

## **Springs, county to settle lawsuit**

**Pueblo County has spent almost \$440,000 fighting the case.**

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**By CHRIS WOODKA  
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Colorado Springs and Pueblo County have reached an agreement to dismiss a lawsuit over the county's 1041 land-use regulations.

The lawsuit was dismissed on Tuesday in Pueblo District Court.

The action ends nearly four years of litigation, after Colorado Springs filed the lawsuit in 2005, centering on Southern Delivery System, a \$1 billion-plus pipeline project that will affect Pueblo Dam, land in Pueblo West, Walker Ranches and numerous county roads.

Pueblo County spent nearly \$440,000 on the lawsuit and an appeal, which will not be recoverable, said Pueblo County Attorney Dan Kogovsek. Kogovsek explained the only way to have recovered the payments for lawyers and cost of depositions would be if the lawsuit were determined to be frivolous.

"We discussed it, but just because we won the lawsuit does not mean it was frivolous," Kogovsek explained.

Colorado Springs costs were not immediately available, said John Fredell, SDS director.

Colorado Springs agreed not to contest Pueblo County's authority to regulate SDS in the future, said Ray Petros, special counsel on land-use issues for the county.

In 2007, Chief District Judge Dennis Maes ruled in favor of Pueblo County's position that its land-use regulations written under 1974's HB1041 were applicable to SDS. Colorado Springs argued that they were not, because the project was not substantially different than other, existing utility corridors in the county.

Colorado Springs appealed the decision, but the appellate court has not issued its opinion. The city and county have asked the case be remanded to district court.

Colorado Springs applied for a 1041 permit in 2008 anyway, and received the permit in April. Last week, Colorado Springs City Council gave its blessing to the Pueblo County route over an alternative through Fremont County.

The project is expected to be completed by 2016.

"With the successful issuance of the 1041 permit in Pueblo County which includes a commitment to work together to ensure SDS impacts are mitigated, we saw no need to continue

with litigation,” Fredell said. “We have begun a new era of collaboration with Pueblo on water issues and the lawsuit was counter to that goal.”

Earlier, Colorado Springs City Council voted to accept all of Pueblo County’s conditions for SDS, including a \$50 million payment to the newly formed Fountain Creek Watershed Flood Control and Greenway District, \$75 million in sanitary sewer improvements, \$6 million for roads and several projects on Fountain Creek.

The lawsuit was originally filed in El Paso County District Court, but was heard in Pueblo County after appeals on the venue went all the way to the Colorado Supreme Court.

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