

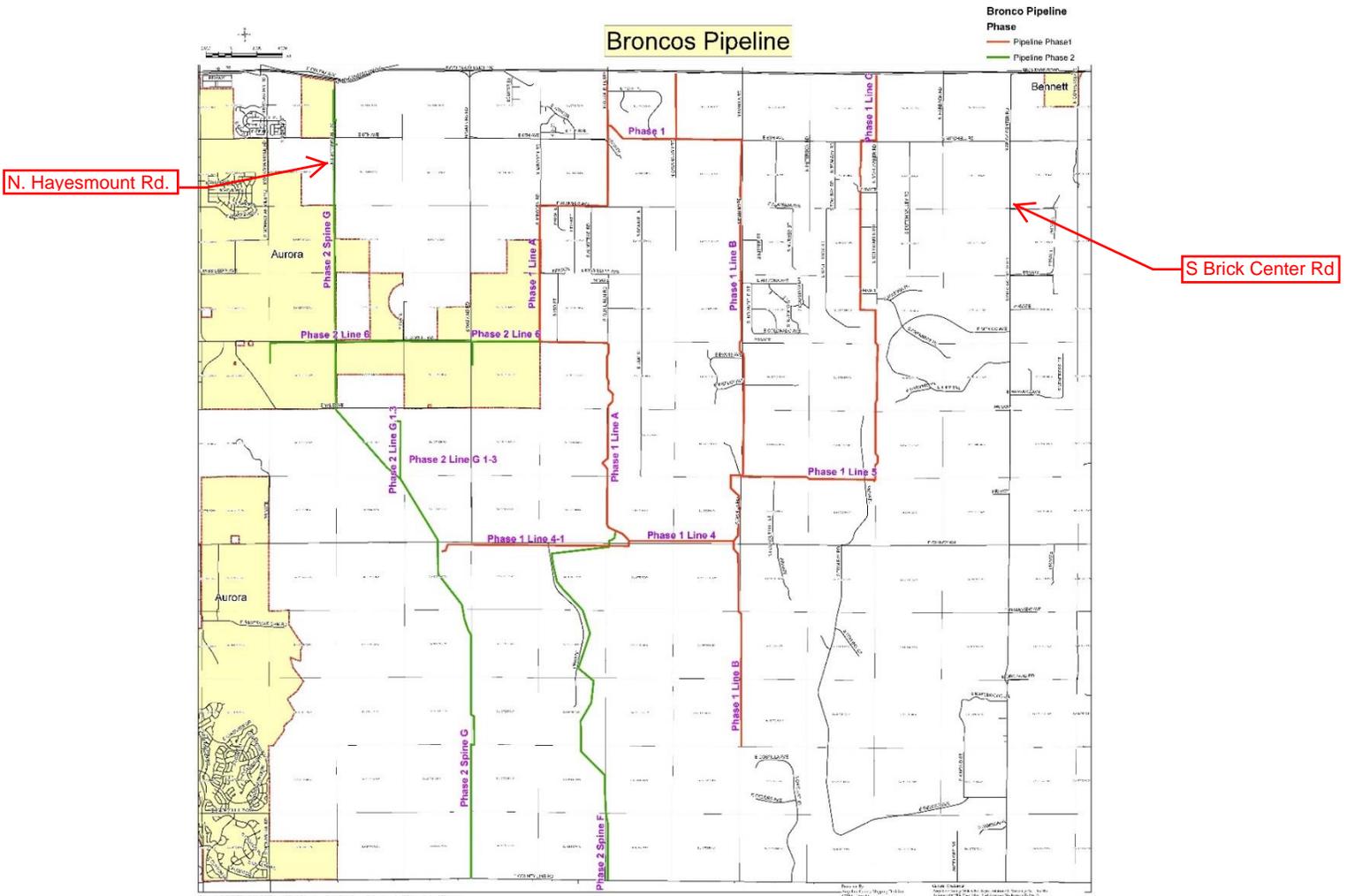
SUBJECT: UASI21-003 BRONCO PIPELINE COMPANY GATHERING SYSTEM PHASE I & II USE BY SPECIAL REVIEW/1041 MAJOR AMENDMENT

KAT HAMMER, SENIOR PLANNER

May 26, 2022

**LOCATION:**

This proposal is in Commissioner’s District #3. The site is generally located between North Hayesmount Road on the west to South Brick Center Road on the east and the northern and southern border of Arapahoe County. See the attached document title “Crestone Midstream Lines & Amendment” for a better understanding of the previously approved pipeline corridor.



**PROPOSAL:**

Crestone Peak Resources Midstream, LLC is proposing an amendment to Broncos Pipeline Company Gathering System – Phase I and II Use by Special Review Plan (USR) narratives, case numbers U13-001 and U14-001. The proposed amendment would allow for the inclusion of freshwater pipelines within the pipeline easements, freshwater and/or produced water pipelines greater than 14 inches in diameter, and clarify the types and total number of utilities proposed within the easements. The previously approved USRs allow for installation of three co-located gathering pipelines (oil, natural gas and produced water) and a fiber optic cable installation. This proposal includes the introduction of freshwater pipeline and clarifies that the pipeline corridor may include different types of lines (one of each type, two oil lines, multiple water lines, etc.). Although the applicant does not have an anticipated construction start date, approval of this application would allow pipeline construction in the future.

The amendment also proposes an increase of the maximum allowable width of easements obtained from landowners, from 75 feet to 100 feet. Phase I and Phase II allow for a 75-foot permanent easements and 50-foot permanent easement, respectively, with a 25-foot temporary construction easement. If this amendment is approved the maximum easement width for both phases of the project shall not exceed 100 feet. Staff is proposing a Condition of Approval (COA) requiring all necessary utility easements must be executed and recorded prior the commencement of construction.

**RECOMMENDATION:**

Staff recommends the application be approved based on the findings and subject to the COAs outlined herein.

**I. BACKGROUND**

The existing zoning is A-1, I-2, I-2 PUD, MU-PUD, MU, RR-A, and RR-B for the area of the gathering system. Land uses along the alignment of the gathering system are primarily ranchland and dry-land farming with some rural large-lot development. There are also industrial and office uses located on East Quincy near Watkins Road.

Phase I and Phase II of this project were approved by the Board of County Commissioners (BoCC) on June 18, 2013 and June 17, 2014, respectively. Since the initial approvals, the applicant received approval of three technical amendments for minor realignments, two administrative amendments for additional pipeline and one administrative amendment for the addition of a 200-foot freshwater pipeline.

**II. DISCUSSION**

Staff review of this application included a comparison of the proposal to: 1) applicable policies and goals outlined in the Comprehensive Plan; 2) Use by Special Review Regulations; 3) 1041 Regulations Governing Areas and Activities of State Interest; and, 4) analysis of referral comments.

**1. The Comprehensive Plan/Lowry Range Sub-Area Plan**

The Comprehensive Plan designates the majority of the project area as “Rural Area.” The Comprehensive Plan defines this designation as “The County will discourage non-residential uses from occurring in the Rural Area, including uses permitted by special review, unless they are

agriculture-related or are a public facilities and services.” The proposed amendment is in conformance with the Arapahoe County Comprehensive Plan, in that it provides for development of public facilities and services within the “Rural” Land Use Area.

This proposal complies with the Arapahoe County Comprehensive Plan as follows:

*GOAL PFS 12 – Minimize Impacts of Local and Regional Public Facilities and Utility Facilities.*

This proposed amendment does not require the construction of additional permanent infrastructure such as roads, power lines, municipal water, or telecommunications facilities. Additionally, the project is collocated within existing pipeline corridors, minimizing the impacts to existing and future land use.

*POLICY PFS 12.2 – Consider Utility Needs to Support Needs to Support Growth and Development of the Region.*

This proposed amendment seeks to entitle the right to create a more productive pipeline easement, as opposed to creating additional pipeline corridors.

*POLICY PFS 12.3 – Require Land Use Compatibility when Siting Local and Regional Utility Facilities.*

This proposed amendment seeks to modify the existing pipeline corridor. The primary use of the surrounding property is livestock grazing and dry land farming. Future construction is not expected to significantly impact the compatibility of the adjacent land uses.

*POLICY NCR 7.5 – Minimize the Impacts of Oil and Gas Development on the Environment, Surrounding Land Uses and the Roadway Network.*

This proposed amendment seeks to entitle the right to create a more productive pipeline easement, as opposed to creating additional pipeline corridors. The proposed freshwater pipeline is expected to reduce the amount of truck traffic on the roadway system and reduce the pavement degradation.

## 2. Land Development Code – Use by Special Review Regulations

Section 5-3.4 of the Land Development Code provide approval criteria for this type of application. The Board of County Commissioners may approve a Use by Special Review application, if the proposal meets all of the following criteria:

- a) *Recognize the limitations of existing and planned infrastructure, by thoroughly examining the availability and capability of water, sewer, drainage, and transportation systems to serve present and future land uses.*

The proposal is not anticipated to have any negative impacts on existing and planned infrastructure. The applicant has indicated this amendment will not require support from

any existing or future water or sewer systems and will not have any impact to existing drainage patterns, since the pipeline infrastructure is underground. The applicant has indicated five water sources they currently have in place. Staff is recommending a COA requiring the applicant provide documentation from Water Court, a water provider, or certification by the Division of Water Resources identifying all sources of water, the duration of the water use, certification that the water is authorized for oil and gas usage, and that the water is allowed to be used in Arapahoe County/the destination basin. Staff is also recommending a COA to ensure the water pipe line shall provide service to oil and gas facilities, firefighting activities and not to other uses.

Impacts to local roads will vary day by day for future construction. Staff is proposing a Condition of Approval (COA) requiring the applicant to provide Traffic Control Plans to the County prior to approval of construction documents. If this amendment is approved, and once construction is complete, traffic associated with the oil and gas operations will likely be reduced, as vehicles that would have trucked materials are off the road.

*b) Assure compatibility between the proposed development, surrounding land uses, and the natural environment.*

The primary land uses for the areas adjacent to the pipelines easements is livestock grazing and dry-land farming. This amendment is not proposing any construction at this time but the applicant has indicated the disturbances to the existing uses during construction will be minimal. The applicant has indicated the disturbance during construction would be limited to the parameters of the pipeline easements and temporary workspaces as determined by the agreements with property owners.

Future pipeline installation/construction will result in intermittent and short-term air pollutant emissions, fugitive dust emissions and diesel combustion. The applicant has indicated at the time of construction, water will be used to control dust on access roads and temporarily disturbed areas, speeds will be limited to 15 miles per hour for vehicles traveling along disturbed areas and clearing will be avoided when winds exceed 35 miles per hour. Emissions associated with construction are not expected to cause or substantially contribute to a violation of any applicable ambient air quality standard.

Visual quality will not be substantially impacted by this amendment because any impacts would be temporary and short-term. Existing ground cover consists primarily of dryland pasture and short-grass prairie and there are no buildings or structures planned for this amendment. Farming and grazing is expected to continue after construction.

Surface water quality and groundwater quality and quantity are not expected to be substantially impacted by this amendment. There is no construction proposed with this amendment, however if any future construction within the easements is proposed, the applicant will be required to submit a Grading, Erosion, Sediment, Control (GESCC) Plan for review by Arapahoe County Public Works. Groundwater quality could be impacted by spills of fuel during construction and by leaks or breaks in the pipeline. The applicant has provided staff with their Product Spill Response and Emergency Plan (included in the

previously approved field wide GESC report) and has indicated the measures described within the plan will be followed in case of a spill, leak etc.

The applicant has identified threatened terrestrial and aquatic animals within or near the existing pipeline corridor. Staff is recommending a COA requiring the applicant to reduce impacts to wildlife by scheduling construction outside of nesting and breeding times.

If this amendment is approved, minimal impacts to terrestrial and aquatic plant life are expected. Most of the plant life along the corridors consists of rangeland grasses and dry land crops. Due to the relatively small footprint of the easements, minimal impacts are anticipated from any future construction. Reclamation of disturbed areas will be reviewed and determined at the time of county review of the GESC Plan. The applicant has indicated any lands disturbed during construction will be reclaimed and all equipment will be stored within specified easements and along temporary construction roads.

Soils, geological conditions and natural hazards are not anticipated to be substantially impacted by this amendment due to the existing facilities in or near the gathering system corridors. Farmland soils that are to be crossed by any future construction are dryland/rangeland.

- c) *Allow for the efficient and adequate provision of public services. Applicable public services include, but are not limited to, police, fire, school, park, and libraries.*

The project is not expected to have an impact on the availability of public services. Future construction and operation of the project is not anticipated to affect the demand for local government services or the capability of local governments to provide services.

Arapahoe County Sheriff's Office did not have any concerns or comments regarding the amendment. Bennett-Watkins Fire and Rescue indicated no specific objections to the proposed amendment during the referral process, but the applicant shall coordinate with the Bennett-Watkins Fire Protection District and ensure that the proposed development conforms to the adopted International Fire Code standards. The fire district also requested the applicant discuss opportunities in the future to install fire hydrants for emergency firefighting activities along future freshwater routes. The applicant has indicated they will reach out to Bennett-Watkins Fire Protection to discuss the possibilities of installing hydrants for emergency firefighting activities.

- d) *Enhance convenience for the present and future residents of Arapahoe County by ensuring that appropriate supporting activities, such as employment, housing, leisure-time, and retail centers are in close proximity to one another.*

This amendment does not propose any infrastructure that would preclude the possibilities for the present and future residents of Arapahoe County for appropriate supporting activities, such as employment, housing, leisure-time, and retail centers that are in close proximity to one another.

- e) *Ensure that public health and safety is adequately protected against natural and man-made hazards which include, but are not limited to, traffic noise, water pollution, airport hazards, and flooding.*

The project is not anticipated to have impact on public safety or health. No significant sources of noise, dust, glare, fumes, vibrations, or odors are anticipated to be caused by the project at the time of any future construction. During construction, dust will be controlled by watering roads and other disturbed areas. Noise and fumes from heavy equipment will be minimized. There are no airport hazards associated with this amendment.

This project is not anticipated to create additional impacts to the existing floodplain limits, wetlands or riparian areas. All floodplains, wetlands and streams/drainages will be crossed in accordance with U.S. Army Corps of Engineers (USACE) 404 Permit requirements (submitted concurrent or prior to the County GESC Plan review). Wetlands will be avoided by rerouting of the pipeline or by crossing the wetland with either a Horizontal Directional Drilling (HDD) or a bored crossing technique.

- f) *Provide for accessibility within the proposed development, and between the development and existing adjacent uses. Adequate on-site, interior traffic circulation, public transit, pedestrian avenues, parking and thoroughfare connections are all factors to be examined when determining the accessibility of a site.*

This amendment will not impact any existing adjacent uses or infrastructure's ability to provide accessibility. This amendment does not propose any infrastructure that is intended for public use or access.

- g) *Minimize disruption to existing physiographic features, including vegetation, streams, lakes, soil types and other relevant topographical elements.*

This amendment will minimize disruption to existing vegetation, streams, lakes, soil types and other relevant topographical elements. There are existing facilities in the gathering system corridors and the applicant does not anticipate significant issues with soils, geologic conditions, or natural hazards. Any crossings of streams, lakes and other drainage ways will be done in accordance with the USACE 404 Permit requirements.

- h) *Ensure that the amenities provided adequately enhance the quality of life in the area, by creating a comfortable and aesthetically enjoyable environment through conventions such as, the preservation of mountain views, the creation of landscaped open areas, and the establishment of recreational activities.*

This project will not degrade the quantity or quality of recreational opportunities or experiences because pipelines are below the surface.

- i) *Enhance the useable open spaces in Arapahoe County, and provide sufficient unobstructed open space and recreational area to accommodate a project's residents and employees.*

This project will not degrade the quantity of quality of recreational opportunities or experiences and does not impact existing, usable open spaces in Arapahoe County.

### 3. 1041 Regulations Governing Areas and Activities of State Interest

The 1041 Permit approval criteria for a Major Electrical, Natural Gas and Petroleum Derivative Facilities of a Private Company shall comply with the criteria set forth in the 1041 Regulations, Part V, Sections A and C, along with Appendix A. Section V of the 1041 Regulations allows approval of a permit if the proposed activity complies with the following general criteria:

Part V, Section A. General Approval Criteria: [See applicant's response to approval criteria starting on page 9 of 60 of the Application Narrative. Staff response to approval criteria below]

1. *Documentation that prior to site disturbance associated with the Proposed Project, the applicant can and will obtain all necessary property rights, permits and approvals. The Board may, at its discretion, defer making a final decision on the application until outstanding property rights, permits and approvals are obtained.*

The applicant can and will obtain all necessary property rights, permits and approvals prior to construction. The applicant is not subject to the Mineral Right Notification requirement per CRS Title 24-65.5-102. The applicant has indicated they understand all necessary federal, state and county permits will be required prior to the commencement of construction, staff has included this as a COA.

Any future construction within the corridor will require approval of a GESC Plan from the County, as well as Street Cut and Right of Way (ROW) Use permits for any ROW crossings from the County. Acquisition of land rights in the form of easements from property owners will be required prior to approval of the GESC Plan and issuance of ROW permits. Staff is recommending a COA requiring the applicant to provide a copy of the recorded easements prior to approval of the GESC Plan.

2. *The Proposed Project considers the relevant provisions of the regional water quality plans.*

At this time, there is no construction proposed with this amendment. If any future construction within the easements is planned, the applicant will be required to submit a GESC Plan to the County for review and determination/decision. The applicant has indicated the GESC Plan will comply with the State of Colorado and Arapahoe County's Stormwater Management Manual.

3. *The applicant has the necessary expertise and financial capability to develop and operate the Proposed Project consistent with all requirements and conditions.*

The applicant has provided the County with financial statements that were reviewed by the County Finance Department. Understanding that the County Finance Department's

expertise is not in the analysis of private sector firms' financial condition or their ability to generate sufficient revenue to meet financial obligations, the department reviewed the materials provided by the applicant and does not feel that, based on the size of the requested project versus their assets and the amount of cash available to them, the proposed project would cause significant financial hardship for the firm to complete. That said, the oil and gas industry is very volatile, and the department cannot project what may or may not occur in the future with any certainty. Arapahoe County Engineering Services Division is currently holding a two million dollar bond that was originally provided from Conoco Phillips and has since been transferred the Crestone and will be used as surety for the proposed improvements.

4. *The Proposed Project is technically and financially feasible.*

The applicant has provided general information that indicate that the proposed project is technically and financially feasible. Staff is recommending a COA requiring the applicant to demonstrate they have properly secured water rights for the use of oil and gas operations and firefighting activities in Arapahoe County.

5. *The Proposed Project is not subject to significant risk from natural hazards.*

The applicant conducted investigations to identify potential hazards along the established route and has institutional knowledge of the project area because of the applicant's or related entity's existing facilities in the project's vicinity. The applicant concluded that the project is not subject to significant risk from natural hazards.

6. *The Proposed Project is in general conformity with the applicable comprehensive plans.*

The proposed project is in general conformity with the Arapahoe County Comprehensive Plan, as described earlier in this report.

7. *The Proposed Project will not have a significant adverse effect on the capability of local government to provide services or exceed the capacity of service delivery systems.*

This proposed project is anticipated to have minimal impacts on provision of services from Arapahoe County and other special districts. Construction and operation of the project is not scheduled at this time and is not anticipated to impact the demand for local government services or the capability of local governments to provide services.

8. *The Proposed Project will not create an undue financial burden on existing or future residents of the County.*

The applicant has provided financial statements indicating this project will not create an undue financial burden on existing or future residents of the County. The applicant has indicated additional infrastructure created from this amendment may result in increased tax revenues for the County. The additional water lines could also reduce the number of water trucks required for oil and gas operations, which would reduce wear and tear on

County roads.

9. *The Proposed Project will not significantly degrade any substantial sector of the local economy.*

The applicant has indicated this amendment could benefit the County's economy through the jobs that are created during construction and the increased revenues to local businesses that provide goods and services to the applicant and their contractors and employees.

10. *The Proposed Project will not unduly degrade the quality or quantity of recreational opportunities and experience.*

This amendment is not anticipated to have a direct impact on recreational activities, nor does it provide recreational opportunities. Given the localized extent of the project, relative to the property as a whole and the short duration of construction, no impact on recreational opportunities is anticipated with the additional easement widths, increased diameter and allowance of a freshwater pipeline.

11. *The planning, design and operation of the Proposed Project will reflect principles of resource conservation, energy efficiency and recycling or reuse.*

This amendment will promote resources conservation by reducing the amount of gasoline/diesel used in transporting freshwater via trucking which in turn will reduce the amount of impact to County roads and the roadway system.

12. *The Proposed Project will not significantly degrade the environment. Appendix "A" includes the considerations that will be used to determine whether there will be significant degradation of the environment. For purposes of this section, the term environment shall include:*

- a. *Air quality.*
- b. *Visual quality.*
- c. *Surface water quality.*
- d. *Groundwater quality.*
- e. *Wetlands, flood plains, streambed meander limits, recharge areas, and riparian areas.*
- f. *Terrestrial and aquatic animal life.*
- g. *Terrestrial and aquatic plant life.*
- h. *Soils and geologic conditions.*

The project will not significantly degrade the environment as described in Section II. Discussion., 2. Land Development Code – Use by Special Review Regulation., b. of the previously approved USRs.

*13. The Proposed Project will not cause a nuisance.*

The project is not anticipated to have impact on public safety or health due to the nature of the proposal, i.e., buried pipelines, after installation there is no expected potential for causing any nuisance. During construction nuisances will be controlled as mentioned previously in this report.

*14. The Proposed Project will not significantly degrade areas of paleontological, historic, or archaeological importance.*

As part of the initial applications, Metcalf Archeological Consultants, Inc. conducted a Class I overview for the project area. The results of the overview identified eight sites that are eligible or potentially eligible for inclusion on the National Register of Historic Places, only two of the identified eight sites are listed as eligible for inclusion. This study was done prior to the easement alignments being finalized and the findings are based on a more conservative overall area of scope. The expansion of the maximum easement width, inclusion of freshwater lines within the corridors, nor the inclusion of multiples types of the utilities within the corridors is not expected to impact the results of the study.

In addition to this report done with the original USR applications, the applicant for this amendment has committed to hiring a third party consultant to inspect a project area prior to any disturbance. The applicant has indicated the consultant shall be on-site prior to the construction process to monitor cultural resources and archaeological conditions. Staff is recommending a COA requiring the applicant provide a copy of the inspection and report as well as mitigation measures if any issues are noted during the inspection by a third party consultant.

*15. The Proposed Project will not result in unreasonable risk of releases of hazardous materials. In making this determination as to such risk, the Board's consideration shall include:*

- a. Plans for compliance with Federal and State handling, storage, disposal and transportation requirements.*
- b. Use of waste minimization techniques.*
- c. Adequacy of spill prevention and response plans.*

This amendment does not include the introduction of material classified as hazardous. The pipelines and mitigation methods included in the original approvals for natural gas, crude oil, produced water, and fiber optic cable are described in detail in U13-001 and U14-001, Section 3.14. The inclusion of freshwater pipelines within the corridor, as opposed to produced water pipelines, are void of hydrocarbons and naturally occurring salts and sediments that may be present in produced water pipelines.

Future construction within the easements will be managed, maintained and performed as outlined in U13-001 and U14-001 (Section 3.14.) The applicant has indicated there will be no storage of fuels, lubricants, chemicals or waste on the construction ROW, except on a temporary basis during maintenance or construction. Staff is recommending a COA

requiring the applicant contact the County if any spills occur. The applicant is subject to, and has agreed to contact the appropriate emergency offices and personnel in accordance with federal, state and local requirements.

16. *The benefits accruing to the County and its citizens from the proposed activity outweigh the losses of any resources within the County, or the losses of opportunities to develop such resources.*

The applicant has provided information indicating this project will not negatively impact the County or its citizens. Previous approvals allow for the safe and efficient transport of natural gas, crude oil and produced water, this amendment is requesting an additional freshwater line, if needed. There is no construction requested at this time. The project will have no significant, identified, negative or long term impact on resources within the County and it will help generate directly or indirectly employment opportunities, and benefit by virtue of increased tax revenue to the County. Additionally, transportation of freshwater via pipeline will reduce the truck traffic on the County's roadway infrastructure and reduced contributing to pavement degradation.

17. *The Proposed Project is the best alternative available based on consideration of need, existing technology, cost, impact and these regulations.*

The design and installation of the approved alignment of Phase I and II were based on the consideration of need, existing technology, cost, impact and the 1041 regulations. This amendment seeks to entitle the right to create a more productive pipeline easement/corridor, as opposed to requesting an additional pipeline corridor/s.

18. *The Proposed Project will not unduly degrade the quality or quantity of agricultural activities.*

This amendment will impact some dry land farming areas during future construction activities. Farming operations are expected to continue adjacent the existing lines and proposed lines, after construction, as pipelines are buried and allow the continuation of agricultural activities. The applicant shall work with property owners to minimize disruption during any future construction.

19. *The Proposed Project will not significantly interfere with the preservation of cultural resources, including historical structures and sites, agricultural resources, the rural lifestyle and the opportunity for solitude in the natural environment.*

As mentioned earlier in this report, Metcalf Archeological Consultants, Inc. conducted a Class I overview for the original approvals. There is no construction proposed at this time, however any future construction within the easements will attempt to avoid all known sites listed as eligible for inclusion in the National Register of Historic Places. The applicant shall mitigate impacts to any known eligible areas prior to the commencement of

construction and shall follow the language laid out in U13-001 and U14-001, Section 3.14.

20. *The Proposed Project will not cause significant degradation of land-use patterns in the area around the Proposed Project.*

This amendment is not proposing any construction at this time. Any future construction will be temporary and the majority of the infrastructure will be buried by means of open trenching or by boring. The land will be returned to pre-construction uses and the applicant has provided evidence that the project will not cause significant degradation of land use patterns.

21. *The applicant has complied with all applicable provisions of these regulations and has paid all applicable fees.*

The applicant has sought to comply with all applicable 1041 Permit regulations and has paid a deposit that will apply towards applicable fees.

Part V, Section C. Additional Criteria for Major Electric, Natural Gas, and Petroleum Derivative Facility of a Private Company:

1. *Areas around major facilities of a public utility shall be administered so as to minimize disruption of the service provided by the public utility.*

There will not be any disruptions of services currently provided by the applicant.

2. *Areas around major facilities of a public utility shall be administered so as to preserve desirable existing community and rural patterns.*

As explained earlier in this report. The project will be constructed in a manner so as to be non-intrusive and will not impact existing community patterns.

3. *Where feasible, major facilities of a public utility shall be located so as to avoid direct conflict with adopted local comprehensive, State and regional master plans*

The project is not in conflict with any adopted local, state or regional master plans.

4. *Where feasible, major facilities of a public utility shall be located so as to minimize dedication of new right-of-way and construction of additional infrastructure.*

This amendment seeks to co-locate additional pipelines within an approved corridor. This amendment seeks to allow an increase in the established easements to allow for the co-location of multiples types of utilities.

Appendix A, General Considerations

Appendix A of the 1041 Regulations are attached to this report. This appendix provides examples of the types of concerns that the BoCC may take into consideration in determining whether an application for a permit has complied with the approval criteria contained in Section V of the 1041 Regulations.

**III. REFERRAL COMMENTS**

Comments received during the referral process are as follows:

Referral Agency	Referral Agency's Comment/Response	Applicant's Response
<u>ARAPAHOE COUNTY/PWD/BUILDING DEPT</u>	Please submit all plans stamped by a Colorado licensed professional for the proper permit. Submit all SDS safety sheets with all tests and certifications of welders and equipment used. All permit fees apply.	Acknowledged. There are no construction activities planned at this time. For any future pipeline installations, the stamped construction plans will be provided to the building department for the required permits.
<u>ARAPAHOE COUNTY/R&amp;B REFERRALS</u>	No concerns.	Acknowledged.
<u>ARAPAHOE COUNTY/R&amp;B REFERRALS</u>	No concerns.	Acknowledged.
<u>May Farms</u>	No concerns	Acknowledged.
<u>BENNETT- WATKINS FIRE RESCUE</u>	<p>No specific objections to the proposed amendment. The developer shall confer with Bennett Fire Protection District and ensure that the proposed development conforms to adopted IFC fire code standards.</p> <p>BWFR would like to enter into dialogue with the applicant to determine if fire hydrant access and specific locations could be installed to allow for the use of fresh--water within the pipeline for emergency firefighting activities. Additional water resources made available to the fire department for emergency response could be a significant regional asset and helps support both existing and future oil and gas development. We are requesting that the applicant contact BWFR to discuss these opportunities further.</p>	Acknowledged. Crestone Peak Resources will reach out to Bennett-Watkins to discuss the possibility of installing fire hydrants for emergency firefighting activities along future freshwater routes.

Referral Agency	Referral Agency's Comment/Response	Applicant's Response
<u>MILE HIGH FLOOD DISTRICT</u>	No objection. Request to be involved during construction of crossings to observe the revegetation restoration efforts. No construction schedule for this project at this time. The applicant will be required to submit the GESC plan for approval prior to construction. County Engineering will let MHFD know when the GESC plan is submitted for review.	Acknowledged. There are no additions or changes to the gathering system alignment proposed with this amendment. Additionally, there is no pipeline installation or land disturbance anticipated at this time. Once construction is planned within any existing easements on the USR, a GESC Plan will be submitted to Arapahoe County for review. MHFD will be involved with the review of the GESC and involved during construction of crossings to observe the revegetation restoration efforts.
<u>US ARMY CORPS OF ENGINEERS</u>	Recommend a wetland delineation. The applicant should work directly with the Army Corp of Engineers to resolve any issues and concerns and provide staff with a letter of no objection from the Army Corp.	The applicant has reached out to the Corp to clarify the intent of the project. The USACE responded with the following: The general comment letter that we provided gives an overview of the Corps Regulatory Program and stands on its own. We do not complete in depth review of these projects. We do not provide letters of no objection. Please let us know if the county needs anything from the applicant for this external review.
<u>TRI COUNTY HEALTH DEPARTMENT-REFERRALS</u>	<p>No objection to portable toilets, provided they are properly cleaned and maintained. TCHD recommends that a portable hand sink be provided near the restrooms.</p> <p>If above ground valves are to be utilized, the applicant should consider methods for ensuring the valve site is secure.</p> <p>If trenching dewatering is necessary, the water will be pumped and discharged to alluvia/colluvial sediments close to the stream channel. If discharge of ground water is necessary during construction, a discharge permit from CDPHE, Water Quality Control Division will be necessary.</p>	<p>Acknowledged. There are no additions or changes to the gathering system alignment proposed with this amendment. Additionally, there is no pipeline installation or land disturbance anticipated at this time. Once any future construction is planned, the following responses will be implemented:</p> <p><b>Portable Toilets &amp; Hand Sink:</b> Portable toilets may be located along the pipeline corridor. They shall be securely staked on a flat surface, so that they do not fall over. Placement of toilets shall consider nearby equipment, drainage ways and vehicular traffic so they are not inadvertently knocked over. Portable toilets will be properly cleaned and maintained and hand sinks will be provided near toilets.</p> <p><b>Protection of Above-Ground Valves:</b> Appurtenance sites will be protected with a security fence that limits access to authorized personnel. Valves will be blinded (where necessary) and locked. This application does not propose any new appurtenance sites.</p> <p><b>Dewatering:</b> Acknowledged.</p>
<u>AURORA PLANNING - REFERRALS</u>	Supportive. No concerns.	Acknowledged.
<u>ARAPAHOE COUNTY/SHERIFF/PATROL REFERRALS</u>	No concerns.	Acknowledged.

Referral Agency	Referral Agency's Comment/Response	Applicant's Response
<u>COLORADO GEOLOGICAL SURVEY - STATE OF COLORADO</u>	No concerns.	Acknowledged.
<u>CDOT-DEPT. OF TRANSPORTATION/ STATE OF CO-REGION ONE</u>	No objections. If any work touches or crosses over the ROW, a utility/special use permit will be required.	Acknowledged. There are no construction activities planned at this time. For any future pipeline installations, a utility/special use permit will be required for ROW crossings.
<u>CRESTONE PEAK-PIPELINE REFERRALS</u>	No concerns.	Acknowledged.
<u>IREA</u>	Not within territory. No concerns.	Acknowledged.
<u>PHILLIPS 66</u>	No concerns.	Acknowledged.
<u>XCEL ENERGY</u>	<p>Potential conflict. Within Ph. 1 area, PSCo has multiple existing electric transmission lines and associated land rights. Any activity involving PSCo ROW will require PSCo approval. Encroachments must be reviewed and acknowledged with a PSCo License Agreement (executed with the property owner) PSCo is requesting that, prior to any final approval of the development plan, it is the responsibility of the property owner/developer/contractor to have this project assigned to a Land Rights Agent for development plan review and execution of a License Agreement</p> <p>Within the Phase 1 area, PSCo has existing overhead electric distribution facilities along East Quincy Avenue, and an underground electric distribution line crossing the pipeline route south of 34501 East Quincy Avenue.</p> <p>If the project area within Phase 2 is correctly understood, PSCo has existing underground electric distribution facilities in the area.</p> <p>Should the project require any modification to existing distribution facilities, the property owner/developer/ contractor must complete the application process</p>	<p>Acknowledged. (Staff is recommending a COA to address this).</p>

Referral Agency	Referral Agency's Comment/Response	Applicant's Response
<u>DIVISION OF WATER RESOURCES- STATE ENGINEER/GROUNDWATER</u>	No concerns.	Acknowledged.
<u>SEMSWA- SOUTHEAST METRO STORMWATER AUTHORITY</u>	No concerns.	Acknowledged.
<u>COLORADO PARKS &amp; WILDLIFE/ 1ST POINT OF CONTACT</u>	Review letter dated November 12, 2021 and work with CPW and provide a complete response to each concern.	Acknowledged. A comment response letter to the CPW comments have been provided with this submittal.

**STAFF FINDINGS:**

Staff has the plans, supporting documentation, and referral comments in response to this application. Based on the review of applicable policies and goals, as set forth in the Comprehensive Plan, review of the Use by Special Review and applicable 1041 regulations and analysis of referral comments, our findings include:

1. The proposed Use by Special Review/1041 application is in general conformance with the overall goals and intent of the Arapahoe County Comprehensive Plan, in that it provides for development of public facilities and services within Arapahoe County.
2. The proposed application complies with the review and approval criteria of the Use by Special Review regulations, Section 5.3.4 of the Land Development Code.
3. The proposed application complies with the review and approval criteria of The Regulations Governing Areas and Activities of State Interest in Arapahoe County (1041 Regulations).

**STAFF RECOMMENDATION:**

Considering the findings and other information provided herein, staff recommends approval of Case No. UASI21-003, Bronco Pipeline Company Gathering System Phase I & II Use by Special Review/1041 Major Amendment, with the following conditions of approval:

1. Prior to signature of the final copy of these plans, the applicant will address all Public Works and Development comments.
2. All necessary utility easements must be executed and recorded prior the commencement of construction.
3. Prior to water line construction, applicant shall provide Arapahoe County with documentation from Water Court, a water provider, or certification by the Division of Water Resources identifying all sources of water, the duration of the water use, certification that the water is authorized for oil and gas usage, and that the water is allowed to be used in Arapahoe County/the destination basin.
4. The water pipe line shall provide service to oil and gas facilities, firefighting activities and shall not provide service to agricultural, commercial, residential, or other uses.
5. Prior to commencement of construction, the applicant shall be required to obtain all necessary permits including a Grading, Erosion and Sediment Control (GES) permit, a Street Cut and Right-of-Way Use Permit, a Floodplain Development Permit, and possible

Oversize/Overweight Vehicle Permit, from Arapahoe County Public Works and Development.

6. The applicant shall provide Traffic Control Plans to the County prior to approval of construction documents and issuance permits from County Engineering Services Division and the Building Division.
7. Prior to construction, the applicant shall provide a copy of the inspection and report of paleontological, historic, or archaeological importance, as well as mitigation measures if any issues are noted during the inspection by a third party consultant.
8. The applicant shall conduct a nesting raptor survey prior to the commencement of construction, if construction begins during the nesting season, March 15 through August 31.
9. The applicant shall contact the County, appropriate emergency offices and personnel in accordance with federal, state and local requirements if any spills occur.
10. The applicant shall comply with Tri County Health Department regulations.
11. The applicant shall construct, maintain and operate the pipeline in compliance with all applicable federal and state laws and regulations, including but not limited to: Pipeline and Hazardous Materials Safety Administration (PHMSA), Department of Transportation (DOT), Transportation Security Administration (TSA), and Colorado Public Utility Commission (COPUC).
12. The applicant shall comply with the measures and procedures described within the Product Spill Response and Emergency Plan.
13. The applicant shall obtain all necessary permits from Public Service Company of Colorado dba Xcel Energy.

The Planning Commission has alternatives that include the following:

1. Recommend approval of the proposed USR/1041.
2. Continue to a date certain for more information.
3. Recommend denial of the proposed USR/1041.

**CONCURRENCE:**

The Public Works and Development Planning and Engineering Services Division have reviewed the application and the Arapahoe County Public Works and Development Department is recommending approval of this case.

**PLANNING COMMISSION DRAFT MOTIONS**

**Conditional Recommendation to Approve**

In the case of UASI21-003, Bronco Pipeline Company Gathering System Phase I & II Use by Special Review/1041 Amendment, I have reviewed the staff report, including all exhibits and attachments and have listened to the applicant's presentation and any public comment as presented at the hearing and hereby move to recommend approval of this application based on the findings in the staff report, subject to the following conditions:

1. Prior to signature of the final copy of these plans, the applicant will address all Public Works and Development comments.

2. All necessary utility easements must be executed and recorded prior the commencement of construction.
3. Prior to water line construction, applicant shall provide Arapahoe County with documentation from Water Court, a water provider, or certification by the Division of Water Resources identifying all sources of water, the duration of the water use, certification that the water is authorized for oil and gas usage, and that the water is allowed to be used in Arapahoe County/the destination basin.
4. The water pipe line shall provide service to oil and gas facilities, firefighting activities and shall not provide service to agricultural, commercial, residential, or other uses.
5. Prior to commencement of construction, the applicant shall be required to obtain all necessary permits including a Grading, Erosion and Sediment Control (GESC) permit, a Street Cut and Right-of-Way Use Permit, a Floodplain Development Permit, and possible Oversize/Overweight Vehicle Permit, from Arapahoe County Public Works and Development.
6. The applicant shall provide Traffic Control Plans to the County prior to approval of construction documents and issuance permits from County Engineering Services Division and the Building Division.
7. Prior to construction, the applicant shall provide a copy of the inspection and report of paleontological, historic, or archaeological importance, as well as mitigation measures if any issues are noted during the inspection by a third party consultant.
8. The applicant shall conduct a nesting raptor survey prior to the commencement of construction, if construction begins during the nesting season, March 15 through August 31.
9. The applicant shall contact the County, appropriate emergency offices and personnel in accordance with federal, state and local requirements if any spills occur.
10. The applicant shall comply with Tri County Health Department regulations.
11. The applicant shall construct, maintain and operate the pipeline in compliance with all applicable federal and state laws and regulations, including but not limited to: Pipeline and Hazardous Materials Safety Administration (PHMSA), Department of Transportation (DOT), Transportation Security Administration (TSA), and Colorado Public Utility Commission (COPUC).
12. The applicant shall comply with the measures and procedures described within the Product Spill Response and Emergency Plan.
13. The applicant shall obtain all necessary permits from Public Service Company of Colorado dba Xcel Energy.

***Staff provides the following Draft Motions listed below as general guidance in preparing an alternative motion if the Planning Commission reaches a different determination:***

**Recommendation to Deny**

In the case of UASI21-003, Bronco Pipeline Company Gathering System Phase I & II Use by Special Review/1041 Amendment, I have reviewed the staff report, including all exhibits and attachments and have listened to the applicant's presentation and any public comment as presented at the hearing and hereby move to recommend denial of this application based on the following findings:

1. *State new findings in support of denial as part of the motion.*

Continue to Date Certain:

In the case UASI21-003, Bronco Pipeline Company Gathering System Phase I & II Use by Special Review/1041 Amendment, I move to continue the hearing to [*date certain*], 6:30 p.m., to obtain additional information and to further consider the information presented.

Engineering Staff Report

Referral Responses

Letter of Intent

Applicant's Narratives

1041 Regulations Appendix A

Crestone Midstream Lines & Amendment

Exhibits

U13-001 & U14-001 Resolutions