

This document constitutes a ruling of the court and should be treated as such.

Court Authorizer
Comments:

A preliminary injunction in the form attached is entered by stipulation of the parties.

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**GRANTED
WITH
AMENDMENTS**

**Parties represented by counsel
are directed to serve a copy of
this order on any pro se parties
within 5 days of the date of this
order.**

**David Prince
District Court Judge**

DATE OF ORDER INDICATED ON ATTACHMENT

DISTRICT COURT, EL PASO COUNTY,
STATE OF COLORADO
270 South Tejon St.
Colorado Springs, Colorado 80903

Plaintiffs:

M. B. ANDERSON; SASHA DAVIS-ELMORE; JONTREA DAVIS-ELMORE; DIANE A. DAVIS-ELMORE; CLYDE DEPEW; RUTH HACKER; DAVID HACKER; LEWIS JACKSON; BERTHA JACKSON; GAYLE Y. JONES; ROBERT W. KEENAN; RUTH D. KEENAN; LINDA KELEHER; ANDREANA KELEHER; JUDITH LEDEAN; CHRISTINE MCELHANEY; HERMAN R. MCELHANEY; CLAYTON L. NELSON; ELFRIEDE NOLAN; DORIAN O'LEARY; HEATHER O'LEARY; RONNIE REEVES; SANDRA REEVES; PAULA SCHOFIELD; DAVID SCHOFIELD; PAM SCHRODER; PATTI TEAL; KURT VANDENBOOGAARD; KURT WILLIAMS; ANNITA WILLIAMS; and MARCY WILMORE, Individual Taxpayers of the Cimarron Hills Fire Protection District

v.

Defendants:

THE CIMARRON HILLS FIRE PROTECTION DISTRICT;
THE BOARD OF DIRECTORS OF THE CIMARRON HILLS
FIRE PROTECTION DISTRICT; ROBERT C. BALINK, in His
Official Capacity as TREASURER, EL PASO COUNTY,
COLORADO

Attorneys for Plaintiffs:

Richard L. Shearer, Esq. #8792
J. Alan Call, Esq. #27224
SHEARER & CALL, P.C.
1625 Broadway, Suite 1450
Denver, Colorado 80202
Telephone: 720-833-4220
Facsimile: 303-200-7460
E-Mail: rick.shearer@shearercall.com
alan.call@shearercall.com

▲ COURT USE ONLY ▲

Case Number: 2010CV7256

Div.: 2

STIPULATED PRELIMINARY INJUNCTION AND ORDER

The Court, having reviewed the Parties' Stipulation for the Treasurer of El Paso County to Deposit a Portion of the 2010 Ad Valorem Taxes Collected Into the Registry of the Court, and for Stay for Further Settlement Negotiations (the "Stipulation"), and being fully advised, ORDERS that the Stipulation is approved and made an Order of this Court. Pursuant to the Stipulation, the Court further ORDERS as follows:

1. Robert C. Balink, in his official capacity as Treasurer of El Paso County (the "County Treasurer"), is hereby joined as a party to this action for the limited purpose of giving effect to the Stipulation.
2. Defendants the El Paso County Board of County Commissioners and the El Paso County Assessor are hereby dismissed with prejudice as parties to this action.
3. A Stipulated Preliminary Injunction, in favor of Plaintiffs and against the County Treasurer and The Cimarron Hills Fire Protection District ("CHFPD"), hereby enters as follows:
 - a. The County Treasurer is directed to deposit into the Registry of the Court the 2010 ad valorem tax revenue collected in 2011 on behalf of CHFPD which is in excess of 7.598 mills. The amount to be paid to CHFPD by the County Treasurer for 2010 ad valorem tax revenue collected in 2011 will not exceed \$1,096,711.60, and any 2010 ad valorem tax revenue (collected in 2011) which exceeds \$1,096,711.60 will be deposited into the Registry of the Court in an interest bearing account. This amount was determined based upon a mill levy of 7.598 mills times the \$144,342,150 assessed value of taxable property in CHFPD.
 - b. To the extent the County Treasurer has paid, or inadvertently pays, CHFPD an amount in excess of \$1,096,711.60, CHFPD shall promptly deposit such amount into the Registry of the Court, pending the resolution of this civil action or as otherwise directed by an order of the Court. All sums disbursed by the County Treasurer to the CHFPD account or to the Registry of the Court, as the case may be, shall be net of all abatements and statutory fees.
 - c. The County Treasurer is directed to deposit all amounts collected in 2011 for the 2010 tax year on behalf of CHFPD in excess of \$1,096,711.60 into the Registry of the Court unless the County Treasurer receives a further order of this Court.
 - d. Plaintiffs or CHFPD may seek to revoke this Stipulated Preliminary Injunction by filing a motion to vacate the Stipulated Preliminary Injunction. A hearing on any such motion shall be set no earlier than thirty (30) days after the motion is fully briefed. Following any such motion, any ad valorem tax revenue deposited in the

Registry of the Court pursuant to the Stipulated Preliminary Injunction will continue to be held in the Registry of the Court, unless, after a hearing, the Court decides to vacate the Stipulated Preliminary Injunction.

4. The Court, having first entered the Stipulated Preliminary Injunction set forth in paragraph 3 above, further orders that the County Treasurer, while remaining subject to the Stipulated Preliminary Injunction set forth in paragraph 3 above, is not required to answer or otherwise respond to the Plaintiffs' Complaint or otherwise participate in further litigation, if any, between Plaintiffs and CHFPD, and is hereby dismissed as a party to this action. Pursuant to the Stipulation, the County Treasurer shall comply with all Orders of the Court regarding the payment of the Ad Valorem taxes at issue in this case.

5. This case is hereby stayed through and including May 31, 2011 to allow the parties to focus on settlement negotiations without incurring the expense of litigation, and without diverting their time and energy from attempting to resolve this matter without further litigation. The parties shall continue to negotiate in good faith to attempt to reach an agreement that will resolve all issues and claims in this civil action during the stay. The stay will expire on May 31, 2011 if the parties have not reached a complete settlement of all claims, however, the funds in excess of \$1,096,711.60 (i.e., ad valorem taxes for 2010 collected in 2011 based on a mill levy in excess of 7.598 mills) will continue to be deposited and held in the Registry of the Court until further order of the Court.

6. Nothing in the Stipulation or this Stipulated Preliminary Injunction and Order is intended to prohibit CHFPD from using its existing financial reserves (to the extent it is allowed to do so by law) to continue to provide the level of service it currently provides to the community.

7. Nothing in the Stipulation or this Stipulated Preliminary Injunction and Order shall prohibit CHFPD from holding an election in November 2011 (or at any other time allowed by law), or from engaging in lawful activities related to such an election, to obtain voter approval to increase its mill levy for future years.

Dated this ____ day of _____, 2011.

BY THE COURT:

District Court Judge