

# STATE OF COLORADO

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## Colorado Water Conservation Board Department of Natural Resources

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TO: Chatfield Cooperators

FROM: Tom Browning

SUBJECT: Meeting Minutes  
Chatfield Reservoir Reallocation Project

John W. Hickenlooper, Governor

Mike King, DNR Executive Director

Jennifer L. Gimbel, CWCB Director

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**What:** Chatfield Reallocation FR/EIS Progress Meeting Minutes  
**Where:** 143 Union Blvd, 10<sup>th</sup> Floor, Lakewood (Tetra Tech Conference Room)  
**When:** Thursday, July 14, 2011 (9:30 am to 11:30 am)

1. Introductions and general announcements
  - Tom Browning (CWCB) welcomed the group and introduced the agenda. Topics included Capitol Representatives update, Study updates (budget/schedule, ATR review, and upcoming Division and HQ review of the draft FR/EIS), Discussion Items (negotiation process [Water Users and State], Marina update, Public Relations update, and Public Meetings), and Wrap-up.
  - Tom reported that the governor has completed appointment of key state agency managers, including reappointment of the Director of CWCB.
  - He reported that the CWCB endorsed the Fish and Wildlife mitigation plans for the Windy Gap Firming Project and Moffat Collection System Project at the Board meeting held on July 12 and 13, 2011. In June 2011 the Colorado Wildlife Commission unanimously approved both plans to comply with the provisions of C.R.S. 37-60-122.2, which establishes requirements for mitigating effects of water projects on fish and wildlife resources and funding for mitigation and enhancement grants. The 122.2 plan process for these projects is similar to the process and content that the Chatfield project is expected to follow. Development of the 122.2 plan for Chatfield has begun and will be completed after receipt of public comments on the draft FR/EIS. The Chatfield 122.2 plan will be reviewed by the newly formed Parks and Wildlife Commission.
  - Tom also mentioned the presentation given by the River District and Denver Water on final recommendations for new instream flow appropriations on the main stem of the Colorado River between Kremmling and Dotsero (Upper Colorado Wild and Scenic Stakeholder Group). The recommendations are a key component of a Management Plan Alternative to potential federal determinations that certain

Colorado River segments are “suitable” for designation under the Wild and Scenic River Act to protect outstanding remarkable values associated with the river.

- The CWCB is working with Katie Fendel to renew her contract supporting the Chatfield project. Katie plans to give a PowerPoint presentation at the next meeting to describe progress and plans to address NGO comments on the web site. In a meeting held last February the NGOs provided comments to improve the web site by adding a FAQ section, providing more information on the project, and enhancing visibility to the public. Katie noted that concurrence from the Corps is needed to proceed with some of the identified improvements.

## 2. Capitol Representatives update

- David Howlett of Capitol Representatives provided an update on Chatfield project funding. The House of Representatives is set to approve the FY 2012 Energy and Water Appropriations bill, which will secure annual funding for the Corps, among other agencies. The total funding level for the Corps provided in the legislation is expected to be reduced from last year’s appropriation. Adjustments to increase the construction/investigation study budget and provide emergency funding to address flooding and restoration along the Mississippi/Missouri rivers are still being considered. After the U.S. House approves the bill the legislation will be taken up by the U.S. Senate. The Chatfield project is not currently in the President’s budget as a water supply study, and earmarks are not being accepted. The project needs to continue to work with agency representatives and the administration to secure funding for future activities. The year-long continuing resolution (CR) passed by Congress included \$200,000 for the Chatfield project for the remainder of fiscal year 2011.
- Gwyn Jarrett (Corps) reminded the group that the scope of the authorizing legislation for the project included studying water supply and demand at Cherry Creek Reservoir and Bear Creek Lake in addition to Chatfield Reservoir. The authority included Bear Creek. If the sponsor is interested, funding options could be discussed. John Hendrick and Rick McLoud indicated they are not aware of any interest from the water providers to look at Bear Creek Lake.
- The Chatfield project will likely face a similar CR scenario for fiscal year 2012. The team will again need to proactively work with the OMB, Corps, and congressional delegation to ensure the project has the necessary funding.
- The next meeting in Washington D.C. is scheduled for September 20 through 22, 2011. Please let David know if your organization will be attending the meeting.
- David will request a meeting with OMB during the September meeting in Washington D.C. David said that he needs to arrange the meeting soon because it has become more difficult to meet with the OMB, now that earmarks have been banned and there is increased pressure on OMB to fund projects. He also hopes to meet with the Assistant Secretary of the Army (Civil Works) to discuss the ROD process. He noted that the Corps has been supportive, but the project needs to continue to raise awareness of the need for funds.

- Rick McLoud (Centennial WSD) asked about the adequacy of funds to cover public meetings and other activities past October 1. Marge Price (Capitol Representatives) said that at a minimum a CR will be passed that will provide some portion of funding and allow the Corps to sponsor the public meetings as planned.
3. Study updates (Gwyn Jarrett [Corps]/Tetra Tech)
- a. Project Management (summarize study budget/schedule, ATR review comments and revisions, and upcoming Division and HQ review of the draft FR/EIS)
- Gwyn gave an update on the current status of the budget. The Corps has \$200,000 to support the project through the end of the current fiscal year. These funds need to cover the contract modification awarded to Tetra Tech, additional ATR review, incorporate remaining comments into the FR/EIS, and hold public meetings. Gwyn and Tom are reviewing the contributions made to date per the 50-50 cost share, including work-in-kind contributions, to establish how much funding is needed from the State. It appears that all but approximately \$29,000 of the cost share has been matched. Tom says that the State has the necessary cash on hand, and this contribution would eliminate the need for a SACR.
  - John Hendrick (Centennial WSD) asked about the feasibility of using nonfederal funds to support the public meeting process, such as a Roundtable grant from the Water Providers. Gwyn thought that this could be possible but would have to check. Given that the Chatfield project funding already relies on cost sharing, the funding would have to come through the State. Marge Price mentioned that timing is an issue citing an application deadline of July 15. John and Mike Mueller (Sierra Club) thought there might be some ways that the Water Providers could provide monetary support outside of the 50-50 cost share process, such as covering rental fees for the meeting venues or catering. The Water Providers could also review their work-in-kind contributions to determine the feasibility of providing cash instead.
  - Considering the uncertain status of funding from congress and the need to cover costs related to the public meetings and comment response process, the group concluded that the project should consider its short and long-term funding needs and develop viable revenue alternatives before the September meeting in Washington D.C. in case federal appropriations do not provide funding as anticipated.
  - Mark Shively (CPNMD) noted that he and Gary Drendel (Tetra Tech) plan to evaluate potential sites for the public meetings during the week of July 25 and report back to the group. Some of these facilities might be accessed free of charge. He needs firm dates in order to check availability and terms. Gwyn noted that the locations of the public meetings still need to be finalized. The criteria include capacity for the expected number of attendees, parking, access, and amenities such as a sound system. The new arts center at Lone Tree was discussed as a possible location for one of the meetings; it is at Yosemite and Lincoln only 4 to 5 miles from the reservoir. Thunder Ridge High School is also being considered; the reservoir is visible from the school. The barn at Denver Botanic Gardens was again discussed as a possible venue but there is concern

that it is a long walk from the parking area and would be problematic in adverse weather.

- Mike Mueller noted that the project needs to provide notice of the meetings 3 or 4 weeks in advance, so it is important to firm up dates and identify the types of announcements that will be used. He projected regional interest in the project. Scot Roush (Parks and Wildlife) stated that the largest percentage of visitors to the park come from the South Metro area, but many out-of-town users enjoy annual visits.
- There was some concern voiced over the timing of the meetings necessary to give the public adequate time to read and digest the draft report. Gary noted that CEQ regulations require a minimum of 2 weeks (15 days) between release of the draft FR/EIS and the first public meeting. Evidence from other projects suggests that many members of the public will not read the report, but would come to the meetings to learn about the project and develop their comments. Gwyn told the group that the three meetings will need to be held during the same week since Corps representatives from Omaha would be attending, and travel budget is limited.
- Gwyn distributed the project schedule of the FR/EIS reviews and public meetings. The schedule has been revised to complete backchecking of cost comments and the economic appendix before submitting the draft FR/EIS to the Division and USACE HQ for review and comment. The ATR reviewers want to ensure the public understands why Alternative 3 is the “best buy,” considering factors in addition to cost, such as the Endangered Species Act, the need for mitigation on site, and EFUs. In addition, the reviewers want to clarify the source of costs and show how the costs were developed in more detail. The MCACES update and cost evaluation should be complete by Tuesday. Addenda will be added to select chapters (e.g., Chapter 5) to identify changes that will be made at a later date. After the ATR review is certified the draft report can go to the Division and HQ for review.
- Per the revised schedule the document will be forwarded through the Division to HQ for review on July 30, with comments anticipated by August 30, 2011 (based on a 30-day review period). Division and HQ plan to complete parallel reviews. Revisions to the draft FR/EIS based on HQ review will be turned around by September 28, with public release of the FR/EIS scheduled on September 30, 2011. Public Comment is anticipated to last for 60 days. Public meetings are scheduled to occur between October 17 and 23, 2011.
- Gwyn noted the slip in the schedule and told the group that if Divisions/HQ agreed to release the draft report to the public without revisions then the August 31 to September 28 review period would not be needed. A vertical-level teleconference is planned with Divisions/HQ two weeks after they receive the draft report. It is anticipated that a rep from the state and water providers would be asked to be on hand for that call. At that time, Gwyn and others can discuss the review and, answer questions. John Hendrick wanted to know if Gwyn could restore the previous schedule. Gwyn said she needs to follow HQ’s process, but

that the 30-day revision time may not be required if HQ approved release without the document being revised; a mid-September release date is still possible. Once HQ sees the report, we will know more. Under this scenario, public meetings would be held the end of September/early October. Dave repeated his request that the meetings not be held during the upcoming meeting in Washington D.C.

- Mike Mueller wondered when the public meetings could be held given the uncertainty of the review schedule. The group agreed that the project would face credibility issues if venues for the public meetings were reserved based on an aggressive schedule and the dates slipped. Gwyn agreed to work with HQ/Divisions to identify a likely tentative date. Mark could then approach the different facilities, determine open dates, and make reservations.

b. EIS Discussion Items

- i. Update on State/Water User Negotiations – Rick McLoud (Centennial WSD) reported that negotiations with DNR and DOW/State Parks had been completed. The draft FR/EIS contains the Omaha-Corps’ revisions to the negotiated language that was developed to provide the public with as much information as possible about water level fluctuations, operational concerns, and potential impacts on the environment and recreation opportunities. The negotiated language was reviewed by the Corps. Further changes are possible. Rick anticipates that the final details can be worked out after the draft FR/EIS is issued. The state has initiated the 122.2 mitigation planning process, but wants to review public comments before finalizing the plan.

Mike Mueller expressed concern about when the environmental groups/NGOs will be able to access the draft FR/EIS for review. He felt it would be beneficial for these groups to review the report as soon as possible since they had not had an opportunity to preview the language negotiated between the State and Water Providers. He noted that NEPA provides for public disclosure and input from special technical advisors. The NGOs should therefore be able to review the new information and give their advice. Of particular interest is language pertaining to mitigation of potential impacts to the environment.

John responded that the situation is complex. The current version of the draft FR/EIS is preliminary and subject to change by the Corps. Tom concurred that the document has been submitted to the Corps, who may decide to change the language. Gary indicated that the current version of the FR/EIS is available to the Corps on the Sharepoint site and will be released to the group and the Public when the Corps gives approval. Gwyn further explained that the Corps needs to consider both the federally recommended plan and the ongoing issues being negotiated between the State and Water Providers, which may exceed the minimum requirements. Some of this detail will not be available until the final version of the FR/EIS. For that reason the draft report will not be made available to any party until the Corps releases the document to the public. At that point, the environmental groups will have the opportunity to comment on the report.

Katie stated, and Gwyn concurred, that the NEPA process has been properly implemented and the Corps has considered input from the various NGOs. Mike responded that he understands that the current version is preliminary, but that the environmental groups want to review the changes, not make comments. Rick thought that it would be possible to outline the key points of the negotiated language at the next meeting, but cautioned that no resolutions could be presented until the Corps finalizes the language. Rick will make a presentation at the next meeting summarizing the main items covered in the negotiations.

Ann Bonnell (Audubon Society of Greater Denver) asked if the costs will be known in the draft FR/EIS since the final design will not be completed until the final version of the report is released. It was explained that the draft FR/EIS will present the conceptual design, and any cost information provided should be representative.

- ii. Marina update – The draft FR/EIS sent to the Corps for review contains language concerning the marina negotiated between the State and the Water Providers. Sections of the report present the findings of the EDAW and JRR reports and provide additional information about potential options and alternatives to relocate the facilities and associated costs.
- iii. Public relations update (Mark Shively [Castle Pines North Metropolitan District]) – Mark met in February with the NGOs and received many suggestions for improving the web site. A total of 41 issues were identified, including publications, changes to the web site, refining the e-mail blast list, and media relations.

The first three of a series of educational one-page White Papers on a number of topics have been published and he will email these to the group. Work is underway to publish the next three installments of the series. Mark reminded the group that Gwyn is the point of contact for any questions regarding the publications.

The project brochure was reprinted to show a 2011 release date for the draft FR/EIS.

Media efforts include an article in the Denver Post about active conservation efforts and production of a video showing successful implementation of rotary sprinkler nozzles by a group of college and high school students. Channel 9 featured the project and Channel 8 and Douglas County have requested the video for their programming.

Katie will summarize the status of these improvements and provide an update on the remaining issues in a PowerPoint presentation next meeting.

The phone numbers on the Chatfield signs have been corrected.

- 4. Wrap-up: Next meeting: August 17, 2011, at 9:30 am.