



December 5, 2013

Colorado Parks and Wildlife Commission (via email)

Re: Fish, Wildlife, and Recreation Mitigation Plan for the Chatfield Reservoir Storage Reallocation Project

Dear Commissioners:

Thank you for the considerable time you are spending reviewing the proposed Mitigation Plan for this Project, which is very complicated and confusing. At your December meeting in Pueblo, Dennis Buechler will summarize the following comments in order to save time. However, this project, in addition to being complicated, will destroy highly valued and used public resources, but CWF will only be making one presentation on this matter. Therefore, we ask your permission to exceed the normal time allotted for presentations by a few minutes.

Mr. Buechler worked for the U.S. Fish and Wildlife Service (USFWS) for 31 years in several locations throughout the United States. Almost all of his time was spent in the Ecological Services Program, which focuses on contaminants, endangered species and the mitigation of impacts from federally constructed, licensed, or permitted water projects on wetlands and other waters of the U.S. The latter included major water projects for irrigation, flood control, and hydroelectric productions, and also major transportation projects.

During his career, Mr. Buechler also participated in the development, field testing, and application of several mitigation modeling approaches, including some of those mentioned in Appendix I of the Compensatory Mitigation Plan. He also was involved in the development of related policies and guidelines at the regional and national levels.

Mr. Buechler is currently the principal and aquatic ecologist for his consulting firm, i.e., Wetlands and Watersheds, LLC, which has performed wetland delineations and managed wetland and riparian restoration projects.

The following concerns about this Project are based upon his experience.

Much of his time in the USFWS and that of his staffs was spent on trying to get mitigation completed on projects that were built by the Corps of Engineers and Bureau of

Reclamation as far back as the 1960's. In fact, he does not recall evaluating a major Corps project where the mitigation was completed as proposed and/or in a timely manner. We can provide several examples if requested. Thus, **we have some concerns about the fact that the Corps is in charge of overseeing the completion of mitigation for this project.**

If it were the Corps regulatory branch in charge, we believe the mitigation plan would have been more much more specific, complete, and enforceable. We also would have felt comfortable about mitigation oversight. However, we do not share that same confidence with oversight being solely assigned to the Omaha District Planning Branch, which has had four different managers on this project. Thus, we believe that **the State should be a full partner in this oversight** to ensure adequate mitigation is completed in a timely manner. For example, **we believe that CPW should be represented on the Project Coordination Team as well as the technical teams.**

The mitigation model used was neither certified by the Corps nor field tested by an interagency team of experts. The peer review mainly consisted of review by two biologists. We know that are competent biologists in their areas of expertise (e.g., riverine riparian habitat and the Preble's jumping mouse). However, it is not clear that they are modeling experts. We saw no questions from them regarding the net effect on mitigation requirements as a result of how the model is operated, which is very important. We question why the model was reviewed by a biologist from the Kansas City District Office instead of being reviewed in the District's Regulatory Branch in Omaha that had a modeling expert available.

In CWF's opinion, **the overall concept of the model which focuses on habitat functions is not something new**, and we do not have a problem with that aspect. **However, the offsite acquisition parcels are given additional credit for the preservation action and the model includes weighting factors for the presence of habitat buffers, connectivity with other like habitats, and for proximity to Chatfield State Park.** Those weighting factors are important for selecting and prioritizing potential acquisitions and enhancement gained through management. However, the way they are used in the model, **the net result likely will be significantly reduced acreage requirements for off-site mitigation.**

A related concern is that the mitigation plan (p. 45) identifies that up to 789 acres of habitat could be adversely impacted, and 368 acres are proposed to be mitigated onsite. The remaining large amount of offsite acreage remains to be determined. Thus, **it is impossible to assess the adequacy of such a large amount of unknown acreage and locations.** Regardless, because of the aforementioned concerns with the model, we believe it will result in incomplete mitigation for the acres impacted.

The USFWS questioned the use of those weighting factors in correspondence to the project planners as did several commenters on the draft EIS. The Corps responded in the final EIS that they had met with the USFWS and worked out the issue. However, we could not discern any change in the model that would resolve those concerns. Furthermore, **land that is acquired already has or should have at least some related habitat value so it should not be given one for one credit for replacing losses.** Credits for offsetting lost ecological functional values should be based upon the level of enhanced values achieved through the management plans for each protected parcel.

In addition, as we have described before, **the mitigation described for the many acres of lost riparian trees and shrubs is woefully inadequate**, especially the 42.5 acres of “mature” cottonwoods that may be lost on the South Platte River. Project Participants plan to replace them with 13 acres of on-site non-quantified plantings and recruitment, protection of 22.5 acres of mature cottonwood forest (which replaces nothing), and designation of 10 acres of offsite mitigation areas for recruitment of new cottonwood growth. **The proposed mitigation does not come close to replacing the lost habitat values of these unique huge trees. Furthermore, we question the claim in the subject plan that the reservoir fisheries will be improved** because of more water, increased nutrients, etc. This claim is not consistent with the description of impacts in the Final EIS nor was it scientifically substantiated.

We also have concerns about relegating a relevant portion of the funding responsibilities to CPW. For example, if the CPW determines that an environmental pool is needed to protect the reservoir fisheries and downstream flows, the project proponents should pay for it not CPW, just as the Northern CO Water Conservancy District agreed to do regarding installing a bypass around their Windy Gap Dam, if needed.

We have a similar concern regarding the requirement for CPW to cost share in replacing facilities in the Park that will be affected by this project. We think it would be more appropriate that impacts to those facilities be cost shared between the providers and the Corps. The Colorado Wildlife Federation requested and studied the document titled, “Chatfield State Park Corps of Engineers Cost Share Projects Affected by Reallocation,” dated January 12, 2011. As it did not assign cost estimates to the respective projects, we were unable to compare them with the items discussed in section 5.2 Financial Plan of the Mitigation Plan.

On page.64 of the plan, it states that CPW will be reimbursed for lost park revenue for 3 years after completion of construction and possibly up to 5 years. We believe that the park will forever lose some of its current public value. Thus **CPW should be reimbursed for lost revenues until such time as park revenues come close to matching the current stream.**

Last but not least, much of the mitigation relies upon information gained from monitoring and adaptive management. We strongly support the proposed establishment of a mitigation escrow account, but currently the project proponents only plan to put enough funds in the account to cover the initial 12 months of mitigation efforts. The Adaptive Management Plan does not clearly describe how the Project Coordination Team will make decisions on funding mitigation measures proposed by the technical teams. What if a couple of providers decide they do not want to or supposedly cannot provide more funding? What if some more providers drop out? What happens is there is not sufficient land available from willing sellers at a reasonable cost?

In summary, public risks in this mitigation effort include the potential that mitigation measures (a) may not be implemented in a timely schedule, (b) may not be completely implemented, (c) may be implemented in a piecemeal approach over an extended timeframe, and (d) may be subject to the possibility that stakeholders could balk at some future point regarding the funding of mitigation costs.

Therefore, the bottom line from our perspective is that **if the CPW Commission approves the current mitigation plan, there must be agreements in place that require fiscal assurance that stakeholder interests will financially bear those costs. Also, the agreements should direct that a base level of mitigation fiscal expenses will be assessed, collected up front, and placed in the escrow account.**

Depending on the enforceability of these agreements, we suggest the Commission consider requesting a letter from the Governor's Office or Department of Natural Resources that assures if needed mitigation measures are not completely funded by the water providers, the Colorado Water Conservation Board will request the needed funding from the legislature. For example, **off-site completion of off-site mitigation is currently scheduled for 2024.** Thus, **most of the key players in this process will have moved on** to other jobs or interests before the mitigation measures are scheduled to be completed.

We ask that these funding concerns be addressed in the CPW Commissioners website before your January meeting or at least before you take a vote on the mitigation plan.

We close by stating that, despite our serious concerns about this project, if the mitigation plan is approved **there are a number of facets we would support.** Examples include: (a) the proposed restoration of stream and wetland habitats along Plum Creek (Muller Engineering has proven expertise in these types of projects); (b) enhancement of the riparian habitat along Sugar Creek, although its real value to the Preble's mouse is undetermined; (c) the instream fish habitat improvements; (d) a cooperative approach to reservoir operations management to protect the reservoir walleye fisheries and downstream recreational fishing; (e) water quality monitoring, although specific

mitigation measures were not identified if a problem occurs; and (f) management plans with objectives for all mitigation sites.

We also support the temporary funding of a CPW resident engineer to oversee construction of recreational facilities and on-site environmental mitigation (p. 60). However, the CPW needs to be prepared to commit fishery and wildlife biologists to work closely and continually with technical teams conducting monitor, implementing the adaptive management process, developing recommendations to the Project Coordination Team on additional needed mitigation funding, preparing periodic status reports, etc.

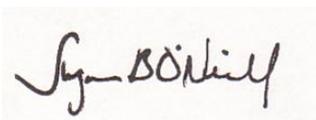
Additionally, if the CPW does not have a botanist on staff with experience in monitoring and restoration of plant communities, the project should fund a non-biased part time person from an applicable non-profit organization like the Colorado Natural Heritage Program or the Colorado Native Plant Society.

Thank you for your consideration of these points. Questions may be directed to Mr. Buechler at wetlandsandwater@comcast.net or (303)506-4588.

Sincerely,



Dennis Buechler
Board Member and Past President



Suzanne O'Neill
Executive Director