

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. **1:14-cv-2749-JLK**

AUDUBON SOCIETY OF GREATER DENVER,

Petitioner,

v.

UNITED STATES ARMY CORPS OF ENGINEERS,

Respondent.

**INTERVENORS' RESPONSE OPPOSING PETITIONERS' REQUEST FOR
SITE VISIT**

Intervenors, the Colorado Department of Natural Resources, by and through the Attorney General for the State of Colorado; and the Castle Pines Metropolitan District, the Castle Pines North Metropolitan District, the Centennial Water and Sanitation District, the Center of Colorado Water Conservancy District, the Central Colorado Water Conservancy District, and the Town of Castle Rock, by and through their attorneys, Trout, Raley, Montañó, Witwer & Freeman, P.C., (collectively "Intervenors") hereby respond to Petitioners' Request for a Status Conference and Site Visit.

1. Intervenors do not oppose a telephonic status conference with the Court to determine the status of its review and the potential timing for a written decision in the case, if so desired by the Court. A decision on the merits in

this case will eliminate legal uncertainties and assist in efforts to finalize the design and planning for the Chatfield Storage Reallocation Project (the “Project”).

2. Intervenors, however, oppose Petitioners’ request for a site visit for the reasons stated in the United States’ Response.
3. In addition, Intervenors oppose Petitioners’ request for a site visit because it is unnecessary for determining the status of the Project and would needlessly consume the resources of the Court and counsel.
4. The public, including Petitioners, may obtain real-time updates on the status of the Project by directly contacting the Chatfield Reservoir Mitigation Company, Inc. (“CRMC”). CRMC, which is not a party in this litigation, is responsible for implementing the Project. CRMC’s activities are funded by its members, which include all intervenors in this case. The email address and telephone number for submitting inquiries concerning the Project are listed on CRMC’s website. CHATFIELD RESERVOIR MITIGATION COMPANY, <http://chatfieldreallocation.org/contact-us/> (last visited Feb. 17, 2017). As stated on the website, inquiries are assigned to a CRMC staff member and responded to within 48 hours. *Id.*
5. CRMC also periodically updates its website regarding the status of the Project, as developments warrant and to reflect material changes in the Project schedule. As of the date of this filing, the website was last updated on

February 16, 2017. At this point, certain aspects of the Project have been delayed beyond the originally anticipated schedule. A copy of the current schedule of upcoming Project activities is available on CRMC's website.

Chatfield Storage Reallocation Project Current Activities/Status, February 16, 2017, <http://chatfieldreallocation.org/wp-content/uploads/2014/09/Chatfield-Reallocation-CSR-Status-CSR-Activities-FINAL-2-16-17.pdf>.

6. That schedule may change from time-to-time and CRMC will update its website as may be appropriate to reflect schedule changes. Certain aspects of the current schedule posted on CRMC's website are summarized below.

Intervenors offer this brief summary only for the Court's convenience and to illustrate the type of information that is available on CRMC's website.

- a. The Preliminary Design of environmental mitigation and recreational modification activities is complete. *Id.* Also complete is the review of the Preliminary Design by the United States Army Corps of Engineers (the "Corps"). *Id.*
- b. CRMC's design contractors are now working on the Final Design for environmental mitigation and recreational modifications, which CRMC will submit to the Corps for approval. *Id.*
- c. The current Project schedule anticipates construction in phases beginning no earlier than October 2017, in part because the Corps'

review of the final designs is not anticipated until late summer, 2017.

Id.

- d. Prior to that time, some field investigations will continue in order to complete those final designs. *Id.* Such work is minimally invasive and includes:
 - i. surveying;
 - ii. cultural resources field investigations;
 - iii. geotechnical investigations for both the recreational modifications and environmental mitigation activities; and
 - iv. development and implementation of a preconstruction weed management plan. *Id.*
7. Intervenors invite Petitioners to review the most current information available on the website and to contact CRMC with questions concerning Project activities, as needed.

Dated this 17th day of February 2017.

Respectfully submitted,

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/s/Scott Steinbrecher

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Attorneys for the Chatfield Participating
Entities:

Castle Pines Metropolitan District
Castle Pines North Metropolitan District
Centennial Water and Sanitation District
Center of Colorado Water Conservancy
District
Central Colorado Water Conservancy
District
Town of Castle Rock

CERTIFICATE OF SERVICE

I hereby certify on this 17th day of February, 2017, a true and correct copy of INTERVENORS' RESPONSE OPPOSING PETITIONERS' REQUEST FOR SITE VISIT was filed with the Clerk of the United State District Court, District of Colorado, via the Court's CM/ECF system, which will send notice of such filing to all counsel who are registered CM/ECF users.

/s/ Suzanne Burdick
Suzanne Burdick