

Projects like SDS rise and fall on environmental impact studies

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Imagine a “Great Race” which takes 25 years, goes to Pueblo and back, costs the participants \$17 million, and at the finish rewards the winners with 3,000 pages of, at least to a layperson, incomprehensible bureaucratese.

That, said Colorado Springs Utilities spokeswoman Janet Rummel, is “an apt metaphor” for the long ordeal surrounding the preparation, submission, modification and eventual approval of the Environmental Impact Statement for the Southern Delivery System.

SDS is a regional water delivery project designed to serve the water needs of Colorado Springs, Fountain, Security and the Pueblo West Metropolitan District through 2046. The project area extends from a pipeline at Pueblo Reservoir to Colorado Springs.

Last month, the Bureau of Reclamation signed a “record of decision” approving the final EIS for SDS.

This was the culmination of a planning process that formally began during 2003. But, CSU’s Keith Riley, who led the project’s financial team, said the project was conceived well before then.

“We began considering the pipeline alternative in the early to mid-1980s, when we were also looking at building a dam on the main stem of the Arkansas near Elephant Rock,” he said. “SDS was part of the 1996 water resources plan that council approved, but if you look at its beginnings, we’ve been working on it for 25 years.”

The final EIS consists of 600 pages of narrative and 2,400 pages of appendices, all of which were required to meet the requirements of the National Environmental Policy Act, which became effective nearly 40 years ago on Jan. 1, 1970.

Contemporary accounts suggest that the legislation was driven by a range of concerns, which the nascent environmental movement had brought to public attention during the previous decade.

During 1969, environmental ills included pervasive air pollution, a massive oil spill off Santa Barbara and a river that caught fire in Cleveland. As Time magazine reported on Aug. 1 of that year, “Some river! Chocolate-brown, oily, bubbling with subsurface gases, it oozes rather than flows. ‘Anyone who falls into the Cuyahoga does not drown,’ Cleveland’s citizens joke grimly. ‘He decays’ ... The Federal Water Pollution Control Administration dryly notes: ‘The lower Cuyahoga has no visible signs of life, not even low forms such as leeches and sludge worms that usually thrive on wastes.’ It is also - literally - a fire hazard.”

This was not a unique event - the river had caught fire nine times. But this time, thanks perhaps to extensive media coverage, the burning river became a symbol of the threatened American environment.

NEPA requires that an EIS be prepared by any federal agency contemplating "major federal actions significantly affecting the human environment." In practice, this means that any significant action in which a federal agency is even peripherally involved will require an EIS.

The EIS must include descriptions of:

- The environmental impacts of the proposed action.
- Any unavoidable adverse environmental impacts.
- Alternatives, including no action.
- The complex nexus between short- and long-term project benefits of the proposed project, continuing health/maintenance of the natural and built environment, irreversible commitments of resources and the secondary effects of implementing the project.

Because much of the water to be transported by SDS is from the 1960s Frying Pan-Arkansas project, administered by the Bureau of Reclamation, that agency was charged with preparing the EIS. And since Colorado Springs Utilities was the entity proposing the project, it was responsible for paying for the EIS, which was prepared by a contractor chosen by the bureau.

The first of many steps is to prepare an "environmental assessment," to determine whether a project fits within the definition of actions that would trigger a full-blown EIS. If more than one federal agency is involved, multiple EAs might be required.

For project proponents, EAs and EISs are facts of life, part of an alphabet soup of abbreviations that might signify more delays, more changes, more restrictions, more costs and fewer benefits.

Among all the bad letter combinations, there's one good one: FONSI. And no, that's not Henry Winkler's character from the 1970s sitcom "Happy Days," but a "finding of no significant impact." Get a FONSI, and you're home free.

For a project as large, complex and potentially disruptive as SDS, a FONSI was never in the cards.

SDS director John Fredell, who has devoted the last six years to the project, said that the NEPA process is slow and often cumbersome, but he believes that it's eminently worthwhile.

"When you have a project that has public opposition, it provides a way to address that opposition and make any needed changes," he said. "If we had a more streamlined process, it might not do that effectively. In the end, we have a better project."

While a project such as SDS must have an approved EIS to move forward, approval does not guarantee that the project will be built. Under NEPA, these documents are meant to aid in decision making - nothing more.

Hydrological/geological, biological/ecological, social, health, archeological, historical and cultural impact analyses all figure into the EIS process, as do any relevant financial plans.

During the EIS process, both city government and utilities were engaged in seeking yet another project approval, this one from Pueblo County.

Under Colorado law, the Pueblo County Commission had the power to deny a construction permit for the project under the so-called "1041" land use regulations, named after the House bill which gave counties such powers.

Colorado Springs had been caught in 1041's web 20 years ago, when the Eagle County Commissioners killed the city's proposed Homestake II project, which would have transported water from the Holy Cross wilderness area to Aurora and Colorado Springs.

That process was contentious, with both sides accusing each other of bad faith, and worse. The project was proposed during 1981, only to be rejected by Eagle County seven years later. Appeal followed appeal, and it seemed that the city would prevail, until the Colorado Supreme Court upheld Eagle County's decision during 1994.

The city appealed to the Supreme Court, which declined to review the lower court's decision - and that was that.

Coupled with the Environmental Protection Agency's veto of Denver's long-planned Two Forks dam on the South Platte River near Deckers during 1984, the failure of Homestake II seemed to signal that large-scale water projects were virtually unbuildable.

That lesson was not lost upon the officials of Colorado Springs Utilities. Noting that the failures of both Two Forks and Homestake could be traced to the passionate opposition of the environmental community, they tried to design SDS to be as environmentally benign as possible.

"We identified issues with both Homestake and Two Forks very early in the process," Fredell said, "and we felt like we could distinguish our project from those."

The project still drew intense opposition, but much of it was apparently defused by the obvious economic benefits that it would bring to the region, as well as utilities' willingness to pay for extensive environmental mitigation and improvement projects on Fountain Creek.

"The process worked well for us, but SDS really had comparatively few significant environmental impacts," Fredell said. "I have to wonder whether it would ever be possible for anyone to do a project that actually had significant impacts."