

STATE OF COLORADO

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

What: Chatfield Reallocation FR/EIS Progress Meeting Minutes
Where: 143 Union Blvd, 10th Floor, Lakewood (Tetra Tech Conference Room)
When: Wednesday, May 9, 2012 (9:30 am to 11:30 am)

1. Introductions and Announcements (Tom Browning, Colorado Water Conservation Board [CWCB])
 - Tom Browning welcomed the group and introduced the agenda. Topics included Study Updates (update on the comment/review process between District, Division, and HQ; status of public release of the draft FR/EIS; IEPR update; updated schedule for draft release and public meetings; and study budget and upcoming SACCR); Capitol Representatives report; Public Relations update; Future progress meeting schedule; Other items/new business; and Wrap-up.
 - Tom informed the group that the Colorado House of Representatives had failed to pass Colorado Senate Bill (SB) 165 as of the time of the Progress Meeting, along with approximately 30 other legislative issues. The bill has bipartisan support and was not approved during the regular 2012 legislative session solely as a result of procedural issues. This bill would have authorized \$13 million to handle “orphan” allotments of storage space within the reservoir that revert back to the State after being relinquished by a Water Provider. Potential ramifications for the bill’s failure on water projects statewide could be significant in the short-term, but it was noted that the legislation could still be passed during a special session. (*Note: On Thursday Governor Hickenlooper called for a special session to begin on Monday, May 15, to allow consideration of seven specific subjects including funding for CWCB water projects.*)
 - The CWCB will hold its next board meeting on May 15 and 16, 2012, in Glenwood Springs, Colorado. Several topics will be discussed, including whether interest rates should be lowered on loans granted by the CWCB in order to be more competitive in the market.

- Tom told the group that the Chatfield Contract Committee has held regular meetings and made progress toward completing the draft Project Participation Agreement (PPA) between the Corps and CWCB. This “straw-man” PPA will be sent to the Corps Headquarters (HQ) legal team led by Aaron Hostyk for review and comment when it is finalized.
 - CWCB is considering contracting with Tetra Tech to generate pre- and post-project visual renderings of Chatfield Reservoir. The renderings would be presented by the Corps in the public meetings following release of the draft FR/EIS to help members of the public visualize potential project impacts.
2. Study Updates (Gwyn Jarrett, Corps)
- a. Update on the comment/review process between District, Division, and HQ. Status of public release of the draft FR/EIS
 - Gwyn informed the group that HQ had not approved the draft FR/EIS for public release and comment within the 30-day window ending on May 8, 2012.
 - Since the last Progress Meetings some questions were addressed concerning the Real Estate Plan. The option to implement the Real Estate Plan initially appeared to rely on conservation easements. HQ wanted to better understand options involving third-party agreements such as acquiring land from willing sellers. The terminology for real estate agreements benefiting the project was sent to HQ for review and has been approved by the District Council.
 - One reviewer submitted new comments to the draft FR/EIS on May 8 that had not previously been reviewed or responded to by the team. These new comments indicate potential inconsistencies in the package, corrections, edits, and suggestions for reformatting and/or reorganization. According to the Corps’ review and approval process, these comments must be evaluated to determine whether they are editorial or substantive in nature. Gwyn explained the likely scenario for next steps in the process. The new comments will be summarized and reviewed by Lisa Fleming, the Corps Regional Integration Team Leader, and other review team members, who will form recommendations for their disposition. The comments and recommended disposition will be submitted to the Chief of Water Policy Review, Wes Coleman, for review and concurrence. Comments deemed to be substantive may require further revision to the draft FR/EIS.
 - Dave Howlett (Capitol Representatives) asked Gwyn if she could estimate when the package would be wrapped up. Gwyn responded that on the plus side she does not expect any more comments on the document. After she received the last round of comments on May 8 she sent a list of questions to HQ focusing on potential schedule impacts and future steps to approve the draft FR/EIS for public release and comments. She reiterated that there is a process that must be followed before HQ will approve and release the draft FR/EIS. As of the time of the Progress Meeting on May 9 she had not yet received a response concerning the timeline for approval. Rick McCloud (Centennial WSD) asked if she thought the project could be delayed by as much as several weeks. Gwyn again asserted that

she did not know the exact timeline, which would depend in part on the disposition of the new comments/edits as editorial or substantive. She repeated that the new comments were undergoing evaluation by the Regional Integration Team Leader and the disposition would be discussed by the Chief of the Office of Water Policy Review quickly. At that point a new schedule could be developed.

- John Hendrick (CWSD) asked Gwyn if there was anything that the Water Providers and non-governmental organizations (NGOs) could do to support Omaha Corps and Gwyn as Project Manager. He noted that the group respected the process but felt that the project needs to move forward to avoid unintended consequences. He asked if she could explain the process to approve the draft once the comments were resolved and any necessary revisions to the draft FR/EIS had been implemented. Would the revised draft be released or would it need to go to HQ for back checking? Gwyn indicated that HQ may need to perform a back check on the revisions, but that this step could be implemented within approximately 2-3 days; it has not been confirmed whether the revised document would need to go back to HQ for review. She noted that Wes Coleman has authority to specify the specific steps to achieve approval and release of the draft FR/EIS.
- Dave said that he would address the status of the draft FR/EIS and newest delay past the 30-day timeline for approval in his weekly email to Corps HQ, the Assistant Secretary of the Army (ASA) Lamont, and the Congressional Delegation. He noted that these emails are reviewed by Gwyn and then sent on to HQ. Gwyn agreed that the lack of a firm timeline for approval is frustrating for the project cooperators. Dave said that waiting for the process to play out is difficult, especially if HQ needs to review the document again. Gwyn repeated that she does not know what specific steps will be required as she has not received a response to her questions sent on May 8. Dave promised that he would include questions about the process in his weekly email; the big question that remains is the length of delay that will be caused by the latest round of comment resolution.
- Ann Bonnell (Audubon Society of Greater Denver) asked how the group would be notified once HQ gives its approval for release of the draft FR/EIS. Gwyn said that she would tell Tom Browning, who would in turn notify the project team.
- Rick McLoud asked if responses were needed if the latest round of comments/edits were determined to be editorial in nature. Gwyn said that the review team would decide if revisions to the document must be made or the comments/revisions were not critical to release of the draft document. Rick noted that if comments/edits are considered substantive, then Omaha District must revise the document and HQ may need to review it again before it can be released. Gwyn responded that phone conferences involving the entire Corps review team, including Divisions, were planned for the afternoon on May 9. Gwyn clarified that some editorial comments might not need to be addressed for the draft document. She said that HQ has the entire new package and will review it, summarize the responses, gain concurrence from the review team, and send it to Lisa Fleming and Wes Coleman for their approval.

- Dave said that he still wanted to put a spotlight on HQ in an effort to encourage them to move forward in a timely manner. Gwyn noted that one of her questions to HQ was to ask why the project is not further along. John Hendrick told the group that he would like to see a mini-schedule outlining the dates for internal reviews performed by Corps personnel. Dave Howlett agreed and committed to compiling questions from Rick McCloud and John Hendrick in his weekly email to HQ. He noted that Gwyn could then respond to the questions in a letter to the group, and this process would improve participation and trust. Gwyn said that she had spoken to Lisa Fleming the night before about whether the comments were editorial or not. However, she cautioned the group that this decision is necessarily subjective and that each reviewer would have a different perspective.
- Mike Mueller (Sierra Club) noted that the review process was likely producing diminishing returns considering the number of reviews already conducted and responses incorporated. He also noted that time is money and the Water Providers and NGOs are spending funds, funds are being expended on consultants, and resources are being consumed by Corps personnel to implement the process. Mike would like to remind HQ of this situation. Rick McCloud repeated that the group thought they had a firm date, but now they were left with an open-ended process. Gwyn repeated that she had already pushed for a firm date.
- Dave Howlett felt that in addition to a strongly worded email he would follow-up with telephone calls to the different parties, including ASA Lamont and the HQ Commander, and reiterate the group's concerns. Then he would wait for the Corps' response. Gwyn said that the project is complex with issues such as environmental mitigation, critical habitat, downstream flooding, and dam safety, but that she realizes how hard the group members have worked to produce the draft FR/EIS.

c. IEPR comment and review process

- Gwyn has successfully worked through the process with the IEPR panel to respond to their comments on the draft FR/EIS. She has sent the project's responses to comments to the panel and the District is pleased with the number of concurrences; the panel concurred with 27 out of 27 responses. Although responses were prepared, the Corps is not required to make changes to the document based on IEPR comments.
- The IEPR panel will submit a final report to the Water Supply PCX and Gwyn will prepare an agency final report that includes responses. The IEPR final report will be released to the public in parallel with the release of the draft FR/EIS. Preparation of this final report will not impact the project schedule.
- Gwyn informed the group that the final FR/EIS may require an IEPR. Divisions has indicated, however, that they will recommend not performing a final IEPR unless the public review results in major revisions to the draft FR/EIS. Gwyn noted that the IEPR "sunsets" in December; she will check to determine what that means with respect to future IEPR reviews.

d. Updated schedule for draft release and public meetings

- The updated schedule is in flux pending disposition of the latest round of comments/edits on the draft FR/EIS.

e. Study budget and upcoming SACCR

- Gwyn is currently using non-federal funds to move the project forward. The project has been allocated \$148,000 in the FY 2012 budget from the Corps Work Plan, but the funds will not be released until the SACCR (Schedule and Cost Change Request) is approved. Looking forward, the State could provide \$60,000 in cash and \$88,000 in in-kind contributions, and funds totaling \$67,000 have been included in the President's budget for the project's use. Therefore, \$342,000 in cash reserves are available to support project activities in FY 2012 and FY 2013, including preparing the draft document, holding public meetings, revising the draft into a final version, and preparing the Record of Decision (ROD):
 - State of Colorado: \$127,000 cash
 - Corps Work Plan: \$148,000
 - President's Budget: \$67,000
 - Total: \$342,000
- Dave Howlett noted that these funds do not address project needs that extend past FY 2013. Future costs, apart from post-ROD operations and maintenance (O&M), should be evaluated to determine what additional budget may be required to complete the study phase of the project. The group needs to support Gwyn in requesting additional funds from federal sources if needed, such as expanding the allocation in the President's budget.

3. Capitol Representatives Report

- Dave Howlett (Capitol Representatives) discussed the current and future funding issues faced by the project. He noted that \$67,000 was included in the President's budget and in both the House and Senate water appropriations bills. If this number needs to be increased, Gwyn needs to let them know so the request can be considered in various Committees and by the Congressional Delegation. He noted that the delay in releasing the draft FR/EIS for public review and comment could result in increased budget needs in FY 2014. Dave hopes that Congress will increase the General Investigation budget and provide additional funding to support Chatfield project's future needs.
- The next meeting in Washington, D.C., will be held either the second or third week in September 2012, from Tuesday through Thursday. Dave will let the group know which weekend as soon as the Congressional schedule is posted. These trips are very important to raise awareness about the project and everyone who can, should attend the next semi-annual meeting. The project needs to continue its active participation to secure needed funding in the future. The meetings also provide the opportunity for the agencies and administration to put names to faces and show how committed the project is to succeed.

4. Public Relations Update (Mark Shively [CPNMD])
 - Mark told the group that the annual Colorado Foundation Water Education tour will be held on June 14 and 15, 2012. The tour this year will feature areas of interest in the South Metropolitan area, including Chatfield Reservoir. Tom Browning may guide the portion of the tour at Chatfield Reservoir. More information about the tour is available on the organization's website, CFWE.org.
 - A new White Paper exploring the topic of Conservation is currently being produced.
5. Discuss Future Progress Meeting Schedule (up through the time of public meetings)
 - The group discussed the need for continued Progress Meetings and appropriate schedule once the draft FR/EIS has been released for public review and comment. Rick McCloud asked whether a change from the current schedule is warranted and if the meetings were a necessary forum to maintain effective communications between the Corps and the other group members. Marge Price (Capitol Representatives) asked whether any events are planned during the public review period that could potentially affect the draft. Gwyn responded that meetings would not be required during the public comment period, and Tom mentioned that attending these meetings does impact Gwyn's project budget. Ann Bonnell said that although the current schedule has been effective and the meeting location is good, perhaps emails could replace the need for meetings during this period. Dave suggested holding meetings according to the current schedule for the time being, and canceling them if it turns out that no business needs to be discussed.
6. Other Items/New Business
 - Comment Incorporation for Final FR/EIS – Mike asked Gwyn about the Corps' process to respond to substantive comments offered by the public on the draft FR/EIS and whether the comments would be available for review by members of the group during the response period to prepare the final FR/EIS. Gwyn said that the Corps is responsible for developing responses to all comments and will incorporate revisions to the final FR/EIS with help from Tetra Tech. The Corps will request input from the group as needed, such as consulting with a subject matter expert to respond to a comment that has not previously been addressed by the group. The comments and responses will be released with the final FR/EIS.
 - Biological Assessment – After last month's progress meeting, Gwyn, Gary Drendel (Tetra Tech), Steve Dougherty (ERO), and Eric Laux (Corps) met with Pete Plage (USFWS) to discuss planned mitigations for critical habitat to ensure the project is compliant with the Endangered Species Act. Gary revised the preliminary Biological Assessment (BA) based on IEPR comments and Pete is currently providing an informal review of the BA. Pete requested a tour of the on-site mitigation areas, probably in late May/early June. The revision and review of the BA will not impact the schedule to release the draft FR/EIS.
 - Gary noted that Rick McCloud is providing assistance by collecting the 2012 SPWRAP Membership Certificates from the Water Providers as required for the BA. (Note: SPWRAP is the "South Platte Water Related Activities Program" designed to address potential water depletions in the Platte River.)

- Comprehensive Mitigation Plan – Steve Dougherty told the group that ERO is making progress on tasks/milestones related to the CMP. These include monitoring groundwater levels, performing topographic surveys, and other site work.
- Chatfield Marina – Gwyn said that the marina project has two phases. Some of this work (design phase) is outside of the project cost-share agreement. John Hendrick asked if there were plans to release the Marina Study reports in the near future. Gwyn will look into the timeline to release these reports.
- Skot Latona (South Suburban – South Platte Park) informed the group that progress was being made to begin restoration of the South Platte River reach between C-470 and Reynolds Landing south of Hudson Gardens. He expects the implementation of enhancements to begin in October/November 2012. The restoration project is part of a Conceptual Plan approved to restore the South Platte River channel in South Platte Park and improve habitat, stabilize the river banks, and enhance wetlands.

7. Wrap-up

- Next meeting: June 22, 2012, at 9:30 am.