincerely,

Leadership Pueblo Class of 2011 members



THE GREATER™
PUEBLO CHAMBER
We Mean Business.

EVERY YEAR THE GREATER PUEBLO CHAMBER COORDINATES THE LEADERSHIP PUEBLO PROGRAM. THE PROGRAM IS DESIGNED FOR INDIVIDUALS INTERESTED IN DEVELOPING THEIR LEADERSHIP SKILLS. THE CURRICULUM AFFORDS EACH CLASS THE OPPORTUNITY TO NETWORK WITH UP-AND-COMING LEADERS AND CURRENT DECISION MAKERS IN THE COMMUNITY IN ORDER TO GRASP A BETTER UNDERSTANDING OF THE ISSUES FACING THE PUEBLO COMMUNITY, AS WELL AS A CHANCE TO DISCUSS SOLUTIONS TO THESE PROBLEMS. AS A REQUIREMENT FOR GRADUATION, ALL LEADERSHIP CLASSES ARE REQUIRED TO PLAN AND IMPLEMENT A CLASS PROJECT DESIGNED TO BENEFIT THE COMMUNITY.

LEADERSHIP
2011

PUEBLO

Pillars of Pueblo



PILLARS PARK

WHAT IS IT

AN INITIATIVE OF THE LEADERSHIP PUEBLO CLASS OF 2011 TO BUILD PARTNERSHIPS THAT SUPPORT A HEALTHY AND VIBRANT COMMUNITY WITH A RECREATIONAL OPPORTUNITY FOR PEOPLE OF ALL AGES.

WHERE IS IT

PILLARS PARK IS LOCATED BETWEEN UNION AVENUE BRIDGE AND 4TH STREET BRIDGE ON THE DIRT SIDE OF THE LEVEE, RUNNING PARALLEL TO THE WHITEWATER KAYAK PARK ON THE ARKANSAS RIVER TRAIL.

WHEN IS IT

THERE WILL BE A GROUND BREAKING AND TRASH CLEAN-UP THAT IS OPEN TO THE PUBLIC FOR PILLARS PARK ON SATURDAY APRIL 16 AT 11AM.

HOW CAN I LEARN MORE

ANYONE INTERESTED IN LEARNING MORE CAN CONTACT THE GREATER PUEBLO CHAMBER OF COMMERCE AT 719-542-1704.

HOW CAN I SUPPORT

DONATIONS AND SPONSORSHIPS OF PILLARS PARK ARE AVAILABLE ON BOTH CORPORATE AND PERSONAL LEVELS. TO MAKE A DONATION OR REQUEST SPONSORSHIP INFORMATION CONTACT THE GREATER PUEBLO CHAMBER OF COMMERCE AT 719-542-1704.

THE PUEBLO CONSERVANCY DISTRICT

P.O. BOX 234, PUEBLO, CO 81002

BOARD OF DIRECTORS:

GUS SANDSTROM, PRESIDENT
KATHY FARLEY, TREASURER/SECRETARY
CARLA BARELA, DIRECTOR

ADMINISTRATOR / ENGINEER:

RICK KIDD, PE
(719)544-5239

February 17, 2011

Steven J. Witte, Division Engineer
State Engineer, Water Division No. 2
310 E. Abriendo Ave., Suite B
PO Box 5728
Pueblo, CO 81004

Subject: Arkansas River Operations

Dear Mr. Witte:

The Army Corps of Engineers and the Pueblo Conservancy District are in a joint effort to effect repairs of a section of the concrete facing of the Arkansas River Levee. The current area of concentration is between Drop #3 and Drop #5 of the fish ladder / kayak course in Pueblo. Water has gotten behind the concrete facing and washed out supporting soil. We now have several places where the concrete slabs have collapsed into the voids and other failures of this concrete facing. Some voids are over three feet deep. Considering the rapid deterioration that we have noticed we believe that it is imperative that at least a minimum amount of repair be completed before spring and summer flows come down the Arkansas. We believe it is very plausible that higher flows could cause further shifting of the concrete slabs and eddy currents rapidly erode out the earthen fill. This would result in massive failure of the Levee facing and the potential loss of the Levee.

The Corps provided repair plans and negotiated a contract for the repair of approximately 300 lineal feet of the Levee. The intent was for the District to use the same contractor and extend the work approximately 280 feet further upstream and 120 feet downstream. Since the Corps did not have sufficient money in their budget to pay for diverting the River, the District agreed to negotiate an outside contract for the diversion work. We were waiting on the Corps to get their contract in place before we began the diversion. We had hoped to be in the River by December. Unfortunately, the Corps did not get their contract negotiated and executed until the week of January 24.

Your staff and the Pueblo Board of Water Works have been very cooperative to work within operational constraints and still facilitate the contractors' operations. We are very concerned about how close we are on scheduling and the potential of water users having to call for their winter water, if-and-when, and other stored waters to prevent them from being spilled. I understand that there is a possibility that the Corps of Engineers could grant a deviation in their normal water and flood control operation procedures to allow those holding a water interest more time to draw their stored water.

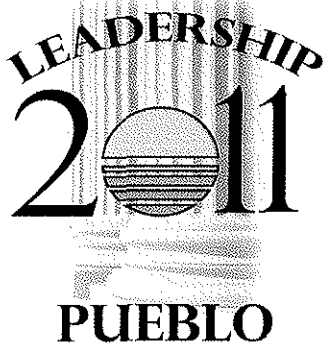
We respectfully request that you pursue obtaining a deviation from normal operations procedures with the Corps of Engineers. To date, the Pueblo Conservancy District has incurred contractor costs of nearly \$80,000 just to gain minimum access to one of three work sites. And everything that we put in for access, diversion, and dewatering has to be pulled back out before the water comes up. In addition to this request for deviation from standard procedures, we are sending letters to the downstream water users requesting them to hold off on their water calls, if at all possible, until the first of April. A Corps allowance of additional time to withdraw stored water will certainly help provide them flexibility as they consider our request.

The total cost of our diversion and dewatering contract looks to be approaching \$180,000 if we are fortunate enough to have sufficient time to complete all of the repairs that we had planned. The anticipated costs of the repairs we were planning is in the range of \$300,000 to \$400,000. The Corps contribution to this is \$150,000, all additional expenditures come from the budget of the District. Our hope of getting this much work completed is fading but the work from Drop #3 to Drop #4 must be completed to have a reasonable expectation of maintaining the Levee through this flow season.

Again, we appreciate all that you and your staff have done to help us get to this point. We hope that the Corps will have the flexibility to support our project until at least the most severely damaged areas are repaired.

Sincerely,

Gus Sandstrom
President of the Board



Pillars of Pueblo

April 8, 2011

Pueblo Conservancy District
Mr. Gus Sandstrom
P.O. Box 234
Pueblo, CO 81002

Dear Gus:

On behalf of the Greater Chamber of Commerce, Leadership Pueblo Class of 2011 we would like to **thank you** for your time and consideration in reviewing and supporting the ***Pillars of Pueblo*** Project. As you are aware, the Pillars of Pueblo Project is a vision to develop an urban rock climbing area and "Pillars Park" that will be a positive recreational venue and capital improvement initiative along the Arkansas River corridor that is attractive, clean, healthy, and accessible for all age groups and will provide memorable experiences, while also improving the quality of life in our community. Our vision to develop the Arkansas River Trail and compliment the White Water Kayak Park as a destination attraction will be another economic opportunity for Pueblo to attract visitors to our area, as well as provide an outdoor recreational activity for the citizens of Pueblo. This "unroped" rock climbing and bouldering experience along the Arkansas River with a park in the center of town will provide numerous future opportunities for our community, while supporting other activities offered along the Arkansas River trail such as kayaking, biking, picnicking, fishing, walking and hiking. The ***Pillars of Pueblo*** will provide the foundation to build partnerships that support a healthy, vibrant community with recreational opportunities for people of all ages.

Thank you for your visionary leadership in supporting the Leadership Pueblo Class of 2011 in establishing the *stepping stones* needed to develop a potential landmark and asset for our community that will benefit our citizens and visitors well into the future.

Please join us for a Groundbreaking and Project Kick off on Saturday, April 16, 2011 at 11:00 at the project site along the Arkansas River.

Sincerely,

Leadership Pueblo Class of 2011 members



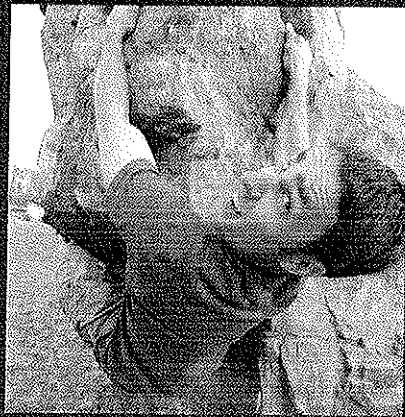
THE GREATER™
PUEBLO CHAMBER
We Mean Business.

EVERY YEAR THE GREATER PUEBLO CHAMBER COORDINATES THE LEADERSHIP PUEBLO PROGRAM. THE PROGRAM IS DESIGNED FOR INDIVIDUALS INTERESTED IN DEVELOPING THEIR LEADERSHIP SKILLS. THE CURRICULUM AFFORDS EACH CLASS THE OPPORTUNITY TO NETWORK WITH UP-AND-COMING LEADERS AND CURRENT DECISION MAKERS IN THE COMMUNITY IN ORDER TO GRASP A BETTER UNDERSTANDING OF THE ISSUES FACING THE PUEBLO COMMUNITY, AS WELL AS A CHANCE TO DISCUSS SOLUTIONS TO THESE PROBLEMS. AS A REQUIREMENT FOR GRADUATION, ALL LEADERSHIP CLASSES ARE REQUIRED TO PLAN AND IMPLEMENT A CLASS PROJECT DESIGNED TO BENEFIT THE COMMUNITY.

LEADERSHIP
2011

PUEBLO

Pillars of Pueblo



PILLARS PARK

WHAT IS IT

AN INITIATIVE OF THE LEADERSHIP PUEBLO CLASS OF 2011 TO BUILD PARTNERSHIPS THAT SUPPORT A HEALTHY AND VIBRANT COMMUNITY WITH A RECREATIONAL OPPORTUNITY FOR PEOPLE OF ALL AGES.

WHERE IS IT

PILLARS PARK IS LOCATED BETWEEN UNION AVENUE BRIDGE AND 4TH STREET BRIDGE ON THE DIRT SIDE OF THE LEVEE, RUNNING PARALLEL TO THE WHITEWATER KAYAK PARK ON THE ARKANSAS RIVER TRAIL.

WHEN IS IT

THERE WILL BE A GROUND BREAKING AND TRASH CLEAN-UP THAT IS OPEN TO THE PUBLIC FOR PILLARS PARK ON SATURDAY APRIL 16 AT 11AM.

HOW CAN I LEARN MORE

ANYONE INTERESTED IN LEARNING MORE CAN CONTACT THE GREATER PUEBLO CHAMBER OF COMMERCE AT 719-542-1704.

HOW CAN I SUPPORT

DONATIONS AND SPONSORSHIPS OF PILLARS PARK ARE AVAILABLE ON BOTH CORPORATE AND PERSONAL LEVELS. TO MAKE A DONATION OR REQUEST SPONSORSHIP INFORMATION CONTACT THE GREATER PUEBLO CHAMBER OF COMMERCE AT 719-542-1704.

LEASE AGREEMENT

THIS LEASE, made and entered into this 1st day of June, 2004, by and between, **PUEBLO CONSERVANCY DISTRICT**, hereinafter referred to as the "Lessor" or "Contractor", and the **STATE OF COLORADO** acting by and through the **DEPARTMENT OF NATURAL RESOURCES** for the use and benefit of the **DIVISION OF WILDLIFE** and **WILDLIFE COMMISSION**, hereinafter referred to as the "Lessee",

WHEREAS, authority exists in the law and funds have been budgeted, appropriated and otherwise made available and a sufficient unencumbered balance thereof remains available for payment in **Fund Number 410**, **Agency PBA**, **Org Unit 5611**, **Appr Code LEA**, **Program 0320**, **GBL 3001**, **Obj Code 2256**, **Contract Encumbrance No. C103702**; and

WHEREAS, the required approval, clearance and coordination have been accomplished from and with appropriate agencies; and

WHEREAS, Lessor is the owner of real estate situated in the County of Pueblo, State of Colorado, described and illustrated in Exhibit "A", attached hereto and incorporated herein by reference and hereinafter referred to as the "premises"; and

WHEREAS, the Lessor is the owner of Runyon and Fountain Lakes, located upon the aforesaid mentioned property, said property and lakes hereinafter referred to as the "premises" or the "lakes; and

WHEREAS, the Lessee is desirous of obtaining a lease of the premises for public recreation purposes and for fisheries habitat management, protection, development and enhancement purposes,

NOW, THEREFORE, the parties hereto agree as follows:

1. Said Lessor does hereby grant and demise unto said Lessee a non-exclusive lease of the premises for use by the Lessee and the public for access over, upon and across the premises as described and illustrated in Exhibit "A" for a term of eight years beginning the first day of June, 2004 and ending the 31st day of May, 2012.

2. As consideration for the granting of this lease, Lessee agrees to pay to Lessor an initial payment of Six Thousand Two Hundred Fifty and no/100 Dollars (\$6,250.00). This payment shall be for the term June 1, 2004 to May 31, 2005, payable within thirty (30) days of complete execution and approval of this agreement. Subsequent annual payments of Two Thousand Five Hundred and no/100 Dollars (\$2,500.00) shall be made on or before June 1 of each remaining year of the lease.

3. This lease agreement shall at all times remain subject to any and all leases, easements or rights-of-way existing and now in force and effect.

4. The Lessee may engage in the development of the premises for fisheries and public fishing recreation management purposes as hereinafter set forth during the term of this agreement.

5. The Lessee shall have sole and exclusive authority and discretion to develop and manage sport fish populations in the lakes in such manner as the Lessee may deem proper to insure the maximum possible degree of recreational fishing consistent with sound fisheries management practices and budgetary limitations. The development and management shall include, without being limited to, complete regulation by the lessee as to seasons, fishing hours, bag and possession limits, and other factors as necessary or proper for fisheries management.

6. In the event either of the lakes has to be drained, the Lessor agrees to give the Lessee reasonable notice of intent to do so in order that salvage of sport fish and other recreational opportunities and improvements can be accomplished. Such notice shall be given in writing no less than 30 days prior to drainage, if at all possible.

7. The lakes shall be open to all members of the public holding valid Colorado fishing licenses and any necessary permits for the term of this agreement at times determined by the Lessee, and the parties further agree that the area adjacent to the perimeter of the lakes as illustrated in Exhibit "A" will be available for public ingress and egress and for parking.

8. Lessee agrees to conduct its operations in such manner as will not interfere with Lessor's use of said premises.

9. Lessee shall not sublet any part of the premises nor assign the lease or any portion thereof without the prior written consent of the Lessor, which consent shall not be unreasonably withheld, and at the expiration of the term hereof, the Lessee will surrender and deliver up the premises in substantially as good order and condition as now exists; loss by fire, inevitable accident, act of God, and ordinary wear and tear excepted.

10. Upon termination of this agreement for any reason, Lessor shall acquire all of the possessory interest as the owner of the premises, subject to the right of removal of any improvements placed thereon by Lessee which may be removed without injury to the premises. Such improvements must be removed by Lessee within ninety (90) days of termination of this agreement. Any improvements not removed within such period shall become the property of the Lessor. After termination, Lessor shall not be obligated to offer the use of the premises to the public, but shall reserve the exclusive use to itself.

11. Lessee shall have the right to post the premises as necessary to inform the public what uses of the premises are permitted and prohibited by supplying, installing and maintaining boundary and information signs, stiles, gates, locks, and lock chains as deemed necessary by the Lessee.

12. The Lessee may construct such facilities as may be necessary to accommodate the public boat ramps, etc., as mutually agreed upon with Lessor. The Lessor also may construct facilities as it deems necessary to accommodate the public use of the lakes for fishing recreation, as mutually agreed upon with Lessee. Lessor agrees to perform year-round maintenance on all improvements placed on the premises. To insure that the water in the lakes will not be contaminated, Lessee agrees to consult with Lessor prior to construction of sanitary facilities relative to location and adequacy of the facilities.

13. Lessee shall exercise due diligence, within the limits of normal law enforcement activities, to secure compliance by the public with any rules or regulations for use of the premises as herein set forth or which may later be established by mutual agreement, during the term of this agreement. It is mutually agreed that swimming, boating, camping, fireworks, open fires, trash dumping, and firearms shall be expressly prohibited; provided that nothing contained herein shall prevent officers and employees of the Lessee from using such equipment as may be necessary in carrying out official duties.

14. Nothing herein shall be construed as affecting the authority of the City of Pueblo to enforce the Pueblo Municipal Code. It is hereby agreed that, in addition to Colorado Division of Wildlife Officers, law enforcement officers from the City of Pueblo shall have jurisdiction to enforce the Pueblo Municipal Code, notwithstanding the Lease of the property to the Colorado Division of Wildlife.

15. The Lessee shall conduct its operations in accordance with the terms of this agreement in such a manner as not to interfere with handling of the Lessor's water supply from the lakes and further agrees that the Lessor at all times shall have absolute control of the water supply in the lakes, the control structures and all appurtenances.

16. It is expressly understood that part of the premises has been subleased for the Gandhi Peace Garden.

17. It is expressly understood that the lessor reserves the right to sublease part of the premises to the Colorado Outdoor Performing Arts Association.

18. It is expressly understood that the Lessor may choose to transfer title to the premises to Colorado State Parks, reserving the right to utilize the property for flood control purposes. Termination of this lease will be handled per paragraph 23 of this lease, in such an event.

19. **LIABILITY.** The parties acknowledge that the Lessor enjoys significant limitation on its potential liability which may arise from use of its property by members of the public for public recreational purposes pursuant to the provisions of Article 41 of Title 33, C.R.S., as may be amended.

Lessee Liability Exposure. Notwithstanding any other provision of this lease to the contrary, no term or condition of this lease shall be construed or interpreted as a waiver, either expressed or implied, of any of the immunities, rights, benefits or protection provided to the Lessor or Lessee under the Colorado Governmental Immunity Act §24-10-101, et seq. C.R.S., as amended or as may be amended (including, without limitation, any amendments to such statute, or under any similar statute which is subsequently enacted).

The parties hereto understand and agree that liability for claims for injuries to persons or property arising out of the negligence of the State of Colorado, its departments, institutions, agencies, boards, officials and employees is controlled and limited by the provisions of §24-10-101, et seq., C.R.S., as amended or as may be amended, and §24-30-1501, et seq., C.R.S., as amended or as may be amended. Any provision of this lease, whether or not incorporated herein by reference, shall be controlled, limited and otherwise modified so as to limit any liability of the Lessee to the above cited laws.

20. Default. In the event of default by either party under the terms of this agreement, notice of such default shall be given in writing by the non-defaulting party to the defaulting party, given in the manner provided in paragraph 24. If such default is not cured within ninety (90) days of receipt of written notice of default or the party in default has not begun curing the default within said period, and continued to pursue curative action with due diligence, this agreement may be terminated by the non-defaulting party by giving written notice of termination, given in the manner provided in paragraph 24, effective thirty (30) days from the date of mailing of the notice of termination. Any unused rental consideration paid by the Lessee shall be refunded by Lessor to Lessee as provided in paragraph 23.

21. Eminent domain, termination of agreement. If the property shall be taken by right of eminent domain, in whole or in part, for public purposes, then this agreement, at the option of either Lessor or Lessee, shall forthwith cease and terminate. In such event, the entire damages which may be awarded for such taking shall be apportioned between Lessor and Lessee, as their interests appear.

22. In the event the property is damaged by fire, flood, or other casualty, Lessee may terminate this lease within fifteen (15) days of Lessee's knowledge of such occurrence if, in the opinion of Lessee, the premises have been so damaged as to render them wholly or partially untenable or unfit for Lessee's purposes. Lessee shall terminate this lease under these circumstances by giving written notice to Lessor as provided in paragraph 24 herein. Such termination shall be effective not less than fifteen (15) days from the date of mailing of the notice of termination.

23. This agreement may be terminated by the Lessor or Lessee at any time without cause. In such event the party wanting to terminate must give the other party written notice, as provided in paragraph 24, at least ninety (90) days prior to the desired date of termination. In the event of termination for any reason, any unused prepaid rental payment shall be refunded by Lessor to Lessee in an amount equal to \$208.33 for each month for which the lease has been paid but will not be in effect. Such refund shall be made within ninety (90) days from the date of termination.

24. All notices required or provided for in this agreement shall be mailed to the other party at its official address, United States mail, postage prepaid, certified, return receipt requested. For the purposes of this agreement, the official addresses of the parties shall be:

Division of Wildlife
Real Estate Unit
6060 Broadway
Denver, CO 80216

Pueblo Conservancy District
Donald J. Banner, Attorney
P.O. Box 1423
Pueblo, Colorado 81002-1423

Division of Wildlife
Area Manager
600 Reservoir Rd.
Pueblo, Colorado 81005

Pueblo Conservancy District
P.O. Box 234
Pueblo, Colorado 81002

Either party may change its official address by giving notice of such change to the other party as provided for above. Except as may otherwise be provided herein, all notices shall be effective upon receipt.

25. Running of benefits and burdens. It is expressly understood and agreed that all covenants and conditions herein contained, including the benefits and burdens, shall run with the land and shall extend to and be binding upon the heirs, legal representatives, successors, and assigns of the respective parties hereto.

26. Lessor warrants and represents itself to be the owner of, or the authorized representative or agent of the owner of, the premises in the form and manner as stated herein; and during the term of this agreement covenants and agrees to warrant and defend Lessee in the quiet, peaceable enjoyment and possession of the premises. In the event of any dispute regarding Lessor's ownership, Lessor shall immediately, upon request from and at no cost to Lessee, furnish proof thereof by delivering to Lessee copies of deeds and any plats of record, which shall verify Lessor's ownership of the property.

27. NON-DISCRIMINATION. Lessor agrees to comply with Title VI of the Civil Rights Act of 1964 (P.L. 88-352) and in accordance with that Act, no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination upon the property and will immediately take any measure necessary to effectuate this agreement.

As a recipient of Federal Funds from the United States Department of the Interior, Lessee operates programs subject to the nondiscrimination requirements of Title VI of the 1964 Civil Rights Act.

Lessee provides this assurance that in its operations of such programs it shall prohibit discrimination on the grounds of race, color, or national origin.

In order to further this end, Lessee shall have the right to:

a. Display prominently and in reasonable numbers and places, posters which state that the recipient operates programs subject to the non-discrimination requirements of Title VI.

b. Provide to the Department of the Interior current and relevant information and data to the extent necessary and appropriate for determining compliance with Title VI, and comply with regulations implementing Title VI.

Lessor's signature on this document indicates that it is aware of the above cited responsibilities of and agrees to grant Lessee the right to carry out these responsibilities on its land.

28. The undersigned is subject to Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, Title IX of the Education Amendments of 1972, and offers all persons the opportunity to participate in programs or activities regardless of race, color, national origin, age, sex, or disability. Further, it is agreed that no individual will be turned away from or otherwise denied access to or benefit from any program or activity that is directly associated with a program of the recipient on the basis of race, color, national origin, age, sex (in education activities) or disability.

29. This lease agreement constitutes the entire understanding of the parties and there are no other provisions other than set forth above and any changes in this agreement shall be made in writing and signed by both parties in accordance with required contracting procedures before the same shall be effective.

SPECIAL PROVISIONS

(For Use Only with Inter-Governmental Contracts)

1. **CONTROLLER'S APPROVAL.** CRS 24-30-202 (1)

This contract shall not be deemed valid until it has been approved by the Controller of the State of Colorado or such assistant as he may designate.

2. **FUND AVAILABILITY.** CRS 24-30-202 (5.5)

Financial obligations of the State of Colorado payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available.

3. **INDEMNIFICATION.**

To the extent authorized by law, the contractor shall indemnify, save, and hold harmless the State against any and all claims, damages, liability and court awards including costs, expenses, and attorney fees incurred as a result of any act or omission by the Contractor, or its employees, agents, subcontractors, or assignees pursuant to the terms of this contract.

No term or condition of this contract shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protection, or other provisions for the parties, of the Colorado Governmental Immunity Act, CRS 24-10-101 et seq. or the Federal Tort Claims Act, 28 U.S.C. 2671 et seq. as applicable, as now or hereafter amended.

4. **INDEPENDENT CONTRACTOR.** 4 CCR 801-2

THE CONTRACTOR SHALL PERFORM ITS DUTIES HEREUNDER AS AN INDEPENDENT CONTRACTOR AND NOT AS AN EMPLOYEE. NEITHER THE CONTRACTOR NOR ANY AGENT OR EMPLOYEE OF THE CONTRACTOR SHALL BE OR SHALL BE DEEMED TO BE AN AGENT OR EMPLOYEE OF THE STATE. CONTRACTOR SHALL PAY WHEN DUE ALL REQUIRED EMPLOYMENT TAXES AND INCOME TAX AND LOCAL HEAD TAX ON ANY MONIES PAID BY THE STATE PURSUANT TO THIS CONTRACT. CONTRACTOR ACKNOWLEDGES THAT THE CONTRACTOR AND ITS EMPLOYEES ARE NOT ENTITLED TO UNEMPLOYMENT INSURANCE BENEFITS UNLESS THE CONTRACTOR OR THIRD PARTY PROVIDES SUCH COVERAGE AND THAT THE STATE DOES NOT PAY FOR OR OTHERWISE PROVIDE SUCH COVERAGE. CONTRACTOR SHALL HAVE NO AUTHORIZATION, EXPRESS OR IMPLIED, TO BIND THE STATE TO ANY AGREEMENTS, LIABILITY, OR UNDERSTANDING EXCEPT AS EXPRESSLY SET FORTH HEREIN. CONTRACTOR SHALL PROVIDE AND KEEP IN FORCE WORKERS' COMPENSATION (AND PROVIDE PROOF OF SUCH INSURANCE WHEN REQUESTED BY THE STATE) AND UNEMPLOYMENT COMPENSATION INSURANCE IN THE AMOUNTS REQUIRED BY LAW, AND SHALL BE SOLELY RESPONSIBLE FOR THE ACTS OF THE CONTRACTOR, ITS EMPLOYEES AND AGENTS.

5. **NON-DISCRIMINATION.**

The contractor agrees to comply with the letter and the spirit of all applicable state and federal laws respecting discrimination and unfair employment practices.

6. **CHOICE OF LAW**

The laws of the State of Colorado and rules and regulations issued pursuant thereto shall be applied in the interpretation, execution, and enforcement of this contract. Any provision of this contract, whether or not incorporated herein by reference, which provides for arbitration by any extra-judicial body or person or which is otherwise in conflict with said laws, rules, and regulations shall be considered null and void. Nothing contained in any provision incorporated herein by reference which purports to negate this or any other special provision in whole or in part shall be valid or enforceable or available in any action at law whether by way of complaint, defense, or otherwise. Any provision rendered null and void by the operation of this provision will not invalidate the remainder of this contract to the extent that the contract is capable of execution.

At all times during the performance of this contract, the Contractor shall strictly adhere to all applicable federal and state laws, rules, and regulations that have been or may hereafter be established.

7. **SOFTWARE PIRACY PROHIBITION** Governor's Executive Order D 002 00

No State or other public funds payable under this Contract shall be used for the acquisition, operation, or maintenance of computer software in violation of United States copyright laws or applicable licensing restrictions. The Contractor hereby certifies that, for the term of this Contract and any extensions, the Contractor has in place appropriate systems and controls to prevent such improper use of public funds. If the State determines that the Contractor is in violation of this paragraph, the State may exercise any remedy available at law or equity or under this Contract, including, without limitation, immediate termination of the Contract and any remedy consistent with United States copyright laws or applicable licensing restrictions.

8. **EMPLOYEE FINANCIAL INTEREST.** CRS 24-18-201 & CRS 24-50-507

The signatories aver that to their knowledge, no employee of the State of Colorado has any personal or beneficial interest whatsoever in the service or property described herein.

THE PARTIES HERETO HAVE EXECUTED THIS CONTRACT

CONTRACTOR:

STATE OF COLORADO:

BILL OWENS GOVERNOR

By PUEBLO CONSERVANCY DISTRICT

Legal Name of Contracting Entity
84-6002506X

Social Security Number or FEIN

Signature of Authorized Officer
Gus Sandstrom, President

Print Name & Title of Authorized Officer

CORPORATIONS:
(A corporate attestation is required.)

By Executive Director

Department of Natural Resources

LEGAL REVIEW:
Attorney General, Ken Salazar

BY _____

Attest (Seal) By _____
(Corporate Secretary or Equivalent, or Town/City/County Clerk) (Place corporate seal here, if available)

ALL CONTRACTS MUST BE APPROVED BY THE STATE CONTROLLER

CRS 24-30-202 requires that the State Controller approve all state contracts. This contract is not valid until the State Controller, or such assistant as he may delegate, has signed it. The contractor is not authorized to begin performance until the contract is signed and dated below. If performance begins prior to the date below, the State of Colorado may not be obligated to pay for the goods and/or services provided.

STATE CONTROLLER:

Arthur L. Barnhart

By

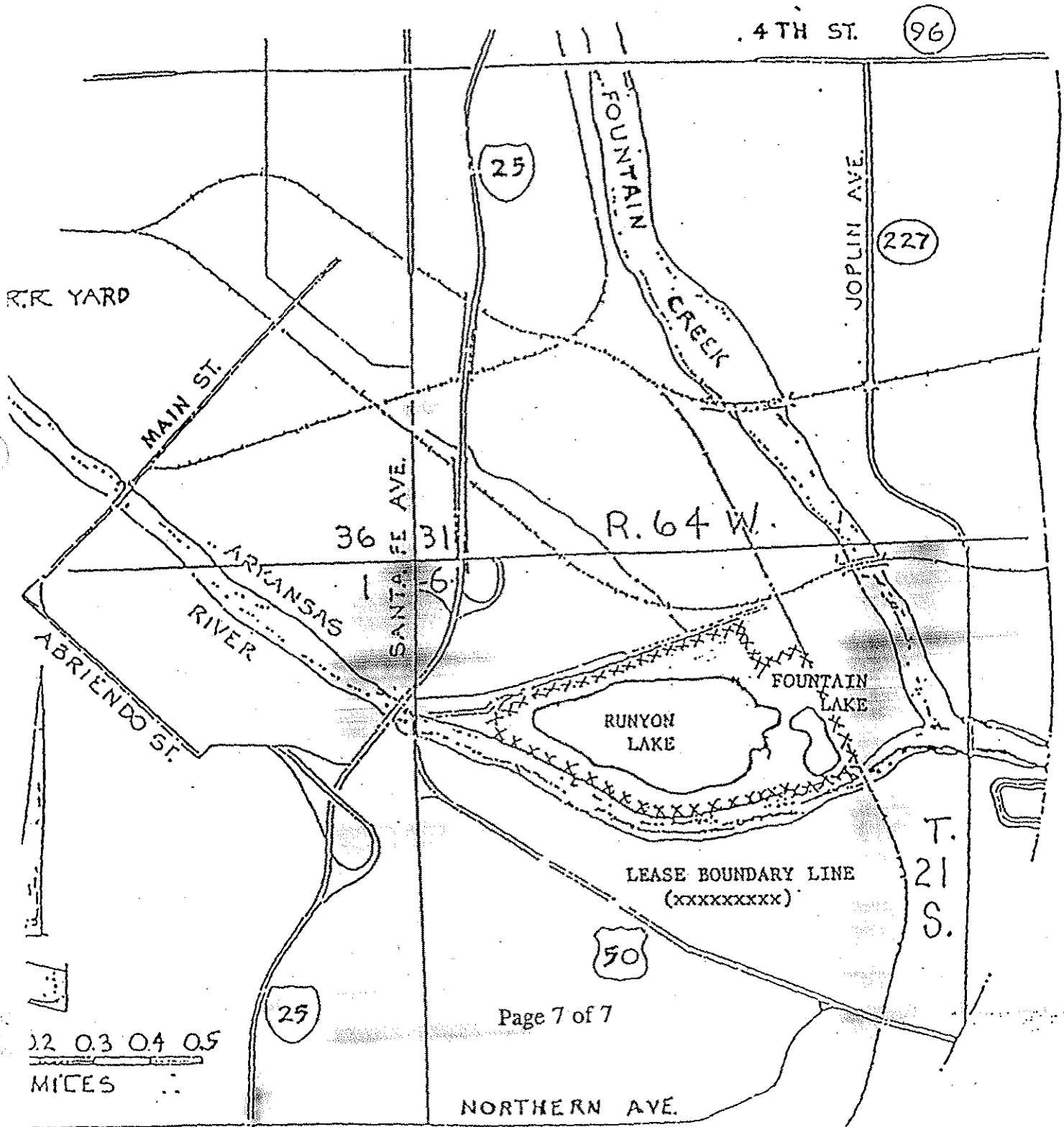
Date

Philip Hottel
5-24-04 *June 1, 2004*

Exhibit "A"

Description of lands leased to the DIVISION OF WILDLIFE by the PUEBLO CONSERVANCY DISTRICT in the County of Pueblo, State of Colorado, to-wit:

A tract of land and water known as Runyon and Fountain Lakes located in the North ½ of Section 6, Township 21 South, Range 64 West of the Sixth Principal Meridian.





ANDERSON CONSULTING ENGINEERS, INC.

Civil • Water Resources • Environmental

February 4, 2011

Mr. Earl Wilkinson
Director Pueblo Public Works Department
211 E. D Street
Pueblo CO 81003

RE: Preliminary Certification Costs for the Arkansas River and Wild Horse Creek Levees, Pueblo, CO

Dear Mr. Wilkinson:

Pursuant to our conversation concerning the potential engineering costs associated with the certification of the Arkansas River and Wild Horse Creek levees using the Federal Emergency Management Agency (FEMA) levee certification criteria found in Part 44 Section 65.10 of the National Flood Insurance Program (NFIP) regulations, this letter is intended to provide a preliminary engineering cost estimate to assess both levee systems and compile the necessary engineering data to meet FEMA's levee certification criteria.

Information regarding the levees associated with the Arkansas River and Wild Horse Creek in the City of Pueblo is summarized in the following paragraphs. Please note that the following paragraphs are based upon Anderson Consulting Engineers, Inc. (ACE) staff's understanding of the two levee systems at the present time, and we acknowledge that the preliminary costs put forth below may change considerably should additional data on the levees become available from sources such as the Pueblo Conservancy District or the United States Army Corps of Engineers (USACE).

Arkansas River Levee

As documented in the effective FEMA Flood Insurance Study (FIS) for the City of Pueblo and confirmed during conversations with representative from the Pueblo Conservancy District, a concrete-lined levee was constructed along the north bank of the Arkansas River in 1924-25 by the Pueblo Conservancy District. According to the FIS, in 1952 the USACE extended the levee downstream past Runyon Field toward the confluence with Fountain Creek. The Conservancy District continues to maintain the levee system today.

As shown on the effective FEMA floodplain maps, the Arkansas River levee extends from a point approximately ¼-mile west (upstream) of the confluence with Fountain Creek to the Denver and Rio

Grande Western Railroad at the confluence with Wildhorse Creek. The length of the levee system is approximately 2.8 miles. On the effective floodplain maps, this levee is shown to provide protection from the 100-year flood.

No information regarding the levee has been found in files provided by FEMA, and representatives from the Conservancy District have indicated that information regarding the construction of the levee may be available in the Conservancy District's archived files. However, due to the early date of construction, it is anticipated that this information would likely not be suitable for verifying certification of the floodwall as meeting current FEMA standards.

Wild Horse Creek Levee

As documented in the effective FIS for the City of Pueblo, there is an existing levee located along the east side of the lower portion of Wildhorse Creek, west of downtown Pueblo. As shown on the effective FEMA floodplain maps, this levee begins at 11th Street directly upstream of the Denver and Rio Grande Railroad, which is also the upstream terminus of the Arkansas River levee. The levee ends just downstream of 16th Street; however, at 15th Street there is break in the levee to accommodate a left bank tributary. According to the FEMA FIS, the levee is in poor condition upstream of this break. The length of the levee from 11th Street to 15th Street is 1,600 feet; the upper portion of the levee is approximately 200 feet in length. On the effective floodplain maps, this levee is shown to provide protection from the 100-year flood.

It is possible, although not certain, that the USACE may have constructed this levee. The Albuquerque District USACE was contacted by the Colorado Water Conservation Board (CWCB) in mid-December 2005, early January 2006 and late January 2006 in order to ascertain whether or not the Wildhorse Creek levee was constructed by the USACE and, if so, obtain any available documentation concern its original certification. To date, no information has been provided by the USACE. The Pueblo Conservancy District was contacted in early January 2006 to determine whether or not the District had constructed the levee. To date, the District has not provided any information.

The Wild Horse Creek levee was mentioned in the USACE's 1969 Flood Plain Information Report for Goodnight Arroyo, (East) Dry Creek and Wild Horse-Dry Creek. The floodplain mapping provided in that report shows this levee providing protection during the 100-year event.

Potential Levee Certification Costs

It should be noted that the engineering costs listed below are based upon ACE's current understanding of both levee systems which is limited to a review of a few readily available floodplain documents and sporadic conversations with City of Pueblo and Pueblo Conservancy District staff; therefore the engineering costs listed herein should be considered preliminary in nature, and should not be

considered as final costs. Given the lack of engineering information available at this time for both levees, two scenarios are proposed to aid in the preparation of preliminary cost estimates for levee certification.

It should also be noted that any potential levee construction remediation/rehabilitation costs associated with bringing either levee into compliance with FEMA's regulations are unknown at this time, and these engineering design and construction costs are not included in the preliminary certification engineering costs listed below.

The **first certification scenario** assumes that all of the necessary engineering data including engineering design calculations, as-built plans etc. exist for the design and construction both levees and the work effort required to certify the levee would consist of an engineering review and verification of the available data. It is ACE's opinion that the engineering certification costs associated with this scenario would be approximately **\$176,000**. This scenario could be considered a "best-case" scenario, in that little new engineering analyses are required nor would construction/remediation be required for either levee. A breakdown of the "best-case" scenario costs is shown below.

Table 1 -- Best case scenario levee certification engineering costs

1. Data Collection & Review	\$8,848
2. Field Inspection & Surveying	\$11,779
3. Freeboard Evaluation	\$4,260
4. Closure Evaluation	\$5,630
5. Interior Drainage Evaluation	\$6,802
6. Embankment Protection Evaluation	\$12,707
7. Embankment & Foundation Stability Evaluation	\$6,768
8. Sediment Transport Risk Assessment	\$5,460
9. Settlement Potential Evaluation	\$2,614
10. Operation & Maintenance Plan	\$9,886
11. Levee Certification Submittal	\$22,436
12. Potential Risk Notification	\$3,810
Surveying	\$7,000
Structural Engineering	\$20,000
Geotechnical Engineering	\$48,000
Total Cost	<u>\$176,000</u>

The **second certification scenario** assumes that little to no engineering or as-built information is available for both levees, and that extensive new engineering analyses and surveying will be required to certify to FEMA that the levees meet the requirement of Part 44, Section 65.10 of the Code of Federal Regulations. It is ACE's opinion that the engineering certification costs associated with this scenario would be an **additional \$175,000**, above and beyond the best case scenario costs. This scenario could be considered a "**worst-case**" scenario, in that extensive new engineering analyses are required, and the levees could require additional engineering design and construction to bring them into compliance with FEMA's levee certification requirements. A breakdown of the "**worst-case**" scenario costs is shown below.

Table 2 -- Worst case scenario levee certification engineering costs -- additional to the best case scenario costs

1. Data Collection & Review	\$0
2. Field Inspection & Surveying	\$0
3. Freeboard Evaluation	\$5,348
4. Closure Evaluation	\$0
5. Interior Drainage Evaluation	\$4,702
6. Embankment Protection Evaluation	\$12,832
7. Embankment & Foundation Stability Evaluation	\$5,460
8. Sediment Transport Risk Assessment	\$9,210
9. Settlement Potential Evaluation	\$3,216
10. Operation & Maintenance Plan	\$12,024
11. Levee Evaluation Report & Compliance Plan	\$30,208
12. Potential Risk Notification	\$0
Surveying	\$2,000
Structural Engineering	\$20,000
Geotechnical Engineering	\$70,000
Total Cost	<u>\$175,000</u>

this is the anticipated number

In summary, the approximate engineering costs to certify both levees will be in the range of **\$176,000** to **\$351,000**, depending on the amount of existing engineering data available for each levee.

If the City of Pueblo or the Pueblo Conservancy District wishes to further investigate the potential certification costs for the levees, and hone in on a more accurate certification cost estimate (including

Mr. Earl Wilkinson
February 4, 2011

Page 5

both engineering fees and potential construction rehabilitation costs), it is suggested that a Levee Assessment effort be performed for both levees. The completion of the assessment, which is normally included as the initial tasks in a levee certification project, could provide both the City and the District with a better indication of potential levee certification costs, and any potential construction costs to rehabilitate all or parts of the levees. To accomplish this refinement of engineering and construction costs, ACE has prepared a separate scope and budget to perform both the Data Collection, Field Inspection, Freeboard Evaluation, and Levee Assessment Memorandum preparation efforts for both levees. Previous experience has shown that the completion of these tasks would aid both the City and the District greatly in discussions regarding the potential certification costs for both levees and provide levee owners with a much clearer idea of the costs and efforts associated with certifying their levee to FEMA.

If you have any questions concerning this information, please do not hesitate to contact me via phone at (970) 226-0120 or you can e-mail me at mkkempton@acewater.com.

Sincerely,
ANDERSON CONSULTING ENGINEERS, INC.

A handwritten signature in black ink that reads "Mark K. Kempton". The signature is written in a cursive, flowing style.

Mark K. Kempton, P.E.
Project Manager