

THE PUEBLO CONSERVANCY DISTRICT

NOTICE OF
REGULAR MEETING

DATE: NOVEMBER 17, 2011 (THURSDAY) AT 9:30 A.M..
PLACE: 2ND FLOOR MEETING ROOM
SOUTHEASTERN COLORADO HERITAGE CENTER,
201 WEST B STREET, PUEBLO, COLORADO

AGENDA

1. ROLL CALL
2. APPROVAL OF THE OCTOBER 20, 2011 MINUTES
3. TREASURER'S REPORT
 - a. ACCOUNTANT'S COMPILATION REPORT
 - b. PAYMENT OF BILLS
4. PRESIDENT'S REPORT
5. ADMINISTRATOR'S REPORT
6. OLD BUSINESS
 - a. DOW Lake Runyon lease proposal
 - b. Highline Canal Request
7. NEW BUSINESS
 - a. Board of Appraisers motion
 - b. 2012 Budget Discussion
 - c. Future Meeting Dates and Times
8. OTHER BUSINESS AS MAY BE BROUGHT BEFORE THE BOARD
9. ADJOURNMENT

HARP Authority
Historic East Side

2011 MEETING DATES:

Regular meetings have generally be held on the third Thursday 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.

December 15

MINUTES OF THE NOVEMBER 17, 2011
REGULAR MEETING
OF THE PUEBLO CONSERVANCY DISTRICT

Directors Present: Sean Tapia, Paul Willumstad, and Donna Phillips

Also Present: Administrator Rick Kidd, Counselor Representative Joe Bower

Guests: Tom Florczak, City of Pueblo Attorney
Carla Sikes, Assistant City Attorney
Earl Wilkinson, City of Pueblo Director of Public Works

With a quorum present, the Pueblo Conservancy District regular board meeting was called to order at 9:32 am.

It was noted that the postings of the meeting notice and agenda were made at the Interim City Hall, the Heritage Center, the Thatcher Building and the County Courthouse.

Minutes:

The minutes of the October 20, 2011 Regular Meeting were reviewed. Phillips moved to approve the minutes. Motion passed.

Treasurer's Report:

The accountant's report for October was reviewed. Kidd noted that we had been paying the safe deposit box rental for years hoping that the key would show up. It is believed that the box is empty. He said that the charge is approximately \$200 to have the lock drilled and then we could abandon the box. Since we are not using the box and since the key has not been found that it would probably be best to drill and abandon. After discussion, Phillips moved to receive and file the treasurer's report and pay the bills, noting that the safe deposit box rental will not be paid but that the District will pay the charge to have to lock drilled and then abandon the box. Motion passed.

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

\$ 300.00	MBD&G, Accountant fees
\$ 400.00	Banner and Bower, Attorney fees
\$ 1,948.50	Banner and Bower, Dissolution Matters
\$ 6,267.50	Banner and Bower, Board Member Transition Matters
\$ 500.00	Kidd Engineering, Administrator/Engineer fees
\$ 281.25	Kidd Engineering, October 8 Special Meeting
\$ 56.61	Phillips, Director's Fee
\$ 56.61	Tapia, Director's Fee
\$ 56.61	Willumstad, Director's Fee
\$ 50.00	Southeastern Colorado Heritage Center, Two extra meetings

President's Report – Tapia had sent an email to the Board about the maintenance assessment methodology used by the Muskingum Watershed Conservancy District. They had based their assessments on the amount of impervious area of residential, commercial, and agricultural properties. This approach has some aspects that are similar to the City of Pueblo Storm Water Enterprise fee program. Tapia feels that an assessment system similar to this could obviate the

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need of spending a lot of money on appraisers. It is an objective process. County GIS mapping could be used to determine the impervious areas. Phillips stated that she is not comfortable with being appointed to the Board of Appraisers. It was explained that the Board of Appraisers would not be actually doing the appraisals but would only be administering the work of the actual appraisal entity, and that the District Board would have this responsibility any way. Wilkinson stated that the District could consider a basis of how much money is needed to carry out their needs and compare that with the County valuations. Kidd stated that this is basically what was done for the 2010 assessments, using only the properties within the 1923 assessment area. Willumstad proposed going on with a request for proposals (RFP) for appraisal services. After discussion, it was decided that Kidd and Wilkinson are to pursue development of an RFP.

Administrator's Report – None.

Old Business:

Future Meeting Dates and Times – After discussion, it was decided to hold the December 2011 meeting on the 15th as has been previously advertised. The meeting dates for 2012 will be held on the fourth (4th) Wednesday of the month. The members of the Board typically have from 10:00 to 12:00 available on that day. Action on the location of the meetings will be tabled until next month. The City is to determine if they have a consistent location available and Kidd is to find out if the Heritage Center is available on this schedule.

DOW Lake Runyon Lease – Bower stated that Banner had received notification that the Division of Wildlife want to keep a lease agreement in place but that there have been no proposals for consideration yet.

Highline Canal – Kidd stated that Dan Henrichs was out of town. He said that the Highline would like for the District to take the responsibility of ownership of the abandoned tank and pay for trucking to disposal. Kidd said that he had talked to Spaccamonti Excavating and they estimate less than \$1000 for hauling the take to disposal. It was mentioned that under CIRCA the District may have an "arranger" responsibility. The concern is if there is any contamination in the tank and what that element of risk means to the District. Tapia proposed going to Pueblo County Department of Public Works to see if they could take the role of doing the disposal and the District pay toward the removal. Another possibility is just giving money to the Highline Canal.

New Business:

Board of Appraisers – Willumstad moved to approve the draft motion and file with the Court. The standing motion does not say who the Board of Appraisers would be. Judge Maes will make that decision, but it is understood that he may consider designating the members of the District Board. The Board agreed that they would be willing to administer the appraisal but do not want to be in the role of "appraisers". Motion passed. Willumstad said that the Board and the City need to see the Order before it is filed with the Court.

Budget – Kidd is to request Mark Kennedy and Calvin Mason to attend the next Board meeting to discuss the District's investments and opportunities to increase return. Kidd is to adjust the preliminary budget showing \$30,000 for appraisal, \$50,000 for Arkansas River Levee Repairs, \$25,000 for Levee Certification Preliminary Work, and \$35,000 for the HARP IGA Contribution. The budget is to then be advertised and posted for public review. There will be a special meeting held at 10:00 am on December 22 for adoption of the budget. Phillips so moved. Motion passed.

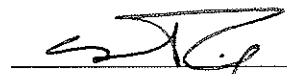
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Other Business:

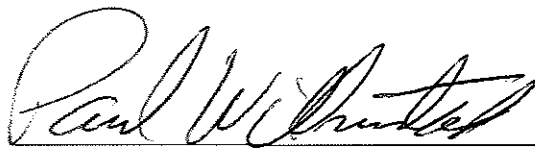
None

There being no further business to come before the Board, the business meeting was adjourned at 10:55 am. The next regular meeting date will be December 15, 2011. There will be a special meeting to adopt the 2012 Budget on December 22.

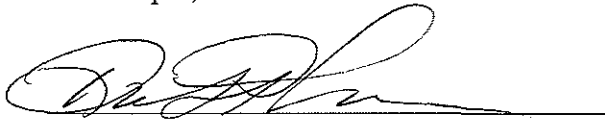
APPROVED:



Sean Tapia, President



Paul Willumstad, Treasurer



Donna Phillips, Secretary

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

Directors Present: Scan Tapia, Paul Willumstad, and Donna Phillips

Also Present: Administrator Rick Kidd, Counselor Don Banner

Guests: Tom Florczak, City of Pueblo Attorney
Earl Wilkinson, City of Pueblo Director of Public Works
Scott Hobson, City of Pueblo Assistant City Manager for Planning
Chris Woodka, Reporter for the Pueblo Chieftain
Larry Daveline, MBD&G Accounting
Dan Henrichs, Highline Canal Superintendent

With a quorum present, the Pueblo Conservancy District regular board meeting was called to order at 8:06 am.

It was noted that the postings of the meeting notice and agenda were made at the Interim City Hall, the Heritage Center, the Thatcher Building and the County Courthouse on November 15.

Minutes:

The minutes of the September 1, 2011 Regular Meeting, and September 8 and October 6 special meetings were reviewed. Willumstad moved to approve the minutes. Motion passed.

Treasurer's Report:

The accountant's reports for August and September were reviewed. Willumstad moved to receive and file the treasurer's reports and pay the bills. Motion passed.

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

\$ 425.00	Black Hills Energy, Lake Runyon electricity
\$ 300.00	MBD&G, Accountant fees
\$ 400.00	Banner and Bower, Attorney fees
\$ 1,948.50	Banner and Bower, Dissolution Matters
\$ 6,267.50	Banner and Bower, Board Member Transition Matters
\$ 500.00	Kidd Engineering, Administrator/Engineer fees
\$ 218.75	Kidd Engineering, September 8 Special Meeting
\$ 56.61	Phillips, Director's Fee
\$ 56.61	Tapia, Director's Fee
\$ 56.61	Willumstad, Director's Fee
\$ 32.01	The Pueblo Chieftain, Publication for Board Member Solicitation

Dan Henrichs – Highline Canal. The Highline Canal headgate is east of Boone. The canal runs between the Arkansas River and Highway 50 and crosses Highway 50 near Fowler. At a location approximately 1 mile north of Huckleberry Road (equivalent to around Lanes 62 to 63) the River makes a swing to the north and then back toward the Highline Canal. In the flood of 1999 a presumed fuel tank migrated down the River and is now lodged on the north side and is forcing the current to cut into the bank on the south side. A slough developed this year and a large area has fallen into the River. The vertical river bank is only about 40-feet from the Canal now. The River was 130 to 150 feet away from the Canal one and a half years ago. The

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Highline carries irrigation water to 22,500 acres in Pueblo and Otero counties. Henrichs as contacted the Army Corps of Engineers (ACE) and they are saying that bank stabilization may not need a 404 permit. The Natural Resources and Conservation Service (NRCS) has offered ideas for stabilization. Highline is requesting letters of support, assistance from support staff, and/or financial contributions. Tapia asked if the tank can be removed. Henrichs responded that ACE says they will allow removal. NRCS is recommending some riprap and other slope stabilization. Highline has ACE written permission to begin stabilization. Henrichs estimates that the biggest cost for the tank removal will be the hauling and disposal. Based upon work he has done in the River, he believes that Highline can use their track hoe to bring the tank across the River and load it. They would like to do the work between November 15, 2011 and March 15, 2012. This is when River flows will be the lowest because of the Winter Water Storage Program. Tapia asked Kidd for his recommendations. Kidd recommended removal of the tank so that the River current could continue toward the east rather than being directed south. Part of the District's responsibility is to remove debris that causes flooding or property damage. The Highline Canal is hoping that they can do most of the work in house rather than hiring a contractor. Willumstad asked how much of the irrigated land is in Pueblo County. Henrichs responded that approximately 10 percent is in Pueblo and 90 percent of the acreage is in Otero counties. The Board requested the Highline Canal to provide a plan of action and cost estimates. They will ask Kidd for his recommendations for District involvement. Willumstad moved to table this discussion and for Highline to come back to the next meeting. Motion passed.

Larry Daveline – Accounting Procedures. GASB 34 and Tabor have changed some requirements in financial accounting. Daveline understands that we are considered a special district but our maintenance fee is not subject to Tabor. If the Board wants to establish a fund balance it must be done by resolution. It is not a requirement to have a fund balance, funding can flow through to an unassigned balance. Our budget does not currently indicate a fund balance category. An “unassigned fund balance” is what the District has used to balance a negative budget. Daveline recommends an assignment through a motion and a commitment through a resolution. Banner recommended tabling this issue until next meeting. Willumstad so moved. Motion passed.

Election of Officers – Tapia has been serving as the Interim President and Willumstad as the Interim Secretary/Treasurer until a full Board was seated. Willumstad nominated Tapia for President. Tapia said that he would be willing to serve. Willumstad agreed to serve as Treasurer and Phillips as Secretary. Willumstad moved that this would be the slate of officers. Motion passed.

Administrator's Report – None.

DOW Lake Runyon Lease – Banner said that he has not yet received a response to the District's proposal.

City of Pueblo Non-payment of Assessment – The City presented a draft of a scope of services they could provide to the District through a cooperative agreement. Hobson explained that the Pueblo Area Council of Governments (PACOG) was created by an Intergovernmental Agreement (IGA) and had a staff, with the various governmental entities paying in to fund PACOG. In the 1980's there was a cooperative agreement developed where the City and County took on the administrative duties of PACOG. The City's proposal to the District tracks along the same approach as between PACOG, the County and the City. The City revised Exhibit A and passed it out. The agreement the City proposes is that the District would not directly pay the City but that the charges of the City would be credited back to what the City owes the District. Oversight services would be provided in-kind and the City would be paid for special services. Tapia requested Florezak to explain the differences of their assertion that the District has annually been paying \$100,000 for engineering services versus a five year record provided by Kidd. The City's proposed agreement indicates \$94,000 for engineering services. Florezak

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stated that he took payments for a few months and extrapolated them for the entire year. The City anticipates significant engineering services as the District moves through the levee certification process.

Tapia asked if the District hired a third party assessment team would the City be willing to pay what that assessment shows. The District would give credit to those payments received. Florezak feels that this cannot be done retroactive. The City may agree, but they want for there to be no assessments in 2012 for 2011.

Banner stated that per statute the landowners are to request the Court for a reassessment of the District. The Court would have to appoint a Board of Appraisers. The landowners are to initiate this process, not the District. Florezak said that there is an allowance for the Board to make requests of the Court. Banner stated that the Court would appoint the Board of Appraisers and then they could broaden the area of study and could hire special consultants if needed.

Willumstad suggested a joint motion of the City and the District to Judge Maes to request a Board of Appraisers and a reappraisal. Phillips so moved. Phillips asked if since the City feels that the current assessment program is unlawful and unfair would the City be willing to pay a fee for the appraisal process expenses. Florezak responded that they probably would not make a commitment of funds expenditures. Motion passed.

Tapia stated that he does not feel comfortable with the assessment program as it currently stands. Willumstad said that he concurred. Phillips is concerned that without the maintenance fund assessments the District has no income and we do not know what next year's expenses will be. Kidd said that the largest expense expected is for rebuilding the Wildhorse / Dry Creek Levee. Willumstad moved to suspend the assessment program until a reappraisal is completed. Motion passed.

Appointed Representatives - Kidd said that he has been the representative to the Arkansas Basin Round Table, and Banner was an alternate to Sandstrom as the representative to the Colorado Special Districts Association. Willumstad said that he would volunteer to be the SDA representative. There was discussion about Tapia being the representative to the HARP Authority. It was decided to table the appointments until a later meeting.

Other Business-

Phillips requested a change of meeting times. It was agreed to discuss meeting times and dates at the next meeting.

The City indicated that, as a part of their proposal, they could provide free meeting and storage space instead of the District maintaining a membership with the Heritage Center. The City is to determine their availability of spaces.

There being no further business to come before the Board, the business meeting was adjourned at 10:13 am. The next regular meeting date will be November 17, 2011.

APPROVED:

Sean Tapia, President

Paul Willumstad, Treasurer

Donna Phillips, Secretary



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Pueblo, CO 81003
Phone (719) 543-0516
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INDEPENDENT ACCOUNTANTS' COMPILATION REPORT

Board of Directors
The Pueblo Conservancy District
Pueblo, Colorado

We have compiled the accompanying balance sheets – general fund only – of the Pueblo Conservancy District as of October 31, 2011 and December 31, 2010, and the related comparative statements of revenue and expenditures – actual and budget – general fund for the ten months ended October 31, 2011 and the year ended December 31, 2010. We have not audited or reviewed the accompanying financial statements and, accordingly, do not express an opinion or provide any assurance about whether the financial statements are in accordance with accounting principles generally accepted in the United States of America.

Management is responsible for the preparation and fair presentation of the financial statements in accordance with accounting principles generally accepted in the United States of America and for designing, implementing, and maintaining internal control relevant to the preparation and fair presentation of the financial statements.

Our responsibility is to conduct the compilation in accordance with Statements on Standards for Accounting and Review Services issued by the American Institute of Certified Public Accountants. The objective of a compilation is to assist management in presenting financial information in the form of financial statements without undertaking to obtain or provide any assurance that there are no material modifications that should be made to the financial statements.

Management has elected to omit substantially all of the disclosures required by accounting principles generally accepted in the United States of America. If the omitted disclosures were included in the financial statements, they might influence the user's conclusions about the District's financial position and results of operations. Accordingly, these financial statements are not designed for those who are not informed about such matters.

McPherson, Breyfogle, Daveline & Goodrich, PC

November 14, 2011

PUEBLO CONSERVANCY DISTRICT
BALANCE SHEET - GENERAL FUND ONLY
OCTOBER 31, 2011 AND DECEMBER 31, 2010

	<u>10/31/2011</u>	<u>12/31/2010</u>
ASSETS		
VECTRA BANK CHECKING	\$ 144,981	\$ 78,575
VECTRA BANK MONEY MARKET	11,894	11,889
BROKERAGE MONEY MARKET ACCOUNTS	74,091	111,913
COLOTRUST INVESTMENT	25,000	25,000
WELLS FARGO INVESTMENT	544,292	591,717
STIFEL NICOLAUS INVESTMENT	269,511	309,261
ACCRUED INTEREST	<u>-</u>	<u>3,669</u>
TOTAL ASSETS	<u>\$ 1,069,769</u>	<u>\$ 1,132,024</u>
LIABILITIES AND FUND EQUITY		
ACCOUNTS PAYABLE	\$ -	\$ 800
PAYROLL TAXES PAYABLE	122	395
DEFERRED INCOME	<u>1,458</u>	<u>1,042</u>
TOTAL LIABILITIES	<u>1,580</u>	<u>2,237</u>
RESERVE FOR EMERGENCIES	7,000	6,000
DESIGNATED FOR SUBSEQUENT YEAR'S EXPENDITURES	92,330	-
UNDESIGNATED	<u>968,859</u>	<u>1,123,787</u>
TOTAL FUND EQUITY	<u>1,068,189</u>	<u>1,129,787</u>
TOTAL LIABILITIES AND FUND EQUITY	<u>\$ 1,069,769</u>	<u>\$ 1,132,024</u>

SEE ACCOUNTANTS' COMPILATION REPORT

PUEBLO CONSERVANCY DISTRICT
COMPARATIVE STATEMENT OF REVENUE AND EXPENDITURES -
ACTUAL AND BUDGET - GENERAL FUND
FOR THE TEN MONTHS ENDED OCTOBER 31, 2011
AND THE TWELVE MONTHS ENDED DECEMBER 31, 2010

	ACTUAL				
	CURRENT MONTH	YEAR TO DATE	2011 BUDGET	UNUSED BUDGET	2010 ACTUAL
REVENUES					
INTEREST INCOME					
COLOTRUST	\$ 2	\$ 26	\$ -	\$ -	\$ 50
MONEY MARKET ACCOUNTS	1	20	-	-	38
WELLS FARGO	2,156	19,233	-	-	26,656
STIFEL NICOLAUS	1,227	10,943	-	-	18,258
UNREALIZED GAINS (LOSSES)	898	24,988	-	-	2,674
TOTAL INTEREST INCOME	4,284	55,210	40,000	(15,210)	47,676
MAINTENANCE FUND ASSESSMENT	765	176,552	332,000	155,448	169,415
LEASE PAYMENTS	208	2,083	2,500	417	2,500
OTHER INCOME	-	15,132	-	(15,132)	-
TOTAL REVENUES	\$ 5,257	\$ 248,977	\$ 374,500	\$ 125,523	\$ 219,591
EXPENDITURES					
80 LEGAL FEES	\$ 8,616	\$ 16,213	\$ 4,800	\$ (11,413)	\$ 4,800
81 DIRECTORS FEES	180	2,160	3,000	840	2,580
82 FICA TAXES	-	-	230	230	197
83 ENGINEER/ADMINISTRATIVE	719	4,906	6,000	1,094	6,000
90 AUDIT & BOOKKEEPING	300	2,700	3,900	1,200	3,600
92 INSURANCE/BONDS	-	3,056	3,200	144	817
96 OFFICE EXPENSE	32	748	500	(248)	228
97 OFFICE RENT	-	840	1,000	160	940
100 PROFESSIONAL FEES	-	4,540	10,000	5,460	6,241
APPRAISAL	-	-	3,000	3,000	-
103 TRAVEL	-	-	1,200	1,200	-
105 REPAIRS & MAINTENANCE	425	19,786	50,000	30,214	30,508
ARKANSAS RIVER LEVEE REPAIRS	-	194,174	220,000	25,826	-
LEVEE CERTIFICATION-PRELIM	-	-	50,000	-	-
108 CONTINGENCIES	-	-	5,000	5,000	-
109 EMERGENCY REPAIR	-	-	15,000	15,000	-
110 CAPITAL IMPROVEMENTS	-	-	25,000	25,000	23,265
111 PLANNING & DEVELOPMENT	-	1,453	5,000	3,547	-
112 HARP - O & M / HARP - IGA CNTRB	-	60,000	60,000	-	61,000
113 SALES TAX	-	-	-	-	-
TOTAL EXPENDITURES	10,272	310,576	466,830	156,254	140,176
EXCESS (DEFICIENCY) OF REVENUES OVER EXPENDITURES	\$ (5,015)	\$ (61,599)	\$ (92,330)	\$ (30,731)	\$ 79,415

SEE ACCOUNTANTS' COMPILATION REPORT

PUEBLO CONSERVANCY DISTRICT
INVESTMENTS
10/31/2011

11/13/2011 3:31 PM

<u>BROKER</u>	<u>DESCRIPTION</u>	<u>MATURITY DATE</u>	<u>RATE</u>	<u>PAR VALUE</u>	<u>BALANCE 12/31/2010</u>	<u>ADDITIONS</u>	<u>MKT VALUE CHANGE</u>	<u>REDEMPTION SALES</u>	<u>BALANCE 10/31/2011</u>	<u>INTEREST RECEIVED 10/31/2011</u>
<u>CASH ACCOUNTS</u>										
VECTRA BANK	Money Market Account				11,888.97	4.95	-	-	11,893.92	4.95
STIFEL NICOLAUS	Money Market Account				53,074.99	42,629.59	-	70,000.00	25,704.58	12.56
WELLS FARGO	Cash Sweep Account				58,838.29	69,547.93	-	80,000.00	48,386.22	2.91
TOTAL CASH ACCOUNTS WITH BROKERS					123,802.25	112,182.47	-	150,000.00	85,984.72	20.42
<u>INVESTMENTS</u>										
COLOTRUST	Acct. 7081 - PLUS		6.240%		25,000.00		-	-	25,000.00	30.39
TOTAL COLOTRUST					25,000.00	-	-	-	25,000.00	30.39
WELLS FARGO	FHLMC 2646 LL RETAIL LOTTERY	8/15/2033	5.000%	78,000.00	17,075.14	-	(82.52)	14,000.00	2,992.62	312.50
	FHLMC 2640 LL RETAIL LOTTERY	7/15/2033	5.000%	70,000.00	999.20	-	0.80	1,000.00	-	4.17
	FNMA 06-107 PD REMIC MULTICLASS CMO	6/25/2035	5.000%	78,000.00	82,453.80	-	4,290.00	-	86,743.80	3,250.00
	GNMA 08-7 PN REMIC MULTICLASS CMO	1/20/2037	4.250%	60,000.00	35,244.10	-	36.24	7,539.11	27,741.23	958.49
	FHLMC 3393 BY REMIC MULTICLASS CPN	11/15/2037	5.500%	94,000.00	100,110.94	-	7,346.10	-	107,457.04	3,877.47
	FNMA 2008-74B REMIC MULTICLASS CMO	9/25/1938	5.000%	50,000.00	57,018.46	-	1,297.62	4,676.37	53,639.71	2,426.24
	FHLMC 3626 UA REMIC MULTICLASS CMO	9/15/2039	5.000%	50,000.00	38,791.54	-	(20.35)	7,614.28	31,156.91	1,334.94
	GNMA 10-62 LA REMIC MULTICLASS CMO	1/20/2040	4.500%	50,000.00	37,891.31	-	(180.29)	16,126.95	21,584.07	1,011.61
	GNMA 10-85 HQ REMIC MULTICLASS CMO	3/20/2040	5.000%	144,000.00	135,602.69	-	126.63	18,588.31	117,141.01	4,661.52
	FNMA 10-141 AL REMIC MULTICLASS CMO	12/25/2040	4.000%	90,000.00	86,529.60	-	9,306.00	-	95,835.60	3,000.00
TOTAL WELLS FARGO					591,716.78	-	22,120.23	69,545.02	544,291.99	20,836.94
STIFEL NICOLAUS	FEDL HOME LN MTG CORP #170217	3/1/2017	8.000%	1,120,000.00	2,365.99	-	(35.69)	359.45	1,970.85	134.07
	GNMA POOL #676875	3/15/2023	6.500%	235,000.00	159,458.15	-	146.74	7,731.06	151,873.83	7,753.83
	GNMA POOL #003851	5/20/2036	5.500%	165,000.00	73,014.96	-	1,209.71	12,760.97	61,463.70	2,885.45
	GNMA REMIC SER 2009-79	2/20/2039	5.500%	56,000.00	7,221.81	-	(13.93)	7,207.88	-	106.71
	GNMA REMIC SER 2010-98	7/20/2039	4.000%	70,000.00	67,199.79	-	1,560.81	14,557.67	54,202.93	2,124.18
TOTAL STIFEL NICOLAUS INVESTMENT					309,260.70	-	2,867.64	42,617.03	269,511.31	13,004.24
TOTAL INVESTMENTS					925,977.48	-	24,987.87	112,162.05	838,803.30	33,871.57
TOTAL ALL ACCOUNTS					1,049,779.73	112,182.47	24,987.87	262,162.05	924,788.02	33,891.99

PUEBLO CONSERVANCY DISTRICT

OCTOBER 2011 - NOVEMBER 2011

RECEIPTS

VENDOR	ITEM	AMOUNT
First Clearing, LLC	Interest Payment	\$ 587.12
First Clearing, LLC	Interest Payment	\$ 676.21
First Clearing, LLC	Interest Payment	\$ 854.75
Stifel, Nicolaus	Interest Payment	\$ 1,211.67
Wells Fargo	ColoTrust Dividend	\$ 1.55
		\$ 3,331.30

DEBITS

VENDOR	ITEM	AMOUNT	CHECK	CODE
Black Hills Energy	Electrical Billing	Pre-paid		105
MBDG, PC	Bookkeeping	\$ 300.00	3864	90
Don Banner - B&B, PC	Attorney Fees	\$ 400.00	3865	80
Kidd Engineering	Engineer/Admin Fees	\$ 500.00	3866	83
	October 8, 2011 Special Meeting	\$ 281.25	"	83
Director Phillips	Fees	\$ 56.61	3867	81
Director Tapia	Fees	\$ 56.61	3868	81
Director Willumstad	Fees	\$ 56.61	3869	81
Vectra Bank	Safe Deposit Box Rental <i>not paid</i>	\$ 40.00	3870	96
Southeastern Colorado Heritage Center	Two Extra Meetings	\$ 50.00	3871	97
		\$ 1,741.08		

United States Department of Agriculture



Natural Resources Conservation Service
Denver Federal Center
Building 56, Room 2604
P.O. Box 25436
Denver, CO 80225

Steven Yochum: 970-295-5657
steven.yochum@co.usda.gov

Al Albin: 720-544-2818
alton.albin@co.usda.gov

SUBJECT: Site Visit Report
Rocky Ford Highline Canal;
Arkansas River near Nepesta

DATE: September 14, 2011

TO:

Rocky Ford Highline Canal Co;
Rocky Ford, CO 81067
John Andrews, SCE Colorado

CC:

Mike Williams, Soil Conservation
Technician
Dave Miller, District Conservationist

PARTICIPANTS

- Representing the Rocky Ford Highline Canal Co.: Stan Fedde; Dan Hendrix, Jack "JJ" Yaklich.
- Representing NRCS: Al Albin; John Andrews; Mike Williams; Steven Yochum

SITE DESCRIPTION

The participants visited a reach of the Rocky Ford Highline Canal in eastern Pueblo County that is immediately adjacent to an outside bend of the Arkansas River. The site (Figure 1), located 2 miles northwest of Nepesta, was visited on August 18th, 2011. This reach of the canal begins just upstream of a decommissioned U.S. Geological Survey (USGS) streamgaging station (ID 07117000), with the canal coming within 75 feet of the Arkansas River along this reach. The two evident problems at the site are slump failure and streambank erosion.

Slump Failure

A recent slump of about 70 to 80 feet wide extends about 100 feet from the river bank toward the canal (Figure 2). The head of the slump is less than 40 feet from the canal bank. Recently fallen blocks of soil (Figure 3) and open fractures around the perimeter of the slump (Figure 4) indicate that the slump area is slowly enlarging. The slump is bounded by a very steep to overhanging scarp or wall 8 to 12 feet high (Figures 3 to 5). The depression created by the slump has a hummocky bottom of mostly saturated to super saturated blocks of soil (Figures 3 & 5). The bottom of the depression is a few feet above the river level at the time of the visit (discharge = 1150 cfs, USGS streamgage 07109500).

Dan Hendrix reported that the slump formed very suddenly when the canal was flowing full (468 cfs), on 6/29/2011, during high flow in the river (discharge = 3400 cfs, USGS streamgage 07109500). Dan also stated that river water, just after the time of the failure, only entered the lowest portion of the floor of the slump, immediately adjacent to the river channel.

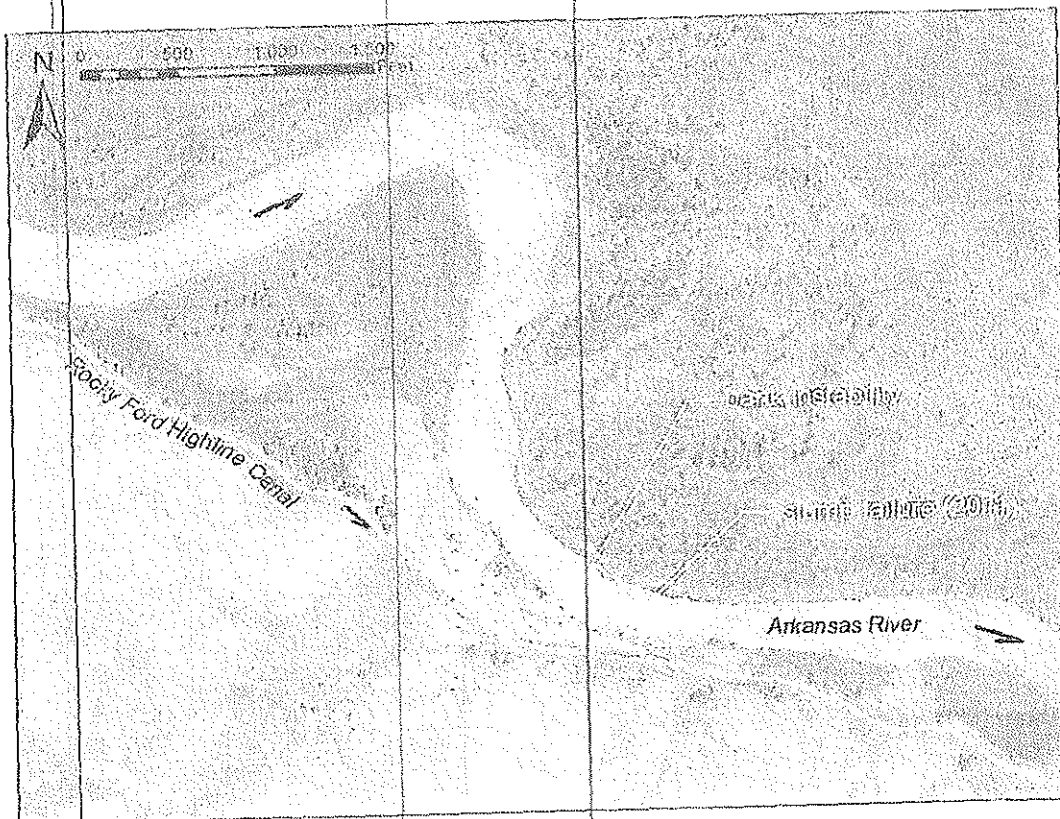


Figure 1: Rocky Ford Highline Canal and Arkansas River, in the vicinity of the unstable reach.

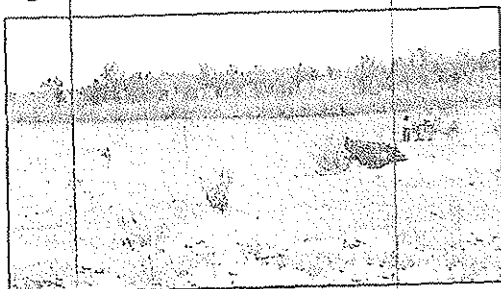


Figure 2: Slump, from above.

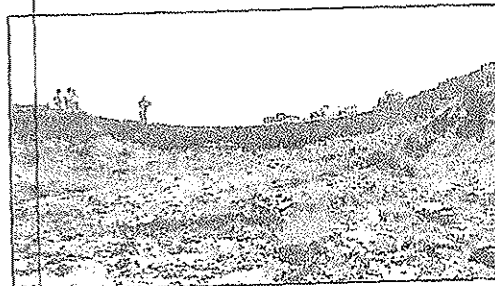


Figure 3: Slump, from edge of river.

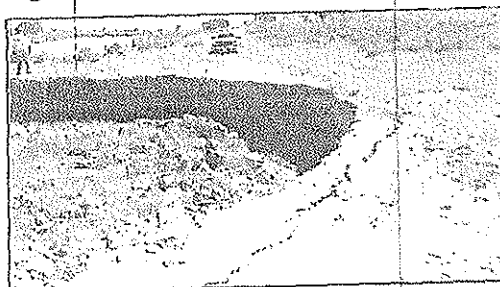


Figure 4: Open fractures along slump perimeter.



Figure 5: Slump wall, at river bank.

A number of older and smaller slumps are present in the same general area as this recent, large slump. They have been filled periodically with material excavated during canal maintenance. The existence of prior slumps in the vicinity of this recent failure indicates an ongoing problem.

The canal in this area cuts across a number of small drainages and at least one relatively large drainage, at the upstream end of the inspected canal reach (Figure 1). There has been an effort on the part of the canal company to provide flow paths from these drainages into the canal. Most of these drainages are small and their contribution to soil moisture is likely very small compared to that of the canal itself. The soils and the conditions that developed in these drainages prior to the construction of the canal may have some effect on the permeability or other properties of the soils that adversely affects the stability of foundation materials where the canal crosses these drainages.

Bank Instability

The Arkansas River adjacent to this reach of the Highline Canal is a meandering sand-bed stream with a slope of approximately 0.0013. In the reach of concern, the riverbank is separated from the canal with a distance ranging from 75 to 400 feet (Figure 1). The channel width of the Arkansas River ranges from 180 to 480 feet in the vicinity of this reach of the Highline Canal, with a floodplain width of about 4000 feet. At the point of the slump failure, the channel width is 270 feet, narrower than average.

The river is cutting into the terrace that the canal is located upon, with resulting bank heights of 15 to 18 feet. These eroding banks (Figure 1) are located toward the downstream portion of the outside of a meander bend. The high banks exist for a length of about 1200 feet, with an additional 150 feet of lower eroding banks (Figure 7) at the downstream limit of the indicated extent of bank instability (Figure 1). These lower banks have a height of about 5 feet. The banks are oversteepened, with riparian vegetation located intermittently along the base of the bank on a bench (Figures 5 to 7). This vegetation is primarily composed of invasive tamarisk (*Tamarix*). The tamarisk show signs of defoliation, which is possibly a result of the introduction of the Mediterranean tamarisk beetle (*Diorhabda elongate*) in the vicinity of Fowler in 2009. Russian olive (*Elaeagnus angustifolia*), also an invasive, is abundantly present within the Arkansas River floodplain, with at least two trees along the unstable bank. Native willows are additionally present within the floodplain and along the canal.

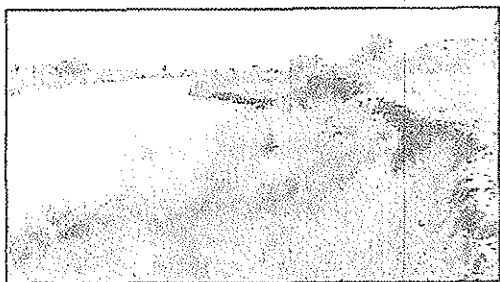


Figure 6: Bank vegetation and condition.

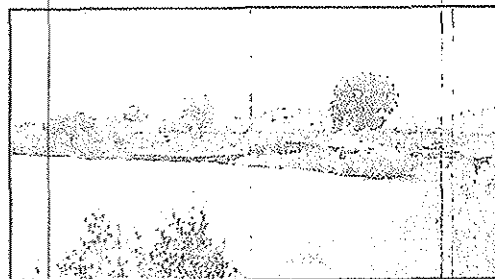


Figure 7: Bank vegetation and condition.

A large steel tank perhaps 40 feet long is lodged in the river bottom across the river from the slump location. A sandbar has developed downstream of the tank, though such sandbars are common in the river bed. Dan mentioned that this tank has been migrating downstream over time, though it is buried with its top close to being flush with the bed of the channel. The 6 to 8 feet tank diameter indicates the minimum depth of sand that is mobilized during high flows, and the minimum bed scour potential that can be expected with any structures protruding into the channel.

ANALYSIS

For assessing basic hydraulic characteristics of this reach of the Arkansas River, it is helpful to have an estimate of the channel-forming discharge. A cross section of an alluvial river such as the Arkansas is composed of the primary channel, the active floodplain, terraces and uplands (Figure 8). The primary channel is the sand-bedded, unvegetated stream channel. The active floodplain is well vegetated and is expected to flood to some degree once every other year or so. Terraces are former floodplain surfaces that are no longer inundated – the Highline Canal is located on a terrace. The uplands are the surrounding, higher landforms. Channel forming discharge is the flow that is thought to be largely responsible for maintaining the primary river channel. The hypothesis assumes that flows lower than the channel forming discharge do not have sufficient power or sediment load to have a dominant role in the geomorphology and that flows that are substantially greater than bankfull (such as a 100-year flood) occur too infrequently to dominate, while the channel forming discharge has the appropriate balance of power and flow frequency to be dominant. The bankfull surface is the physical feature that results from sediment deposition during flows equal to or greater than bankfull. This level is approximately the lowest flat floodplain feature, and is an important feature for use in the design of riverbank protection measures. This bankfull surface may likely be the bench level upon which vegetation is growing (Figure 6). This narrow feature is known as a bankfull bench. The vegetation on this surface reduces local velocities, causing sediment deposition that maintains the bench.

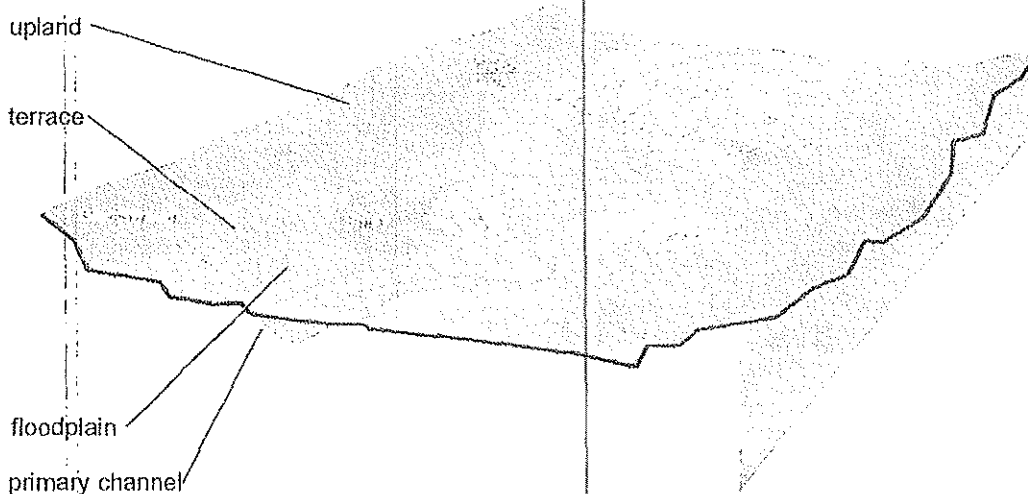


Figure 8: Schematic of typical floodplain features (from NRCS 2007).

Bankfull discharge is the river flow associated with the bankfull surface. It is commonly assumed to be equal to the channel forming discharge and occurs with a return interval of about 1.5 years.

To identify the approximate bankfull flow, a flow frequency analysis was performed using data from the adjacent, decommissioned streamgage (USGS ID 07117000). This gage was operated from 1912 to 1995, though only data collected after Pueblo Reservoir was constructed were used in the log-Pearson frequency analysis (1976 to 1995). The 1.5-year flow was computed to be 4640 cfs.

With assumptions of uniform flow, an average primary channel width of 270 feet, vertical banks, and Manning's n for the sand bed channel ranging from 0.013 (plane bed) to 0.03 (dunes), computations indicate that average bankfull flow velocity ranges from 7.3 to 4.4 ft/s and average bankfull depth from 2.4 to 3.9 ft.

DISCUSSION

There appears to be two processes occurring that, together, threaten to compromise the canal: (1) unfavorable soil conditions over an approximately 1500 foot section of canal has led to excessive seepage and numerous slumping failures; and (2), the Arkansas River has a meander migrating into a high terrace that the canal is located upon.

Slump Failure

The low level of precipitation in this area (average annual precipitation = 11 inches, PRISM) indicates that, typically, the contribution of moisture from the drainages above the canal is only a small contributor to soil moisture below the canal, and enhances the argument that the primary source of the moisture evident in the slump is canal seepage. Additionally, the saturated to supersaturated condition of the slumped soil and the moisture content of the soil in the lower part of the head wall are strong indications that the source of the water is seepage from the canal.

The canal seepage rate is inversely proportional to the flow path length between the canal and river, with the river encroachment resulting in shorter, steeper seepage paths, higher velocities and flow rates, and greater potential for piping. The elevated moisture profile produced saturated conditions in the soil well above the level of the river. The resulting loss of soil strength allowed the steep river bank to fail and slump into the river. Additionally, the high banks are likely increasing slump failure risk, due to increased overburden. Allowing these conditions to go unchecked will certainly threaten continued failures of this type, and will ultimately involve the canal embankment itself. Continued slump failure is a substantial threat to the stability of the Rocky Ford Highline Canal. Failure could occur either at the location of the 2011 slump failure or at another nearby location. **Substantial reductions in canal seepage must be the primary focus of any remedial effort.**

Bank Instability

Bank instability and river encroachment on this outside bank of a meander bend is a significant factor affecting the Highline Canal stability. In general, with fluvial processes the downstream portion of the outside of a meander bend is most susceptible to erosion, with a result of meanders slowly moving side to side and downstream over time. If the canal was not located on the terrace immediately adjacent to this bank, this natural process could be allowed to proceed without intervention. However, given the risk to the structural stability of the canal and the potential for the loss of irrigation water to more than 22,000 acres, **bank stabilization is required to reduce the lateral erosion rate, to protect the longterm operation of the Highline Canal.**

It is clear that the river bank is not wholly unstable, with excessive erosion rates along the entire 1350 feet. Stabilizing vegetation (tamarisk) does exist along substantial portions of the reach (Figures 6 & 7), with the roots from this existing vegetation providing a great deal of bank stabilization. Only the portions of the reach without continuous woody vegetation are currently susceptible to excessive erosion rates. After all, bank stabilization was a primary objective for the

introduction of this invasive plant and, in places on this river reach, it appears to be performing this function.

However, the nearby introduction of the Mediterranean tamarisk beetle has the goal of substantially reducing the extent of tamarisk throughout the Arkansas River floodplain. This biologic control treatment may have an unintended consequence of increasing lateral erosion along the banks of this river reach, potentially threatening the stability of the Highline Canal. This potential problem can be mitigated with the aggressive introduction of native bank-stabilizing woody vegetation, such as willows, as well as structural control measures.

RECOMMENDATIONS

Before high flow is again passed through the Highline Canal, the seepage needs to be greatly reduced to reduce the risk of a catastrophic failure of the canal and loss of irrigation water to the shareholders. Additionally, the banks need to be stabilized to reduce heights and lateral erosion rates.

Three remediation actions are recommended to address the observed issues:

1. **Canal seepage reduction**, to reduce water available for lubricating potential slump failure planes
2. **High bank slope reduction**, to decrease overburden that may be enhancing slump failure risk
3. **Riverbank stabilization**, to reduce lateral erosion rates and prevent substantial shortening of seepage flow paths

Canal Seepage Reduction

The most cost effective means of controlling seepage from the canal is to line the canal with the clayey material available at the site that has previously been used for similar purposes. The choice of this method is based on the availability of material along the route of the canal and the availability of the canal company's equipment and equipment operators. The clay material identified during the site visit is weathered and decomposed Pierre Shale. The shale is exposed in the ridges along the canal's alignment. Where the shale has been exposed to the weather, it has been reduced to a clayey soil containing chips of shale. Where the Pierre has been excavated or disturbed, the shale occurs as large flakes and blocks with a minor fine component. The intact Pierre Shale is moderately hard and can be excavated into coarse blocks with moderate effort using a backhoe. Samples of the weathered and unweathered shale have been collected for testing. The results of those test will help determine how best to prepare these materials for placement and the method and extent of working that will be required to produce a lining material of sufficiently low permeability.

The most advantageous and cost effective construction method would be to over excavate the canal to provide space for placing and compacting the clay lining. Some of the excavated material could be used to place a protective cover on the clay liner. The remaining material could be used to fill the depression created by the slump and for use in bank stabilization.

High Bank Slope Reduction

It is recommended that the slopes of the high (15 to 18 foot banks) be reduced by excavation of the tops of the banks, while keeping the existing bank toes in place. Due to the reduced Arkansas channel width in this reach, it is not recommended that the width be substantially reduced – reducing the slopes by extending the toe into the river is not recommended. Substantial reductions in the channel width will increase depths and, potentially, local energy slopes, increasing shear

stress and lateral erosion potential along the river reach. Importantly, the bank toes should not be shifted any closer to the canal – seepage flow path lengths should not be reduced.

Riverbank Stabilization

Approximately 1350 feet of overall river length is in need of at least intermittent stabilization practices, to decrease lateral erosion rates and increase the strength of the high bank toes, to reduce the opportunity for slumping. For sections of this reach where the riverbank is further from the canal (upstream 1/3 of the bank instability noted in Figure 1), only vegetative treatment may be necessary (willow clump planting, using the techniques discussed in Hoag (2010)). However, in the remaining portion where spacing between the river and canal is minimal, the use of structural measures is likely necessary. Two structural bank stabilization measures could be most successful for reducing lateral erosion rates along this reach: (1) rock riprap protection, with vegetation plantings; and (2), modified jacks, with vegetation plantings. With the use of such stabilization measures, vegetative plantings do need to be a component due to the longterm resiliency that this material provides.

The use of rock vanes is not recommended for this application due to potential for excessive scour under the structure in this sand bed stream, with resulting failure (note earlier tank discussion). Log vanes are not recommended, due to the high banks and seepage issues not allowing the vanes to be properly anchored into the bank for the required 2/3s of their length. Additionally, toe wood is also not recommended due to the high banks not allowing the proper anchoring of the sill and cantilever logs.

Instead, the two recommended remediation approaches involve creating a narrow, bank armored, bankfull-level bench immediately in front of the high banks, with the bench starting at the toe of the slope and extending 8 to 15 feet into the channel. The bench should be narrow to minimize river width reductions, since existing channel widths are already narrow compared to the average. The bank protection should be installed at least along the unvegetated portions of the streambank, and should be installed along the entire reach length if the tamarisk are found to be dying off in response to the introduction of the Mediterranean tamarisk beetle and will be no longer providing bank protection. This bankfull bench should match the level of the existing bench, where it exists on the reach, and could also be designed to match the elevation of the bank on the far side of the river. The bank is expected to have a height of 3 to 4 feet (see earlier analysis).

Noted above is the existence of a steel tank that was abandoned and has been slowing migrating downstream. While it is not clear that the tank, in its present location, adversely affects the stability of the river bank adjacent to the canal, it could be beneficial to remove this obstruction from the river.

Rock Riprap

Rock riprap is a proven method for providing bank protection, and would likely be effective for greatly reducing the lateral erosion rates. The rock should be placed up to the bankfull level of the bankfull bench. However, vegetation should be incorporated into the riprap placement. This vegetation should consist of both willow plantings under the riprap and willow clump plantings on the bankfull bench immediately behind the rip rap, on the bankfull bench, with a spacing of 8 to 12 feet. The irrigation canal reportedly has a large amount of willows available that could be harvested for this purpose. The attached technical notes provide information on techniques for planting willows under riprap (Hoag and Sampson 2007) and willow clump plantings (Hoag and Ogle 2010).

Jacks

Kellner jacks (K-jacks) were installed several decades ago to protect the canal upstream of this reach (Figures 9 and 10), and have been effective for bank protection on this section of the Arkansas River. In general, jacks tend to be effective on low-gradient channels with high suspended sediment load. The K-jack, which was available as a single available size, was constructed under a patent by the Kellner Jetties Company (Grassel 2002). However, it should be noted that, since the construction of Pueblo Reservoir, less sediment is now available for developing the natural levee around this permeable barrier, which the structure relies upon for its effectiveness. Due to the less available sediment load, it should not be expected that such a structure placed today will perform in an equivalent manner as the prior installation.

However, the design could potentially be modified for this project. Specifically, the jacks should be reduced in size to being only a foot or so higher than the actual bankfull height, resulting in arm lengths of 2 to 3 feet and overall lengths of 4 to 6 feet. Additionally, the jacks should be backfilled, instead of relying on flow processes to deposit the sediment, and the placement of willow clumps should be considered an integral part of this remediation technique, to provide longterm stability. Prefabricated concrete jacks are available (Contech Construction Products, http://72.32.121.133/ess/products/contech_hard_armor/armortec_family/a_jacks/219). This "A-jack" product is typically installed with jacks placed immediately adjacent to each other and functions similarly to riprap, though is thought to provide higher-quality habitat for aquatic organisms. The jacks may need to be cabled together and anchored with deadman anchors into the high banks both upstream and downstream, to prevent excessive movement in the case of localized scour under the jacks. If this product is used and placed in a solid line along the bank, the willow clumps would be placed immediately behind the jack-protected bank line, with a spacing of 8 to 12 feet. Alternatively, it may be possible to install this product with spaces between the A-jacks, with center on center spacing of 8 to 12 feet and willow clumps placed between the jacks. In either case, the bank would be backfilled to the level of the bankfull bench. If a K-jack style is used, in addition to the use of smaller sizes, the wire connecting the arms (Figure 10) should not be included. The jacks will need to be cabled together at their centers and anchored with deadman anchors into the high banks both upstream and downstream. With this design and smaller size, they would still serve the function of reducing local velocities and encouraging sedimentation but are less aesthetically offensive and a hindrance to larger mammals than the prior installation. The jacks should be backfilled into the bankfull bench, with their base a bit below the existing river bed and the bench built up to the bankfull height around the jack. Center on center spacing of 8 to 12 feet may be best, and willow clumps must be placed between the jacks. The entire bank should be backfilled to the level of the bankfull bench.

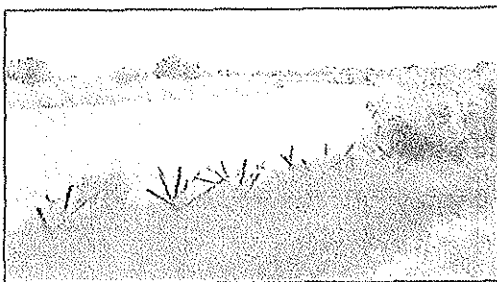


Figure 9: K-jack bank stabilization. Arm length are about 8 feet, with an overall diameter of about 16 feet.

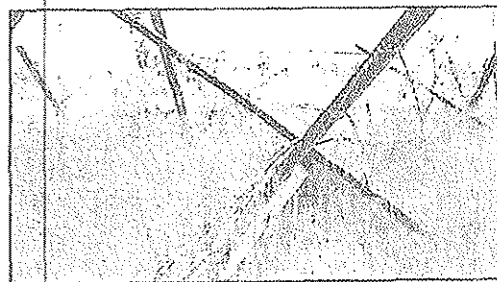


Figure 10: Cable connections between K-jacks, with overhead debris catching wires.

Additionally, the jacks could potentially be constructed of 6x6 lumber, which would eventually biodegrade after the bank has been well armored by willows. One of the issues associated with the use of Kellner jacks is their eventual removal (Grassel 2002); a wood approach would mitigate this issue. If wood is used, additional deadman anchors along the reach will be needed to address potential float issues during high flow.

Side Drainages

While the contribution to soil moisture from the drainages upslope from the canal is small, it is recommended that flow paths be maintained from these drainages into or across the canal.

CONCLUSIONS

There appears to be two processes occurring that, together, threaten to compromise the canal: unfavorable soil conditions along this canal reach that has led to excessive seepage and numerous slumping failures; and the Arkansas River meandering into a high terrace that the canal is located upon. Substantial reductions in canal seepage must be the primary focus of the remedial effort. Under the existing conditions, there is a substantial risk of a catastrophic failure of the canal bank and loss of irrigation water to the shareholders. A three-level mitigation approach is needed to address the instability that is threatening the Rocky Ford Highline Canal: canal seepage reduction, high bank slope reduction, and riverbank stabilization. Specific techniques are recommended to implement these approaches.

NRCS staff is available to assist in the evaluation of the various alternatives presented, to provide guidelines for liner material preparation, to provide design assistance, construction guidelines, and post project monitoring.

If there are any questions regarding the contents of this trip report, please feel free to contact Steve or Al.

Respectfully submitted by:

Steven Yochum, PhD, PE
Hydrologist

Al Albin, CPG
Geologist

REFERENCES

- Grassel, K. 2002. Taking Out the Jacks: Issues of Jetty/Jack Removal in Bosque and River Restoration Planning. The University of New Mexico, Water Resources Program, WRP-6.
- Hoag, J.C. 2010. Willow Clump Plantings. USDA Natural Resources Conservation Service, Plant Materials Center, Technical Note No. 42.
<http://www.plant-materials.nrcs.usda.gov/pubs/tdpmtcn10093.pdf>
- Hoag, J.C., Sampson, R.W. 2007. Planting Willow and Cottonwood Poles under Rock Riprap. USDA Natural Resources Conservation Service, Plant Materials Center, Technical Note No. 21. <http://www.plant-materials.nrcs.usda.gov/pubs/tdpmtcn7777.pdf>
- NRCS 2007. Stream Restoration Design. U.S. Department of Agriculture, Natural Resources Conservation Service, National Engineering Handbook, Part 654. 210-VI-NEH.

DISTRICT COURT, PUEBLO COUNTY, COLORADO Court address: 320 W. 10th St., Pueblo, CO 81003 Phone number: (719) 583-7125 (Information)	
IN THE MATTER OF THE PUEBLO CONSERVANCY DISTRICT.	▲ COURT USE ONLY ▲
Donald J. Banner, #3026 Banner & Bower, P.C. Attorneys for the Pueblo Conservancy District 115 E. Riverwalk, Suite 400 Pueblo, CO 81003 (719) 544-5086 Thomas J. Florczak, #7594 Attorney for the City of Pueblo, a Municipal Corporation 503 N. Main St., Suite 203 Pueblo, CO 81003 (719) 562-3899	Case No. 67 CV 17664 Div. No. B
MOTION TO APPOINT THREE COMMISSIONERS AS A BOARD OF APPRAISERS, TO APPRAISE ALL BENEFITS ACCRUING TO LAND WITHIN THE DISTRICT, AND TO SET A SUM PER DAY AS COMPENSATION FOR THE APPRAISERS FOR THE TIME ACTUALLY EMPLOYED IN THE PERFORMANCE OF THEIR DUTIES	

Comes now the Pueblo Conservancy District and the City of Pueblo, A Municipal Corporation and hereby move this Court for an Order pursuant to C.R.S. §37-4-101 appointing three commissioners as a Board of Appraisers for the purpose of making a readjustment of the maintenance fund assessment pursuant to C.R.S. §37-5-109. As grounds therefore, the undersigned state as follows:

1. C.R.S. §37-4-101 provides that this Court, as the Court which organized the Pueblo Conservancy District, may "at any time" make an appointment of a board of appraisers.
2. The original Board of Appraisers appointed with the organization of the District no longer exists.

3. The City of Pueblo is an owner of property and lands within the District. It has previously been assessed 45% of the total assessment, and it contends such amount is excessive.
4. Since the original appraisal of benefits done in the 1920's there has been a substantial and material change in the values of the property in the district and a new appraisal of benefits is necessary for the purpose of making a more equitable basis for the levy of the maintenance fund assessments.
5. C.R.S. §37-5-120 (3) provides that each appraiser shall receive a sum per day to be approved by the Court for the time actually employed in the performance of his duties.
6. C.R.S. §37-5-109 has a specific statutory provision to trigger a readjustment of the maintenance fund assessments when the owners or representatives of twenty-five percent or more of the acreage or value of the lands in the District file a petition requesting a readjustment of the appraisal of benefits. The undersigned contend that the Court has the authority to appoint a new Board of Appraisers and order it to conduct a readjustment of the appraisal of benefits since (a) there have been substantial and material changes to the lands throughout the district and the benefits those lands enjoy by being in the District.

Wherefore the undersigned pray that this Court would appoint three appraisers to act as a Board of Appraisers for the purpose of conducting a new appraisal of benefits of lands within the District and set a sum per day for the time actually spent by each appraiser in the performance of his or her duties.

Respectfully submitted this 15 day of November, 2011.


Donald J. Banner, Attorney for
Pueblo Conservancy District

Thomas J. Florezak, Attorney for the
City of Pueblo, a Municipal Corporation

PUEBLO CONSERVANCY DISTRICT
PRELIMINARY 2012 BUDGET
FOR NOVEMBER 17, 2011 DISCUSSION

	2011 BUDGET	2011 Actual to 10/30/11	2011 Projected	2012 BUDGET
REVENUES				
Interest	\$ 40,000	\$ 30,222	\$ 36,500	\$ 40,000
Unrealized Gains	\$ -	\$ 24,988	\$ 25,000	\$ -
Maintenance Fund Assessment	\$ 332,000	\$ 176,552	\$ 180,000	\$ -
Leases, Books, Other	\$ 2,500	\$ 2,083	\$ 2,500	\$ 2,500
Other Income	\$ -	\$ 15,132	\$ 15,132	\$ -
Cost of Sales	\$ -			\$ -
Total Revenues	\$ 374,500	\$ 248,977	\$ 259,132	\$ 42,500
EXPENDITURES				
Legal Fees	\$ 4,800	\$ 16,213	\$ 17,500	\$ 4,800
Directors Fees	\$ 3,000	\$ 2,160	\$ 2,520	\$ 2,160
FICA Taxes	\$ 230	\$ -	\$ 195	\$ 230
Engineer/Administrative	\$ 6,000	\$ 4,906	\$ 6,000	\$ 6,000
Audit & Bookkeeping	\$ 3,900	\$ 2,700	\$ 3,300	\$ 3,900
Insurance/Bonds	\$ 3,200	\$ 3,056	\$ 3,056	\$ 3,200
Office Expense	\$ 500	\$ 748	\$ 800	\$ 500
Office Rent/Storage	\$ 1,000	\$ 840	\$ 1,000	\$ 840
Professional Fees	\$ 10,000	\$ 4,540	\$ 4,540	\$ 10,000
Appraisal	\$ 3,000	\$ -	\$ -	\$ 60,000 <i>30,000</i>
Travel	\$ 1,200	\$ -	\$ -	\$ -
Repairs & Maintenance	\$ 50,000	\$ 19,786	\$ 20,700	\$ 20,000
Arkansas River Levee Repairs	\$ 220,000	\$ 194,174	\$ 194,174	\$ 100,000 <i>50,000</i>
Wildhorse/Dry Creek Levee Preliminary Design				\$ 20,000
Levee Certification -- Preliminary Work	\$ 50,000	\$ -	\$ -	\$ 50,000 <i>25,000</i>
Contingencies	\$ 5,000	\$ -	\$ -	\$ 5,000
Emergency Repairs	\$ 15,000	\$ -	\$ -	\$ 15,000
Capital Improvements	\$ 25,000	\$ -	\$ -	\$ -
Planning & Development	\$ 5,000	\$ 1,453	\$ 1,500	\$ 5,000
HARP -- IGA Contribution	\$ 50,000	\$ 50,000	\$ 50,000	\$ 50,000 <i>25,000</i>
HARP -- O&M	\$ 10,000	\$ 10,000	\$ 10,000	\$ 10,000
Total Expenditures	\$ 466,830	\$ 310,576	\$ 315,285	\$ 366,630
Excess of Revenues Over (Under) Expenditures	\$ (92,330)	\$ (61,599)	\$ (56,153)	\$ (324,130)
Beginning Reserve Fund Balance	\$ 1,177,687	\$ 1,129,787	\$ 1,129,787	\$ 1,076,634
Ending Reserve Fund Balance	\$ 1,085,357	\$ 1,068,188	\$ 1,073,634	\$ 752,504



MUSKINGUM WATERSHED CONSERVANCY DISTRICT

MAINTENANCE ASSESSMENT METHODOLOGY

History of the Muskingum System

The Muskingum Watershed Conservancy District (MWCD) was created in 1933 to carry out a comprehensive flood control and water conservation program in the Muskingum River watershed. The Official Plan of the MWCD called for the construction of 14 large dams and reservoirs to provide a coordinated system of flood control and water conservation throughout the watershed. The dams were constructed by the federal government as part of the depression era public works program and have since been operated and maintained by the U.S. Army Corps of Engineers.

Since 1933, the MWCD has operated the reservoirs and adjoining property by providing recreational opportunities with the Atwood Lodge, marina operations, camping, cabin rentals, cottage site leases, along with oil, gas and timber leases. Revenue from these sources has generally equaled expenditures leaving only limited funds for maintenance of the reservoirs and dams.

The Amendment to the Official Plan adopted by the MWCD Board of Directors and Conservancy Court in 2005 provides the framework to update and maintain the flood control system and in the process improve water quality in area lakes and streams.

Purpose of the Maintenance Assessment

The 14 dams of the MWCD system are more than 70 years old and require major safety upgrades. The US Army Corps of Engineers has listed four of the MWCD dams, Mohawk, Dover, Beach City and Bolivar as being among the most critical structures in the United States requiring major safety improvements. The Corps estimates that costs to repair these structures and additional upgrades to the other dams could exceed \$500 million, which the MWCD as the local sponsor must provide local matching funds. In addition, the reservoirs are filling with sediment which needs to be removed, lake and stream bank erosion should be reduced and acid mine drainage and stream pollution from antiquated sewage treatment and septic systems must be eliminated to keep the reservoirs viable.

The MWCD has identified six major areas of increased maintenance in the watershed including:

1. Dam Safety and Flood Control
2. Sediment Removal
3. Shoreline Protection
4. Water Quality Improvements
5. Watershed Management
6. Reservoir Operations

The estimated cost of this work is \$270 million over 20 years.

Methodology

The assessment is based on the estimated contribution of runoff from each of the 745,800 parcels within the MWCD.

To develop the methodology, a Geographic Information System (GIS) was prepared. A GIS map might be called a "smart map" as it includes the location of each parcel from the County tax maps, and each parcel has been attributed with the Auditor's data including owners name, address, parcel identification, parcel area and land use code.

The assessment is then computed from the parcel area, a runoff factor taken from TR-55 (Technical Report No. 55), prepared by the Soil Conservation Service, which is used extensively to compute runoff, and the Assessment Use Code, which indicates if the parcel is residential, commercial, agricultural or industrial. Typical runoff factors are shown in the following table.

Parcel Use	% Impervious
Residential	0.25
Commercial	0.85
Industrial	0.72
Parks, etc.	0.01
Mobile Home	0.25

A statistical sample of 600 residential parcels in the 18 counties within the MWCD produced an average impervious area of 3,300 square feet. Impervious area is the amount of hard surface such as buildings, sidewalks and driveways that produce much of the runoff to area rivers and streams. All residential, agricultural and vacant properties would be assessed the same amount, 1 ERU (Equivalent Residential Unit). Commercial, Industrial and other parcel classifications will be assessed based upon their estimated contribution of runoff to the watershed. The following example illustrates how this assessment would be determined:

For a 1 acre commercial property, the estimated percent impervious area would be 85%.

$$1 \text{ acre} = 43,560. \text{ ft.}$$

$$43,560 \times 0.85 = 37,026 \text{ sq. ft.}$$

$$37,026 / 3,300 = 11 \text{ ERU}$$

$$\text{If one ERU} = \$12.00 \text{ per year}$$

$$\text{Then } 11 \text{ ERU} = 11 \times \$12.00 \text{ or } \$132 \text{ per year assessment.}$$

Board of Appraisers

The three member Board of Appraisers is appointed by the Conservancy Court to *"appraise all benefits and damages accruing to all lands within or outside the district and all benefits accruing to public corporations as entities by reason of the execution of the Official Plan."* To accomplish this requirement the MWCD Board of Appraisers has met monthly over the past eight months to evaluate issues relative to levying the maintenance assessment.

The MWCD Board of Appraisers has established a definition of a parcel as:

*"For purposes of this appraisal of benefits, a parcel is defined as one or more contiguous, (adjoining) tracts of land with similar assessment use codes (AUC) and the same owner of record, as determined by the County Auditors. Such parcel may be divided by public or private roads or streams and still be considered one parcel under this Plan." **

**Note: Combining parcels across a road or stream is a manual process which will not be completed before the Appraisal Record is filed, but will be accomplished prior to levying the assessment.*

The Board of Appraisers has adopted a number of "Rules" to describe how the assessment will be established. These include:

- Use one (1) equivalent residential unit (ERU) for residential properties, defined as 1, 2 or 3 family.
- Agricultural properties be treated the same as residential properties, and should be identified based upon the land use code in the Auditor's database;
- Undeveloped properties will be assessed the minimum of 1 equivalent residential unit (ERU).
- Consolidate parcels whose assessment use code (AUC) is either Residential (R), Vacant (V) or Agricultural (A) and whose owner names match exactly and are adjacent to each other and bill just one of the parcels. Provide for correction of consolidation errors during the process.

5. The Conservancy District Law provides in C.R.S. §37-5-117, a positive obligation and duty of the officers of public corporations such as the City of Pueblo to *immediately* take all legal and necessary steps to provide for the payment of the Maintenance Fund Assessment and any other assessments by the District. It is the obligation of the City of Pueblo to levy and assess a tax by a uniform rate upon all the taxable property within the boundaries of the City of Pueblo and certify the same to the Pueblo County Treasurer. I doubt the City of Pueblo has complied with this statute.
6. C.R.S. §37-5-117(3), provides that the dissolution of the District shall not affect the lien of any assessment imposed pursuant to the provisions of the Conservancy District Law as stated above. The obligation to pay does not go away.
7. The City of Pueblo has raised some technical issues alleging that the assessments were not properly made at properly called and noticed meetings. I do not believe this is accurate. From a factual standpoint, the notices of every meeting were posted and we can prove that. Additionally, C.R.S. §37-1-103, says that the Conservancy District Law shall be liberally construed. C.R.S. §37-1-101(1), provides that in every case where a notice is provided for, if the Court finds for any reason that the notice was not given, the Court shall not thereby lose jurisdiction and the proceeding in question shall not thereby be void or be abated, but the Court shall in that case, order notice be given and thereupon, shall proceed as though notice had been properly given in the first instance. While this statute is talking about notices of Court proceedings, it can be argued that any notice the City did not receive, can be corrected in this manner. Additionally, C.R.S. §37-4-116, provides a mechanism to validate a proceeding that may have occurred without proper notice. The City of Pueblo would have to show there was a material denial of justice before it could argue that any proceedings the Conservancy District engaged in relative to the levy of assessment for Maintenance Fund, was irregular. As you know, notice was given to the public under the recording statutes, and I do believe that that would be binding on the City, as well as other land owners. Additionally, both you and I met with Tom Jagger, the City's attorney, and discussed all of these matters. The Board of Directors also has authority under that statute to apply to the District Court to remedy any defect or irregularity as the case may require.
8. In enforcing the rights of the District to collect from the City of Pueblo, I believe the District could use C.R.S. §37-1-105, which provides a remedy by mandamus, to cause the officers of the City of Pueblo, such as the City Manager, and whoever else manages the funds for the City and writes checks on behalf of the City and possibly, the City Council individual members, to comply with C.R.S. §37-5-117, being the statute that requires and imposes a duty on the governing or taxing body of a public corporation to take all legal and necessary steps to provide for the payment of the Maintenance Fund Assessment.

If you should have any questions, please let me know.

115 E. Riverwalk, Suite 400
Pueblo, CO 81003
Phone: (719)544-5086
Fax: (719)544-2544

Banner & Bower, P.C.

Memo

To: Board of Directors
From: Donald J. Banner
Date: October 19, 2011
Re: Pueblo Conservancy District/Dissolution

- I. **Board of Appraisers.** C.R.S. §37-4-101 provides that the Court shall appoint three commissioners referred to as Appraisers or the Board of Appraisers. One of the duties is for the Board to appraise all benefits and damages accruing to all land within or without the District by reason of the execution of the Official Plan. The Appraisers have to reside within the State of Colorado, but they do not have to own land within the District. Before beginning their duties, each appraiser must take an oath that he/she will faithfully and impartially discharge the duties of such appraiser and that he/she will make a true report of such work done by him/her. Thus, the Board of Appraisers has to become acquainted with the Official Plan of the District. We recently amended the Official Plan (in accordance with C.R.S. §37-4-113) and a copy is attached to this Memo. The Appraisers shall have the assistance of the attorney, engineers, secretary, and other agents and employees of the District. C.R.S. §37-4-102(3), provides that the Board of Appraisers shall appraise the benefits and damages, if any, accrued to cities, towns, counties, or other public corporations as political entities, as well as to the State of Colorado and the same shall be considered the same as benefits or damages, as the case may be, to land or other property. C.R.S. §37-4-103, provides that if the Appraisers find that land outside the boundaries of the District will be affected or should be included in the District, they shall appraise the benefits and damages to the land and shall file notice with the Court, describing the land which, in their opinion, should be included in the District. C.R.S. §37-4-104 is the statute that deals with the hearing necessary to bring land outside the District into the District. C.R.S. §37-4-105, provides the form of the report the Board of Appraisers is to file with the Court. It is my opinion that the Court can be asked to modify the form to allow electronic records instead of paper records.

Once the report of the appraisers is filed with the Court, notice is given to the public and there is a hearing on the report. The public is given ten days after publication of the report within which to file an exception to the report. Failure to file such exception constitutes acquiescence in favor of the report. Exceptions to the report are heard by the Court.

II. Maintenance Fund. C.R.S. §37-5-107, is the statutory provision for establishing the Maintenance Fund Assessment. The assessment is created by resolution of the Board of Directors. It is to be collected by the Treasurer of the County.

C.R.S. §37-5-109, is the statutory provision for readjustment of the Maintenance Fund Assessments. A readjustment may be made whenever the owners of 25% or more of the acreage or value of the lands in the District file a Petition in the Court stating that there has been a material change in the values of the property in the District since the last previous appraisal of benefits and asking for a readjustment of the appraisal of benefits for the purpose of making a more equitable basis for the levy of the Maintenance Fund Assessment. The statute does not have a provision for the Board of Directors of the District to request the Court to make a readjustment of the Maintenance Fund Assessment levy. If the owners of 25% or more of the acreage or value of the lands do file such a Petition, there is a hearing and if the Court agrees that the readjustment of the appraisal of benefits is appropriate, the Court directs the Appraisers of the Conservancy District to make such readjustment and report to the Court. This process can take place no more than once every ten years. C.R.S. §37-5-110, provides for the form of the report to be made for the Maintenance Fund Assessment record. I believe a Court Order could be obtained to modify the procedure to allow an electronic report in lieu of a paper report.

It is my opinion that in any Intergovernmental Agreement with the City, the City should consent to and waive any objection to the District's modification of the procedures set forth in the statutes. For instance, if the Board wants to petition the Court for a readjustment of the Maintenance Fund Assessment as opposed to finding owners of 25% of the acreage or value of the land, the City should consent to that procedure and waive any objection to it. The City should also consent to filing electronic records as opposed to paper records. There are other things that should be thought through by the Board prior to entering into an IGA.

III. Compensation. Now that there is a new Board, I suggest that at the next meeting you determine a sum that you want to request the Court to approve for your compensation at each meeting pursuant to C.R.S. §37-5-120. That same statute provides that when the interest of the District so requires, the Board of Directors may designate one of its Members as Executive Director in charge of construction, maintenance, and the general business affairs of the District and fix a reasonable monthly compensation in proportion to the per diem rate and in lieu thereof, as to the Director so designated. Each Appraiser appointed by the Court is to receive a sum per day to be approved by the Court. The County Treasurer is entitled to retain 1% of the amount collected by the County Treasurer on assessments, except assessments paid by public corporations.

C.R.S. §37-3-105, provides for the employment of agents and specifically states that the Board may employ a chief engineer, an attorney, agents, and assistants as may be needed, and may provide for their compensation. The employment of these agents shall be evidenced by agreements in writing, so far as possible, and specify the amounts to be paid for their services. In the past, the Board has not “employed” a secretary or treasurer. They have served without additional compensation, being paid only their per diem as Directors of the District. If the Board chooses to employ a secretary or treasurer, they have to be bonded.

IV. In 1981, the Conservancy Act was amended to add C.R.S. §37-3.5-101, dealing with dissolution of the District. The mechanism for dissolution is summarized as follows:

1. The Board unanimously determines that the original purposes for the organization of the District have been accomplished.
2. All indebtednesses of the District are paid in full.
3. The Board devises a Plan of Dissolution, which is filed with the Court, together with a Petition for Dissolution.
4. The Plan of Dissolution sets forth a proposal by the Board of Directors to dispose of any assets of the District and to transfer any remaining responsibilities of the District to a political subdivision of the state.
5. The Court fixes a date and time for a public hearing on the Petition and notice is published. The Court may take such testimony the Court deems proper; if the Court determines that the original purpose of the District has been accomplished, that the District is no longer indebted to any person, and that adequate provision has been made for the disposition of any assets of the District and the transfer of any remaining responsibilities, the Court may enter an Order approving the Plan of Dissolution. In lieu of approving said Plan, the Court may order an election, submitting the proposition of dissolution of the District to the electors of the District.
6. If an Order approving the Plan of Dissolution is entered, the Directors shall expeditiously implement the plan and upon its completion, shall file notice of same with the Court and with the Division of Local Government. Upon receipt of the notice, the Court shall enter a Decree, granting the Petition for Dissolution and dissolving the District.
7. If an election is ordered by the Court, a majority of votes in favor of dissolution will result in the dissolution of the District.

DISTRICT COURT, PUEBLO COUNTY, COLORADO Court address: 320 W. 10th St., Pueblo, CO 81003 Phone number: (719) 583-7125 (Information)	
IN THE MATTER OF THE PUEBLO CONSERVANCY DISTRICT.	
Donald J. Banner, #3026 Banner & Bower, P.C. Attorneys for the Pueblo Conservancy District 503 N. Main St., Suite 221 Pueblo, CO 81003 (719) 544-5086	ACOURT USE ONLY A Case No. 17664 Div. No. B
NOTICE	

Attached to this Notice is a copy of an Order Approving the Amended Official Plan for the Pueblo Conservancy District dated May 29, 2007. Also attached to this Notice is a legal description of land included within the Pueblo Conservancy District. Additional land not described in the attachment hereto may also be included within the Pueblo Conservancy District.

Dated this 31st day of July, 2007.

BANNER & BOWER, P.C.

By: 
Donald J. Banner, #3026
Attorneys for the Pueblo Conservancy District



DISTRICT COURT, PUEBLO COUNTY, COLORADO Court address: 320 W. 10th St., Pueblo, CO 81003 Phone number: (719) 583-7125 (Information)		
IN THE MATTER OF THE PUEBLO CONSERVANCY DISTRICT.		
Donald J. Banner, #3026 Banner & Bower, P.C. Attorneys for the Pueblo Conservancy District 503 N. Main St., Suite 221 Pueblo, CO 81003 (719) 544-5086		A COURT USE ONLY A Case No. 17664 Div. No. B
ORDER APPROVING THE AMENDED OFFICIAL PLAN FOR THE PUEBLO CONSERVANCY DISTRICT		

COMES NOW, the Court, having reviewed the Motion for Approval of an Amended Official Plan for the Pueblo Conservancy District (PCD), and having considered the matter, does hereby Order that the following Amended Official Plan be and is hereby formally adopted by this Court:

Amended Official Plan for the Pueblo Conservancy District

1. To continue its operations with the assistance of a single staff person who is both the Engineer and Administrator of PCD. This contract of services shall pay a monthly fee for administrative services, routine examination of district properties and its levies; attendance at meetings of the board and reasonable time given to meetings with other public entities with whom PCD maintains relationships. Specific engineering projects, consultations or extended meetings shall be subject to additional billing as agreed to by the board of PCD.
2. To continue the necessary examination and maintenance of the concrete flood protection levee from 11th Street in Pueblo to Runyon Lake; the earthen levee along Wildhorse Creek and to evaluate every three years the need for any additional flood protection requirements within the boundaries of PCD. The maintenance includes but is not

limited to levee stability; erosion repair and prevention; levee seam caulking; water gate maintenance; removal of debris, vegetation and blockage; maintenance road repairs and property maintenance within PCD boundaries.

3. The PCD shall as soon as possible initiate maintenance repairs to the concrete levee between the diversion dam located below the Fourth St. Bridge and the Santa Fe Bridge at an estimated cost of \$300,000.00. PCD shall seek assistance from the Army Corps of Engineers and any alternative funding possible to complete the maintenance necessary to insure levee stability and the ability of the flood protection construction to be certified in accordance with Federal Emergency Management Agency (FEMA) requirements.
4. The PCD shall over a period of five years and thereafter as needed re-caulk the seams of the concrete levee and establish maintenance plans to prevent erosion on the South slope of the levee between Dutch Clark stadium and the Santa Fe Railroad Bridge with annual costs estimated at \$60,000.00.
5. The PCD shall over a period of ten years initiate maintenance improvements on the unimproved portions of the levee slopes through brush removal, erosion control and water diversions with annual costs estimated at \$15,000.00.
6. The PCD shall initiate annual maintenance of the earthen levee to include drainage, brush, weed and debris removal with annual costs estimated at \$3,000.00. This maintenance on the earthen levee is necessary to insure eligibility for certification in accordance with FEMA requirements.
7. The PCD shall cooperate with the Historic Arkansas River Project (HARP) in the development of parks and recreational facilities which lie within the PCD District, with annual costs estimated at \$10,000.00 and special project costs funded as is appropriate from time to time.
8. The PCD will assist in the maintenance of the public access and use of Runyon Lake and the property of the District in proximity to the Lake and Runyon Field.
9. The PCD will assist in the maintenance of the public access and use of the Arkansas River and Thomas Phelps Creek for fishing, kayaking and hiking.
10. PCD will not purchase additional lands or property without this Court's prior consent.

*Partially
Done*



11. The PCD will continue to budget for routine operational expenses in addition to necessary maintenance, repairs, insurance, directors' fees, cleaning and weeding operations, brush removal and protection of assets currently part of the flood protection system of PCD and the recreational enhancements contained within the boundaries of PCD.

The Court further Orders that a copy of this Order be recorded in the Records of the Recorder of Pueblo, Colorado and that a copy of this Order be printed once a week for three consecutive weeks in the Pueblo Chieftain, a newspaper in general circulation in Pueblo County, Colorado.

Done by the Court this 29 day of May, 2007.


Dennis Maes, District Judge

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1201000011 STONEHILL IMPROVED CIVIL LLC

1201000012 PETERSON DANIEL L & LYNN M

1201000013 LEACH RICHARD J & CHRY

1201000014 ROBERT NORMAN STREET

1201000015 JEFF WILSON INC

1201000016 CLARENCE TELFER

1201000017 BRYON CHARLES E

1201000018 JAMES VILFARVE & PROTECTION SO

1201000019 UNITED STATES OF AMERICA

1201000020 CECILIA BATES OF AMERICA

1201000021 ROBERT MICHAEL PALMA

1201000022 PUEBLO MUNICIPAL CORP

1201000023 VALCO INC

1201000024 WOLSELEY INVESTMENTS INC

1201000025 WOLSELEY INVESTMENTS INC

1201000026 URBAN PLANNING AUTHORITY OF

1201000027 BESSMER ROBERTSON DITCH CO

1201000028 MARTINEZ ANTHONY & MARINA K T

1201000029 TRILLER RALPH T & JOSEPHINE A

1201000030 VALCO INC

1201000031 STATE OF COLORADO

1201000032 LYNCH DENALD

1201000033 M DOWELL TAIN

1201000034 WELLSFORD HARBORST MINISTERS

1201000035 ROBERT K & ROBERT K

1201000036 ROBERT K & ROBERT K

1201000037 ROBERT K & ROBERT K

1201000038 WELTON JAMES R JR

1201000039 MURPHY DANNY D & BARBARA J

1201000040 VALCO INC

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- The "land Use" method should be adopted as the methodology for computing the annual assessment
- A sample of residential properties will be used to determine the ERU (Equivalent Residential Unit) for residential properties.
- A single residential ERU should be established as the basis for evaluating all other land use classifications
- The ERU will be computed for other parcel use codes based on the methodology described later in this paper.
- Round the ERU to the nearest whole number using conventional rounding protocol;
- All Federal and certain properties currently designated by the legislature as exempted from assessments are exempted. No other exemptions from the assessment charge will be accepted.
- Public roadways, sidewalks located in the right-of-way, driveway aprons located in the right-of-way, and bike paths/trails are defined as part of the storm water conveyance system and will not be assessed.
- The MWCD should allow for retroactive billing adjustments for any and all types of discovered billing errors, for a period not to exceed three years following the billing date that precedes discovery of the error. Exceptions and variations to this policy are expected as good customer service benefits should be applied whenever possible.
- For Condominiums, if County Auditor records show that individual condo owners are taxed based upon a recorded deed, then the estimated impervious area of the total parcel will be prorated across each individual owners parcel and assessed accordingly, otherwise, the condominium association or management company will be assessed.
- Assessment for apartments to be billed to the complex owner, not individual tenants.
- The assessment for land leases to be billed to the property owner, not the tenant.
- For those parcels that overlap the MWCD boundary, if more than 50% of the parcel is inside the MWCD then an assessment will be levied against the entire parcel.
- The methodology proposed to distribute the benefit across all the property within the MWCD is based on the estimated runoff produced by each parcel as determined by its Property Use Code, the parcels gross area, as determined by the Auditors records, and the estimated impervious area for that Parcel Use Code, based on TR-55 average values. This runoff produces the flooding and water quality problems that are addressed under the Addendum to the Official Plan which was approved by the Conservancy Court on June 11, 2005.
- The percent impervious for open space, including lawns, parks, golf courses and cemeteries be established as 1%.
- The 1% impervious factor be applied to camp grounds (PUC 416).
- The 5% impervious factor should also be used for mines and quarries (PUC 380).
- Based on a statistical sample of trailer or mobile home parks (PUC 415), the average percent impervious area was found to be 25%.
- Based on statistical sampling, 3,300 square feet of impervious area be adopted as one ERU.
- For purposes of this assessment process, any R, Ag or V parcel in excess of one section (640 acres) is considered a large parcel and the assessed value will be determined by dividing the total parcel area by 640 and billing according to the rounded results.
- For larger parcels, where potential assessments would exceed \$1,000, impervious area will be measured from available aerial photography and the results used to compute the assessment.

- Property owners who believe the assessment based on TR-55 values are not representative of the actual impervious area on their properties may submit additional information in the form of recent aerial photography or certified site plans to the MWCD and their assessment will be re-evaluated, and if justified, modified accordingly.
- All parcels contribute runoff, even those that are vacant. Runoff implies not only quantity but also timing. Compared to residential property where runoff occurs quickly, vacant property typically would absorb rainfall until saturated and then contribute runoff to the stream system. Based upon this contribution of runoff to the watershed, for this assessment vacant parcels will be assessed 1 ERU.
- The Auditor's parcel area will be used to compute the assessment unless the Auditor's area exceeds the GIS area by more than 20% then the smaller of the two areas will be used for the assessment computation. Also, if the Auditor's parcel area is blank or zero then the GIS area would be used.

Projected Cost per Parcel

All one, two or three family residential parcels will be assessed one (1) ERU. All vacant and agriculture parcels will also be charged one ERU, which will amount to \$12.00 per year per parcel. Commercial, Industrial and other Parcel Use Codes will be assessed based upon their area and parcel use code. The average assessment by parcel use code varies and typical examples are shown in the following table:

Parcel Use	% Impervious	ERU	Assessment
Residential	0.25	1	\$ 12.00
½ Acre Commercial	0.85	6	\$ 72.00
6 Acre Industrial	0.72	57	\$ 684.00
1 Acre Church	0.40	5	\$ 60.00
4 Acre School	0.40	21	\$ 252.00
100 Acre Golf Course	0.01	13	\$ 156.00

Preliminary Benefit Analysis

The Conservancy Act (ORC6101) requires that benefits must exceed costs for a project to be considered viable. An economic analysis of benefits has been completed which indicates that total benefits from the proposed work will exceed \$2.5 billion, producing a benefit cost ratio of \$16.00 in benefits for every \$1.00 expended.

Contact Information

The MWCD will establish a web portal to assist local property owners in determining the assessment for each parcel. This site will be located at mwcd.org

Owners can enter their name, address or parcel identification number to locate their property and determine the proposed assessment.

Property owners can also obtain information about their property by contacting the MWCD toll free hot-line at (866) 755-MWCD. In addition, copies of the Appraisal Record for each County will be filed with each County Auditor. These paper copies will be available for public inspection in each County.

Issues to be addressed:

Done
Signature documents at Vectra Bank; Wells Fargo Brokers (Calvin Mason) UBS (Mark Kennedy) Colorado Trust

Appoint representative to Special District Association (Don Banner is alternate)

Appoint representative to HARP Authority (Louie Carleo is PCD rep on Foundation)

✓ Notify CPA

Prepare 1040 IRS forms for Board Members leaving and by January for new members

✓ Prepare and post notices of meetings

Notify Wildlife of new contact

Notify Fire Department of contact

Prepare Budget for 2012 (Note while this board informed HARP Authority of intent to keep flat funding, \$50,000 IGA partner and \$10,000 maintenance to avoid trash flow to Runyon Lake

Watch for Contract from State on Runyon Lake for Wildlife

Notify Dawn Gladwell at FEMA of contact person

Notify CDOT of contact for issues on 11th street Bridge and Wildhorse levee.

Examine carefully the minutes and changes on the Court Approved Assessment with the knowledge that the only large non-payment is the City of Pueblo and you may have to pay all monies back to other property owners if they are not required to pay. We did agree with Jagger when he agreed for the City to the \$150,000 assessment that within ten years we would proceed with the new assessment appraisal.

Walk the Levee and pick out the hazard projects that need to be done. We were in the process of selecting dead trees to remove; brush to be cleared; logs to be removed from river flow. We have been contracting with DOC SWIFT (Mike McConnell 719 250-0305) for dead tree removal, Spacomonti Construction for general brush removal and removal of weeds, trash and logs from River or other properties. The County has been doing the City agreement to do weed removal on the Levee but we agreed to pay \$4000 of this years' cost due to County Budget issues. The District in the future will have to take over contracting for weeds on the cement because the ten year agreement will be up soon. We have to go back in the minutes to see year I don't recall off the top of my head.

We are members of the Historic Museum to allow us a meeting place and to store our safe, some boxes, some filing cabinets and the map desk. That contract membership is good through December. You have to decide whether to continue or not.

We post notices at the interim city council offices on the hallway bulletin board, on the Museum Bulletin board and at the First National Bank Building. Someone will have to do those postings at least 24 hours before a meeting.

Examine the Court approved Master Plan and select which project is next. Likely was this fall start work on levee toe repairs below this year's earlier repairs.

Give the Treasurer's office notice of new contract.

New names of board need to go to the Special District Association.

The Corps of Engineers in Albuquerque need to be notified on contact and the work on the levee extension they ordered needs to be done. Rick Kidd has detail the Corps has not yet sent us the inspection letter.

You may want to review property ownership. There are several concerns: documenting ownership of the cooling ponds above HARP; building located on district property near Moffat parking lot; use of land south of levee between Main Street Bridge and Union. What to do with land on Corona.

Certify 2012 assessment and get to treasurer before end of October or there will be no assessment and then PCD cannot do repair projects of Master Plan.

Be sure that you examine carefully the responsibilities the District may have regarding flood protection below the confluence. The Mesa has changed significantly since 1921 and what was once flooded farmland could be flooded developments. That is outside the city boundaries and there is a severe question as to the authority of the city to take on any responsibility on that area if they were to take over the District responsibilities.

With the resignations of this board it was stipulated that we would withdraw our order to the City for payment or proceeding to Mandamus. This was part of avoiding costly litigation initiated by the District and allow a new board to review the responsibilities of the District and its board and the ability to fund maintenance and operations with repairs vs. the dissolution of the District and the City taking over.

The new board must examine those duties, responsibilities and abilities and decide whether to continue the assessment, do a new cost benefit appraisal, dissolve and turn it over to another government unit or go to the legislature for dissolution. If the board does not enforce the assessment they likely have to repay the assessment to all the others who have paid and likely drop any further repairs. If they turn it over I have given the city, Mr. Banner and in my notebook given to a new board member a list of things the city must assure to allow dissolution. There also remains some dispute as to whether the court can allow dissolution without a government body taking over ALL responsibilities of the District. If the assessment continues the new board will have to re-issue the Order to pay and re-certify assessment before the end of October and within the next few years have a cost/benefit appraisal. Jagger told us the city would not protest the assessment if we agreed to a limit of \$150,000 and did the appraisal within a ten year period. Galli said he would put the amount in the City Budget but was terminated

before it was completed. That is how the District vs. City dispute got started when the City without Jagger or Galli learned that they owed the assessment.

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The new board needs to consider whether all board members will receive same monthly stipend or whether the President will have additional duties as now the president does and therefore receive the approved higher stipend.

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Banner & Bower, P.C.

Memo

To: Gus Sandstrom
From: Donald J. Banner
Date: ~~October 18, 2011~~ April 25, 2011
Re: Pueblo Conservancy District Matters

The following are points you should consider with respect to your discussions with the City of Pueblo on dissolution:

1. The County Treasurer cannot waive or in any way un-do the assessments that have been made to date. C.R.S. §37-5-110(6) sets forth what the County Treasurer must do in the event of a default in the payment of an assessment. The treasurer advertises the property for sale for the unpaid assessment, penalties and interest. The property can be sold for the delinquent assessments and pursuant to C.R.S. §37-5-111 is to be struck off to the Conservancy District and a Certificate of Purchase would issue that would ripen into a Deed for the property that would be issued to the Conservancy District.
2. An provision is found in C.R.S. §37-5-112 that provides that the holder of a Certificate of Purchase can after three years bring a civil action to foreclose the lien for assessments, represented by all Certificates of Purchase.
3. C.R.S. §37-5-114, that provides that the Maintenance Fund Assessment, until paid, constitutes a perpetual lien on the lands and property on a parity with a tax lien for general state, county, city, town, or school taxes and no sale of such land or property to enforce any other tax, shall extinguish the perpetual lien of the assessments. These liens do not go away.
4. C.R.S. §37-5-116, creates a remedy for any defective assessment and basically says that the Board of Directors shall by subsequent or amended acts or proceedings promptly and without delay, remedy all defects or irregularities as the case may require by making or providing for the collection of new assessments or otherwise. I would think this would allow the Board to assess the City of Pueblo for the assessment that was originally levied on the ice house, which was not owned by the City of Pueblo.