

STATE OF COLORADO

Colorado Water Conservation Board

Department of Natural Resources

1313 Sherman Street, Room 721

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TO: Colorado Water Conservation Board Members

FROM: Joe Busto, Watershed & Flood Protection Section

DATE: January 13, 2011

SUBJECT: **Agenda Item 7, January 25-26, 2011 Board Meeting**
South Platte River Easement Agreement

John W. Hickenlooper
Governor

Mike King
DNR Executive Director

Jennifer L. Gimbel
CWCB Director

Background

The CWCB owns land and flood control project features along the South Platte River just downstream of Chatfield Dam, based on an agreement with the U.S. Army Corps of Engineers (Corps). The subject reach is known as the Chatfield Downstream Channel Improvement Project (Project) and is located essentially from Coal Mine Avenue to Oxford Avenue. At its November 1995 meeting, the Board approved guidelines for allowing easements within the CWCB's right-of-way on a case-by-case basis. In 2001, the CWCB adopted Easement Guidelines that were later updated and approved by the Board in May 2005.

From a process standpoint, Staff works with applicants to help prepare materials and recommendations for discussion during a regular Board meeting. The Board decides whether or not to approve or deny specific easement requests, sets the fee for the easement, and provides Staff authority to execute a contract with assistance from the AG's Office.

Discussion and Request

In December 2010, a coalition known as the South Platte Working Group submitted a proposal to Great Outdoors Colorado (GOCO) that was later approved for \$600,000 to construct roughly one mile of new recreation trail. The trail is to be located on CWCB lands along the east bank of the River from Prince Street to the Big Dry Creek Bridge (memo and drawing attached). Although a concrete trail exists along the west bank of the river, the east side does not currently have one. This project is part of regional initiative to enhance the river in this area that has been historically home to industrial uses. The CWCB and South Suburban Parks and Recreation District (SSPRD) are working with the Corps and the Urban Drainage & Flood Control District for guidance and approval of design plans. SSPRD is now requesting a temporary construction easement and 25 year trail easement for the proposed project, with an easement fee of \$500 based on CWCB Method III of the Easement Guidelines (attached). Staff and SSPRD will present the proposal to the Board for consideration. The proposal will not only improve recreation uses and aesthetic values, but it will also increase access for maintenance and flood fighting efforts.

Staff Recommendation

Staff recommends that the Board approve the request for a temporary construction easement and non-exclusive 25 year trail easement for the South Suburban Parks & Recreation District. Staff finds that the proposal is "in the general interest of the public" and further recommends that the Board approve an easement fee of \$500 (five hundred) dollars based on Method III of the Easement Guidelines.

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Chatfield Downstream Channel Improvement Project Easement Fee Structure March 6, 1996 Updated May 13, 2005

Bill Owens
Governor

Russell George
Executive Director

Rod Kuharich
CWCB Director

Dan McAuliffe
Deputy Director

BACKGROUND

At the November 6-7, 1995 and January 24-25, 1996 Board Meetings, several easements on land owned by the CWCB (Right-Of-Way) along the Chatfield Downstream Channel Improvement Project (South Platte River) were approved by the Board. Following the approvals, the Board directed staff to develop a fee structure to be used as consideration for CWCB granting of easement requests. At the March 23, 2005 Board meeting, staff was directed to review and make recommendations regarding the "Chatfield Downstream Channel Improvement Project Easement Fee Structure" dated March 6, 1996.

DISCUSSION

CWCB staff consulted with the following five entities that have experience in granting easements and charging fees for said easements: 1) City of Fort Collins (Stormwater Utility); 2) City of Littleton; 3) Urban Drainage and Flood Control District (UDFCD); 4) Colorado State Land Board; and 5) Colorado Attorney General's Office. Based on those discussions, the following fee determination methods were developed:

Methods for Computing Easement Fees for CWCB Right-Of-Way

Method I – Market Value Method (Unchanged from the 1996 method)

This method shall consider the market value of the subject site. It will require an appraisal or market survey to determine what is the fair market value for the easement based on comparable land values in the area at the time of negotiations. The applicants must provide these appraisals/surveys to the Board in order to establish the fair market value for the subject property. Considerations are:

1. The cost of said appraisals/surveys will be borne by the applicant.
2. Maximum term of easement is twenty-five (25) years.
3. The easement value (fee) is computed as follows:

- Step 1:** Determine the unit market value of property (square feet or acres).
- Step 2:** Determine size (area) of impacted CWCB Right-Of-Way.
- Step 3:** Select an easement class factor from the Land Use Compensation Schedule (see note below) which considers the development potential of the site.
- Step 4:** Determine easement fee: Value = (Unit market value rate) X (area in sq. ft. or acres) X (easement class factor).

Note: The easement fee is a one-time lump sum payment. The easement is renewable in (25) years, and consideration for renewal will be the computed amount adjusted for inflation. If the computed fee is less than \$250, a minimum charge of \$250 will be assessed. The Land Use Compensation Schedule is part of the “Contracts and Procurement Code Manual, Office of the Attorney General, June 9, 1988” on file at the CWCB offices. Approved easements by the CWCB will include a revocable clause in the contract.

Method II(A) – Drainage Value Method (Unchanged from the 1996 method)

This method shall use an established standard rate that will be used equally for all easement applications regardless of the location of the easement. The method is applicable when a floodwater discharge is passing over or through an existing or newly constructed project feature or facility (e.g. weir, culvert, pipe, inlet box, spillway or other structural design feature). Easement fees will not be assessed for the passage of floodwaters over natural conveyance paths or man-made earthen channels. Considerations are:

1. Maximum term of easement is twenty-five (25) years.
2. The easement value (fee) is computed as follows:

- Step 1:** Use a standard easement rate of \$1.00 per square foot (or updated amount based on UDFCD criteria at the time of the application).
- Step 2:** Determine size (area) of impacted CWCB Right-Of-Way.
- Step 3:** Determine easement fee: Value = (\$1.00 per sq. ft.) X (area in sq. ft.)

Note: The easement fee is for a one-time lump sum payment. The easement is renewable in 25 years, and consideration for renewal will be the computed amount based on adjusted unit rates. If the computed fee is less than \$250, a minimum charge of \$250 will be assessed.

Method II(B) – Impact Method (Updated for the 2005 Method)

This method shall consider the percentage of impact that will be realized to the CWCB lands for the proposed use. The Base Real Estate Value of the CWCB right-of-way lands will be multiplied by the percent impact value. The CWCB shall establish the Base Real Estate Value for its lands based on actual data, discussions with adjacent land owners, and communications with interested agencies (e.g. UDFCD, XCEL Energy, local governments, and others who perform similar activities). Considerations are:

1. Maximum term of easement is twenty-five (25) years.
2. The easement value (fee) is computed as follows:

Step 1: The Base Real Estate Value rate shall be ten dollars (\$10.00) per square foot.

Step 2: Determine the percent (%) impact value for the requested use per complete application:

- a. Drainage pipes and structural design features – 50%.
- b. Water and sewer line and related structures and systems – 50%.
- c. Recreational uses and structures -50 to70%.
- d. Fences and paved surface area – 70%.
- e. Power lines – 80%.
- f. Private use structures (patios, decks, storage areas, parking lots, access roads, etc.) – 90%.

Step 3: Determine easement fee: Value = (Base rate @ 10.00 sq ft.) X (Impact %) X (area in sq. ft.).

Note: The easement fee is a one-time lump sum payment. The easement is renewable in 25 years, and consideration for renewal will be the computed amount based on adjusted base rates. Approved easements by the CWCB will include a revocable clause in the contract.

Method III – Governmental Public Works Facility (Amended 2005)

In the event that CWCB determines that an easement is in the best interest of the State and/or the public, the Board may consider a special fee for a governmental entity. This type of request will generally be for special purposes or will involve public benefits. The recommended fee for Method III is five hundred (500) dollars. The CWCB, at its sole discretion, may waive the fee on behalf of the applicant.

BOARD ADOPTION

The Board adopted this Easement Fee Structure at its May 2005 meeting.



Platte River/Mary Carter Greenway Multi-Use Pathway Project
South Suburban Parks and Recreation—Coordinating Partner

MEMORANDUM January 11, 2011

To:

Joe Busto, South Platte River Program Coordinator, Colorado Water Conservation Board

From:

Robert Searns, Project Development Coordinator

cc:

David Lorenz, Executive Director, South Suburban Parks and Recreation

Brett Collins, Project Manager, South Suburban Parks and Recreation

Laura Kroeger, P.E. Assistant Manager, Urban Drainage and Flood Control District

Re: South Platte River Trail Improvements—Littleton and Englewood, CO

Mission Statement

As part of a continuing effort to improve the South Platte River in the South Suburban Area, complete a new paved multi-use pathway along the east bank of the river from S. Prince Street in Littleton to the confluence with Big Dry Creek (just South of Union Avenue) in Englewood. The project will serve recreationalists including hikers and bicyclists and serve as a drainageway maintenance access road.

A key goal of this work effort is to complete the proposed improvements by September 2011 in order to receive substantial funding from GOCO, Arapahoe County and others for the work.

Approval is requested to proceed with project described herein.

Project Description (Please See Attached Layout Plan and Cross-sections)

Construct a 10'-wide warm-tone concrete hike/bike/maintenance path along the east (right) bank of the South Platte River from So. Prince Street to connect with the Big Dry Creek Trail. This is part of an effort to improve the Mary Carter Greenway through Littleton, Englewood and Sheridan. All work is to be within the Colorado Water Conservation Board ownership.

Improvement Items:

- A continuous concrete trail/maintenance route from S. Prince Street to Big Dry Creek
- Trail underpasses at S. Prince and W. Bellevue
- Culvert modifications to accommodate trail and a small drainage crossing
- Associated grading and revegetation
- A single-span pedestrian crossing (80'-100' pre-fab steel structure) of Big Dry Creek just upstream of the confluence with the S. Platte
- Associated safety and directional signage, and trail furnishings such as benches and trash receptacles

