

Chatfield Reallocation FR/EIS Study Meeting

**Tetra Tech Conference Room, Lakewood, Colorado
Monday, November 29, 2010: 9:00 am–11:00 am**

1) Introductions and General Announcements (Colorado Water Conservation Board [CWCB]):

- Tom Browning (CWCB) welcomed the group and introduced the agenda. Topics included Capitol Representatives Update, Study Update (budget/schedule, draft review process and comments, and other PM updates), EIS Discussion Items, Public Involvement, Action Items for Unresolved Issues and Tasks, and Wrap-Up.
- Tom spoke to the group about possible changes in director-level and other personnel at state agencies in light of the recent elections. The governor-elect may appoint individuals of his choosing to fill certain high-level positions within Colorado state agencies. Such appointments could impact agencies that support and work with the Chatfield project. No appointments had been announced as of the end of November.
- Mike Mueller (Sierra Club) announced that the CWCB approved the proposed changes to the rules and regulations related to construction activities within floodplains and floodways in Colorado on November 15, 2010.

2) Status of Resolution of DNR's Comments

- Proposed Language for Draft EIS: Rick McLoud (Centennial) addressed the ongoing negotiations between the water providers and representatives from the Department of Natural Resources (DNR) to develop proposed language that will be approved for insertion into the draft FR/EIS. He noted that the effort is complex, involving 10 meetings to date with more scheduled.
- The proposed language is being prepared to identify items that require mitigation, describe the mitigation goal in conceptual terms, and state that mitigation will be implemented. The purpose of the effort is to provide reviewers of the draft FR/EIS with additional information that will help them understand the mitigation components of the project, including the scope of potential mitigation activities. Rick stated that the goal is to work through the negotiation process as quickly as possible to finalize the proposed foundation language in time for the draft FR/ EIS.
- The water providers are working with DNR's negotiation team guided by Becky Mitchell (DNR). To implement the negotiation process she is meeting with the Colorado Division of Wildlife, State Parks, and CWCB to discuss goals and issues and work toward an agreement. The Attorney General will be working with the negotiation team and advising agency staff. The proposed language being developed will not affect the original agreement between the state, Denver Water, and the Corps.
- Gwyn Jarrett (Corps) said that if the state negotiation team and participants are in agreement as to the concept/goal, then the Corps would agree with including the text in the draft FR/EIS, so long as there would be no specific requirements or obligations imposed. The draft of the proposed language will be ready within days, after which the state's negotiation team would need to approve it, and then the language would be

incorporated into the draft FR/EIS for USACE HQ review. The process to obtain approval from the state's negotiation team will probably take 1 or 2 weeks and no unusual difficulties are anticipated. The proposal will need to go up the management chains within DNR for final approval. The state agencies intend to issue a letter that approves the use of the proposed text in the draft FR/EIS. Negotiation with the state agencies is still ongoing, so the letters have not been released. The participants noted that all new material to be included in the draft FR/EIS being prepared for the USACE HQ review is due to Tetra Tech by December 12, 2010.

- There were several questions about the purpose and scope of the proposed language. John Hendrick (CWSD) asked whether the proposed language would be detailed enough for the draft FR/EIS. The response indicated that the proposed language is best portrayed as conceptual in nature and negotiated between the state and water providers to form a foundation that will be expanded as details are worked out by the participating state agencies. Gwyn said that the more detail the better. She noted that the agency letters will be helpful to support the proposed foundation language and process of working together to add required details.
- Mike Mueller asked how the concepts would fit into the draft FR/EIS. Rick responded that there are two major issues. Moving the recreational facilities will cost approximately \$42 million and environmental mitigation activities are estimated at \$60-\$70 million. DNR and the state agencies have 16 issues under discussion with the water providers that may require specific mitigations. The proposed language will be inserted into Chapter 4 at the end of the different sections to describe impacts to the project and associated mitigations. Under the current process the language will indicate that the topic was negotiated, what items will be mitigated, and that the state agrees that those items will be mitigated. While it would be best to include fully negotiated resolutions with complete details, there probably isn't time to reach that goal until after the draft FR/EIS is issued.
- Gary Drendel (Tetra Tech) asked about the review cycle with USACE HQ. Gwyn explained that HQ will approve the draft FR/EIS, which will undergo public review. Meanwhile, negotiations to develop the details of planned mitigations can be continued and the approved text can be incorporated into the final FR/EIS. The final FR/EIS is also subject to HQ approval and will undergo public review. The ROD will contain all of the final details as well. This process gives the participants and state agencies additional time to negotiate issues.

3) Capitol Representatives Update

- Marge Price and David Howlett of Capitol Representatives addressed budget issues with the group. Congress has been operating since October 1 on a continuing resolution that expires on December 3, 2010. Several scenarios for Congressional action are possible. On December 1, 2010, Congress passed a 15-day extension of the continuing resolution. Congress may now either pass a long-term continuing resolution that would continue funding most of the federal government at 2010 levels through September 30, 2011. Or, Congress may pass a short-term continuing resolution into early next year that would allow the new Congress to finalize spending for fiscal year 2011. A year-long continuing resolution has been prepared by the House Appropriations Committee, but the Senate could amend it into an omnibus appropriations bill instead. The outcome has not been determined. The level of funding the project realizes depends on the final appropriations bill that is passed. A total of \$267,000 was allocated in the Energy and Water bill, which

would be released under the omnibus spending bill. If spending is based on FY 2010 levels then \$210,000 would be allocated.

3) FR/EIS Study Update—Gwyn Jarrett (USACE-Omaha [Corps]):

a. Project Management

i. Summarize Study Budget.

- Gwyn told the group that the project budget is tight. She has submitted a funding request to cover labor and contract costs over the next 2 months. The contract modification for Tetra Tech should be in place by December 12, 2010, to support the comment incorporation and revision effort required to produce the draft FR/EIS for USACE HQ review.
- Dave told the group that it needs to work on 2012 funding, and urged CWCB (Tom) and the Corps (Gwyn) to quickly determine funding needs, including money to cover contingencies and emergencies. When meeting with the Congressional delegation during the September 2010 trip to Washington, DC, project representatives gave an estimate of \$200,000. The funding request needs to be finalized by the end of January/beginning of February and will be presented during the next planned meeting with the Congressional delegation in Washington DC, scheduled for March 2011.
- Dave was asked about the expected status of earmarks. The anticipated situation is challenging. The project is not part of the president's budget, and has been funded through earmarks. The Colorado agencies and Congress want to see this project completed, but without earmarks funding could be hard to find. Marge and David will investigate working through the agencies and with members of the Congressional delegation to support funding of specific line items, such as general investigation, even if specific projects are not named. This process would not require earmarks. The OMB has control over funding for projects even if they are not included in the president's budget. The project needs to support the Corps' request for general investigation funds.
- If the project anticipates a need for funding in FY 2013, then it should consider positioning the Chatfield project for inclusion in the president's budget.
- Marge told the group that the project has not been aggressive in considering O&M funds. A budget of \$3.5 million has been allocated for Bear Creek, Cherry Creek, and Chatfield Reservoir. Will this budget be adequate in light of extra expenses associated with the Chatfield project? She suggested reviewing the O&M budget and plan ways to obtain funding. Dave recommended a bipartisan approach. Historically, budget requests have been passed through Democrats when they held the majority. However, it appears that the Republican members of Congress might not support earmarks and they will hold the majority in the House. Salazar was on the Appropriations Committee, but will be replaced in the new Congress.
- Tom agreed that this is a new era in Congress, and the project will need to work with the agencies to win line item/program funds and try to raise awareness of

the project with new members of Congress and push for funding. Dave and Marge agreed to support the Corps to get this project funded. Gwyn suggested a strategy to complete a risk matrix for the project that would demonstrate the consequences of not completing the project. This could be presented as an educational tool for Congressional members not familiar with the Chatfield project.

ii. Summarize Project Schedule.

- An updated schedule was distributed to the group. The schedule shows that ATR and NGO reviews have been completed, and responses have been formulated for most of the comments. The updated schedule calls for the following:
- Revisions of the draft FR/EIS based on the ATR and NGO comments to be completed by January 14, 2011.
- Submittal of the revised draft EIS for USACE HQ review on January 21, 2011.
- Receipt of comments from USACE HQ by March 9, 2011.
- Revisions of the draft EIS based on USACE HQ review incorporated between March 10 and 26, 2011.
- Release of the draft FR/EIS on April 4, 2011, with a 60-day public comment period.
- Looking Ahead: Revisions of the final FR/EIS from the IEPR should take place during July and August 2011, with the final FR/EIS released for public review in mid-September 2011. Assuming a 45-day public comment period and 30 days for revisions, the final FR/EIS could be submitted to USACE HQ for review around November 1, 2011.
- The draft ROD will be prepared while the comments on the final FR/EIS are being addressed, and will be submitted to USACE HQ with the final FR/EIS. At this point the ROD will be signed.
- Ann Bonnell (Audubon Society of Greater Denver) announced intent to request extending the 60-day period for public comment to 90 days.

iii. Summarize Comment Incorporation

- The deadline for submission of comments, responses, and revisions to Tetra Tech is December 12, 2010. Tetra Tech will review all of the comments at one time and perform all required edits and quality control checks.
- Gwyn Jarrett reported that the comments include consistency issues, requests for further detail or explanation, developing additional graphics that illustrate reservoir elevations associated with the different alternatives, and expanding the executive summary to provide a comprehensive stand-alone description of the project purpose and intent, alternatives, and recommendations.

- No new studies or analysis will be required to complete the draft FR/EIS for USACE HQ review.
- Rick anticipates submitting the proposed language for the mitigation items and Denver Water issues by December 12, 2010.

b. Cost/Schedule Risk Assessment

- New regulations have been implemented by the Corps to conduct a cost/schedule risk assessment for projects over \$40 million and requiring Congressional authority. The Chatfield project meets the cost criterion but does not meet the funding criterion because no federal funds are involved.
- The study, if conducted, would cost approximately \$30,000 to \$40,000, and would be subject to the established cost sharing protocol. The Water Supply PCX suggested that Gwyn discuss with the group whether they wished to perform the risk assessment, and send USACE HQ a memo to record advising them of their decision.
- Gwyn told the group that in Div's opinion the risk assessment is not needed. The construction, design, and implementation of the project will proceed without further Congressional authorization. The participants noted that there was no apparent benefit to completing the risk assessment, at least at this time, because construction may not occur for 2 to 3 years. The group voted on whether to conduct the risk assessment, and unanimously decided that it did not need to conduct one. Tom will prepare a letter for the Corps documenting the decision.

c. Other Items

- *Participant Review of Comments/Responses:* Rick indicated there is interest in meeting with the NGOs to review comments and comments responses. Rick and Steve Dougherty (ERO) will work on scheduling a meeting. Ann Bonnell (Audubon Society of Greater Denver) noted that some portions of the FR/EIS (socioeconomic chapter/BBC/RED) had not been reviewed by the participants in detail. It was available only a week before the deadline to provide comments. Review of these sections/components may need to occur during the public review period.
- *Update on Consulting Firms working with Marina:* Consultants JJR and Atlantic-Meeco are working with the Marina staff to resolve issues associated with the Chatfield project. They spent several days collecting information and are analyzing data and generating utility and bathymetry maps. The consultants will prepare a plan that presents alternatives to support operations at the Marina during construction and after the project is completed.
- The plan supports the previous work and recommendations presented in the Recreation Facility Modification Analyses (EDAW report). The plan is expected to be available to Marina staff the first week of December, and will also be distributed to the participants and state agencies.

- *Artist's Rendition of Completed Chatfield Project:* Gene Reetz (Audubon Society) asked Tom whether schematics were available that could be presented to the public. The schematics would be similar to a landscape artist's impression of the project and would help members of the public visualize how Chatfield Park might change and what the new views might resemble. Tom agreed that such visual aids could help promote public acceptance of the project and said he was working to complete this task.
- *Denver Water:* The participants have met with Denver Water and EPA to discuss EPA's review and decision concerning CWA Section 404(b)(1). EPA asked whether Denver Water would consider storing more water in the reservoir; the participants are also interested in increasing the level of the reservoir during the summer to support recreation, wildlife, and habitat. It is possible that Denver Water could benefit from higher water levels as well. Under present terms, Denver Water could store the extra water in the reservoir at no cost as an incentive. Some participants wondered if this part of the agreement could be renegotiated. The group does not know where Denver Water stands on this issue—conversations have taken place but no agreements have been reached. The situation is hypothetical at this time.

The group noted that Denver Water was originally interested in an alternative that included installation of a pump station. Rick stated that he will prepare and insert for the FR/EIS that will summarize the Denver Water issue and the meetings that have been held. His text will acknowledge the issues concerning Denver Water, the pump station, and interpretation of the original 1979 agreement as part of the proposed language now being negotiated. He reiterated that the proposal will not affect the terms of the 1979 agreement. Rick questioned whether Denver Water would want to revisit the alternative with the pump station if they agree in concept to put more water into the reservoir. Gwyn indicated that a discussion in the FR/EIS that demonstrates that the Denver Water option has been explored will be adequate to address EPA's comment.

4) EIS Discussion Items (Tetra Tech):

- **Remaining Tasks.** Gary confirmed that Rick will provide text inserts for the DNR comments and the meetings on the Denver Water concept.

5) Public Involvement (Corps):

A handout was provided to the group showing a draft floor plan for the Chatfield public meeting. An associated handout summarized the key elements of the meeting, including purpose, press releases, press conference, notices, number of public meetings, time, and locations.

The group felt that evenings and weekend meetings were best so that the public could attend after work. Locations near the reservoir were favored.

Some ideas for notifying the public were presented, including a direct mailing of post cards. The water providers had the idea that information could be included with the billing statement to customers. Newsletters and member lists associated with the marina and clubs using the park were also mentioned as sources of information to the public.

6) Wrap-up—Next Meeting Date:

- Next meeting date: Thursday, January 13, 2011, at 9 am, Tetra Tech conference room on 10th floor (Gary will check on availability of the Conference Room and notify Tom).