

Draft Minutes
Special Meeting
March 18, 2009

The Chaffee County Board of Commissioners held a Special Meeting on Wednesday, March 18, 2009 at the Salida Steam Plant Theater, 220 West Sackett Avenue, Salida. Board members were Chairman Frank Holman, Commissioner Tim Glenn and Commissioner Dennis Giese. Others present were County Attorney Jenny Davis, County Development Services Director Don Reimer, Special Counsel Barbara Green, County Water Attorney Jim Calichia and Deputy County Clerk Merrilou Cicerelli.

Chairman Holman called the meeting to order at 1:06 p.m.

Chairman Holman asked Deputy County Clerk Cicerelli for verification regarding the distribution of the Board of Commissioner's Agendas. Deputy Clerk Cicerelli said that the agendas had been distributed appropriately.

County Attorney Davis stated that the reason for this public hearing was to address the request from Nestle Waters North America, Incorporated for a Special Land Use Permit and a 1041 Permit. The request was for the development of spring water source, associated transmission pipeline and loading facility. The location is 12916 and 12974 U.S. Highway 24/285, Johnson Village, 22565 and TBD (to be determined) County Road 300, Nathrop. The pipeline would be located on the subject properties and within the rights-of-way for County Road 300, County Road 301 and County Road 310, and within easements proposed for publicly and privately owned lands between the project properties. The properties are zoned a combination of: Commercial, R-1 Residential, Rural, and Recreational.

County Attorney Davis stated that the hearing would be held as a quasi-judicial hearing during which the Board would hear witnesses and consider evidence. The agenda for the hearing was as follows:

- Staff report
- Submittal of evidence
- Applicants testimony and submittal of evidence
- Testimony and submittal of evidence by proponents beside the applicant
- Opponents testimony and evidence
- Final Board questions

She stated that the meeting would be recorded. Therefore, when testifying you will be asked to speak in the microphone, state your name and address. You will also be sworn in. All testimony should be directed to the Board and not to any other party. The Board had the right to ask questions of any witness, the applicant also had the right to questions any witness. Other opponents and proponents of the applicant should direct their questions to the Board.

She asked if anyone in the public felt that any of the Board of Commissioners had a bias or preconceived notation on this request or felt that there was any conflict of interest. Jim Ruggles, 1500 County Road 182, Salida, stated that he felt that decisions had already been made. He did not know that much about the applications but felt that the Board had made decisions without receiving public comments. He had heard that Chairman Holman had taken part in the sale of the property and water.

Chairman Holman stated that he did not have any personal interest in the property or the sale of such. He had water of his own but that came from the South Arkansas River. He had not spoken to anyone about this project.

County Special Counsel Green stated that her roll had been and continued to be that the utmost care was given to making sure that the proceedings were open and all County regulations were followed to the "T". She stated that this was the first time that this group had been together to discuss this matter and that their entire decision making had to be

based with evidence on the record which meant any evidence that had been submitted in writing up to this point and any oral testimony from this point forward.

County Attorney Davis stated that the only time this Board had been together concerning this application was during a site visit to the area. At that time no discussion had been held and that there had been members of the community at the site at the time.

Jane Browning, 7714 County Road 4, Howard, stated that she had just found out information that seemed to be contrary to what Nestle Waters had given to the Planning Commission. She stated that it sounded to her that the Planning Commission had given a recommendation without completing the full process.

County Attorney Davis explained that under County procedures the Planning Commission hold a public hearing on Special Land Use Permits. The Planning Commission served as a reviewing agency for the Board of Commissioners concerning the request for the 1041 application. The Planning Commission had held a public hearing pursuant to County regulations on the Special Land Use Permit request. They had prepared a draft recommendation, which had been attached to the agendas. The draft recommendation was only concerning a recommendation of approval of the Nestle Waters North America Incorporated request for a Special Land Use Permit. At the last Planning Commission hearing, they had not been able to conclude their analysis on the 1041 request by Nestle Waters. The Planning Commission felt that they needed additional comments before they made any comments concerning the 1041.

The Public Hearing regarding a request from Nestle Waters North America, Incorporated for a Special Land Use Permit and a 1041 Permit began at 1:30 p.m.

County Development Services Director Reimer presented the staff report and draft recommendation from the Planning Commission.

Special Land Use Permit

The Planning Commission unanimously recommended APPROVAL of the Nestle Waters North America, Inc. – Special Land Use Permit Application, subject to the 10 conditions outlined above and in view of the findings. The applicant was requesting a Special Land Use Permit in connection with the development of spring water source, associated transmission pipeline and loading facility.

Conditions:

1. As a condition of the Special Land Use Permit, the applicant shall provide an analysis of the current carrying capacity of US 24/285 Trout Creek Pass, and how this project is expected to affect both the current capacity and long-term capacity of the highway system. This shall be completed prior to December 31, 2009.
2. Prior to BOCC hearing the applicant shall submit to staff a detailed site plan of each site and prior to issuance of any building permit the applicant shall submit all landscape, lighting and drainage and fencing plans.
3. Prior to beginning any pipeline construction, the applicant shall submit all executed ditch crossing agreements, easements, and rights-of-way dedication needed for the pipeline; and prior to the issuance of any building permit the applicant shall submit to the County all executed easements, right-of-way dedications, consents and deeds necessary to construct each structure.
4. Prior to issuance of the Special Land Use Permit, the applicant shall submit an approved weed management plan and re-vegetation plan.
5. In order to operate the Project pursuant to this Special Land Use Permit, the applicant shall have a Substitute Water Supply Plan in place to augment the 200 acre feet of spring water and would apply for a plan for augmentation with the water court within 6 months of approval. Upon issuance by the water court of a decree for a plan for augmentation, the applicant no longer needs a substitute water supply plan.

6. The applicant shall submit and the County shall approve a traffic management plan for pipeline construction prior to issuance of any road permit. As part of the traffic management plan and road permits, the applicant shall identify staging areas which may be required for pipeline construction. There will be no full closures of County Roads 300, 301 and 310 during construction.
7. The following additional conditions are recommended:
 - a. Construction authorized by the Special Land Use Permit shall commence within six months. If construction of the project does not commence within six months of permit issuance, the permit shall terminate unless the Board of County Commissioners agrees to an extension in writing.
 - b. The applicant shall comply with all state and local noise regulations at all times and all light shall be downcast and not infringe on any neighbors.
 - c. The permit is transferable to 51% owned subsidiary of Nestle S.A. (Switzerland) with written notice to the County. Any other transfer or assignment requires the written approval by the Board of County Commissioners, after taking into consideration the special use permit conditions.
 - d. This Special Land Use Permit is issued only for the Project set forth in the applicant's permit application and submittal materials. Any modification to the uses in this Special Land Use Permit that are not designated permitted uses pursuant to the Chaffee County Zoning Resolution, as may be amended, shall require review by the Planning Commission and Board of Commissioners.
 - e. The granting of a Special Land Use Permit approval does not indicate an approval of any future subdivision application.
 - f. The Permit is issued based on the information provided in the application and additional submittals. Any substantial change as determined by County staff in layout or operation of the project from that set forth in the application shall require a permit amendment.
 - g. The Permit shall be reviewed by staff after 10 years for compliance and the permit shall be renewed unless staff determines offensive noise, vibration, smoke, dust, odor, heat or glare has had an adverse effect on nearby property owners, in which case the permit may only be renewed following public hearing by the Planning Commission and Board of County Commissioners.
8. Truck engines and lights shall be shut off during loading.
9. Approval of this Special Land Use Permit is conditioned upon the Chaffee County Permit Authority granting approval of the applicant's Permit requests and any conditions imposed under the 1041 permit.
10. Approval by the County Board of Commissioners of the application does not constitute any implied protection by the County of the quality or quantity of the spring water source. This will not prohibit any future land use application on adjacent lands.

Findings:

1. Any danger to safety in surrounding areas. The only foreseeable danger is during construction along the County rights-of-way. The applicant has responded that a traffic management plan will be submitted along with County right-of-way permits. The only concern resulting from on-going operations is related to truck traffic generated, discussed in detail following Criteria 15, below. There will be heavy truck traffic on Highway 24/285 Trout Creek Pass. The applicant has agreed to provide a corridor study of that route. The study shall be completed prior to December 31, 2009.
2. Water pollution. Water pollution is a concern with any large project due to generation of dust and sediment with disturbed earth. The applicant indicates they will obtain a storm water discharge permit from CDPHE prior to start of any construction to mitigate potential storm water discharge problems. Depending on

the type of operation, there is potential for water pollution resulting from the drilling fluids used for the directional drill under the river. Further information on the drilling process was submitted by the applicant in their SLUP response letter dated February 19, in which the applicant indicates the drilling will occur on the Moltz property with safety precautions in place to prevent fluid discharge to the river, and bentonite grout will be disposed at the landfill. There are no water pollution concerns resulting from the project after construction.

3. Offensive noise. Noise will be generated during construction. The application indicates that noise levels will not exceed those identified in CRS 25-12-103. The statute allows for construction projects to meet the noise levels for an industrial zone (80 db(A) 7 a.m. to 7 p.m., 75 db(A) 7 p.m. to 7 a.m.). The applicant has responded that pipeline construction will occur seven days a week, primarily during daylight hours, but some night time operations may be required to maintain the schedule. Directional drilling is proposed for 35 days, seven days per week, 24 hours per day, and the drill will be located at least ¼ mile away from any residences, and will comply with state noise statutes. After construction there should not be any noise impacts, as pumps and machinery will be inside of structures so that noise is not audible outside the structures, and trucks will be turned off at the loading facility and not be allowed to idle.
4. Offensive vibration. Vibration will occur during construction, particularly during the directional drilling. Vibration is not expected to impact residences due to location on the east side of the river and distance from residences. Offensive vibration is not expected once construction is completed.
5. Offensive smoke. Some smoke will be generated during construction; however it is not expected to be in levels significantly greater than a typical local construction project. Smoke generation is not a concern related to operations following completion of construction.
6. Offensive dust. Some dust will be generated during construction; mitigation and control will be required as part of the storm water discharge permit and County road cut permits. Dust generation is not a concern related to operations following completion of construction.
7. Offensive odor. Some odor will be generated during construction; however it is not expected to be in levels significantly greater than a typical local construction project. Following completion of construction, since trucks will be shut off and not idle during loading, odor generation is not a concern related to operations.
8. Offensive heat. Some heat will be generated during construction; however it is not expected to be in levels significantly greater than a typical local construction project. Offensive heat is not a concern related to operations following completion of construction.
9. Offensive glare. Hours of construction have not been identified. The applicant responded that any construction during nighttime hours will employ lighting to ensure no offensive glare to neighboring properties. After construction, glare is a concern only as it relates to potential security and other lighting at each site. Lighting plans have not been identified, however the application text indicates all lighting will be downcast and fully shielded. The application indicates that all truck lights will be shut off during loading.
10. Snow storage problems. No snow storage problems are expected. The loading facility is the only facility requiring snow storage, and the site plan includes substantial rain gardens where snow can be stored.
11. Wildfire hazard or aggravate an existing wildfire hazard to structures on adjacent property. No increase in any wildfire hazards is expected either during or after construction.
12. Flood hazard or aggravate or increase an existing flood hazard to upstream or downstream properties. There is none apparent resulting from construction, as long as irrigation flows are coordinated with construction. The applicant responded that bypass pumping will be utilized during construction where the pipeline crosses ditches. After construction, low and high pressure alarms will shut off the pumps to avoid significant leakage.
13. Geologic hazard. No geologic hazards are expected to be impacted or have a significant impact on the project.
14. Unsightly storage outside, not unlike a junk yard. None is expected to be

present. The applicant responded that construction staging areas will be short-term, and will be identified along with the traffic management plan required with the road permits. Following construction, the application includes information on removal of structures and landscaping plan for the Loading Station facility, and removal of structures and potential restoration of the Ruby Mountain site.

15. Any other substantial objectionable influence. 1041 regulations address aspects of the proposed application, including impacts of water withdrawals, impacts to wetlands and plant and animal species, and fiscal impacts of the project. Traffic has been identified as a concern under Criteria 1, above.
16. Testimony has been provided that the springs lie at the southern end of the aquifer, so any land use change up gradient of the springs may potentially have a negative impact on the quality and quantity of the spring source.
17. The region of the springs lies in the rain shadow of the Continental Divide and receives only 11 inches of average precipitation. If annual precipitation were reduced by only one inch the region would be considered a desert.
18. The aquifer is recharged by the following: 1. Snow Melt; 2. Irrigation of agricultural lands; and 3. precipitation; in this order of importance.
19. The applicant has submitted a complete application, except for the following items:
 - a. executed easement, deeds, and ditch crossing agreements
 - b. site plans for the Bighorn and Ruby Mountain parcels
 - c. approved Weed management and re-vegetation plan
 - d. additional information on the preservation logistics (i.e conservation easement?) and habitat management (coordination with adjacent BLM and DOW?) should be presented; and methods of enhancement of agriculture and grazing management in the area,
 - e. Details regarding CDOW and AHRA comments to carefully consider the possibilities of improved public fishing and boating access to the Arkansas River; details regarding the removal of the hatchery and restoration of the property, recognizing that success will be a multi-year project and require multiple agency coordination and permits,
 - f. Clarification regarding the information in the application regarding preservation of the Bighorn parcel as open space and grazing management and a statement to allow construction by Hagen of two residences on the parcel, as related to the consultant and agency reports regarding project impacts to wildlife.
 - g. The carrying capacity of US 24 / 285 Trout Creek Pass related to potential impacts of this project has not been analyzed.
20. A final water supply plan has not been submitted and a final plan for augmentation has not been finalized.

1041 Permit:

The Planning Commission recommended to the Board of Commissioners tabling of the application to allow the applicant additional time to submit and for the County Staff and consultants to review the following documents, for further consideration by the Planning Commission:

1. Site plans for the Bighorn and Ruby Mountain.
2. Plan to coordinate and cooperate with Division of Wildlife and other agencies on wetlands monitoring, land preservation, grazing management, river access, and bighorn sheep habitat.
3. Weed management and revegetation plan.
4. Clarification of consultants' reports related to wildlife habitat protection and open space protection.
5. Additional reports, information, plans, and public comments received since March 3.
6. Financial details related to the project.
7. Response to County water counsel's comments on application.

County Development Services Director Reimer stated that the Planning Commission would receive a status update at their March 31 regular meeting and set a date to continue their discussion at that time. This information he presented as a power point

presentation would be added to the record. He asked if the Board had any questions at this time. There were none.

Chairman Holman recessed the meeting at 2:25 p.m.

Chairman Holman resumed the meeting at 2:30 p.m.

Chairman Holman asked for the members of the Nestle Team to come forward and be sworn in. Nestle Waters North America, Incorporated introduced their presenting staff. Holly Strablizky, Nestle Land Use Counsel, Bruce Lauerma, Nestle Natural Resources Manager, Brent Clay, Nestle Water Project Engineer, Dennis Albaugh, AECOM, Hydrologist Director, Daniel Gregory, AECOM, Steve Howe, Nestle Waters Hydrologist, Matt Brekke, Nestle Waters Wildlife Specialist, John Alstead, Nestle Waters Wetland Expert and Bennett Raley, Nestle Waters Attorney.

After being sworn in, Nestle Waters personnel started to give applicant testimony and submit evidence.

Nestle Land Use Counsel Strablizky gave an overview of the Nestle representatives presentation. She stated that there were some consultants present that would be presenting. Nestle would request permission for a spring water development project. They had identified two spring sites, one was the Ruby Mountain Site and the other was the Big Horn Spring Site. These wells would pump 200 acre feet of spring water annually. They would then pipe the water five miles up to a loading station in Johnson Village. A maximum of 25 trucks would be loaded with the spring water and sent to Denver. Nestle Waters had requested a Special Land Use Permit for the wells, the pipeline and the loading station. They had also asked permission for a Water Project 1041 Permit, a natural resources permit. Because the pipeline alignment crosses under the river on property owned by the County, they had requested an easement for that crossing. The project properties were located in four different zone districts rural, recreational, R 1 residential and commercial. The water pipeline was allowed use in all of these zone districts subject to special review. Additionally the County considers the load station and wells an allowed use subject to special review in all of these zone districts. Because Nestle would be pumping more than 30 acre feet of water per year, they were required to obtain a Water Product 1041 Permit. Because it was located in areas dedicated to specific wildlife by the DOW (Division of Wildlife), they were also asking permission for a Natural Resources 1041 Permit. The Planning Commission had spent significant time reviewing the application in accordance with the County's Special Land Use Permit review criteria. They had unanimously recommended approval of the Nestle's Special Land Use Permit request with ten conditions of approval. She would not go through the ten conditions because they had been presented to the Board in the March 10, 2009 report from the Planning Commission to the Board of Commissioners. The Planning Commission had based this recommendation on the findings and had found that the Nestle's project was in compliance with the County's Special Land Use Permit criteria. In their findings, they had identified two areas of concern, traffic and preservation of rural character. These two areas stem from a staff report and its application of the Commercial Land Use Policy. While it was debatable, the Commercial Land Use and the Special Land Use Permit are compatible in general. Nestle's policy did comply with these set policies. At the outset, Nestle identified the spring sites and understood the important rural character and the rural integrity of the sites. As a result, they looked for other sites to locate the load station. They decided that Johnson's Village as being the most appropriate area to locate the load station, which was a more commercially active area and was an appropriate area to place and locate the commercial aspect of the Nestlé's project. As a result, they would construct a five mile long pipeline to connect the spring sites to the load stations in order to preserve the rural character of the spring sites and keep traffic off the rural roads. The Nestle project did not have any truck traffic on any county roads. They had designed the project for all truck traffic that would be on the U.S. Highways where the roads were designed specifically to handle truck traffic. They believed that conditions 1 and 9 addressed these concerns. With the Planning Commission's 10 suggested conditions of approval, they believed their project complied with all of the County's codes and requirements. Counsel Strablizky stated that Nestles

respectfully request that the Board of Commissioners follow the Planning Commission's recommendations today and approve Nestles Special Land Use Permit. She presented the Water Project 1041 Criteria and the Natural Resources 1041 Criteria. These were the two criteria that the Board of Commissioners had to consider when reviewing Nestles' 1041 permit requests. The staff had indicated that part of the Nestles application had not yet met the standards. She believed that the Board of Commissioners had received a letter from her on March 12, 2009, which fully detailed and explained how the Nestle project met every single one of the Water Project 1041 Criteria and the Natural Resources 1041 Review Criteria. In the confines of the 1041 Review, the Planning Commission was a referral agency that had requested that this Board continue the 1041 until they had adequate time to review and provide comment. At the Planning Commission meeting of March 10, 2009, the Planning Commission had identified a number of plans that they thought should be required to be submitted. She stated that Nestle had committed to submitting each one of those plans by the end of the week beginning Friday March 20, 2009. Nestle had already submitted to the County the information which was in her March 12, 2009 letter which had been received by the Board of Commissioners. They had also submitted the Weed Management Plan and intend to provide by the end of the week a Land Management Plan, which included a wetland monitoring, a conservation of land to keep it as agriculture, wildlife friendly fencing component, big horn sheep protection component, access component and a conceptual hatchery rehabilitation program. They believe also that the presentation today from all of their experts would fully explain that the Nestle project did comply with the County's 1041 Regulations. The staff had indicated that Nestle had complied with all of the Chaffee County notice requirements for the Planning Commission Public Hearings and the Board of Commissioners Public Hearing today. The County had published the Public Hearings in the local newspapers on February 16, 2009. Nestle had posted the property in four different locations on the property.

Nestle Natural Resource Manager Lauerman stated that he first came to Chaffee County two years ago looking for spring water as part of a statewide search in Colorado. This hunt was for a source of water for their Denver, Colorado bottling plant. During that time, over one hundred and fifty people had taken site tours of their project so that they could receive feedback from them. He had presented this project to civic groups. He had worked hard to learn about the citizens of Chaffee County. He had originally been directed to Chaffee County by the state engineers' office and some other agencies when he had told them that Nestle Waters would be providing jobs here in Colorado and in Denver at the bottling plant, as they needed a spring source to support a bottling plant. Recognizing that benefit for the state, they had received good support from the state agencies. Those leads had led him to the Big Horn Springs and the Ruby Mountain Springs. One of the reasons he was so impressed was because how prolific the springs were. He liked that the springs were in sand and gravel which helped them in a quality perspective and meeting their regulator requirements from the Food and Drug Administration. These springs were also in a protected recharge area and isolated area. There was a main state highway system that could easily be accessed for delivery. At that time, he had entered into an option agreement with the owners of the Ruby Mountain Springs and ended up purchasing 114 acres, upgrade from the spring. He stated that was when they became public in the area with the recording of the deed for the property from Mr. Frank McMurry. At that time, he started contacting the various county agencies to lay the groundwork. Their application had originally been made on November 3, 2008. They realized that the County had never had a 1041 application before them. Therefore, they were extremely careful and tailored their application to match very closely the requirements to the County's regulations and also for the Special Land Use Permit Requirements. If they were to go through the application and have the 1041 requirements on one side of the table and their application on the other, they should be able to go page by page to evaluate their project under the defined 1041 and Special Land Use Permit requirements. He felt that they had put together a very complete and thorough application that fully addressed the criteria. He felt the County had identified some deficiencies but, they felt they had met the requirements. What they were looking at was giving a bit more information to clarify some points that had been brought to their attention. He would explain the outreach to the County. First was why Chaffee County, Nestle was regionalizing their business around the country, which included the Rocky

Mountain Region. Their current business model was to meet the existing demand for spring water which was to truck water up from Southern California into the Denver area to be distributed to the Rocky Mountain Region. While this might not seem to be a regional solution, tankering water 120 miles down to a Denver bottling plant was absolutely a regional approach that would lessen their environmental footprint. They estimated that over five million truck miles would be saved per year. This also would reduce their costs. He stated that because these springs were so prolific and had such a good recharge that they would be drought resistant. He felt that Nestle Waters also fit well with the people of Chaffee County. He stated from the last two and one half years, he had learned to value many of the same things that the citizens of Chaffee County do. He stated that they had developed their project to make sure that the beauty of Chaffee County would not be impacted. Conservation presentation was key for Nestle Waters when managing their water resources. Spring water was the lifeblood of their organization. This project would be low impact, sustainable and had significant benefits for Chaffee County. He showed the audience a map of the proposed project. He explained the area of the aquifer. He presented an overview of the water usage and the augmentation of the water that would be done through Twin Lakes with augmentation certificates purchased from Aurora. He explained where the pipeline would run and how it would end at a water storage area in Johnson Village. He stated that way they would not have to use their big trucks on county roads. He explained that there would be a maximum of twenty five trucks per day and there would be days that there might be less. If Nestle Waters would ever want to increase the amount of water taken from the area, they would have to reapply for a 1041 Application Process and go through the whole process again. He strongly suspected that their success in doing so would be that they would have to prove that the water supply was sustainable and that they had been a good neighbor in the areas that they had been operating. He explained the Nestle concept of long term monitoring. The whole project that would be monitored was approximately 2500 acres. There had been a good database made from information taken from the test wells in the area. He explained how they managed areas such as this proactively. A key component of the project was the restorations of the existing trout hatchery located along the Arkansas River at the Ruby Site. He stated that area there would be reorganized as a wetland area. There were many agencies that would be working on the restoration. This was a world-class project. He believed that the environmental impact of this project would be minimal. The load station was in the best possible location as it was in a commercial zone, next to an existing truck stop and had direct access to the highway. They had been told by CDOT (Colorado Division of Transportation) that there would be deminimus impact on the highway traffic in the area. The load station will be very environmental friendly and low impact in height. He gave his presentation on the overall view of the project. He stated that there would be no significant harm to the water flow of any wells in the area even under low flow conditions. He explained the augmentation plan for the water used. He explained the impact that could possibly happen with the project. County staff had commented that Nestle Waters had not provided them with a complete plan. He felt that Nestle had given them an excellent detailed plan. Nestle looks at long term monitoring of projects. The economic benefits study done by Nestle showed that revenue sources would be taxes on the land and improvements on the land would be estimated for, jobs during construction, retail spending by the employees during construction and sales tax on things such as electricity and diesel fuel. He did not feel that Nestle had over estimated on any of these items. The major economic component would be taxes on the property and the improvements such as the well house and pipeline. This project required very little of county services. THK (the company who prepared Nestle's report) had estimated the annual income for the County at about \$75,000 over a 30 year period. He felt that the estimate of the County's report had shown the income at \$61,000 or without diesel it would be \$47,000. What were the other benefits. They would protect water and land resources. Open Space Protection of the area was another benefit. The educational value to students at local schools and CMC (Colorado Mountain College) was another benefit. Nestle provided funds for local non-profit organizations in the area and the County would have control of how those would be distributed. These were all benefits that Nestle would bring with them to the County. He presented a summary of the proposal. He encouraged people to go to the Nestle Waters website and check them out and see the progress they were making. He thanked the Board of Commissioners for their time.

Jim Calichia, County Water Counsel, asked when the test well studies had been begun, what were the water level at different times of the year and what benchmarks had been made to monitor the wells.

Nestle Natural Resources Manager Lauerman explained that the test wells had been drilled in April 2008 before irrigation had started for the year. He explained that most of Mr. Calichia's questions would be answered in the water segment of the presentation. He did explain the low and high flows and the extensive recharge area. The wells did show that they were thin prolific wells.

Brent Clay, Nestle Waters Project Engineer, stated that he had been with Nestle Waters for about five years. He explained the permits that were needed for this project. A main item that needed to be procured would be an agreement with Union Pacific Railroad for a right-of-way of 7000 feet that would house the pipe would take the water from the well house to the load station. His hope was that they would have a Chaffee County Contractor building the pipeline. He gave an overview of how the water would get from the wells to the load station and the right-a-ways that would be needed for this to happen. He commented that at the load station in Buena Vista, the highway was a five-lane highway that would help cut down any problems going in or going out of the load station. He presented an overview of the traffic analysis on U.S. Highway 285. CDOT (Colorado Division of Transportation) required a traffic analysis when truck traffic would be greater than 5% on a stretch of highway, and Nestle would only be at 1% of the daily average highway use for U.S. Highway 285.

Chairman Holman asked where Mr. Clay had received the average daily traffic numbers for the area.

Nestle Project Engineer Clay stated that the number had been looked up on the CDOT website. He explained the encroachment fee of \$20,000 had not been sent in, because they were waiting until the County had approved the application. He stated that Nestle would submit the agreement to the County as soon as it was received if the application was approved.

Steve Howe, Nestle Waters Hydrologist, stated that he had been working on this project for the last two years. He had been doing these types of settings for the past 15 years. He explained the aquifer and the spring sites. He gave an overview of how the flow in the Arkansas River would affect the wells and how the wells would affect the Arkansas River. He stated that the proposed withdraw would be at .02% of the flow in the Arkansas River. He stated that the peak flow time would be in the summer and fall. The low flow times were in the winter and spring. He explained how the wells were tested and monitored. He presented an overview of the Bighorn Springs Flow System. They had all of the flow and test records for review. They had looked at the water quality in all scenarios and found that there would not be any dramatic problems with water quality. He explained that the irrigation water and the stream water were from different sources.

Commissioner Glenn asked for clarification if the return flows of the irrigation connected directly to the return flows of the springs.

Nestle Waters Hydrologist Howe explained that if there was not any irrigation happening, then there would be pressure in the aquifer creating greater flows from the springs. It was not necessarily the irrigation water that added to the springs. If the irrigation water was not there, it might depress the water in the aquifer a bit. These springs have flowed even when there were droughts in the area.

Bennett Raley, Nestle Waters Water Attorney, presented an overview of the water rights and augmentation of such. The current water rights were junior water rights that would not be very useful. He explained their plan for augmentation and the source would be the City of Aurora that would provide 200-acre feet on an annual basis or 16.66 acre feet per month. Aurora would deliver that amount of water at the confluence of Lake Creek and the Arkansas River. When this water was shrunk down by the State Engineer, the water

amount would be 196 acre feet. He continued to explain the augmentation system that they would be putting in place. Their intent was that the water that replaces the water taken out would be trans-mountain water but Aurora could not guarantee this, but did say that they would replace the water with their water so that no water rights would be injured. He fielded questions from County's Special Counsel.

Chairman Holman recessed the meeting at 4:18 p.m.

The meeting resumed at 4:25 p.m.

Chairman Holman introduced Jim Aragon, Area Wildlife Manager, State of Colorado Division of Wildlife, and Randy Hancock, District Manager, Division of Wildlife, in Buena Vista. He then swore them in.

Area Manager Aragon gave an overview of the position of the Division of Wildlife. He stated that the impact to the area would be a benefit to the wildlife as the land was currently used as a fish farm would be turned into a wetlands area. The project was not expected to impact raptor species or big game species. He stated that should this project be permitted, the Colorado Division of Wildlife would work closely with the applicant in the design of the wetland and outlet works. If the land that Nestle had purchased were protected through County requirements or through a Conservation Easement, there would be a net benefit to wildlife.

Commissioner Giese commented that it was his understanding the Nestle's plan was to eliminate the fish hatchery on the Hagen Property and they were proposing giving a building lot to the Hagen's for building their home. He asked if the CDOW (Colorado Division of Wildlife) had any concerns about that being done as far as interfering with any wildlife.

District Manager Hancock stated that the project would not impact wildlife in the area. Most of the time deer adapt to people much better than the other way around. There was a plan to have trails in the area for fishing access.

Area Manager Aragon commented that the overall benefit to the area would be getting rid of the hatchery and creating wetlands out of that area that would benefit all the wildlife. He stated that the protection of that area would also be a benefit.

County Development Services Director Reimer asked if the public access and fishing easements on the Big Horn Spring Parcel to the river was a condition of approval from the CDOW.

Area Manager Aragon stated that it was addressed in the Nestle Project Plan that Nestle would be open to having the public access and fishing easements.

County Development Services Director Reimer wanted to know if that fishing access was a trigger for a review from the CDOW.

Area Manager Aragon stated that they had looked at the project as it had been presented and just commented on the impact based on the area.

County Development Services Director Reimer asked if the CDOW had received the draft wetland plans that Nestle's had just presented to the County.

District Manager Hancock explained that the CDOW had reviewed the wetland. Nestle would be the monitoring entity and State Game and Fish would be the review agency.

County Development Services Director Reimer stated that he had forwarded the newest plans to the County Consultant. They had voiced concern on the timing and frequency of the monitoring.

Area Manager Aragon stated that he had not received any comments about that from his staff, but he would think that the frequency would multiply times throughout the year to establish some baselines.

Nestle Natural Resources Manager Lauerman asked District Manager Hancock to comment on the fishing assess proposal.

District Manager Hancock explained the proposed fishing access and the public trails. He explained that these accesses would be limited by the number of parking spaces allowed at the trailhead.

County Special Counsel Green asked what specific triggers would be used from the monitoring for review.

District Manager Hancock stated that the Nestle plan had those triggers identified.

Dennis Albaugh, AECOM, Nestle Waters Hydrologist Director, 64 Eagle Ridge Road, Meredith, New Hampshire, explained the ground water withdrawal and the effect of the aquifer materials. He gave an overview of the area that would be involved. The spring's material dated back to 1500 B.C. He explained the recharge of the springs and irrigation reflows. The recharge area of the springs was coming from BLM (Bureau of Land Management) land. He explained that the Ruby Mountain Springs and the Big Horn II Springs were prolific aquifers. He explained that the steel strainers that would be incorporated in the wells and how they would not allow over pumping of the waters. He explained the pumping tests that had been preformed. He gave the results of the test and explained the data recovered from those tests. He stated that the length of these test had been 72 hours long, which was the usual time for test such as these. The long-term range would be about 30-40 gallons per minutes and would not reach the screen part of the borehole. All of the water would be drawn in the shallow aquifers so they would not draw from the deep water or have infiltration from the Arkansas River.

Jim Calichia, County Water Counsel, asked about the comment that the aquifer was drought resistant. He thought that the primary source was Trout Creek and those flows were participation dependant. He asked if this were true, in a drought year would not these levels be lower and irrigation return lower also. The two boreholes that the tests were in were the method of construction was important for the results that were produced. The screened intervals being so far below the water table were important. He asked if Nestle would consider the condition that all of the wells would be built the same way that the test wells had been built to assure constants with the tests.

Nestle Hydrologist Director Albaugh stated that his answer to these questions would be yes except that there might be a minor shuffling when you borehole closer to the river. He stated that what was needed to be remembered was that Nestle had to satisfy the spring water standards set by the Federal Food and Drug Administration so they would now be drawing water that would not meet that criterion.

County Development Services Director Reimer stated that this was new information and would be placed in the records.

Nestle Natural Resource Manager Lauerman explained the Wetland Management Plan and how they would protect the wetlands with monitoring.

John Alstead, Nestle Waters Wetland Expert, gave an overview of the vegetation plans that would be used on the well sites. These plans were to protect the wetland vegetation, riparian areas, delineated wetlands and the Ruby Mountain Fish Hatchery. He explained that they were planning to remove all man made structures at the Ruby Mountain Fish Hatchery and re-vegetate with native vegetation. There would be no loss of upland species at the truck loading station. They would be doing an annual report to the Colorado State Wildlife District of the wetland monitoring. He explained some of the upland vegetation that was found in the area.

County Water Counsel Calichia asked what types of species were in the area.

Nestle Wetland Expert Alstead stated that the only vegetation that he had viewed were Nebraska Sledge and Baltic Rush, which were not on the endangered lists.

County Special Counsel Green asked what might cause harm to the vegetation.

Nestle Wetland Expert Alstead explained that if there were any harm, it would be from construction and that would not cause long-term harm.

County Special Counsel Green asked that the yearly reports go to the County also as they were the ones that would be the permitting authority.

Nestle Natural Resource Manager Lauerman stated that they rely on the expertise of the State Game and Wildlife to give them the parameters of what needed to be protected.

County Development Services Director Reimer asked what type of baseline would be used concerning the grazing that occurred on the land currently.

Nestle Wetland Alstead stated that they were planning to start the baseline monitoring as soon as the permit was approved.

County Development Services Director Reimer asked that a condition of a wetlands management plan be entered into the approval.

Nestle Natural Resource Manager Lauerman stated that Nestle would not have a problem adding that as a condition.

Matt Brekke, AECOM, Nestle Waters Wildlife Specialist, explained the data gathering process. He stated that the CDOW had visited the site quite a few times. They would be checking a 5-mile radius of the well sites. The project did not affect any crucial wildlife migratory areas. There was a golden eagle nest about one mile east of the project area but it had been concluded that there would be no harm to the birds. With the restoration of the hatchery, there might be more habitat area created. The benefits to wildlife would be widespread.

County Development Services Director Reimer asked questions concerning the Hagan property and where the homes would be built.

Nestle Natural Resource Manager Lauerman stated that the Hagan property would be on the western side of the Big Horn property.

Commissioner Glenn asked about the grazing potential on the Big Horn property and if there would be sheep or goats in that population.

Nestle Wildlife Specialist Brekke stated that he too was aware of this and was working with the CDOW to make sure there would be no problems.

Nestle Land Use Counsel Strablizky stated that Nestle's project had two well houses, a five-mile pipeline to Johnson Village where the water would be stored in the load station and then twenty-five trucks would take the water to a Denver bottling plant. The extensive amount of information provided to the Board of Commissioners today exemplified how Nestle's would comply with the Chaffee County's 1041 regulation and the rules of the Special Land Use Permit. They believed that the location of the load station took away any impact to the County and or their services. Their request for a Special Land Use Permit and the 1041 approval fell within the regulation and rules of the County. They asked for approval of the Board of Commissioners with the ten conditions that had been place by the Planning Commission for approval of the Special Land Use Permit. She asked for time at the conclusion of public comments for Nestle Waters rebuttal.

County Attorney Davis stated that water counsel would have questions after public comment.

Chairman Holman recessed the meeting at 6:10 p.m.

Chairman Holman reconvened the meeting at 6:35 p.m.

County Attorney Davis gave an overview of the meeting. She explained the public hearing process to the audience.

Chairman Holman asked all persons that wished to give testimony to rise and be sworn in.

Bev Coggins, 27999 County Road 301, Buena Vista, stated that this was a Northern Chaffee County Project. She stated that the presentation was very good. This project would help the County in many ways. Nestle Waters North America, Incorporated had done a great job getting everything done in a wonderful way. They had set the standards of what Chaffee County needed to bring in other businesses. She was in favor of approval of the application.

David Cunningham, 105 East 5th Street, Leadville, stated that he was an environmental scientist and an educator at Colorado Mountain College. Nestle had done a wonderful job and would help education in the area. Nestle was environmental friendly. They work with the schools and the colleges allowing students the opportunity to study the environment. They were being steward of good for the aquifer and long range values to the community. He was in favor of approval of the application.

Louella Pizzuk, 218 East 3rd Street, Salida, stated that her concerns were the impact on pipe repair. Beaver dam removal needed to be studied as well as the augmentation and ground water quality. She was not in favor of the application.

Steve Hansen, 27035 County Road 310, Buena Vista, thanked the Board of Commissioners and staff. He had a dog in the fight, as some of his property would be where the new facility would be located. He was in the process of building a new store for the liquor store currently on the land where the loading station would be. They will greet visitors into Johnson Village and will employ many people. It would be a feather in the cap of the Chaffee County as having a good business in the valley. Planning and Zoning had a concern with the truck traffic on Trout Creek. The problem was the RVs and the bicyclists on the road not the trucks, as the truckers know how to drive the mountain area. He stated that the economy was in the tank and we (the County) needed some help. Tourism would be down this year. In the future, we hope that it would get better very soon. We could beat this thing for years, but Nestle just wants to be a good neighbor. There were many worst problems in the county that we should be worried about. He asked the Board to approve this project.

Alan Rule, 774 County Road 4, Howard, stated that Nestle had bad reputations with other communities. You have to be very careful. You need to see what it is worth, what the cost benefit analysis was and why risk the same things that these other communities were going through. When goggling Nestle Waters, bad scenarios come up. He asked what Nestle was going to give to the County that would justify the risks that the County might be taking. He asked the Board to be very careful when making their decision on this request.

James Ruggles, 1500 County Road 182, Salida, stated that he had a lot of questions. He asked if in the future the CSU report conflicted with what the Nestle's report showed could it be true. There were many places where Nestle had gone in and had caused problems with the communities. These people (Nestle) are only interested in their own profit. Miscoosa County Michigan on the CSU report reported conflict and did not feel the pump test was long enough. He asked who would be responsible if people's wells went dry. He asked what the big hurry was. Their track record was not good. He proposed a 180-day moratorium on the application.

Jane Browning, 774 County Road 4, Howard, former research analysis for the State of Alaska, now resident of Howard, stated that intuitively it seemed like a bad idea to develop a water extracting business in a drought prone area. However, by reading the 1041 they found the Chaffee County engineer reported no harm would be done. She asked who could argue with it. On February 5th, Upper Arkansas Water Conservancy District's engineer asked how sure were they that they would not get more land and dry it up for three years after the pumping stops. She felt that this was a bad idea and should not be approved because other communities had problems with Nestle.

Alan Rule, speaking for Dick Smith, Mustang Lane, Howard, stated that in a letter Mr. Smith conveyed that he was very concerned about highway truck traffic as the roads in the wintertime with ice and snow. He had been a state patrol officer and did not feel that Trout Creek highway should be used for truck traffic, as it was icy six months out of the year. He was not in favor of the application.

John Graham, 9555 County Road 175, Salida, stated that he had numerous serious concerns about this project. He quoted from the Colorado Nation Heritage Program (CNHP) Report of January 29, 2009, regarding the concerns that Malone had with the project. He stated that from those details he did not see how the Board of Commissioners could approve the application. "If he had a six shooter and one bullet, spun the chamber, he would have a reasonable chance of drawing a blank, but he would never pull the trigger, the takes are too high". "Water is the life blood that nourishes us and our environment, we should listen to and adhere to the age old and wise adage "first do no harm". The 1041 cannot be warranted. He stated that the applicant had given the Board and the public a long presentation of their beliefs, but there had not been any presentations from the county's consultants. He was disappointed because even a 15 minutes presentation from the County's own consultants would have been appreciated.

Chairman Holman asked the audience to please hold their applause as it was taking time from other presenters. He asked the public to please limit their comment to concerns or comments that had not already been made.

Jay Hake, 7133 County Road 178, Salida, stated that many people have not seen the reports from the county's consultants that he had found in the last few days. It was difficult to wrap their heads around this with such short notice. On a 1041 application, not everyone knows what was needed to get a 1041 approved. He stated that as citizens would the Board follow the process, get recommendations from the Planning Commission so that an informed recommendation could be made. One of his concerns was that even though he had sat through the Planning Commission's Meeting on the 1041 application and the Special Land Use Permit Application but the public still did not know what questions had been answered. There were many who would like to know what was going on. Let everyone have the opportunity to read all of the information and make an informed comment as the public. His concern was with the 1041 application and a memo from Jim Culichia, which stated that there was no economic benefit and was not good for the environment. He read an insert from the memo. He stated that mitigation and augmentation were his biggest concerns. If Aurora could not supply the water, he would like to see a condition of the application that would address stoppage of the pumping if Aurora could not supply the water due to a drought. He questioned many of the statements from Nestle, such as would the construction job be local jobs, how taking water from the County be a benefit to the County, the hatchery project, the public access, protecting the natural resources, the wetlands and the economic benefits. Nothing was guaranteed by Nestle. They had no commitments made. The 1041 stated what the benefits were and how they outweighed the harm that could be done.

Michelle Riggio, 233 F Street, Salida, stated that she opposed the application. She had only become interested in this after watching the movie "Flow" that showed footage of the dealing of Nestle with a community in Michigan. The film was quite disturbing and made her think that the same thing might happen here in Chaffee County. She had to prod the County into putting the information on the website. She had read the Planning Commission minutes from the February 26, 2008 meeting. She was requesting that the

Board of Commissioners issue a six-month moratorium so that the public would have time to make an informed decision about the application. She stated that the Mountain Mail had not given the coverage that should have been given to a project of this magnification. Until the public was as informed about this project as they were about the Regional Hospital Project, she felt that the Commissioners should not make any kind of decision. She could speak specifically about the 1041 but other people had already done this. It comes down to who wants to believe an environmentalist that has no stake in this or the big business that stands to make millions of dollars with this project. If there were any doubts who should you believe.

County Special Counsel Green stated that she felt it might be useful for the Board and for the public to understand what leeway the Board did and did not have in this process, especially because many of the public had asked for a moratorium and technically they were asking for the Board to continue the process. She read the regulation that apply to this process, Rule 2-303 Approval or Denial of Permit Application: If the Permit Authority finds that there is not sufficient information concerning any material feature of a proposed project, the Permit Authority may deny the application or it may continue the hearing until the additional information has been received. However, no such continuance may exceed sixty (60) days unless agreed to by the applicant.

Ann Graham, 9555 County Road 175, Salida, stated the Greater Arkansas River (GARNA) had been following the proposed application. Several of the members had gone on site visits. She gave a letter to County Development Services Director Reimer for the purpose since at that time more information had been circulated. The GARNA Board had rescinded the letter of March 3, 2009. They were now not in favor of the application. They did not feel that the pump test was a long enough time. If Nestle's application was incomplete, the permit should be denied.

Jimmy Descant, 221 Palmer Street, Salida, stated that he was an artist that had moved here from Louisiana and was not in favor of application. Nestle's plastic bottles were a national problem. He stated that this was just plain corporate greed.

Rod Ferris, 10217 County Road 163, Salida, stated that he lived 15 miles down spring of the proposed project. In the summer of 2002, all of his springs and wetlands had dried up and was replaced by thistle and noxious weeds. In the area of his place, two wells had gone dry. These people had to re-drill down to 200 feet. They cannot sell or give away this valuable resource to have it trucked away and sold for a substantial profit. He stated the 1041 stated that the Board had to be shown that the project would not cause any damage to the area. He asked the Board to please say no to Nestle.

Chris Faust, 9700 County Road 160, Salida, stated that the highway traffic was his main concern. He stated that Highway 285 did not need another truck per hour. He did not feel that two years was long enough for all the tests that have to be done to make sure there would be no harm. He stated that we live in a high altitude desert and it was very dry. He had voted for the Board. He hoped that they would vote the way he wanted them to. He did not feel that it was right that the public had only had a week to study the project and that Nestle had six months to get this right. He would like to see a 30 day moratorium put into place. He was not in favor of the application.

Wes Duran, PO Box 91, Twin Lakes, Lake County, stated that he was Lake County and Chaffee County Director of the Sangre De Cristo and a private citizen. He had no stake in this project. He was a second-generation property owner. In his opinion, restoration and reconstruction of the fish hatchery alone would give justice to the approval of the 1041. He stated that the Board had a balancing act and even if they did get perfect information, it would be impossible. This project would be good for all the people of the County. He urged the Board of Commissioners to give the project approval.

Fred Klein, 204 North F Street, Salida, stated that at the very least this needed to be continued. He had not had time to explore all of the information that was out on the web.

Frank McMurry, 22405 County Road 285, Nathrop, stated that people do not want to know the information. They just want to say no. This had been a problem with Chaffee County for some time. He had been against change, most of his life. Chaffee County had the reputation of turning most people away from here. He stated that if the County could get this done and done right, some people might open their eyes and see that our County is a good place to bring their small industry. We need some private industry. If we do not say yes to this, we might as well blow up the bridges at both ends of the County and go out of business all together.

Jerry Mallet, 6573 Ridge Road, Salida, stated that he understood that time and energy that went into a project such as this. He had read the information on the web. As a former Chaffee County Commissioner, he had worked on the RICD. His concern was that the requested information and the short time everyone had to read the information. He would like the Board of Commissioners to make a thirty day extension to give everyone the opportunities to review all of the information that had been received by the Board.

Dave Ward, 147 West 5th Street, Salida, stated that he did not feel that the 1041 application should not be accepted, as the water would be taken away from this valley. He asked if this was such an economic boost to the valley, why was the County not going into the bottled water business. He was against the project. If water was bottled in corn based plastic bottles, he might be more open to the idea. He had only one thing to say, "Just say no to Nestle Waters".

Monica Griessenbeck, 701 West Sackett Avenue, Salida, stated that when she first heard about the Nestle project, she was for the project. But now because of the ecological and economical benefit studies, she was no longer in favor of the projects. She stated that there was too much potential harm with the project.

Jay Gingrich, 33481 County Road 373A, Buena Vista, had concerns included costs and benefits of the project. He felt that the costs outweighed the benefits. He compared the rafting industry, which put back 5% of their revenue to maintain the river in places that dropped people off or a takeout. Traffic on Trout Creek would be increased by 56% not the 13% that Nestle had quoted. His background was a firefighter. Water as a cargo had a mind of its own and driving it was much harder than other cargos. Many people from the Front Range that travel on Highway 285 to raft or ski would be spending money and if they had to travel behind a truck there could be problems. If this was allowed, it would come back and haunt the County in high cost, loss of tourism and liability. He proposed three things, a moratorium of 60 days, identify all the costs and benefits of the stakeholders and realize that Highway 285 traffic was a limited resource.

Steven Duhane, 325 Hunt Street, Salida, stated that he realized that not all in attendance shared the same outlook of this project. He believed there was plenty of information that showed that this project should not be approved.

Nancy O'Connor, 24350 County Road 324, Buena Vista, stated that her property was located north and west of the site in question. Her ranch had springs flow at 7 cubic feet per second and it had stayed steady for the past 40 years. She thought that the Mountain Mail had done an excellent job showing that everyone had to abide by the rules and regulations. She felt that Nestle had done an excellent job of providing the people of the County and the Board of Commissioners with good information.

Laura Bussings, 54803 Long Branch Road, Salida, stated that she was against this application. She did not feel that Nestle had not met the burden of proof of the application. The project would be detrimental impact to the area. They were only stating that they would monitor the damage to the wetlands. The Board was under no obligation to grant Nestlé's request. As a citizen and taxpayer, she asked the Board to check under the Regulation 1 and 9 of the 1041 Regulations as they would clearly realize that Nestle did not meet the criteria in question.

Daniel Zetther, 228 Crestone Avenue, Salida, stated that he was in the process of moving into Chaffee County. Nestle was draining the blood from Chaffee County, bottle

by bottle. He asked the Board to please reject their application as they were threatening the aquifer. According to the CNHP report, there might be damage to the wetlands. The opinion would be based on the lack of data. The petition should be continued or denied. The pumping data was not adequate. Every community that Nestle had done business with had found that once they had their foot in the door, they then try to buy other water in the area and that should not be allowed. County Water Attorney Calichia's report noted that it was not possible to find meaningful analysis of the water supply. This project was right about the premier rafting runs of the county at Browns Canyon, which was the lifeblood of the rafting community here in Chaffee County. Nestle Water was giving nothing and receiving all of the benefits. He mentioned the releases that would make up the losses and how they might work and if they would be released at all. There would be a job lost at the liquor store that would be taken out to accommodate the loading site along with liquor tax that would be generated at the store. He stated that the County should bottle their own water and benefit the County citizens.

Carlo Boyd, 29320 County Road 361, #16, Buena Vista, stated that he wanted to thank everyone. As a Fung Shui Practitioner, he had been taught to look outside the bottle. As his forefathers before him, Chief Seattle said how could you sell a bear so how can you sell the water. He stated his family had been in ranching all in this valley. He complained that when he first heard that the truck stop might be for sale, he had tried to get a group together to purchase it and make it into a 24 hours truck plaza that truckers would come to and enjoy. He had also been a chef. He had asked Mr. Hansen to lease him the restaurant. He stated that his grandparents had sold their hot springs and then had to use the artesian wells to water their crops. His main concern was that this project would dry up the water in the valley. If there was an opportunity to bottle water, then the County should do the bottling themselves. The northern end of the County felt left out of this decision. He would like to have a meeting in Buena Vista to allow those people could voice their opinion.

Preston Preble, 11520 County Road 256, Chaffee County, stated that he had been at the Planning Commission Meeting. He had grown up in Nebraska where the river that he had played in and on as he grew up dried up because the town had allowed well drilling in the area. He was against the Nestle project.

Mike Shomoin, 8975 County Road 166, Salida, stated that he felt that under the 1041 regulations, it fell upon the applicant to show burden of truth. He felt that what was happening was the opposite. The financial benefits to the County were minuscule. He was for business in the County but not in this way. He believed that this was a bad deal for the County. He was against approval of the project.

County Development Services Director Reimer stated that he had received a few letters from people who had to leave. He asked the Board if he was to read them into the record.

Chairman Holman asked him to put those letters in with the written comment in the project file.

Being no further comment, at 9:00 p.m. Chairman Holman called for a short recess.

Chairman Holman reconvened the meeting at 9:13 p.m.

Chairman Holman asked the Nestle representatives if they would like to address the public comments taken earlier.

Nestle Natural Resource Manager Lauerman stated that he would like to talk about the process. He came here first in January of 2007. It took them about 2 ½ years to put this together. During that time, he had worked very hard to make sure that the wells and the project would work. On November 3, 2008, they submitted their application. He felt that the 1041 regulation and their application were almost identical. They had evaluated the springs and felt that they could be good neighbors to Chaffee County. He explained the conditions and the timelines that must be completed to get this type of permit. He stated that only the applicant could request an extension on this type of application. The pattern

had been that Nestle had worked with the County in anyway that had been requested. The Planning Commission had recommended on March 10, 2009 that the Board of Commissioners approve the Special Land Use Permit. He felt that the public was feeling uninformed due to being uninformed about the request for the 1041. The Planning Commission has asked to hear more about the 1041. He would like to see that happen. Nestle had tried to accommodate everyone's needs. He would like the Board of Commissioners to approve the Special Land Use Permit that the Planning Commission had recommended be approved with conditions that he felt had been completed. One of the conditions was that the 1041 would be approved. The Planning Commission only gave comments on the 1041 application. He stated that they realized that the public felt a bit left out and they welcomed comments by the public at these meetings. He would like to ask the Board of Commissioners to continue the public portion of the meeting for further comments. Nestle would be submitting further evidence into the file by the Friday deadline. At the Planning Commission Meeting on March 31, 2009, he would hope that they would be able to give the Board of Commissioners their comments. He explained the tentative plans that the Planning Commission and Nestle had made. He stated that what he was trying to explain was that Nestle was really trying to do was to accommodate everyone that was involved. He stated that they wanted the staff, the Board of Commissioners and the public all to be educated as to what the project was all about. He quoted the 9th condition that the Planning Commission had place upon the unanimous recommendation to approve the Special Land Use Permit that stated that the Special Land Use Permit would be completed only upon the 1041 permit being approved by the Board of Commissioners. Because of this, the Board of Commissioners could approve the Special Land Use Permit tonight and a continuation of the hearing on the 1041 application.

County Special Counsel Green stated that the Board had two requests before them. A request that they approve the Special Land Use Permit tonight and the request for the continuance of the 1041 application to allow for additional comment for the Planning Commission and staff review. Based on the County regulations, the Board could approve the Special Land Use Permit if it satisfied all of the conditions, it can denied if it does not satisfy all of the conditions, or it can be continued if the Board felt that there was not enough information or/and in request of the applicant tonight. This would be true for both of the requests. If the Board acts on the Special Land Use Permit tonight, the applicant was correct that would not have any implication on the 1041 decision as they are separate and distinct requests.

Commissioner Glenn stated that he appreciated Nestle's willingness to work with the community, staff and the Board of Commissioners on timelines to move the process forward. He stated that with all this new information, he believed that his preference would be to continue both of the requests.

Commissioner Giese stated that he agreed. He would like to hear directly from the staff on all of the testimony that was heard today on the Special Land Use Permit and on the 1041 application. He also believed because of the wealth of information that would be entered into the record that he would like to continue this for both requests. He stated that there was one other item that had not been talked about, which was the easement that would be needed to put the pipeline across county property.

Chairman Holman stated that he also agreed with the other two Commissioners and would like to continue the public hearing process on both requests.

Commissioner Giese asked that he would like to have the continued hearing in the Northern part of the County if a venue could be found in the Buena Vista area.

County Development Services Director Reimer stated that the Planning Commission would meet on March 31, 2009. He stated another component of this would be to leave enough time for the county consultants to finish their reports. He stated that if they did receive all the submittals in by March 20, 2009, it might be reasonable to have staff and consultants review done in 2-3 weeks. He would certainly want the Planning Commission

to have time to review it and the staff comments as well. His recommendation would be to put it out at least a month's time for the Planning Commission.

Commissioner Glenn asked if one month would be enough time for staff to review all of the documents that have either been or will be submitted by Friday, get all of those out to the county's consultants and enough time for those consultants to review those. Then in addition those consultant comments will need to get back as well as to the Board of Commissioners in time for them to review them before the next meeting seemed very optimistic to him.

County Development Services Director Reimer stated that if Nestle got all of their needed submittals in by Friday, it would be doable. He stated that some of the problems that had been in the past were that Nestle was sending in submittal a few at a time.

Nestle Natural Resource Manager Lauerman stated that he felt that the items asked for by the Planning Commission would be in by March 20, 2009. Then the Planning Commission could have a meeting around April 8, 2009 to make comment on the 1041. The information that the Planning Commission had requested was not significant to the Special Land Use Permit only the 1041. The additional information was for the Planning Commission to review and comment on, not to approve. Nestle Water was paying for the consultants that the County had hired. He would hope that they would be able to review the information in a timely manner to meet a certain timeline.

County Special Counsel Green asked County Development Services Director Reimer to give an update on what was needed for the Planning Commission.

County Development Services Director Reimer reviewed the items that had been part of the conditions.

Chairman Holman stated that he had an issue with the county consultants that had been slowing the issue down. He asked County Development Services Director Reimer to see if that turn around time could be expedited. He would like to get this back while it was fresh in his mind. He asked County Development Services Director Reimer to make every effort to get this information to the consultants as soon as it was received from Nestle.

County Development Services Director Reimer stated that he tried to make every effort to get these to the consultants as soon as they were received. He stated that the consultants had other clients that they were responsible for also. He did not think it was reasonable to ask them to drop everything and respond to our needs. He did however try to make sure that like the wetlands plan he had made sure that they had received the report as soon as they could before the hearing.

Chairman Holman stated that he still would like County Development Services Director Reimer to make every effort to get this done.

Nestle Natural Resource Manager Lauerman stated that he would like to have the staff report by March 31, 2009. He would like to shoot for a time in mid April for the next meeting.

Commissioner Giese stated that he would like only new information addressed at the next hearing. This would also include the public comments.

Commissioner Glenn stated that the public would want to talk about the whole process. Therefore, the Board needed to decide what they would specifically open comment on at the meeting. From his point of view, he would like to limit it, but if people have not had a chance to comment, they needed to be allowed to do so.

Commissioner Giese made a motion to continue the Special Land Use Permit and 1041 Nestle public hearing to April 21, 2009, 1:00 p.m. in the Buena Vista area, place TBD

where comment would be taken on new information. Commissioner Glenn seconded the motion. On the question, the motion carried 3 - 0.

Commissioner Giese made a motion to close the Special Board of Commissioners meeting of March 18, 2009. Chairman Holman seconded the motion. On the question, the motion carried 3 - 0. The meeting adjourned at 10:07 p.m.

Attest:

Joyce M. Reno
Chaffee County Clerk

"The Board of County Commissioners (the "Board") acknowledges receipt of the above of the above draft meeting minutes. It is the policy of the Board, adopted at a regular meeting held on October 20, 2009, that the CD taken at the meeting shall constitute the official minutes of the meeting. To the extent that the above textual summary provides an overview of the subject matter discussed and action taken by the Board, the above shall constitute the visual text record of the Board. Any further detail, including summaries of testimony and deliberations, has not been approved by the Board should not be considered minutes of the Board."

Clerk's Note:

Since the Board of County Commissioners (the Board) did not approve the above minutes, they will remain as draft minutes as minutes of record. A CD is available for the official recording of this meeting.