

HART INTERCIVIC E00718900JB

**Draft Minutes**

Special Meeting

April 21, 2009

The Board of Commissioners held a Special Meeting on Tuesday, April 21, 2009 at the American Legion Hall, 339 North Railroad, Buena Vista. Board Members present 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 Land Use Counsel Barbara Green, County Water Counsel Jim Culichia and Deputy County Clerk Merrilou Cicerelli.

Following the Pledge of Allegiance, Chairman Holman called the meeting to order at 1:23 p.m.

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

This Special Meeting was a continuation of the March 18, 2009 hearing regarding the request from Nestle Waters North America, Inc, Special Land Use Permit and 1041 Permit. The request was the development of spring water source, associated transmission pipeline and loading facility. The location is 12916 and 12974 U.S. Highway 24 and 285, Johnson's Village (Buena Vista), 22565 and TBD (to be determined) County Road 300, Nathrop. The pipeline will be located on the subject properties; and within the right-of-way for County Road 300, County Road 301 and County Road 310, and within easements proposed for publicity and privately owned lands between the project properties. The agenda for the hearing is as follows (times are approximate only and subject to change):

- 1:00 p.m. - Introductory remarks.
- 1:10 p.m. - Staff update on submittals subsequent to the March 18<sup>th</sup> Meeting and Planning Commission comments.
- 1:45 p.m. - Testimony from County Consultants (new developments).
- 2:30 p.m. - Applicant testimony regarding submittals subsequent to the March 18<sup>th</sup> Meeting
- 3:30 p.m. - Break
- 3:45 p.m. - Public comment regarding submittals subsequent to the March 18<sup>th</sup> Meeting, followed by applicant's response, final Board questions and deliberation.

Chairman Holman stated that this special meeting was being held to continue testimony and discussion between the people of Colorado that had began on March 21, 2009 at the Salida Steam Plant.

County Attorney Davis stated that before the start of the public hearing, the Board would hear from anyone who felt that any member of the Board of Commissioners might have a conflict of interest.

Jim Ruggles, 1500 County Road 182, Salida, stated he was concerned that there might be a bias or a friendship between Frank McMurry and one of the Commissioners. Because of this, he felt that a decision had already been made by the Board. He stated that a film was given to Chairman Holman by Guy Raines. He asked if Chairman Holman had viewed it and if he had passed it around to the other members of the Board.

Chairman Holman stated that he had not viewed the film and had not passed it on to the other Board members.

Mr. Ruggles stated that he would like Chairman Holman to return the film because others were wanting to rent it.

Carlos Boyd, 29321 County Road 361 #16, Buena Vista, stated that he felt that the fact that Chairman Holman had just retired from CDOT (Colorado Department of Transportation). With the quick approval of the application from CDOT, he felt that was not coincidental.

County Attorney Davis stated that the hearing held today would be held as a quasi-judicial hearing during which the Board would hear witnesses and consider evidence. The agenda for the hearing would be 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. Thus 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 any other party. The Board has the right to ask questions of any witness. The applicant also has the right to question any witness and other opponents. Proponents of the applicant should direct their questions to the Board. She stated that the meeting would last a maximum to 8:00 p.m. tonight. If all testimony was not made by that time, an additional meeting date and time would be determined.

County Development Services Director Reimer presented an update on the application and information which been submitted since the March 18, 2009 Meeting by the applicant and the County Consultants. Within that period, he had received 22 documents from Nestle. He had received a draft weed management proposal, a draft wetland management plan (which had been approved by the County Planning and Zoning department), a draft riparian wildlife area plan, an encroachment agreement between Nestle and the Union Pacific Rail Road, a grassland management plan and other documents. He stated that there had also been a long-term monitoring plan and letters from other communities where Nestle had plants. He stated that they had received a traffic impact study that had not made it to the County website, because they had just received it on last Friday. The County had also prepared quite a few documents such as a final report from the Colorado National Heritage Program, a memorandum review of fiscal and economical considerations from Coley/Forrest and a memorandum, review and recommendations relating to wetland, water and mitigation from GeoMega. He stated that other government agencies had commented since the March 18, 2009 meeting such as the CDOW (Colorado Division of Wildlife) responding to items such as the land management plan, grazing plan and the wetland and riparian plans. The Arkansas Headwater Recreational Area also submitted reiterating some concerns they had expressed earlier. The U.S. Forest Service had submitted a letter identifying some concerns with some springs sources upgrading in the Bassam Park allotment in the area of County Road 300. Late Friday, he had received a letter from the Upper Arkansas Water Conservancy District responding to some of the water rights application. Late last night, he had received a letter from the applicant's water counsel. The applicant had submitted a number of site plans and information related to the proposed construction. The staff had summarized what those documents were and any concerns related to the actual construction. The primary concerns were related to the identification of County Road 300 right-of-way and some clarification within the land management plans, which were relatively minor details that consider further clarification on each of these items. He continued to review the items in the staff report dated April 16, 2009. He stated that the items that needed further clarification and named the items which might be resolved through the Special Land Use Permit conditions if the permit was approved. Staff had updated the 1041 application review memorandum which included the staff consideration of the applicant's submittals and additional comments of whether the standard was or was not met. On April 14, 2009, the Planning Commission had held a meeting to continue their discussion on their recommendations related to the 1041 Permit. Staff finding was that the applicant had not satisfied the standards. However, the Planning

Commission had found that these standards might not be applicable to this application. He continued through each of the conditions stating the specifics of the conditions and what had been completed and what had not been completed. He stated that item 5 was related to water quality and wetland impact. He stated that he would point out that the County did hire an additional consultant, GeoMega, from Boulder, Colorado to specifically look at the hydrology of the wetlands as it interacts with the ground water. He stated that representatives from GeoMega were in attendance and would be reporting today. Staff opinion as of March 18, 2009 was that item 5 had not been adequately addressed in their review and they did want to backfill some of that information. There were some concerns about the location of the residences that would be placed elsewhere on the property. He continued to review what had been completed and what had not been completed within Chapter 9 of the 1041 regulations. He presented a brief overview of the traffic study that had been submitted by the applicant.

Special Land Use Counsel Green asked County Development Services Director Reimer to list the items that had not been met, the standards for both the Special Land Use Permit and the 1041, which would allow the Commissioners to concentrate on the specific items. She also wanted a better understanding concerning the Hagan parcel issues.

County Development Services Director Reimer explained that when the application had been submitted, there had been an option to construct two residences on a 15 acre parcel. His department had received a map of the area in February that showed the location of the parcel might contain some wetland. The staff could not determine if this would cause an impact in that area. The Big Horn Parcel Area was to stay agricultural and have habitat management. The application did not include construction on two residences. He highlighted the standards that had not been met as follows:

#### 3-303-1

- A Staff found this not satisfied but Planning Commission found that it was satisfied.
- B not satisfied
- C satisfied
- D not satisfied
- E-1 not satisfied
- E-2 satisfied
- F-1 satisfied
- F-2 Satisfied for staff, Planning Commission not satisfied without a monitoring plan.
- F-3 satisfied
- G Satisfied if Special Land Use Permit terms were complied with.
- H-1 not satisfied
- H-2 not satisfied
- H-3 not satisfied
- H-4 satisfied
- H-5 satisfied
- H-6 not satisfied
- I Satisfied if Special Land Use Permit terms were complied with.
- J satisfied
- K-1-6 not satisfied

#### 9-303-1

- A-1 not satisfied
- A-2 not satisfied
- B-1-2 satisfied
- B-3-4 not satisfied
- C-1-4 not satisfied
- D not satisfied
- E Satisfied if Division of Wildlife comments were incorporated into any permit that would be approved.

Commissioner Giese asked County Development Services Director Reimer to briefly review the traffic study that he had mentioned in his overview.

County Development Services Director Reimer stated that in 2004, there had been a traffic study done with a subdivision application that showed the traffic number at a much higher rate. He stated that the traffic profiles were quite different also. There needed to be further investigation. Ms Wilkerson was in attendance and would her discuss her report. He stated that GeoMega had prepared a review and a report. He introduced Dr. Ken Kolm, Senior Hydro-Geologist Specialist and Paul van der Heijde, Senior Groundwater Scientist and Engineer.

Dr. Ken Kolm, GeoMega, 2995 Baseline Road, Suite 202, Boulder, Colorado, stated that he would do a quick review of the proposed ground water, wetland development and monitoring plans and the underlying assumptions regarding both the region and the local hydrology and hydrogeology. This was a review of documents and also included a site visit for regional site conceptual development. He gave an overview of the GeoMega report.

Commissioner Glenn stated that the Board had received a letter from the U.S. Forrest Service that had expressed concerns about the draw down of the entire system in the Bassam grazing location. He wanted to know if that would cause a problem.

Dr. Kolm asked what the location was for Bassam Park.  
Commissioner Glenn stated that it was in the bedrock area.

Dr. Kolm stated that he did not think it would because the bedrock systems were in a different alluvial system.

Commissioner Glenn stated at the last hearing, there had been discussion about how drought cycles may affect the aquifer and the relationship with the wetlands.

Dr. Kolm stated that he did not have any baseline data that would show how much the water levels would fluctuate in times of drought. He felt the effects of the pumping would show up more in the short term than the long term.

Mr. van der Heijde stated that he felt that the area of concerns about the drought cycles could be significant, as the monitoring would be an important instrument to check out. There should be mitigation or contingencies in the Nestle Planning for what would happen if there was a drought.

County Development Services Director Reimer stated that a representative from WW Wheeler was in attendance and he would like to address the Board.

Gary Thompson, WW Wheeler and Associates, 3700 South Inca Street, Englewood, Colorado, explained his analysis of the pump test longevity. He did not feel that the test well pumping had been conducted for a long enough time.

Commissioner Giese asked about the Wheeler report and the comments about the maximum draw down of the Big Horn Springs.

Mr. Thompson explained the longer duration's impact was currently unknown.

Mr. van der Heijde talked about the storage and the spring discharge in the seepage area or zone. He stated that they needed a good monitoring plan that would allow a change to the rate of pumping when levels drop.

Mr. Bruce Laurer, Nestle Waters Project Manager, stated that the monitoring would be of utmost importance to Nestle. He felt that the 72 hour pump tests were long enough for accurate data, because this was the length of testing done at all of their plants.

HART INTERCIVIC E00718900JB

County Development Services Director Reimer introduced Jean Townsend. He explained why he had requested a second economic report done.

Jean Townsend, Coley/Forrest and Associates, 990 South Adams Way, Denver, Colorado, stated that she had been hired to review the 1041 Regulations and the consultant reports. She presented the findings that appear in her report. She explained her thought on the TABOR effects on the Nestle Waters Project. She proposed her possible plan as follows:

- Property Tax Revenues
- Sales Tax Revenues Diesel Fund
- Electric Utility Usage Tax
- Local Government Impacts
- On Going Impact
- Net fiscal Costs
- Natural Resources and Economic Development
- Project Benefits
- Mitigation Considerations
  - Nestle Waters might consider amending its application to include
    - Establishment of a project specific mitigation fund
  - Convert potential benefits to actual permanent benefits
    - Such as voluntary conservation easement on land
  - Incorporate into the plans currently in progress
    - Traffic Study
    - Fish Hatchery Restoration plan
    - Land management plan

Commissioner Giese stated that he would like to clarify the tax effects on the Buena Vista School District. He stated that even though the School District would get only a small increase of the tax monies, the tax payers in the District would see a small decrease in their tax bill.

Commissioner Glenn stated that he was concerned about a mitigation fund. He asked what types of things might be paid for by a mitigation fund and then what types of things could be addressed as lost opportunity or benefit.

Ms Townsend stated that mitigation that the applicant would agree upon and also on the type of impacts that might concur. What Nestle might want to do would be to set aside a certain amount. Then if the County had an expense that fit the agreed upon criteria, the County would fill out a form and collect the expense out of the fund. As the fund amount diminished, Nestle would replenish the fund. On the natural resource and potential benefit, the applicant had not addressed this and should respond with an agreement.

Nestle Waters Project Manager Lauerman thanked Ms Townsend for her report.

Jim Culichia, County Water Counsel, 319 North Weber, Colorado Springs, gave his thoughts on conditions that he felt had been met by Nestle. He stated that about five conditions had been agreed upon. On the 17<sup>th</sup> of April, he had received an email about the remaining conditions, but he had not had the time to look them over. He would like to have time to speak with GeoMega consultants and the applicant as he felt that they may be able to come to an agreement for the condition that have not been agreed upon.

Dave Kelly, Water Commissioner and State Water Engineer, County Road 319, Buena Vista, stated his intension was not to testify. He had been in contact with Nestle Waters from the beginning to make sure that the people of Chaffee County were not injured and also the water rights not being injured. He explained each step of how Nestle would have to augment the spring water. He stated that Nestle Waters had worked very hard on this. They realize their responsibility of augmentation for the use of the water taken from the springs.

Chairman Holman asked Mr. Kelly to stay to answer questions from the public.

Chairman Holman recessed the hearing at 3:52 p.m. for a break.  
Chairman Holman reconvened the meeting at 4:08 p.m.

Nestle Waters Project Manager Lauerman stated that he would summarize the issues that were overlapping the wetlands, traffic and economics. He presented a power point presentation of site maps that explained the pipeline to the loading station in Johnson's Village. He stated that monitoring would be done and agreed upon. The impact of springs would be 1-1 overall discharge of less than 10%. No impacts would be seen by the well owners or the river down stream due to the augmentation.

Mr. Thompson stated that he agreed that reduction would be at the Big Horn Site at about 12 - 40 % and the Ruby Mountain would be at 10%. Both were based on 124 gpm (gallons per minute) rate.

Nestle Waters Project Manager Lauerman stated that the wetlands were suitable for assessing the Army Corp of Engineers. Ruby Mountain had a very limited amount of wetlands and would be man made after the restoration. Big Horn Springs wetlands were situated above the springs and the wetland was somewhat bad because of current grazing. The DOW (Division of Wildlife) would agree that the grazing of cows created limited vegetation of the wetlands. He stated that 2-6 wells would be monitored that occur with seepage. They would work with the experts to monitor the wetlands in both places. Monitoring and mitigation would be done but could not be viewed into the future. He stated that baseline and historical conditions were ever changing. He would commit to not do any pumping at the Big Horn Springs until a suitable baseline could be determined.

Erin Burkquest, Nestle Waters Wetland Specialist, stated that the wetlands were currently very disturbed and way over grazed and hard to identify. She stated that the hydrology and the soils would have to be looked at. The biggest impact would be to get grazing out of there so then the natural wetlands would comeback to the area. The grazing was a much bigger impact than the water withdrawal would ever be. She would answer any biological questions that the Board of Commissioners might have for her.

Nestle Waters Project Manager Lauerman made one more point clear. If he heard correctly, the hydrologists stated that maybe the pumping tests were not of long enough duration to understand impact to the wetlands but he felt they were appropriate to understand sustainable yield to the wells.

Mr. van der Heijde stated that was correct.

Commissioner Glenn asked if he had heard correctly that Mr. Lauerman was willing to not start pumping at the Big Horn Springs until a good baseline had been established at that site.

Nestle Waters Project Manager Lauerman stated that was correct. He stated that the next topic was transportation. Nestle Waters had applied and received a CDOT (Colorado Department of Transportation) permit. During the Planning Commission stage of the application process, concerns surfaced about the traffic of Trout Creek Pass. He introduced their transportation expert, Martina Wilkinson.

Martina Wilkinson presented an overview of the traffic study of U.S. Highway 285 between Johnson's Village and Trout Creek Pass, a 13 mile corridor. The highway was on the National Highway System designated as a truck route. She explained that there were some uphill passing lanes and four areas in the corridor had a grade that would slow truck traffic. She explained the levels of service that CDOT ranks the highway systems in the state. She had done another study on the percent of time spent following behind traffic and explained the findings. She stated that the highway was okay even during peak time during the day and the seasons. She gave comparisons of trips per day for residences and other businesses. The increase in truck traffic would only be 1% with

HART INTERCIVIC E00718900JB

the Nestle's trucks. She stated that climbing lanes might be considered in the future. Currently there were several roadside turnouts. She stated that CDOT was planning an overlay on the corridor this summer.

Commissioner Glenn asked if there was a study that could measure the safety factors of the corridor.

Ms Wilkinson stated that any mountain corridor with curves and grades, there are more accidents. The information on Trout Creek had shown that 80% of the accidents were single vehicle collisions, 45% were wildlife involved, and 93% of the accidents were passenger vehicles or cars with trailers or motorcycles. She stated that 60% of the accidents occurred in the westbound direction indicating speed was the major factor. No one had control over the wild animals that cause the majority of accidents in the corridor.

Commissioner Giese asked why the route could not be changed to go through Buena Vista to Leadville and over the Interstate down to Denver.

Ms. Wilkinson stated Nestle had set the load station on Highway 24 because it was part of the National Highway System and because it had the least impact on the road system in Chaffee County. She explained the system that the trucks would use to enter into the highway and that the trucks had radio contact with each other to eliminate crowding. She was a licensed professional traffic engineer and had worked for the State Traffic Engineers.

Nestle Waters Project Manager Lauerman stated that Nestle Waters had submitted a land management mitigation plan, wetland plan and a hatchery restoration plan. He explained the Hagan exchange.

Peter Ellis, THK Associates, 2953 South Peoria Street, Denver, Colorado, stated he would like to work with Jean Townsend and the county staff to work toward an agreement of terms. He stated that TKH and he largely agree that the project would have net positive impacts to the County. He realized that Colly/Forrest felt there could be some negative impacts but those had not yet been defined. He stated that Colly/Forrest questioned the duration of the project but suggested there was a permanent loss of resources. On Wednesday, he had received some new assets evaluation and costs. He did not feel that Ms Townsend had been privy to the information at this time. He explained the evaluation of the pipeline build and lands in the area which put project costs at about 8.2 million dollars and that would increase the property valuation. Most pipeline increase valuation of the transmission system. He stated that Nestle Waters would be open for suggestions for safety and services and for a mitigation pay as you go could be mitigated and explored.

Chairman Holman recessed the meeting at 5:10 p.m.

Chairman Holman reconvened the meeting at 5:27 p.m.

Commissioner Giese apologized to the public for the sound system as staff was not setup for a large group such as this. He asked the public to thank the V.F.W. for allowing the use of their building. He stated that there was a donation box at the front door for those who wished to donate to them.

Holly Strablizky, Nestle Waters Legal Counsel, commented on what a 1041 consisted of, identification of impacts and mitigation measures. She stated that Nestle Waters believed that they had identified all of the areas of conditions. She gave an overview of the areas where she felt Nestle Waters and the County still seemed to disagree. With the submittals presented today, they felt Nestle Waters had met the conditions for all of the items that had been placed on the 1041 application.

Chairman Holman stated that they would now start the public comment section of the hearing. He asked that everyone who wished to speak to stand and be sworn in. He

stated that this was for new testimony of items that had been presented since the last meeting. He asked that each person keep on subject and to state their name and address before speaking.

Dick Scar, 311 East Pine Street, Buena Vista, stated his main concern was the effect that the project would have on the traffic to Denver.

Gene Rush, 6384 Terrace Lane, Salida, stated that was a retired USGS and had concerns about the hydrology monitoring of the springs not being adequate.

Ed Groski, 33301 Forest Service Road 329, Buena Vista, stated that he lived on the top of Trout Creek Pass on a mining claim. His concern was the traffic. He felt that the traffic consultant was incorrect because she had not factored in the weather and speed.

Herman Ellis, 718 W 3<sup>rd</sup> Street, Salida, stated to the Board that each of them had ran for office saying they could protect the water in the county and should do just that.

John Graham, 9555 County Road 175, Salida, stated that his concern was the wetlands and mitigation and the lack of a scientific baseline.

Jim Ruggles, 1500 County Road 182, Salida, stated that his concerns were that the test was taken during a heavy snow year and the test well was too close to the Arkansas River. His other concern was that the Aurora water did not meet the requirements.

Special Counsel Green stated that the 1041 regulations state that the applicant must meet the County's 1041 Regulations. She stated that could mean that everyone in the world did not want the Nestles project to be approved, but if Nestle had complied with all of the 1041 regulations, the Board would have to approve it.

Chris Faust, 9700 County Road 160, Salida, stated that his concern was the traffic on Trout Creek Pass.

Ron Farris, 9700 County Road 163, Salida, stated that he was concerned that the valuable resource that would be placed in bad plastic bottles. He stated each member of the Board had promised that water would be kept in the County and not allow a corporate giant take our water away.

Rebecca Owens, 12507 County Meadows Lane, Salida, stated that she was concerned about small businesses development. Her opinion was that Nestle Waters did not fit into our county.

Reed Dils, 29940 County Road 353, Buena Vista, stated that he did not feel that Nestle Waters had met the criteria of a 1041. He stated that Mr. Moltz already had a PUD approved by the County that would take 40% of the water in the area. He felt that sheep were not to be allowed in the grazing area. He questioned the validity of the endowment that Nestle Waters had said they would set up. He felt that the highway should be part of the conditions.

Frank McMurry, 22405 U.S. Highway 285, Nathrop, felt that the County would be passing up a good opportunity. He was in favor of the applicants.

Tom Bell, 29750 County Road 353, Buena Vista, stated that he was a real estate agent. He would make money on this project and that money would go through the County many times over.

Brett Mitchell, 115 North U.S. Highway 24, Buena Vista, stated that he agreed with Mr. Bell. He felt that Nestle would bring good things to the area. He commented that about 35 trucks went through Johnson's Village in one hour. One more truck an hour was no big deal. The people building the pipeline would spend money while it was being built. He asked since the water was not being used now, why not let someone use it.

HART INTERCIVIC E00718900JB

Fredrick Lee, P.O. Box 410, Buena Vista, stated that he served as the Chaffee County Democratic Communication Chairman and was speaking on their behalf. He thanked Mr. Lauerman of Nestle Waters for speaking to the Democrats at their last meeting, but the Chaffee County Democrats have taken the stance against the approval. They felt that there was considerable pressure to rush the project through and a great deal of time needed to be taken. He asked if it was enough that they were concerned that the County might be sued. Several towns have had problems. They would like the Board of Commissioners to contact these towns.

Luella Puzzuti, 218 East 3<sup>rd</sup> Street, Salida, stated that her concern was the monitoring of the wetlands at the Big Horn Project.

Sue Mills, 340 E Street, Salida, stated that her concerns were the waste of bottled water and dealing with a large corporation. The accountability to constitute and the corporation were her concerns also. She asked what was going to happen with all the bottles. She asked that the Board check these people's references. The applicant must comply with all the 1041 Standards. Common sense is that you can not take water out and then expect the replacement water to be the same quality. She was concerned about the test was not accurate because of the big snows of the last year.

Judy Shuford, 138 I Street, Salida, asked for a continuance of the application. She had traffic concerns. She found it interesting that Nestle spent so much time on the subject if they already had approval from CDOT. She stated that Mr. McMurry had sold the property for \$865,000 and that the springs start up in government land. She questioned that the Hagen's had a right of first refusal. She was concerned about the challenge of restoration of the hatchery's whirling disease which could stay active for up to 20 years.

Robert Lowe, 117 D Street, Salida, stated that he would be speaking for Mr. Preston Preble who had to leave. He stated that Mr. Preble had lived in a county in Nebraska that sold water to a municipality. All his land dried up. Therefore, he was against this proposal.

Scott Cragle, 832 Yale Street, Buena Vista, stated that his concerns were the plastic bottle waste and the trucks traveling in the county. He was against the water being sold for profit.

Terry Scanga, General Manager of the Upper Arkansas Water Conservancy District, stated that the concern that they had was with the agreement with City of Aurora. They had a problem with the Aurora Water Lease, because the City of Aurora had entered into a number of lease agreements with the Upper Arkansas Water Conservancy District and the South Eastern Water Conservancy District that interlock in agreement in a Water Court case beginning in 1997 which was completed in 2003. Those agreements require Aurora not to divert any more water for 40 years from date of agreements. He stated that would mean Aurora would not buy any more water and divert it from the Arkansas Basin except in very dry years, which would happen every 5-7 years. He explained the agreement that Aurora had with the two other entities.

Jim Osborne, 37380 Highway 24 North, Buena Vista, stated that he wanted to bring the Board's attention to several Colorado Revised Statutes that were related to the 1041 Regulations. These were the following:

- Revised 24.65.1 203
- Revised 24.65.1 401
- Revised 24.36.1.301 401 and 404
- Revised 24.65.1.501

He stated that what these meant were that once a permit had been applied for from the local government, the permit must be denied by the local government. If even one criteria was not met, the commissioners must deny the permit.

Mike Coleman, 215 Palmer, Poncha Springs, stated that he felt that this had positive activity for the County. He stated that most of the contractors were in the County that bid for this job. The recreation of the wetlands would be a valuable asset to the County. This would benefit all the people of the County. The spring water was only a benefit if they were pumping it. Currently there was not benefit to the County. The County would have the authority to shut this project down if everything was not followed or done correctly. He felt that Nestle Waters had met all of the criteria.

David Moore, 15573 County Road 260, Salida, stated that he was fly fisherman who cut his trip short to attend this meeting. He did not agree with the traffic study. He did not agree that Nestle Waters would give any benefit to the county. He gave an example of how the fundraising of the Rotary Club had made money for groups in Chaffee County.

Colleen Kunkle, Salida, stated that she was not opposed to growth. She commented that the idea was not about water rights or property rights, it was an issue of non-compliance with the 1041 Regulations. She was not in favor of the application.

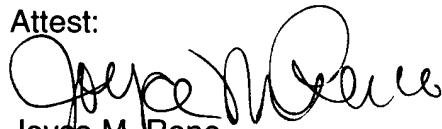
Erik Leeper, 212 West Cheyenne Blvd, Colorado Springs, Colorado, stated that he was a court qualified expert witness in river related litigation and published materials called River Law. The U.S. Supreme Court had confirmed that naturally flowing waters were held in trust for the public by the state and local governments. He felt that the only way that Nestle Waters could sell bottled water would be if they did so only in Chaffee County and Colorado.

Fred Klein, 204 North F Street, Salida, presented a verse and song of the 1041 Bible underling how the situation here in Chaffee County was not a flash in the pan. He explained the extraction of water from Nestle Waters equaled the whole of all the wells in Salida. He felt that there was no benefit in the County. He felt that the hydrology study was not sufficient.

At 8:00 p.m. Chairman Holman stated that the Board would not take any more public comment.

After some discussion, Chairman Holman moved to continue the Special Meeting of Nestle Waters 1041 and Special Land Use Permit application to Wednesday, April 29, 2009, 1:00 p.m. at the Salida Steam Plant and will continue this public hearing to April 29, 2009. Commissioner Glenn seconded the motion. On the question, the motion carried 3 - 0.

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.