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October 26, 2020

**Sent via E-Mail**

Jenny Axmacher, AICP, and  
Members of the City Council  
City of Commerce City  
7887 East 60th Avenue  
Commerce City, CO 80022

**Re: Metro Wastewater Reclamation District (“METRO”)  
Conditional Use Permit Application No. CU-123-20 (“METRO PROJECT”)**

Dear Ms. Axmacher and Members of the City Council:

Our firm represents the Farmers Reservoir and Irrigation Company (“FRICO”), a Colorado mutual ditch company. For the purposes of this letter we are also authorized to speak for the Burlington Ditch, Reservoir and Land Company (“BURLINGTON”) (together with FRICO, “DITCH COMPANIES”). The Ditch Companies previously submitted materials and testimony regarding the Metro Project for consideration by the Planning Commission and City Council.

In that material and testimony, the Ditch Companies detailed their opposition to trenchless construction under the O’Brian and Little Burlington Canals (collectively, “CANALS”), requested that specific rights and obligations be memorialized in recorded crossing agreements, and requested that the design and construction techniques for the proposed crossings of the Canals be subject to review and approval by FRICO and Burlington according to FRICO’s Engineering Design Standards. The Ditch Companies proposed conditions of approval to address those interests.

On September 21, 2020, the City Council continued the hearing on the Metro Project in order to provide more time for the Ditch Companies and Metro to work through the issues and reach agreement. We are pleased to report that the continuance provided the necessary “breathing room” to successfully resolve the issues. In sum, among other things, Metro and the Ditch Companies: (1) have agreed that Metro will use an open cut construction technique across the Canals; (2) recently executed and recorded mutually acceptable crossing agreements for both crossings; and (3) have agreed to appropriate technical review by FRICO to ensure that the design and construction of the proposed crossings meet FRICO’s essential engineering requirements.

As we understand it, on October 20, 2020, Metro provided Resubmittal Number 5 to Commerce City, revising the construction technique to open cut. As such, the Ditch Companies withdraw their prior objections to the Metro Project. Moreover, because the agreements between Metro and the Ditch Companies resolve the prior objections, the Ditch Companies submit that the record evidence in this case now supports approval.



Jenny Axmacher

October 26, 2020

Page 2

The Ditch Companies appreciate the City's commitment to ensuring that the Metro Project is constructed safely.

Sincerely,  
FAIRFIELD AND WOODS, P.C.

A handwritten signature in blue ink, appearing to read 'Todd Messenger, Esq.', is written over the typed name. The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Todd Messenger, Esq.

TM:dps

cc: Robert Sheesley, Esq.  
Patrick Wilson, Esq.  
Scott Edgar