

In the event completion of the SDS Project is delayed beyond 42 months after the effective date of the permit because of an affirmative decision made by Applicant, then the payments to be made by the Applicant pursuant to this paragraph shall begin to be made on such date, without regard to project construction status, or such payments shall be subject to annual indexing commencing 42 months after the effective date of the permit, to increase the amount of such payments as required to preserve their present values, using the Colorado Front Range Producer Price Index, but not to exceed a maximum annual increase of 3.5%.

7. Expenditures for Wastewater System Improvements.

In order to continue its efforts to protect against future spills to Fountain Creek, to increase its opportunities for reuse, and to mitigate possible water quality impacts by the SDS Project to Fountain Creek, Colorado Springs Utilities shall commit to invest an additional seventy-five million dollars (\$75,000,000) in its wastewater system. Expenditures will be made as part of the wastewater collection system rehabilitation programs or wastewater reuse systems between January 1, 2009 and December 31, 2024 as required. These expenditures shall be for projects not currently required by other regulatory permits, agency enforcement or court orders, consent agreements, or governmental regulations existing as of January 30, 2009. These expenditures will include the Local Collector Evaluation and Rehabilitation Program (LCERP) for the improvement and fortification of wastewater lines which could adversely affect Fountain Creek or its tributaries. These expenditures are subject to annual appropriation by the Colorado Springs City Council. Beginning in 2010, by January 31 of each year, Colorado Springs Utilities shall provide an annual report to Pueblo County describing such expenditures for the prior year.

8. Sediment Control/Dredging and Clear Springs Ranch.

It is acknowledged by Pueblo County and Applicant that one mitigation commitment will be a project to reduce the sediment load in lower Fountain Creek through dredging and the construction of sediment collection devices. These efforts will occur prior to the construction of the SDS Project. These sediment removal activities are of vital importance to Pueblo County because they will assist the City of Pueblo in preserving the flood protection of the Fountain Creek levees at or above the 100 year flood level. This mitigation commitment may be conducted in cooperation with a project or projects of the U.S. Army Corps of Engineers. It is acknowledged that there will have to be sampling done on the bed sediments in Fountain Creek to insure that no hazardous materials exist that would make a dredging and sediment removal project technically or financially impracticable. Applicant, as a condition of this permit, will pursue vigorously its efforts to complete this sediment removal project at the levels committed to in the final Environmental Impact Statement process. In the event that sediment removal is not practicable because of the quality of the