



EMM Material on Eminent Domain

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Introduction

At its annual meeting in April 2004 the League of Women Voters of Jefferson County adopted “A study of the laws governing eminent domain and their application within Jefferson County.” Controversial local uses of eminent domain and new state legislation raised the concern of members who wanted to better understand the process.

History

“Eminent Domain” is a term in law to describe the power of the state to appropriate private property for public use, just compensation being given to the owner. Governments most commonly use the power of eminent domain when the acquisition of property is necessary for the completion of a public project such as a road and the owner is not willing to negotiate a price for the sale.

Eminent domain is one of many tools used in land management. City planning, zoning, restrictive covenants, ordinances, statutes, and easements are all examples of the devices used to regulate land use today. Yet the need to regulate land use is not a recent innovation.

In 450 BC the earliest Code of Roman law, the Twelve Tablets, provided for setback lines from boundaries and for distances between trees and boundaries. Land regulation existed in varying forms in ancient England. After the demise of feudalism in England, rudimentary property laws were formed. William Blackstone, an 18th century legal scholar, describes the evolution of property ownership in his masterpiece, *Commentaries on the Laws of England*, published in 1765-1769. True ownership of a property belonged to God and the king, but he who first began to use the property acquired a transient property “interest of possession” in it for so long as he was using it. But when that property was quit, another might seize it. In other words, a man could claim abandoned or unused property as his own, but it in turn could be taken from him as well if it appeared abandoned or unused.

Blackstone noted that, as the population of England increased, permanent dominion needed to be established in the holder of the land to preserve order. To encourage use and development of the land, exclusive ownership of property became the law in England. At this point a man could improve his property with houses, buildings, crops, wells, etc. and could be assured that his investment could be inherited by his sons or other heirs.

The idea that a man could simply take unused land, coupled with the idea that exercising dominion over it established civil order, were the basic principles used to rationalize colonialism in the United States. Here, vast expanses of land were taken for the benefit and exclusive use of the new arrivals. Once the colonies were established and their leaders were considering independence from England, the rule of exclusive ownership resurfaced. To what extent, if any, these property rights could be interfered with became a matter of constitutional importance.

Blackstone's most famous statement was that property rights could not be violated “even for the general good of the whole community.” The idea that one’s property could be enjoyed without control was tempered: “save only by the laws of the land,” deriving from Article 39 of the *Magna Charta* in 1215: “No freeman shall be ... disseized...save by the lawful judgment of his peers or by the law of the land.”

National Constitutional Issues—Urban Renewal

51 Understanding that Washington, Madison, Franklin, and the other founding fathers were contemporaries
52 of Blackstone, it is not entirely surprising that these principles appear in our Constitution and include
53 “compensation.” The Fifth Amendment of the US Constitution states “No person shall...be deprived
54 of...property without due process of law; nor shall private property be taken for public use without just
55 compensation.” Amendment XIV applies these protections to State actions: “...nor shall any State
56 deprive any person of...property without due process of law.”
57
58

59 A landmark US Supreme Court decision interpreting these Constitutional provisions is *Berman v Parker*
60 in 1954. Here an urban renewal authority in Washington D.C. acting under Federal legislation, sought to
61 condemn a slum neighborhood and clear it to provide private housing. The Supreme Court gave broad
62 deference to legislative and municipal government decisions on what constitutes a “public use,” ruling
63 that not only slum but middle-class property could be condemned for a privately owned development.
64

65 In consequence of this decision, many States began to use eminent domain for privately owned
66 economic development. Among them was Detroit, which condemned a large neighborhood to build a
67 GM plant. The Michigan Supreme Court upheld this action in *Poletown Neighborhood Council v. City*
68 *of Detroit* (1981) relying on the authority of *Berman v. Parker*. Then in July 2004, the Michigan
69 Supreme Court reversed *Poletown*, ruling out the condemning of private land for a high tech office park
70 linked to an airport.
71

72 Recently the economically distressed city of New London, Connecticut sought to condemn an old but
73 vital neighborhood to replace it with commercial development intended to attract tourists and bring
74 economic revitalization to the city. The Connecticut Supreme Court upheld this effort relying on
75 *Berman v. Parker* and the example of *Poletown* for their authority. Connecticut’s court decision (*Kelo v.*
76 *City of New London*) has been appealed to the US Supreme Court, which will hear it in February 2005.
77 Many observers believe that the Court will at least partially reverse *Berman v. Parker*, thereby limiting
78 the ability of cities nationwide to use eminent domain for private developments designed to revitalize
79 their local economies and increase their tax revenues. If so, parts of Colorado eminent domain law could
80 be invalidated.
81

Colorado Constitution and Laws

82
83
84 The Colorado Constitution in Article II, Bill of Rights, sets conditions and limits for the taking of
85 property. Section 15 prohibits private property from being taken for public or private use without just
86 compensation in a process to be further prescribed by State law. Section 14 prohibits private property
87 from being taken for private use except for certain listed private “ways of necessity” generally involving
88 running needed pipelines, ditches, rail spurs and the like across another’s land. These provisions are
89 interpreted by the Colorado Supreme Court for statewide application as it issues its decisions on cases
90 brought before it.
91

Who in Colorado and Jefferson County can use Eminent Domain?

92
93
94 The **State of Colorado** may condemn property for state office buildings, juvenile detention facilities.
95

96 **Counties** may use eminent domain to obtain land for several purposes: county court and district attorney
97 facilities, jails and other necessary facilities specifically related thereto but not other county office space;
98 drainage facilities; facilities and rights of way related to collection and distribution of landfill gas; sites
99 for solid waste (trash) disposal; water facilities and sewer facilities, whether located inside or outside the
100 county; county cemeteries and county hospitals; and county airports including clearance of nearby

101 structures from adjoining land to ensure safe take-off and landing.

102
103 **Municipalities** are granted the authority to initiate a suit for condemnation to acquire property abutting
104 a railroad track, for the construction and operation of gas, water and electric works, for the construction
105 of water systems and for activities relating to landfill gas. Municipalities may condemn land for
106 boulevards, streets including pedestrian-only streets, and parks.

107
108 The **Colorado Department of Transportation** has the authority to exercise eminent domain for
109 activities related to the construction, maintenance and improvement of state roads. It may establish and
110 maintain highways through cities or towns. It delineates the obligations of cities, towns and counties
111 with respect to maintenance and repair of those streets that are also a part of the state road system. And
112 it may remove advertising devices that do not conform to State standards by the use of eminent domain.

113
114 **Boards of county commissioners, public highway authorities, rural transportation authorities and**
115 **statewide tolling enterprises** are all authorized to obtain property by use of eminent domain and
116 condemnation as necessary for public ways.

117
118 **Local school districts** have rights of eminent domain within their district boundaries.

119
120 **Community colleges, state colleges and universities** have eminent domain rights.

121
122 A variety of **special districts** have the power of eminent domain appropriate to the functions of their
123 respective districts. Often this power extends both in the district and outside its boundaries. Sometimes it
124 is dominant over the eminent domain rights of other parties. These districts are: Fire Protection Districts,
125 Park and Recreation Districts, Sanitation, Water and Sanitation, and Water Districts, Tunnel Districts,
126 Metropolitan Water Districts, Metropolitan Sewage Disposal Districts, Regional Service Authorities, the
127 Regional Transportation District, and Urban Drainage and Flood Control Districts.

128
129 **RTD** is among those having power to condemn property for public use. It has the power to establish,
130 maintain and operate a mass transportation system across or along any public street, bridge, viaduct or
131 other public right-of-way or across any vacant public lands without first obtaining a franchise from the
132 public body having jurisdiction.

133
134 **Agriculture conservation districts** have condemnation powers for flood control, and/or sediment
135 control contingent on approval of a majority of the resident landowners.

136
137 The **Colorado Department of Natural Resources** may use eminent domain against the United States
138 for irrigation rights and easements across US public lands.

139
140 There are a variety of **water and irrigation districts** in Colorado involved in flood control, water
141 conservancy, drainage, irrigation, and the creation and operation of dams and reservoirs. All these
142 districts have rights of eminent domain relating to their respective powers and functions. The **Colorado**
143 **Water Conservation Board** also has eminent domain rights. Also, all those having water rights have
144 the right of eminent domain for rights of way associated with their water rights.

145
146 **Public utilities** have the power to exercise eminent domain to acquire property. A utility can expand or
147 extend its service, but to do so it must show that there is a need for the expansion and that existing utility
148 rights of way are not adequate or available. Instead, public utilities are encouraged to share rights of
149 way.

150
151 Certain **private parties** are empowered by state statute to take property by eminent domain. Among the

152 purposes for which a private party may condemn property are: to build a railroad line, spur or sidetrack;
153 construction of a road, bridge, ditch, drain, irrigation canal, reservoir, ferry, tunnel, pipeline; telephone
154 or telegraph line, plant or telecommunication facility or electric line, distribution facility or plant. The
155 taking often involves a right-of-way and may be for an easement rather than complete title. When coal
156 or other mines owned by multiple parties adjoin, eminent domain can be invoked by them to create
157 necessary rights of way among them.

158

159 **Private cemeteries** have rights to condemn land.

160

161

The Legal Process in Colorado

162

163 Under the Colorado State constitution, private property cannot be taken for public or private use without
164 just compensation. Following are the general rules.

165

166 The party seeking to take private property, or to take action that will damage private property, begins by
167 filing a petition with the state district court where the property is located. Upon receipt of this petition,
168 the court issues a summons to the landowner. If the landowner cannot be found, the court has a notice
169 printed several times in a local newspaper. If the landowner does receive the summons but does not
170 appear in court to defend his interests, the court will determine compensation and vest title in the
171 petitioner.

172

173 The landowner may request a jury trial. Otherwise, a board of three landowners will be appointed by the
174 court. The jury or board's power is limited to determining the amount of compensation. Determinations
175 of whether the petitioner has the power of eminent domain are made by the judge.

176

177 While compensation is being determined, the petitioner may request and receive authorization from the
178 court to take immediate possession and use of the land provided the petitioner deposits a sufficient sum
179 of money with the court. This amount is to exceed the amount expected to be finally determined with the
180 excess later returned to the petitioner. The landowner may withdraw from this sum up to 3/4 of the
181 highest evidenced valuation. Possession can take place as early as 30 days after service of summons.

182

183 The taking may be for either a public or private use, but can only be for a public purpose or necessity.
184 The court (that is, the judge acting in his/her official capacity) determines whether the taking is
185 necessary and whether the purpose of the taking is a public one. If the court determines the petitioner
186 has no legal right to the property, the petitioner must reimburse the landowner his/her attorney fees and
187 costs. Petitioners can receive only as much property interest as is necessary for the purpose (for
188 example, an easement might be sufficient). Appropriate compensation is defined as "fair market value,"
189 not a higher amount such as might result from the loss of a business or a beloved home.

190

191 Concurrent with the beginning of court proceedings, both the petitioner and landowner may obtain
192 appraisals of the property. Determination of property valuation by the jury or board cannot begin until
193 the landowner's appraisal has been submitted which he/she has up to 90 days to do. If the petitioner and
194 landowner can agree on fair market value through negotiations, no jury trial or board determination need
195 occur.

196

197 Jury verdicts must be unanimous and compensation proceedings are held anew until a unanimous verdict
198 is reached. Upon determination of compensation, the appropriate sums are paid over and title is granted
199 to the petitioner.

200

201 Cities and towns are under certain additional requirements. Home rule and statutory cities and towns

202 have the power to condemn property through eminent domain to construct any public building, street,
203 park or other public work or improvement. Such a city or town may petition the state district court
204 where the municipality is located for the appointment of three resident property owners to serve as
205 commissioners for the purpose of appraising the property and determining damages to those whose
206 property is to be condemned. The court has no power to inquire into the necessity for exercising the
207 power of eminent domain for the purpose proposed, nor the necessity for making the proposed
208 improvement nor the necessity for taking the particular property. The court does have the power to
209 decide if the petitioner has the power to condemn and whether the purpose for which the property is
210 sought is one for which condemnation is permitted. The three commissioners will determine the fair
211 cash market value of properties to be condemned. Also, if the planned public work will enhance the
212 value of an adjoining property, the commissioners will determine the fair market value of the
213 enhancement so that a lien in that amount can be placed against that adjoining property. Property owners
214 may challenge amounts determined by the commissioners as being other than fair market value.
215 Alternatively, property owners may request a jury trial in place of the commissioners.

216
217 Additional requirements related to urban renewal are described elsewhere.

218
219 Further requirements are in effect where a municipality wishes to condemn for a proposed water right.
220 The municipality is required to prepare and distribute a detailed community growth and development
221 plan, and a detailed statement of the effects of the condemnation. The appointed commissioners will
222 examine these documents along with other information and recommend to the court whether or not the
223 condemnation is necessary. And, if they so find, they will determine the amount of damages to be
224 reimbursed.

225
226 **Lakewood**, with support from the League of Women Voters of Jefferson County, adopted an Urban
227 Renewal Authority on November 4, 1997. The City Charter (14.4 Eminent Domain) states, “The City
228 shall have the right of eminent domain and dominant eminent domain within or without its corporate
229 boundaries.” Regular “eminent domain” is used on private property. “Dominant eminent domain” is
230 used by the city on public property. For example, in the Rooney Valley, a city road is needed through a
231 public city park. The city will use dominant eminent domain to get that land. The Lakewood City
232 Council sits as the Lakewood Reinvestment Authority.

233
234 Eminent domain is used during urban renewal. Urban renewal is usually intended for commercial
235 properties and utilized where the public market has not, or cannot work. Belmar (Villa Italia) and Wal-
236 Mart (NE corner of Wadsworth and Colfax) used urban renewal. City Commons (SW corner of
237 Alameda and Wadsworth) and Colorado Mills did not.

238
239 To initiate urban renewal, City Council suggests an area to be evaluated. Staff does a “blight study.” The
240 area has to exhibit at least four factors (five if it is to be turned over to a private developer) to be
241 declared blighted. For example, the Villa area had title problems, deterioration of property and
242 infrastructure deficiencies among other factors.

243
244 At a public hearing, City Council makes a blight determination and adopts the concept of an urban
245 renewal plan. At a second public hearing the City Council determines if eminent domain and
246 condemnation will be used. The process then proceeds to negotiation for the land, which may be
247 acquired privately or by condemnation. It may be a “friendly” condemnation as there are tax advantages
248 to the property owner if the land is condemned (they have seven years to purchase a replacement
249 property rather than 30 days). Lakewood follows federal guidelines for relocation. Everything is done on
250 a case-by-case basis with the advice of counsel.

251
252 Lakewood deals are structured so that the public payback occurs on the back end. There is no up-front

253 taxpayer money. The initial investment comes from the developers, who then get paid back over time
254 with public funds for their investment in public improvements.

255
256 **Transfers to private parties** may be the most controversial of eminent domain issues. Here, the
257 governing authority, usually a city, condemns land for subsequent transfer to private parties for purposes
258 of urban renewal. Historically, this was said to be done to clear out dangerous slums. In more recent
259 years, some have charged the motive is to increase tax revenues to cash strapped cities.

260
261 In the last State legislative session, a bill (HB 1203) was enacted which tightened existing rules
262 regarding when governing bodies could condemn land for transfer to a private party. (It also included
263 the “Telluride Amendment” which prevents any home rule city or statutory municipality from acquiring
264 by condemnation properties outside its territorial boundaries or providing any funding by any other
265 public or private party to do so.)

266
267 The new law first lists four rare exceptions to the more extensive findings otherwise required for such
268 condemnations. These exceptions are: when the existing owner consents; the condemning authority no
269 longer wants the property and has first offered to resell it back to the party they took it from; the
270 property has been abandoned; or only an uneconomic remnant is left to the land owner. Absent one of
271 these rare exceptions, the following paragraph is in effect.

272
273 The city or governing body must find that the property is currently blighted or is located in a currently
274 blighted area. To be blighted, an area must substantially impair the sound growth of the municipality,
275 retard housing or constitute an economic or social liability, and be a menace to the public health, safety,
276 morals or welfare. To make such a finding, the property must meet at least five of the following factors:
277 1) slum, deteriorated, or deteriorating structures; 2) defective or inadequate street layout; 3) faulty lot
278 layout; 4) unsanitary or unsafe conditions; 5) deterioration of site or buildings; 6) unusual topography or
279 inadequate public improvements or utilities; 7) defective title; 8) conditions endangering life or property
280 by fire or other causes; 9) buildings unsafe or unhealthy because of building code violations,
281 dilapidation, deterioration, defective design, physical construction, or faulty or inadequate facilities; 10)
282 environmental contamination; 11) health, safety, or welfare factors requiring high levels of municipal
283 services, or substantial physical underutilization or vacancy of sites or buildings. Further, the renewal
284 project must begin no later than seven years from the date of blight determination. Additional public
285 hearings must occur, and those displaced must have an opportunity to make design proposals.

286
287 Prior to urban renewal plan approval, the governing body must formally find that the principal public
288 purpose for the plan is to facilitate redevelopment in order to eliminate or prevent the spread of blight
289 without regard to the economic performance of the property. When a property owner challenges a blight
290 determination, it is now the government that has the burden of proving that it has neither exceeded its
291 jurisdiction nor abused its discretion. Also, the governing body must provide enhanced relocation
292 assistance to those displaced; and owners of displaced businesses are to receive up to \$10,000 for
293 relocation costs.

294
295 The Colorado Municipal League, and cities generally, defend urban renewal pointing out that without
296 help it is much cheaper for a developer to build on undeveloped land than it is to redevelop existing
297 developed property. Building only on undeveloped land leads to decay of older neighborhoods as well as
298 suburban sprawl. Urban renewal they say brings revitalized older neighborhoods and slows the loss of
299 wild lands on a city’s edges. This help to the developer comes in the form of certain tax advantages
300 together with eminent domain or the threat of eminent domain.

301
302 The use of eminent domain will remain controversial, as balancing
303 community interests against individual concerns will always be

304 difficult.



Member handout for March 2005 Eminent Domain Unit Meetings

309

310 **Issue 1. The most controversial government use of eminent domain occurs when city urban**
311 **renewal authorities condemn private land to turn it over to private developers. EMM lines 56-82.**
312

313 **Discussion.**
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315

316 **Issue 2. Private Parties' use of eminent domain rights in controversial situations.**

317 a) **Colorado statute allows only certain types of private parties doing certain types of things to**
318 **have the power of eminent domain. EMM lines 147-160.**
319

320 b) **Over the past several months a number of local news articles have detailed at least four**
321 **instances in which developers, who do not specifically have eminent domain rights, have used, or**
322 **attempted to use, eminent domain in direct and perhaps controversial ways.**
323

324 1) In Clear Creek County, a developer owns mountainous property on which they wish to build a
325 commercial and residential development, golf course and lake. To do so, they sought an 85 foot wide
326 road across the neighboring property of a non-profit organization, 'Norsemen of the Rockies'. When
327 negotiations failed, the developers re-filed with the Secretary of State's Office as a water company
328 seeking to build a reservoir. As a company formed for the purpose of building a reservoir, they were
329 then able to use eminent domain to obtain the land for the road to their development which they would
330 not have had the authority to do directly as a developer.
331

332 2) In another case, a private party is seeking to build a 210 mile privately owned toll road and a
333 rail line paralleling I-25 east of Colorado's front range cities. He would use the eminent domain
334 authority an 1891 Colorado statute grants to corporations that are formed for the purpose of
335 constructing roads. If the Colorado legislature approves a bill allowing the state to set rates for multi-
336 county toll roads, 'super slab' will proceed.
337

338 3) Developers sued the Wheat Ridge Urban Renewal Authority for breach of contract after the city
339 abandoned efforts to replace three local businesses with a Walgreens. Initial court action indicates the
340 developers will win monetary damages on contract breach. The developers also seek a court order
341 requiring eminent domain to proceed against the three businesses --legal experts doubt that Colorado
342 law allows courts to order land condemned on behalf of a developer when the renewal authority has
343 dropped the effort.
344

345 4) A new special district, the Heritage Resource Metropolitan District, was approved December 14,
346 2004 by the Jeffco Board of County Commissioners. A district court hearing on its organization is
347 expected soon. The HRMD's Service Plan states its "purpose is to acquire, construct, finance and
348 maintain public water, sanitation and storm drainage improvements for the use and benefit of residents
349 of Jefferson County, Colorado and, potentially, users throughout the state of Colorado", wholesaling its
350 water to local water companies and districts. The district would have all powers of a metropolitan
351 district, including eminent domain. Unlike other special districts formed for the benefit of residents
352 living within the boundaries of the district, the HRMD bounds an area of less than two acres on which
353 no one lives. State law requires special district elections in which a majority of voters residing in the
354 proposed special district vote to approve its formation and elect, and later re-elect, its Board of

355 Directors. With no residents, there would be no elections and the HRMD applicant, Greg Stevinson,
356 would appoint the directors. Because the new district would be financed through revenue bonds rather
357 than taxes, no government or voter approvals are needed there. Also, in approving an HRMD Service
358 Plan that is unusually broad and vague, the County Commissioners gave up much of the oversight
359 authority they would otherwise have over the new district. Yet the HRMD's eminent domain powers
360 will be statewide.

361
362 **Discussion.**

363
364
365 **Three Situation Discussions (including the first in two parts)**

366
367 a) **West Corridor Light Rail Situation** *For RTD read EMM lines 130-133; for Lakewood urban*
368 *renewal glance at EMM lines 227-255; for urban renewals in Colorado involving transfers to private*
369 *parties glance at EMM lines 257-301.*

370
371 This Light Rail line will replace the existing Associated Railroad line that now adjoins the length of 13th
372 Ave., run west from Denver, then turn south near Quail Street to the Denver Federal Center, then back to
373 the north side of 6th Ave. just west of Simms Street, then parallel 6th Ave. on the north and terminate at
374 the Jefferson County Government Center west of the Taj. Final design will be completed in 2008
375 followed by construction to be completed in 2013. Park-n-rides on this line in Jefferson County will be
376 built at Sheridan, Wadsworth, Oak Street, the Denver Federal Center, and the Jefferson County
377 Government Center. Stops without parking will be at Lamar, Garrison, and Arbutus north of Red Rocks
378 Community College. A maintenance facility will be built between Sheridan and Harlan.

379
380 **1. RTD Condemnations.** RTD will use eminent domain as necessary to take the following housing and
381 businesses: at Sheridan on the Lakewood side: 102 apartment units, 6 single family residences, two
382 businesses; at the Harlan maintenance facility site: one house and 14 businesses; at Wadsworth: 13
383 apartments, four houses, and 13 businesses; at Garrison one house; at Oak Street: one business; at
384 Lakewood Industrial Park: one business.

385
386 Under Colorado statute RTD can condemn any property it finds necessary to its purposes. But also
387 under Colorado statute, in addition to reimbursement at fair market value for property taken, RTD must,
388 because Federal funds are used, provide significant reimbursement for relocation costs: for homeowners,
389 tenants, businesses and non-profits, RTD must provide funds for all actual reasonable expenses for
390 moving, for personal property relocation or loss, for replacement searches, and for reestablishment of
391 businesses and nonprofits at new sites. In addition to this relocation assistance RTD must provide (1) for
392 homeowners: additional reimbursement of costs up to \$22,500 toward buying comparable replacement
393 dwellings where bought within one year; and (2) for tenants of housing: \$5,250 toward rent at a new
394 location or toward buying a house. Where comparable low rent housing is not available to a tenant being
395 dislocated, RTD, at its discretion, may use additional funds as needed for hardship cases.

396
397 **1st West Corridor Discussion**

398
399
400 **2. Lakewood Condemnations.** RTD will have a 1 000 space parking garage at its light rail station at
401 13th and Wadsworth. In response, the City of Lakewood is planning significant mixed-use
402 redevelopment in the surrounding area, north to Colfax and along parts of nearby Colfax. Lakewood will
403 use its powers of eminent domain under urban renewal as necessary to obtain this land. It is not
404 necessary under statute for the City to prove that each property in the intended urban renewal area is
405 blighted, only that the area as a whole is blighted and that redevelopment is not viable without each

406 intended parcel. Two requirements of 2004's House Bill # 1203 impact these plans: (a) the City must
407 meet the more stringent standard of blight mandated by the new statute before condemnation will be
408 allowed; and (b) even if Federal funds are not used, the City is now obliged to provide the same
409 relocation assistance as described above for RTD's condemnations, with the addition of providing up to
410 \$10 000 for businesses to settle in at new locations.

411

412 **2d West Corridor Discussion.**

413

414

415 **b) CDOT Parking at I-70's Morrison (CO 26/US 40) Exit Situation** *Please see EMM lines 108-112.*

416 Colorado Department of Transportation's original plan called for using six acres of Jefferson County
417 Open Space at the northwest corner of the exit to expand an existing parking lot from 600 to 1,300
418 spaces with lighting and a road, necessitating a 27-30 foot wall on the north side of I-70. The purpose of
419 the lot would be to reduce traffic congestion on I-70 West by encouraging car pooling.

420

421 CARE (Canyon Area Residents for the Environment) and PLAN Jeffco suggested an alternate plan
422 which would, by moving the road and parking area north along the west side of Highway 40 toward
423 Heritage Square, leave the existing area along I-70 to be designed with landscaping and grading as
424 appropriate for the "Gateway to the Rockies" and the scenic corridor.

425

426 CDOT did not accept that alternative, but CDOT's revised plan included realignment of U.S. 40 at I-70
427 and CO 26 while keeping to its original plan on parking lot location, size, and retaining wall.

428

429 JCOS Advisory Committee had the option of recommending to the Jeffco Board of County
430 Commissioners that six acres of JCOS land be sold to CDOT for \$160,000 or, if the Board did not
431 approve the sale, to face CDOT condemnation proceedings.

432

433 Discussion