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MEMORANDUM

Date: April 16, 2009
To: Don Reimer, Development Services Director, Chaffee County
From: Jean Townsend, Coley/Forrest, Inc.
Subject: REVIEW OF NESTLÉ WATERS NORTH AMERICA 1041 APPLICATION
PRIMARY FOCUS ON FISCAL AND SOCIOECONOMIC CONSIDERATIONS

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(1) INTRODUCTION

At the County's request, Coley/Forrest has reviewed the Nestlé Waters North America (NWNA) 1041 Application, related reports and correspondence prepared by NWNA and County consultants in context with the County's 1041 Regulations and with a focus on fiscal and socioeconomic considerations, Project benefits and related mitigation opportunities. Specific documents reviewed include the following:

- "Guidelines and Regulations for Areas and Activities of State Interest, County of Chaffee", 12/10/91 and 6/17/03
- Nestlé Waters North America Inc. Chaffee County 1041 Application, November 2008
- Nestlé Waters North America Inc. Project Overview, March 2009
- THK, Inc. Memorandum to Crabtree Group, 10/12/08
- THK, Inc. Memorandum to Crabtree Group, 2/13/09
- EPS Memorandum, Dan Guimond and Brian Duffany to Don Reimer, 1/30/09
- EPS Memorandum, Dan Guimond and Brian Duffany to Don Reimer, 2/20//09
- Brownstein Hyatt Farber Schreck Letter, Holly Strablizky to County Commissioners, 3/12/09
- Brownstein Hyatt Farber Schreck Letter, Holly Strablizky to County Commissioners, 3/20/09
- Brownstein Hyatt Farber Schreck Letter, Holly Strablizky to County Commissioners, 4/2/09
- Draft Land Management Plan, 3/20/09

In addition, and at our request, THK, NWNA's fiscal and economic consultant, provided some supplemental background information regarding its calculations of actual and assessed value via email correspondence. This thoughtful gesture reduced the number of issues presented in this memorandum.

(2) SUMMARY OF KEY FINDINGS

Duration of the Project. The Applicant provides no information regarding the duration of the Project. This is relevant because "benefits" referenced by NWNA extend only for the duration of the Project. Also, THK uses a 30 year time horizon to present local government revenue and cost figures. There is no assurance that these forecasts will be sustained.

Assessed Valuation. In one instance, a substantial increase in assessed valuation anticipated by THK is inconsistent with the way that the Chaffee County Tax Assessor is likely to assess the parcel. The net result is that the Project's assessed valuation may be overstated by about 14 percent. (See Section 4 and the Appendix.)

Local Government Revenues. In our judgment, local government revenues may have been overstated and downward adjustments are appropriate. For some local governments, this brings into question whether Project-related revenues will be sufficient to pay for Project-related expenses.

- *Property Tax Revenues*. About 83% ($2,505,386) of the local government revenues identified by THK (2/09) are increases in property tax revenue from estimated increases in NWNA assessed valuation. For several local governments including Chaffee County, the TABOR amendment dampens its ability to benefit from incremental property tax revenues from the NWNA project.

  Using Chaffee County as an example, TABOR-constrained incremental property tax revenues that the County would receive from the Project are estimated to be about 57 percent lower than if TABOR were not in effect. The combined impact of lower assessed valuation and TABOR limitations results in a 61 percent downward adjustment in property tax revenues received by the County from the Project, relative to the THK estimates.

  For the Buena Vista School District, more than 60% of its property tax revenues (16.111 of 26.690 mills) are controlled by the State under its equalization formula and are not directly available to the District. So, revenues from 16.111 mills should also be excluded from the analysis.

- *Sales Tax Revenues – Diesel Fuel.* THK estimates $493,461 in sales tax revenue from diesel fuel purchases at Johnson Village over 30 years. Since State law does not allow local (or state) governments to collect sales tax revenue on diesel fuel that is used by vehicles that travel on public highways, this revenue source is not available. The revenue forecasts should be excluded from the analysis.

- *Sales Tax Revenues – Electric Utility Usage.* THK estimates that $15,120 in sales tax revenue will accrue to Chaffee County from sales on electric service usage. Since State law provides an exemption for manufacturing firms, this revenue source is not available. The revenue forecasts should be excluded from the analysis.

Local Government Expenses. In our judgment, local government expenses may be understated for several reasons:

- *Construction Impacts.* The potentially significant impact from construction trucks using county roads has not been considered. Potential costs to repair county roads damaged by construction trucks could be substantial.

- *On-Going Impacts.* The methodology used to estimate local government impacts and related costs is not applicable because it applies per person and per employee parameters. Since the Project generates no people or permanent jobs, the estimates are arbitrary.

  There will likely be specific and measurable impacts and related local government costs from the Project; some costs are because the County will need technical specialists that it does not have in-house; others costs might be for emergency services, which, by their nature, are unpredictable but, over a period of years, are likely. Rather than attempt to forecast these specific future impacts and related costs, another more direct and cost-effective approach is suggested. A Mitigation Fund could be established and used to pay for Project-specific costs of local governments that exceed incremental Project-generated property tax revenues, if and as they arise. (See Section 9.)

Net Fiscal Costs. Using the County as an example, a pertinent question is whether the estimated $3,646 in annual, incremental property tax revenues (See Section 5.) attributable to the Project will be sufficient to pay for annual County services that relate to the Project. While figures have not been calculated, a similar analysis should be prepared for other TABOR-constrained entities. It is reasonable to expect property tax revenues will be sufficient to finance fire protection service needs, since the Chaffee Fire District is exempt from TABOR limitations.

Natural Resource and Economic Development. The NWNA Project will trigger a permanent loss of a natural resource, spring water. There are distinct economic and environmental benefits from spring water and a corollary economic opportunity loss with the permanent removal of spring water. This lost economic opportunity has not been addressed, quantified or mitigated in the 1041 Application other than an offer to consider limited fishing access and educational opportunities.

Project Benefits. Project benefits that are stated in the 1041 Application and related correspondence are summarized in Section 9. In our opinion, they fall into three categories:
- Some are the absence of a detriment, but not a net benefit.
- Some could become a net benefit but the Application provides no assurances.
- Some are not calculated accurately and might not be a benefit when recalculated.

NWNA states that any benefits are temporary in that they extend only for the duration of the Project. NWNA might consider amending its application to convert the potential and temporary benefits to actual permanent benefits.

Mitigation Considerations. Based on this analysis, NWNA might consider amending its Application to include the following mitigation ideas:

- Offer to establish a Project-Specific Mitigation Fund. This could be a cost-effective tool to insure that the County and other local governments are reimbursed for services delivered directly because of the Project.

- Convert potential benefits to actual permanent benefits. One example is a voluntary conservation easement on land that will remain in open space or agricultural use.

- Incorporate into the plans currently in progress, including the Traffic Study, the Fish Hatchery Restoration Plan and the Land Management Plan, commitments that they must be approved by the County and that each plan contains appropriate enforcement provisions that require mitigation if the Project is inconsistent with the Plan.

(3) DURATION OF THE PROJECT – § 2-203 (3)(d)

The estimated life of the Project does not appear to be stated in the 1041 Application. This is an important consideration because, as stated by NWNA, its commitments are in effect only as long as there is a Project.

Also, it is important for the County to consider what happens to the land and improvements after the Project is complete. The THK forecasts extend for 30 years, but there is no assurance that the Project will be in effect for 30 years.

(4) ASSESSED VALUATION – § 2-203 (5)(f)

Four parcels will likely be purchased by NWNA as part of the Project. In addition, NWNA will install personal property associated with pipeline, wellhead improvements and pumping equipment. THK prepared estimates of actual (market) value and assessed value for these real estate and personal property assets. The table below summarizes suggested adjustments to these figures based on a conference with the Chaffee County Tax Assessor and her appraisal staff. The suggested figures are not revised estimates of value. Rather, they are preliminary estimated adjustments based on our research.

The net effect of these proposed adjustments is a 14 percent reduction in the estimated assessed value of the Project from the THK figure of $4,302,980 to $3,680,765. This downward adjustment has an impact on property tax revenue estimates, which are discussed in Section 5. The results of these proposed adjustments are summarized below. Each property is discussed in the Appendix.

ACTUAL (MARKET) VALUES "AS IMPROVED" - NWNA PROJECT PROPERTIES AND IMPROVEMENTS			
OWNER	PARCEL NUMBER	THK "AS-IMPROVED"	PROPOSED ADJUSTMENTS
Nestlé Water N.A.	R342111100005	$1,008,125	$213,665
Hagen, Harold A.	R342111400191	$273,854	$310,100
Hagen, Harold A & Mary H.	R342111400190	$94,800	$125,000
Gunsmoke Liquor, LLC.	R327122300066	$738,701	$844,500
Pipeline		$2,187,500	$2,187,500
Total		$4,302,980	$3,680,765
See the Appendix for more information about each parcel.			

MARKET AND ASSESSED VALUES – NWNA PROJECT PROPERTY PROPERTIES AND IMPROVEMENTS				
	THK		Proposed Adjustments	
	Actual (Market) Value	Assessed Value	Actual (Market) Value	Assessed Value (29% of Actual Value)
"As Improved"	$4,302,980	$1,221,413	$3,680,765	$1,067,422
"As Is"	$536,335	$107,350	$536,335	$107,350
Difference	$3,766,645	$1,114,063	$3,144,430	$960,072
See Appendix for Details.				

(5) LOCAL GOVERNMENT REVENUES – § 2-203(6)(g)

Over a 30 year time horizon, THK estimates local government revenues generated by the NWNA Project will total $3,029,597. This section reviews each source of local government revenues identified by THK.

SUMMARY OF PROJECT-RELATED LOCAL GOVERNMENT REVENUES – ESTIMATED BY THK OVER 30 YEARS, 3% INFLATION		
One-Time Revenues:		
Building Permit Fees (County)	$12,445	0.4%
Sales Tax – Construction Workers (County)	$3,185	0.1%
On-Going Revenues (30-31 Years):		
Property Taxes (Multiple Jurisdictions)	$2,505,386	82.7%
Sales Tax – Diesel Fuel (County)	$493,461	16.3%
Sales Tax – Electric Utility Usage (County)	$15,120	0.5%
TOTAL	$3,029,597	100.0%
Source: THK, 2/13/09		

Cumulative Figures. The THK Reports calculates revenues for 30 years, using a 3% inflation factor. [1] There may be two problems with this approach.

- No information has been provided to indicate that this Project will extend for 30 years.

- As highlighted by EPS, the 1041 Regulations call for annual revenues and expenditures, not cumulative figures. The annual figures reported by THK are an annual average over 30 years with a built-in 3% inflation factor; they are generally equivalent to figures in year 15. It may be more useful to focus on annual revenues and expenditures in year 2, when the Project has been built; this approach would exclude 15 years of 3% inflation.

Property Tax Revenues. The assessed valuation discussion above suggests that a 14 percent downward adjustment be appropriate. Assessed valuation times the mill levy provides estimates of property tax revenues that NWNA will pay to various local governments.

[1] Revenues are actually calculated for 31 years, but this is not a serious concern.

In measuring the impact on local governments, it is important to consider the amount of the incremental revenues that each jurisdiction may retain due to the Project. THK assumes that the assessed valuation times the current mill levy equals revenues that each local government will retain.

This assumption is misleading and should be amended. Some governments are significantly constrained in total property tax revenues that they may receive due to the TABOR spending limit; others are not constrained. Most of the property tax revenues from the Buena Vista School District, the largest receiver of property tax revenues, are subject to the State Equalization property tax revenue calculations and not directly available to the District.

TABOR-Impacted Service Providers. The TABOR amendment constrains local governments from spending property tax revenues that are above a prescribed formula unless the voters specifically remove the TABOR limitation. Property tax revenues for Chaffee County, the Salida Hospital District, the Buena Vista Sanitation District, and the Upper Arkansas Water Conservancy District are constrained by the TABOR amendment. The revenue forecasts should be adjusted downward to account for this constraint.

Using 2009 conditions in Chaffee County as a guide, as long as the TABOR amendment is in effect, then the incremental property tax revenues that are attributable to NWNA will be about 57 percent lower than the THK figures, using their assessed valuation figure and about 61 percent lower when the lower assessed valuation estimate is also factored in. While NWNA will pay property tax revenues equal to its assessed value times the mill levy, these will be counterbalanced by a mill levy reduction on all properties, including NWNA. From the County's perspective, incremental property tax revenues attributable to NWNA will be substantially lower. The Chaffee County Finance Director has assisted in quantifying the TABOR effects, using a 2009 Chaffee County Budget Year spreadsheet.

CHAFFEE COUNTY - THK AND PROPOSED ADJUSTMENTS PROPERTY TAX REVENUES		
	THK 7.944 mills / No TABOR *	Proposed Adjustments: Lower Assessed Valuation + TABOR
2009 Assessed Valuation Estimate:	$1,221,413	$1,067,422 **
2010 Assessed Valuation Estimate ***	$1,240,853	$1,067,422 ***
Annual Revenues Using Year 2	$9,857	$3,646 ****
* THK Report, 2/13/09, pages 5 and 8. ** Appendix to this Memo. *** 2010 is not a year of general revaluation; no inflation factor applied. **** $1,067,422 x .007944 x 43% = $3,646		

TABOR-Exempt Service Providers. Voters have removed the TABOR constraint on property tax revenues from The Chaffee County Fire District (3.936 mills) and the North and South Library Districts (2.5 mills and 3.870 mills).

Buena Vista School District. The FY 2007-2008 [2] School District's mill levy, 26.690, is 62% of the total overlapping mill levy calculation. (26.690 / 42.715) Sixty percent of the School District's levy (16.111 / 26.690 mills) is set by the State Department of Education under the State Equalization formula. Any increase in property tax revenues from the 16.111 mill levy flow to the State and are redistributed to all

[2] While FY 2008-2009 data is available, this analysis uses FY 2007-2008 data to make comparisons with the THK analysis easier to review. FY 2008-2009 data was not available to THK at the time of its Report. The new figures did not change in a material way.

school districts based on their per pupil enrollment with adjustments. Since the Project generates no permanent population, none of these revenues will likely be returned to the School District. The property tax revenues from the remainder, 10.579 mills, would be retained by the School District.

By adjusting the NWNA assessed valuation estimate and the mill levy, the resulting property tax revenues that the School District may retain for its use are 66 percent lower than the THK estimates, using year 2 as an example. ($33,118 versus $11,292)

BUENA VISTA SCHOOL DISTRICT: NWNA ASSESSED VALUATION AND PROPERTY TAX REVENUES		
	THK (26.690 mills)	Proposed Adjustments: Lower Assessed Valuation and 10.579 mills
2009 Assessed Valuation Estimate:	$1,221,413	$1,067,422
2010 Assessed Valuation Estimate *	$1,240,853	$1,067,422
Annual Revenues, Using Year 2	$33,118	$11,292
*2010 is not a year of general revaluation; no inflation factor is applied.		

Sales Tax Revenues. Chaffee County voters have removed TABOR limitations from sales tax revenues. THK discusses potential sales tax revenues from four activities: construction workers, diesel fuel sales, Twin Peaks Liquor and electric utility usage. Each is discussed below.

- *Sales Tax Revenue – Construction Workers.* THK and EPS provide estimates of retail sales generated by 59 construction workers for 90 days. Both analyses calculate relatively small one-time sales tax revenues of between $1,274 and $3,185 to the County. Although not mentioned by THK or EPS, the cities of Buena Vista and Salida would also likely capture some sales tax revenues. Our interpretation of the information would lie between the two consultant's figures but the magnitude of this issue is insignificant.

CUMULATIVE CONSTRUCTION WORKER SPENDING IN CHAFFEE COUNTY (ONE TIME)		
	THK	EPS
Construction Worker Retail Spending:	$159,250	$63,720
County Sales Tax Revenues (2%)	$3,185	$1,274

- *Sales Tax Revenues – Diesel Fuel.* The THK analysis estimates that Chaffee County sales tax revenues from diesel fuel will total $493,461 over 30 years. In Colorado, there are no local (or state) sales taxes on diesel fuel. This revenue source should be removed from the analysis. (See Colorado Department of Revenue FYI # 57.)

- *Sales Tax Revenues – Twin Peaks Liquor.* THK excludes any reduction of retail sales tax revenue due to the demolition of the liquor store. Twin Peaks Liquor is ideally positioned to capture visitors as well as local residents. While the liquor storeowner intends to relocate its business to another location, there is no assurance that this will occur or that the new location will be as well positioned. We concur with EPS that a 100% downward adjustment of retail sales tax revenues due to the closure of

the liquor store is too aggressive. There will likely be some retail sales tax revenues lost, at least in the short run. [3]

- *Sales Tax Revenues – Electric Utility Usage.* THK estimates Chaffee County sales tax revenue from NWNA's electric utility usage will total $15,120 over 30 years. Since State law provides manufacturers an exemption from paying sales or use tax on gas and electric utility usage, these revenue calculations should be removed from the analysis. (See Colorado Department of Revenue FYI 71.)

Building Permit Fees and "Material Use Fees." THK estimates a one-time building permit fee of $12,445. As stated by EPS, this is intended to cover the cost of inspections. While the County might retain outside specialists to help with technical inspections, these modest revenues would be needed to manage the process. The County cannot totally abdicate its responsibility to inspect. There is mention of "material use fees" but no calculations. Chaffee County does not impose a use tax.

(6) LOCAL GOVERNMENT EXPENDITURES – § 2-203(6)(g) & PUBLIC FACILITIES COSTS – § 2-203-6 (f)

Construction-Related Impacts. No information has been provided about possible construction-related impacts other than potential, positive sales tax impacts from construction jobs, building permit fees and "material use fees."

There are several potentially significant direct, construction-related impacts on the County and other local government service providers that have not been considered. These include:

- Impacts on County maintained roads, cattle crossings and storm drainage, particularly on CR 300, CR 301 and CR 310 used by construction related truck traffic; (§2-203(6)(c)(iii) specifically highlights the need for this information); [4]
- Potential need for emergency medical services during construction;
- Potential need for fire protection services, which can be more necessary during construction than later;
- Potential need for law enforcement and the courts due to vandalism and other unanticipated events.

On—Going Local Government Expenditures / Costs to Serve. The THK analysis (2/09) assigns "nominal" costs [5] to serve the Project based on per person and per employee parameters but also states that the Project will generate no permanent population and no permanent employees. This methodology does not fit the circumstances; it requires an arbitrary judgment as to how many people and employees are associated with the Project when there are none.

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[3] To provide some general perspective. The Urban Land Institute reports that the national average sales volume for independent liquor stores in community shopping centers was $342 in 2007. If this average figure were applicable to this liquor store, then it would generate about $7,000 in county sales tax annually. ($342 x 1,022 sq.ft. x 2% = $6,990)

[4] This impact might be managed by requiring a retainer with the Road Cut Permit that is sufficient to pay for any construction-related road damage.

[5] THK Memo, 2/13/09, pages 3 and 8.

Similarly, the 1041 Application *(page 15)* states that the "Project likely requires no expansion of county services and may cause a reduction in demand for County services."

Based on the nature of the Project, it will likely have nominal ordinary on-going expense impacts on the County and other public sector service providers. In addition, the County is likely to incur some unusual expenses so that it can monitor and evaluate the Project as it proceeds and can enforce mitigation solutions, as needed. Also, there are a several types of unintended and unanticipated Project-related effects that may impact service providers. As described above, Project–related revenues to pay for these impacts will be substantially less than estimated by THK. Our estimates are that the County will receive an estimated $3,646 per year in incremental property tax revenues. These incremental revenues may or may not be sufficient to pay for on-going Project related costs.

The Application asserts that "The proposed facilities and activities do not warrant additional need for Emergency Response or Law Enforcement staff, equipment, materials, or services." *(Application, page 26)* By the very nature of these services, no entity can assert in advance that there will be no future need for emergency medical, law enforcement or fire protection services. For example, NWNA delivery trucks might trigger an accident, there might be vandalism or a fire at one of its sites, or any employee might have an emergency medical problem.

Mitigation Fund. While some impacts may be unintended or unanticipated, they can all be measured in retrospect. The County will collect no additional revenues during this time period other than property taxes and minimal sales tax from incidental purchases by delivery truck drivers.

So that local government service providers are reimbursed for technical and legal support and direct services rendered to or because of the NWNA Project during consideration, construction and on-going Project operations, NWNA might consider amending its Application to create a Mitigation Fund that would be funded by NWNA and managed by Chaffee County for Project-specific reimbursement purposes. If an incident occurs and the fund is partially depleted, then NWNA would replenish the fund to the pre-set ceiling. This is discussed in further detail in Section 10, Mitigation Considerations.

(7) NATURAL RESOURCE AND ECONOMIC DEVELOPMENT

Both the NWNA and Chaffee County attach significant value to natural spring water, not just water. The Augmentation Plan will replace natural spring water with water. However, there is still a permanent loss of this special natural resource.

Natural spring water has specific economic and environmental value, such as creating fish hatcheries that are free from whirling disease, use at high-end fishing clubs and resorts, cultivation of algae for biofuel and other purposes. A reduction in natural spring water triggers a lost opportunity to develop this natural resource. This lost opportunity has not been addressed or quantified in the 1041 Application.

NWNA has referenced its willingness to consider providing limited access for fishing and education purposes but there are no assurances in the Application.[6] Beyond that, no recommendations have been provided to mitigate this loss.

(8) PROJECT BENEFITS

The 1041 Regulations state that benefits accruing to the County should outweigh the losses of any natural, agricultural or recreational resources within the County or the losses of opportunities to develop such resources. [§2-302 (5) and §3-3-3 (1)(k)(vi)]

As summarized in the table below, in our opinion the "benefits" stated in the 1041 Application (pages 52 and 53) and related documents are not, as stated, true net benefits to the County, other local service providers, its residents, businesses and property owners. Rather, they fall into one of the three categories.

- Some are the absence of a detriment, but not a net benefit.
- Some could become net benefits but the Application provides no assurance that these benefits will occur.
- Some are not calculated accurately; the claimed net fiscal benefits are below to significantly below stated amounts, as described in Sections 5 and 6.

SUMMARY OF BENEFITS PRESENTED BY NESTLÉ WATERS (ASSUMING WETLANDS AND OTHER CONSULTING REPORT REMARKS ARE SATISFIED)			
Stated Benefit and Source	An absence of a detriment; not a net benefit	Might become a net benefit; no assurance in the Application	Not Calculated Accurately
Vision. "The Project is consistent with the current vision of Chaffee County as a rural recreation and agricultural area with preserved natural resources." *Application, Benefits Analysis, p 52*	✔		
Aquifer. "The proposed water withdrawal is very sustainable, and will have no negative impacts on springs, the aquifer or surface waters. *Application, Benefits Analysis, page 52.*	✔		
Hatchery Restoration: "A significant benefit…would be to restore the hatchery site…to a more natural state…" *Project Overview, p 8.* "The site restoration project represents a unique educational opportunity and Nestlé Waters has already received interest in Partnerships and educational opportunities from area learning institutions." *Project Overview, p 11; Application, Benefits Analysis, p 53.*		✔ Potential benefit if NWNA includes language in the Restoration Plan that the Plan must be approved by County and contain enforcement provisions.	
Big Horn Springs Site: "Nestlé Waters anticipates holistically managing it for continued cattle grazing and		✔ See Land Management Plan discussion below.	

[6] "In the future, Nestlé Waters may provide educational and passive recreational opportunities" Project Overview, March 2009, page 9

SUMMARY OF BENEFITS PRESENTED BY NESTLÉ WATERS (ASSUMING WETLANDS AND OTHER CONSULTING REPORT REMARKS ARE SATISFIED)			
Stated Benefit and Source	An absence of a detriment; not a net benefit	Might become a net benefit; no assurance in the Application	Not Calculated Accurately
protection of Bighorn Sheep habitat, as suggested by CDOW." *Project Overview, p 9*			
Augmentation. "NWNA will fully augment all withdrawals, ensuring no net loss in the river and protecting downstream water users. *Application, Benefits Analysis, p 52*	✔		
Wildlife. "The Project would not have any detrimental effect on wildlife or habitat." *Application, Benefits Analysis, p 52*	✔		
Open Space/ Land Conservation. "Nestlé Water intends to preserve the majority of the land as open space at the Springs Sites." *Application, page 52 and Project Overview, p 11* "NWNA is actively exploring the possibility of a long-term or permanent conservation easement for the property with local trust entities." *Strablizky Letter, 4/2/09 and Draft Land Management Plan, p 4*		✔ No assurances during or after the Project	
Draft Land Management Plan. NWNA proposes a "condition of approval that will obligate NWNA to finalize and operate its Project pursuant to the Land Management Plan…" *Strablizky letter, 4/2/09*	✔ Some components commit to leave land "as is"	✔ Potential benefit if NWNA includes language in the Plan that it must be approved by County and contain enforcement provisions.	
Truck Impact. "To minimize any impact due to truck traffic at the Springs Sites, NWNA chose to bury a pipeline and locate the Truck Loading Facility…"	✔		
Corporate Neighbor. "NWNA is committed to being a good corporate neighbor and seeks opportunities to sponsor and contribute meaningful (spelling) to civic causes, including events, education and recycling in Chaffee County." *Application, Benefits Analysis, p 53* "NWNA intends to provide a significant amount of seed money to CCSF. " *Strablizky letter, 4/2/09, p 9*		✔ Benefits might accrue if contributions are made.	
Broad Benefits. "The proposed spring water development Project provides a net positive economic benefit to Chaffee County and some of its businesses in the short and long-term. *Application, Benefits Analysis p 53 and Project Overview, p 12*		✔	✔
Fiscal Benefits. As concluded in the economic impact report, the total fiscal impact of the Project will be approximately $2.4 million dollars over the next 30 years." *Application, Benefits Analysis p 53 and Project Overview, p 12* "These positive fiscal impacts …are realized through County			✔

SUMMARY OF BENEFITS PRESENTED BY NESTLÉ WATERS (ASSUMING WETLANDS AND OTHER CONSULTING REPORT REMARKS ARE SATISFIED)			
Stated Benefit and Source	An absence of a detriment; not a net benefit	Might become a net benefit; no assurance in the Application	Not Calculated Accurately
revenues derived from permanent increases in property values, some sales tax, temporary construction jobs and temporary sales of goods and services." *Strablizky letter, 4/2/09, p8*			

Duration of "Benefits." Any "benefits" identified by NWNA extend during the duration of the Project. *(Strablizky Letter of 4/2/08, page 8)* The Project duration is not stated. NWNA could amend its Application and convert a number of these temporary benefits into permanent benefits.

Conversion of Temporary and Potential "Benefits" to Actual and Permanent Benefits. There are numerous ways that NWNA could covert some of the potential net benefits to actual, permanent and assured net benefits. For example, it could:

- Make specific donations to civic, education, recycling and economic development entities as it intends.

- Place a significant portion of the land in permanent open space and/or agricultural use through dedication of a voluntary conservation easement. (Tax benefits to NWNA would accrue as well.)

- Deed its land to the County or another appropriate entity at the conclusion of the Project.

(9) MITIGATION CONSIDERATIONS

Plans, Monitoring and Mitigation. Several places in the 1041 Application, there is reference to a monitoring program and an inference that monitoring is equivalent to mitigation. *(1041 Application, page 10)* A subsequent letter states, "As illustrated in its monitoring plans, NWNA is committed to conducting proper mitigation if adverse impacts are realized. *(Strablizky letter to County Commission, 4/2/09, p. 9)* Also, several studies are underway, such as a Truck Traffic Impact Study and a Fish Hatchery Restoration Plan.

The County needs financial resources to retain appropriate technical specialists to review the monitoring plans and studies and propose mitigation solutions and the ability to enforce mitigation solutions. NWNA might consider amending its Application with language that provides the County with financial resources to retain appropriate technical staff and enforce mitigation solutions.

Project Impacts Mitigation Fund. To assure that Chaffee County and other local government service providers are not fiscally harmed by the proposed NWNA Project, NWNA might consider amending its Application to propose the creation of a Mitigation Fund that would be managed by Chaffee County and funded (and replenished) by NWNA for the duration of the Project. This would assure that there are no

negative fiscal impacts attributable to the Project. This is consistent with Section 3-102 (4) of the 1041 Regulations. Some considerations follow.

- *Fund Amount*. Some impacts (such as repair to County Roads from construction impacts) can be anticipated and quantified with some precision. Many other impacts, such as the need for law enforcement or emergency medical services, could be quantified using a cost-per-average-incident parameter, but the number of future incidents cannot be anticipated by their nature. Under these circumstances, we suggest that a reasonable fund amount be established and then replenished by NWNA as it is drawn down. The County and NWNA could schedule a review every five years or so and adjust the fund amount up or down based on historic experience. There is no need to fully fund the Mitigation Fund for years into the future as long as the fund is replenished when it is drawn down.

- *Eligible Fund Withdrawals.* The County should identify the reasons for which the Fund may be drawn down. A preliminary list might include road maintenance, emergency medical, law enforcement, technical expertise for inspections, monitoring or legal action, court proceedings, etc. The method to calculate cost reimbursement for these eligible activities should also be established and be tied to the direct service delivery cost. Consideration should be given to allow any impacted local government in the County to request funds.

- *Fund Management and Reporting.* We suggest that Chaffee County manage the Mitigation Fund. The County as well as other service providers could be eligible to request a fund drawdown if they have not been compensated for services rendered by NWNA. Periodically, the County would prepare a report and submit it to NWNA regarding withdrawals. As appropriate, the County would require NWNA to replenish the fund quickly to a preset amount so funds are ready when needed. The permit could be revoked if the Fund is not replenished in a timely manner.

- *Fund Severance.* When the Project is terminated, any revenues in the Mitigation Fund would be returned to NWNA.

APPENDIX A
PROPERTY-SPECIFIC ESTIMATES OF MARKET & ASSESSED VALUE

Owner and ID #:	**Nestlé Waters North America, NA** (R342111100005)	
Current Land Use:	Agriculture	
Acres:	111.11	
THK As Improved:	Market Value - Land:	$860,000
	Market Value - Personal Property:	$148,125
	Market Value - Total	$1,008,125
	Assessed Value – Total (29%)	$292,356

Proposed Adjustments: The sales price of $860,000 is not pertinent to the revised market value calculations, regardless of the proportion attributable to land and to water. "…Approximately 40 acres of land on Sugarloaf Mountain will be protected and preserved for bighorn sheep habitat. On much of the remaining Bighorn Springs Property, continued cattle grazing is proposed under an improved grazing management plan." *(Project Overview, page 11)* Based on this statement, the 71.11 acres that will continue to be used for cattle grazing will likely remain in Agricultural Use. The market value of agricultural properties is determined by the State. The applied market value per acre is $7.65 x 71 acres or $540; this is the current per acre value.

The remaining 40 acres that is reserved for big horn sheep habitat will likely be assessed similarly to other 35 to 40 acre vacant land parcels. The Assessor's office suggests a figure of between $60,000 and $70,000 would be reasonable.

Market Value - Agricultural Land:	$540
Market Value - Vacant Land:	$65,000
Market Value - Personal Property:	$148,125
Market Value - Total	$213,665
Assessed Value- Total (29%)	$61,963

Owner and ID #:	**Harold A and Mary H. Hagen** - R342111400190 (Contains fish hatchery)	
Current Land Use:	Other Agricultural	
Acres:	11.0	
THK "As Improved:	Market Value - Land:	$94,800
	Market Value - Improvements	$0
	Market Value - Personal Property:	$0
	Market Value - Total	$94,800
	Assessed Value - Total: (29%)	$27,490

Proposed Adjustments: The market land use designation will likely change to Vacant Land / Commercial (0200). The Tax Assessor will likely adjust the land value upward in 2009 as part of the general revaluation. The THK figures suggest that the wellheads and well house(s) will not be on this parcel so we have followed this assumption.

Market Value - Land:	$125,000
Market Value - Improvements	$0
Market Value - Personal Property:	$0
Market Value - Total	$125,000
Assessed Value - Total (29%)	$36,250

When the property is purchased and if wellheads are placed on this property, then the Tax Assessor may revisit the land valuation figure.

Owner and ID #: **Harold A. Hagen** - R342111400191 (Contains residence)
Current Land Use: Residential
Acres: 5.0
NWNA Intent: Demolish existing building; install one to two wellheads; each will be enclosed with a well house.

THK "As Improved:

Market Value - Land:	$125,791
Market Value - Improvements	$0
Market Value - Personal Property:	$148,063
Market Value - Total	$273,854
Assessed Value - Total (19%) ?	$52,966

Proposed Adjustments: The market land use designation will likely change from Residential to Vacant Land / Commercial (0200) and the assessed valuation ratio will change to 29%. The Tax Assessor will likely adjust the land value upward in 2009 as part of general revaluation. In addition, a modest figure for real estate improvements associated with one well house (200 square feet x $35 = $7,000) has been added.

Market Value - Land:	$155,000
Market Value - Improvements	$7,000
Market Value - Personal Property:	$148,100
Market Value - Total	$310,100
Assessed Value - Total (29%)	$89,929

When the property is purchased by NWNA, then the Tax Assessor may revisit the land valuation figure.

Owner and ID #: **Gunsmoke Liquor, LLC** - R327112300030 *(Contains Twin Peaks Liquor store)*
Current Land Use: Commercial
Acres: 1.41
NWNA Intent: Demolish existing building and construct a 1,800 square foot, 24' tall Truck Loading Building which will contain two 30,000 gallon storage tanks and pumping equipment.

THK "As Improved:

Market Value - Land:	$111,200
Market Value - Improvements	$0
Market Value - Personal Property:	$627,500
Market Value - Total	$738,700
Assessed Value - Total (29%)	$214,223

Proposed Adjustments: The Tax Assessor will likely adjust the land value upward in 2009 as part of the general revaluation and add a value for the 1,800 square foot building at a figure of $40 per square foot. (1,800 sq x $40 = $72,000) Assuming the personal property figure is based on costs, no adjustment from the THK personal property figure is proposed. The net effect is a 14% upward adjustment.

Market Value - Land:	$145,000
Market Value - Improvements	$72,000
Market Value - Personal Property:	$627,500

	Market Value - Total	$844,500
	Assessed Value - Total (29%)	$244,905

Owner and ID #:	**Pipeline and Related Improvements** – Excluded from Calculations Above.	
Current Land Use:	None	
NWNA Intent:	Construct an underground 8" that extends from 4.95 miles from the wellheads to the Truck Loading Facility.	
THK "As Improved:	Market Value - Total:	$2,187,500
	Assessed Value - Total (29%)	$634,375

Proposed Adjustments: Personal property will be valued on the cost basis. In future years, a appropriate depreciation schedule will be applied. Valuation of a privately held water pipeline is relatively new to the State of Colorado. The Chaffee County Tax Assessor is working with the Colorado Department of Revenue to provide a reasonable estimate of value. No adjustments from the THK estimates are proposed.