

Summary

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Differences exist between documents.

New Document:

[FinalEIS](#)

72 pages (7.75 MB)

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Old Document:

[Appendices](#)

72 pages (5.17 MB)

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Appendix S
Compliance with Environmental Statutes

1. COMPLIANCE WITH ENVIRONMENTAL STATUTES

The Proposed Action/project has been determined to be in compliance with the following federal laws, executive orders, and memorandums.

American Indian Religious Freedom Act (AIRFA) of 1978

Public Law 95-341; 42 United States Code (U.S.C.) §§ 1996 and 1996a

In compliance

This Act protects “and preserves for American Indians their inherent right of freedom to believe, express, and exercise the traditional religions of the American Indian, Eskimo, Aleut, and Native Hawaiians, including but not limited to access to sites, use and possession of sacred objects, and the freedom to worship through ceremonials and traditional rites.” The proposed project would not adversely affect the protections offered by AIRFA. Access to sacred sites by Tribal members would not be affected.

Bald and Golden Eagle Protection Act (BGEPA) of 1940, as amended

16 U.S.C. §§ 668, 668 note, 668a-668d

In compliance

This Act prohibits any form of possession or taking of both bald and golden eagles. The statute imposes criminal and civil sanctions as well as an enhanced penalty provision for subsequent offenses. Further, the BGEPA provides for the forfeiture of anything used to acquire eagles in violation of the statute. The statute excepts from its prohibitions on possession the use of eagles or eagle parts for exhibition, scientific, and Indian religious uses. The Corps has, and will continue to, coordinate with the U.S. Fish and Wildlife Service (USFWS) and the Colorado Division of Wildlife (CDOW) to avoid taking the species during construction activities, and will follow the USFWS and State guidelines regarding eagle nests as appropriate.

Clean Air Act of 1972, as amended

Public Law Chapter 360; 69 Statute 322; 42 U.S.C. § 7401, et seq.

In compliance

The purpose of this Act is to protect public health and welfare by the control of air pollution at its source, and to set forth primary and secondary National Ambient Air Quality Standards to establish criteria for States to attain, or maintain. Section 118 of the Act requires all federal facilities to comply with existing federal, state, and local air pollution control laws and regulations. Land development activities release fugitive dust, a pollutant regulated by the Air Pollution Control Division of the Colorado Department of Public Health and Environment (CDPHE). Under Colorado air quality regulations, land development refers to all land clearing activities, including excavating or grading. Land development projects that are greater or equal to 25 continuous acres or 6 months in duration typically require the submission of an Air Pollutant Emission Notice (APEN) and an air permit. In some cases APENs and air permits are not required due to estimated air emissions below reporting thresholds. The APEN form is used to record general project information including the project description, location, size, and duration of the land development project. It includes detailed information on the Fugitive Dust Control Plan (FDCP), which addresses how dust will be minimized at the project site. Temporary land development permits are typically issued for a period

of up to five years. Based on the information provided on the APEN, the permit may cover a single land development activity or a series of activities (or project phases) over a defined period of time.

The Corps will work in conjunction with CDPHE to ensure that all construction activities meet these requirements. Some temporary emission releases may occur during construction activities; however, air quality is not expected to be impacted to any measurable degree. Air quality is evaluated in Section 4.12 of the FR/EIS.

**Clean Water Act of 1977, as amended (Federal Water Pollution Control Act)
Public Law 845, June 30, 1948; 62 Statute 1155; 33 U.S.C. § 1251, et seq.**

In compliance

This Act provides for the restoration and maintenance of the physical, chemical, and biological integrity of the nation's waters. Section 404 of the act prohibits the discharge of fill material into waters of the United States, including wetlands, except as permitted under separate regulations by the Corps and the Environmental Protection Agency (EPA). The Section 404(b)(1) Guidelines (40 Code of Federal Regulations 230) are the substantive criteria used in evaluating discharges of dredged or fill materials in waters of the United States under Section 404 of the Clean Water Act. Fundamental to these Guidelines is the precept that dredged or fill materials should not be discharged into an aquatic ecosystem unless it can be demonstrated that such discharges would not have unacceptable adverse impacts either individually or in combination with known or probable impacts of other activities affecting the ecosystem of concern. In addition, according to the federal Clean Water Act, anyone who wishes to obtain a federal permit for any activity that may result in a discharge to waters of the United States must first obtain a state Section 401 water quality certification to ensure the project will comply with state water quality standards. The increase in the pool elevation of Chatfield Reservoir will not discharge fill into any jurisdictional waters of the United States and; therefore, a 404 permit and a 401 certification are not required for this aspect of the Proposed Action. The Proposed Action would involve relocation of recreation facilities (e.g., boat ramps, bike paths), and road and bridge construction, actions incidental to this alternative that would result in discharge of dredged or fill material into waters of the United States. The environmental impacts of and alternatives to the recreation facilities-related discharges are described in Appendix W.

Correspondence between the EPA and the Corps related to Clean Water Act compliance is included as Attachment 1.

Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended

Public Law 97-98; 42 U.S.C. § 9601, et seq.

In compliance

CERCLA, commonly known as Superfund, created a tax on the chemical and petroleum industries and provided broad federal authority to respond directly to releases or threatened releases of hazardous substances that may endanger public health or the environment. This Act (1) established prohibitions and requirements concerning closed and abandoned hazardous waste sites; (2) provided for liability of persons responsible for releases of hazardous waste at these sites; and (3) established a trust fund to provide for cleanup when no responsible party could be identified. Typically CERCLA is triggered by (1) the release or substantial threat of a release of a hazardous substance into the

environment; or (2) the release or substantial threat of a release of any pollutant or contaminant into the environment which presents an imminent threat to the public health and welfare. To the extent such knowledge is available, 40 C.F.R. Part 373 requires notification of CERCLA hazardous substances in a land transfer. No spills, reported releases, or underground tanks have been identified in the affected area. Pipeline construction activities would be monitored to avoid spills of potentially hazardous materials (e.g., fuel, hydraulic fluid). This project will not involve any real estate transactions.

Endangered Species Act of 1973, as amended

Public Law 93-205; 87 Statute 884; 16 U.S.C. § 1531, et seq.

In compliance

This Act protects threatened and endangered species, as listed by USFWS, from unauthorized take, and directs federal agencies to ensure that their actions do not jeopardize the continued existence of such species. Section 7 (16 U.S.C. § 1536) of the act defines federal agency responsibilities for consultation with USFWS and requires preparation of a Biological Assessment after an alternative is selected through the public NEPA process. The Biological Assessment (Appendix V) identifies any threatened or endangered species that are likely to be affected by the Proposed Action. The Corps is informally consulting with USFWS, a cooperating agency, regarding potential project effects to federally listed species. The Corps has determined that habitat loss could result for some threatened and endangered plant and wildlife species. USFWS will present the results of consultation in a Biological Opinion.

Farmland Protection Policy Act (FPPA) of 1981 (Subtitle I of Title XV of the Agriculture and Food Act of 1981), of 1984

7 U.S.C. § 4201, et seq.

In compliance

This Act is intended to minimize the impact federal programs have on the unnecessary and irreversible conversion of farmland to nonagricultural uses. It assures that—to the extent possible—federal programs are administered to be compatible with state, local units of government, and private programs and policies to protect farmland. Federal agencies are required to develop and review their policies and procedures to implement the FPPA every 2 years. For the purpose of FPPA, farmland includes prime farmland, unique farmland, and land of statewide or local importance. Farmland subject to FPPA requirements does not have to be currently used for cropland. It can be forest land, pastureland, cropland, or other land, but not water or urban built-up land. This Act instructs the Department of Agriculture, in cooperation with other departments, agencies, independent commissions and other units of the federal government, to develop criteria for identifying the effects of federal programs on the conversion of farmland to nonagricultural uses. Information on soils within the study area was obtained from the U.S. Department of Agriculture Natural Resource Conservation Service published soil maps for the five-county study area. Construction of the proposed project would not significantly impact prime or unique farmland soils.

Federal Water Project Recreation Act of 1965, as amended

Public Law 89-72, July 9, 1965; 79 Statute 213; 16 U.S.C. §§ 460(L)(12)-460(L)(21)

In compliance

The Act establishes the policy that consideration be given to the opportunities for outdoor recreation and fish and wildlife enhancement in the investigating and planning of any federal

navigation, flood control, reclamation, hydroelectric or multi-purpose water resource project, whenever any such project can reasonably serve either or both purposes consistently. This project relocates all necessary recreational opportunities, and this recreational development will not negatively impact fish and wildlife habitat in the reservoir or the downstream channel.

Fish and Wildlife Coordination Act (FWCA) of 1958, as amended

16 U.S.C. §§ 661-667e

In compliance

This Act, as amended, proposes to assure that fish and wildlife resources receive equal consideration with other values during the planning of water resources development projects. FWCA was passed because the goals of water-related projects (e.g., flood control, irrigation, navigation, hydroelectric power) may conflict with the goal of conserving fish and wildlife resources. The Corps is working closely with the USFWS and CDOW to show how the project is in compliance with the FWCA. The USFWS is a cooperating agency and is responsible for consultation with the Corps under the Endangered Species Act and the Fish and Wildlife Coordination Act. The USFWS will consult regarding potential impacts to federally listed threatened or endangered species and their designated critical habitat based on the Biological Assessment (Appendix V), prepared by the Corps, that addresses impacts from a selected alternative. The USFWS's FWCA Report is included in Appendix X.

Land and Water Conservation Fund Act (LWCFA) of 1964, as amended

16 U.S.C. §§ 4601-4 through 4601-11

In compliance

Planning for recreation development at Corps projects is coordinated with the appropriate states so that the plans are consistent with public needs. The Corps must coordinate with the National Park Service (NPS) to insure that no property acquired or developed with assistance from this Act will be converted to other than outdoor recreation uses. If conversion is necessary, approval of NPS is required, and plans are developed to relocate or re-create affected recreational opportunities. Some lands involved in the project were acquired or developed with LWCFA funds. The proposed project will not result in removal of any facilities acquired with LWCFA funding or in any areas being converted to non-recreational uses. If removed, these facilities will be replaced. The National Park Service has issued a letter to Colorado State Parks indicating that the Chatfield Reservoir Storage Reallocation Project does not constitute a section 6(f)(3) conversion under the LWCFA program (see Attachment 3).

Migratory Bird Conservation Act of 1929, as amended

16 U.S.C. §§ 715-715r

Not applicable

This Act establishes a Migratory Bird Conservation Commission to approve areas of land or water recommended by the Secretary of the Interior for acquisition as reservations for migratory birds. Consultation with state and local government is required prior to acquisition. This is not applicable to the project.

Migratory Bird Treaty Act (MBTA) of 1918, as amended

40 Statute 755; 16 U.S.C. §§ 703-712

In compliance

This Act regulates or prohibits taking, killing, possession of, or harm to migratory bird species listed in Title 50 C.F.R. Section 10.13. The MBTA is an international treaty for the conservation and management of bird species that may migrate through more than one country and is enforced in the United States by USFWS. Hunting of specific migratory game birds is permitted under the regulations listed in Title 50 C.F.R. 20. The Act was amended in 1972 to include protection for migratory birds of prey (raptors). Executive Order 13186 (see below) directs executive agencies to take certain actions to implement the Act. The Corps will avoid impacts to migratory birds, and their nests, to the extent possible. Any vegetation management (especially tree removal) will be planned to avoid the nesting season to comply with this law. Removal of trees under "The Tree Management Plan" will be in compliance with the MBTA as noted in Appendix Z.

**National Environmental Policy Act (NEPA) of 1969, as amended
Public Law 91-190; 83 Statute 852; 42 U.S.C. § 4341, et seq.**

In compliance

The NEPA process is intended to assist public officials to make decisions that are based on an understanding of environmental consequences and take actions that protect, restore, and enhance the environment. Regulations implementing NEPA are set forth by the CEQ. This EIS was prepared to comply with NEPA.

**National Historic Preservation Act (NHPA) of 1966, as amended
Public Law 89-665; 80 Statute 915; 16 U.S.C. § 470, et seq.**

In compliance

NHPA requires agencies to take into account the effects of their actions on properties listed in or eligible for listing in the National Register of Historic Places. The Advisory Council on Historic Preservation has developed implementing regulations (36 C.F.R. 800) that allow agencies to develop agreements for consideration of these historic properties. The Corps has complied with Section 106 by making appropriate efforts to identify cultural resources that might be present within the project area by conducting surveys and archival research. The Corps has also complied with the consultation provisions by contacting the Native American Heritage Commission and directly contacting 14 Indian tribes (this process is currently ongoing) (Attachment 4). In addition, the Corps has reported findings, and is consulting with SHPO for concurrence on the results of their investigations (Attachment 2).

**Native American Graves Protection and Repatriation Act (NAGPRA) of 1990
Public Law 101-601; 104 Statute 3048; 25 U.S.C. § 3001, et seq.**

In compliance

This Act describes the rights of Native American lineal descendants, Indian tribes, and Native Hawaiian organizations with respect to the treatment, repatriation, and disposition of Native American human remains, funerary objects, sacred objects, and objects of cultural patrimony, referred to collectively in the statute as cultural items, with which they can show a relationship of lineal descent or cultural affiliation. One major purpose of this statute (Section 3) is to provide greater protection for Native American burial sites and more careful control over the removal of Native American human remains, funerary objects, sacred objects, and items of cultural patrimony on federal and tribal lands. NAGPRA requires that Indian tribes or Native Hawaiian organizations be consulted whenever archeological investigations encounter, or are expected to encounter, Native American cultural items or when such items are unexpectedly discovered on federal or tribal lands.

Excavation or removal of any such items also must be done under procedures required by the ARPA. If any Native American cultural items covered by this Act are uncovered during relocation of the proposed recreational facilities or water levels, any claims to such items will be reviewed in accordance with the provisions of the Act, and the procedures to repatriate within the Act will be followed.

Noise Control Act of 1972

42 U.S.C. §§ 4901 to 4918

In compliance

This Act establishes a national policy to promote an environment for all Americans free from noise that jeopardizes their health and welfare. Federal agencies are required to limit noise emissions to within compliance levels. To accomplish this, the Act establishes a means for the coordination of federal research and activities in noise control, authorizes the establishment of federal noise emissions standards for products distributed in commerce, and provides information to the public respecting the noise emission and noise reduction characteristics of such products (42 U.S.C. § 4901). The Act authorizes and directs that federal agencies, to the fullest extent consistent with their authority under federal laws administered by them, carry out the programs within their control in such a manner as to further the policy declared in 42 U.S.C. § 4901. Each department, agency, or instrumentality of the executive, legislative, and judicial branches of the federal government having jurisdiction over any property or facility or engaged in any activity resulting, or which may result in, the emission of noise shall comply with federal, state, interstate, and local requirements respecting control and abatement of environmental noise. Each federal agency shall, upon request, furnish information to the EPA regarding the nature, scope, and results of the noise research and noise-control programs of that agency, and shall consult with EPA, as required, in prescribing standards or regulations respecting noise. Certified low-noise-emission products shall be acquired for use by the federal government in lieu of other products if the Administrator of General Services determines that reasonably priced, reliable substitutes exist (42 U.S.C. § 4914). The Act includes provision for citizen suits (42 U.S.C. § 4911(a)) whereby any person may commence civil action against the United States or any governmental instrumentality or agency who is alleged to be in violation of any noise control requirement. Noise emission levels at the project site will increase above current levels temporarily due to construction; however, appropriate measures will be taken to keep the noise level within the compliance levels. Noise is evaluated in Section 4.13 of the FR/EIS.

North American Wetlands Conservation Act (NAWCC) of 1989

16 U.S.C. § 4401, et seq.

In compliance

This Act provides matching grants to organizations and individuals who have developed partnerships to carry out wetlands conservation projects in the United States, Canada, and Mexico for the benefit of wetlands-associated migratory birds and other wildlife. NAWCC establishes the North American Wetlands Conservation Council (16 U.S.C. § 4403) to recommend wetlands conservation projects to the Migratory Bird Conservation Commission. Section 9 of the Act (16 U.S.C. § 4408) addresses the restoration, management, and protection of wetlands and habitat for migratory birds on federal lands. Federal agencies acquiring, managing, or disposing of federal lands and waters are to cooperate with the USFWS to restore, protect, and enhance wetland ecosystems and other habitats for migratory birds, fish, and wildlife on their lands, to the extent consistent with

their missions and statutory authorities. The Corps is coordinating with the USFWS to mitigate the impacts to migratory bird habitats, including those that would occur in wetland habitats.

Resource Conservation and Recovery Act (RCRA) of 1976, as amended

42 U.S.C. § 6901, et seq.

In compliance

RCRA gives EPA the authority to control hazardous waste from the “cradle-to-grave.” This includes the generation, transportation, treatment, storage, and disposal of hazardous waste. This Act also sets forth a framework for the management of non-hazardous solid wastes. The 1986 amendments to RCRA enabled EPA to address environmental problems that could result from underground tanks storing petroleum and other hazardous substances. Any potentially hazardous materials used during construction activities would be handled in compliance with RCRA. Hazardous, toxic, and radiological wastes are discussed in Section 4.11 of the FR/EIS.

Rivers and Harbors Act of 1899

30 Statute 1151; 33 U.S.C. § 403

Not applicable

This law prohibits the unauthorized obstruction or alteration of any navigable water of the United States. This section provides that the construction of any structure in or over any navigable water of the United States, or the accomplishment of any other work affecting the course, location, condition, or physical capacity of such waters is unlawful unless the work has been recommended by the Chief of Engineers and authorized by the Secretary of the Army. The Secretary’s approval authority has since been delegated to the Chief of Engineers. No Section 10 permit is required for this project.

Toxic Substances Control Act (TSCA) of 1976

15 U.S.C. § 2601, et seq.

In compliance

This Act was enacted by Congress in 1976 to give EPA the ability to track the 75,000 industrial chemicals currently produced or imported into the United States. EPA repeatedly screens these chemicals and can require reporting or testing of those that may pose an environmental or human-health hazard. EPA can ban the manufacture and import of those chemicals that pose an unreasonable risk. Also, EPA has mechanisms in place to track the thousands of new chemicals that industry develops each year with either unknown or dangerous characteristics. EPA then can control these chemicals as necessary to protect human health and the environment. TSCA supplements other federal statutes, including the Clean Air Act and the Toxic Release Inventory under Emergency Planning Community Right to Know Act (EPCRA). The relocation transformers would be conducted in compliance with TSCA. Hazardous, toxic, and radiological wastes are discussed in Section 4.11 of the FR/EIS.

Watershed Protection and Flood Prevention Act of 1954, as amended

Public Law 83-566; 16 U.S.C. § 1101, et seq.

Not applicable

Under this Act, the Natural Resources Conservation Service at the Department of Agriculture provides planning assistance and construction funding for projects constructed by local sponsors, often in the form of flood control districts. This Act authorizes the Secretary of Agriculture to

cooperate with states and other public agencies in works for flood prevention and soil conservation, as well as the conservation, development, utilization, and disposal of water. This act imposes no requirements on Corps Civil Works projects.

Wild and Scenic Rivers Act of 1968, as amended

16 U.S.C. §§ 1271-1287

Not applicable

This Act establishes a National Wild and Scenic Rivers System for the protection of rivers with important scenic, recreational, fish and wildlife, and other values. Rivers are classified as wild, scenic, or recreational. The Act designates specific rivers for inclusion in the System and prescribes the methods and standards by which additional rivers may be added. The Act contains procedures and limitations for control of lands in federally administered components of the System and for disposition of lands and minerals under federal ownership. Hunting and fishing are permitted in components of the System under applicable federal and state laws. The area in which the proposed activity would occur is not designated as a wild or scenic river, nor is it on the National Inventory of Rivers potentially eligible for inclusion.

Executive Order No. 11988 of May 24, 1977: Floodplain Management

In compliance

Section 1 requires each agency to “provide leadership and...take action to reduce the risk of flood loss, to minimize the impact of floods on human safety, health and welfare, and to restore and preserve the natural and beneficial values served by floodplains in carrying out its responsibilities for (1) acquiring, managing, and disposing of Federal lands and facilities; (2) providing Federally undertaken, financed, or assisted construction and improvements; and (3) conducting Federal activities and programs affecting land use, including but not limited to water and related land resources planning, regulating, and licensing activities.” This project will not adversely affect the flood holding capacity or flood surface profiles of any stream.

Executive Order No. 11990 of May 24, 1977: Protection of Wetlands

In compliance

This Executive Order requires federal agencies to “take action to minimize the destruction, loss, or degradation of wetlands, and to preserve and enhance the natural and beneficial values of wetlands in carrying out the agency’s responsibilities for (1) acquiring, managing, and disposing of Federal lands and facilities; and (2) providing Federally undertaken, financed, or assisted construction and improvements; and (3) conducting Federal activities and programs affecting land use, including but not limited to water and related land resources planning, regulating, and licensing activities...Each agency, to the extent permitted by law, shall avoid undertaking or providing assistance for new construction located in wetlands unless the head of the agency finds (1) that there is no practicable alternative to such construction, and (2) that the proposed action includes all practicable measures to minimize harm to wetlands, which may result from such use. In making this finding the head of the agency may take into account economic, environmental and other pertinent factors. Each agency shall also provide opportunity for early public review of any plans or proposals for new construction in wetlands.” The Corps is cooperating with the USFWS to mitigate the wetland functions and values likely to be impacted by project development.

Executive Order No. 12692 of June 9, 1995: Recreational Fisheries*In compliance*

This Executive Order mandates that federal agencies, “to the extent permitted by law and where practicable, and in cooperation with States and Tribes, improve the quantity, function, sustainable productivity, and distribution of U.S. aquatic resources for increased recreational fishing opportunities by: (a) developing and encouraging partnerships between governments and the private sector to advance aquatic resource conservation and enhance recreational fishing opportunities; (b) identifying recreational fishing opportunities that are limited by water quality and habitat degradation and promoting restoration to support viable, healthy, and, where feasible, self-sustaining recreational fisheries; (c) fostering sound aquatic conservation and restoration endeavors to benefit recreational fisheries; (d) providing access to and promoting awareness of opportunities for public participation and enjoyment of U.S. recreational fishery resources;

(e) supporting outreach programs designed to stimulate angler participation in the conservation and restoration of aquatic systems; (f) implementing laws under their purview in a manner that will conserve, restore, and enhance aquatic systems that support recreational fisheries; (g) establishing cost-share programs, under existing authorities, that match or exceed Federal funds with nonfederal contributions; (h) evaluating the effects of Federally funded, permitted, or authorized actions on aquatic systems and recreational fisheries and document those effects relative to the purpose of this order; and (i) assisting private landowners to conserve and enhance aquatic resources on their lands.” The reservoir is stocked with sport fish and forage fish by CDOW to enable a quality fishery to be maintained. The proposed project is not anticipated to impact recreational fisheries within the reservoir.

Executive Order No. 12898 of February 11, 1994: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations*In compliance*

This Executive Order directs federal agencies to “make...achieving environmental justice part of its mission” and to identify and address “...disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority and low-income populations.” The project does not disproportionately impact minority or low-income populations.

Executive Order No. 13045 of April 23, 1997: Protection of Children from Environmental Health Risks and Safety Risks*In compliance*

This Executive Order states that “to the extent permitted by law and appropriate, and consistent with the agency’s mission, each Federal agency: (a) shall make it a high priority to identify and assess environmental health risks and safety risks that may disproportionately affect children; and (b) shall ensure that its policies, programs, activities, and standards address disproportionate risks to children that result from environmental health risks or safety risks.” The proposed recreational facilities development will be designed, operated, and maintained in a manner that meets all applicable safety requirements and ensures the safety of all visitors, including children. Supervision by lifeguards in the swim beach area will be provided during daylight hours.

Executive Order No. 13112 of February 3, 1999: Invasive Species*In compliance*

This Executive Order prevents “the introduction of invasive species and provide for their control and to minimize the economic, ecological, and human health impacts that invasive species cause.” This Executive Order directs federal agencies to not authorize, fund, or carry out actions that are likely to cause or promote the introduction or spread of invasive species. The project actions include measures to prevent the introduction and spread of invasive species.

Executive Order No. 13186 of January 10, 2001: Responsibilities of Federal Agencies to Protect Migratory Birds

In compliance

This Executive Order “directs executive departments and agencies to take certain actions to further implement the [Migratory Bird Treaty] Act...Each Federal agency taking actions that have, or are likely to have, a measurable negative effect on migratory bird populations is directed to develop and implement, within 2 years, a Memorandum of Understanding (MOU) with the Fish and Wildlife Service (Service) that shall promote the conservation of migratory bird populations.” The Corps is coordinating with the USFWS to mitigate the impacts to migratory bird habitats and restore ecological values and avian functions to the extent possible within the Corps project proximity.

Executive Order No. 13195 of January 18, 2001: Trails for America in the 21st Century

In compliance

This Executive Order requires Federal agencies, “to the extent permitted by law and where practicable—and in cooperation with Tribes, States, local governments, and interested citizen groups—protect, connect, promote, and assist trails of all types throughout the United States.” Paved and unpaved hiking and bicycle trails are sited throughout the Chatfield project and the total trail length will not be decreased by the proposed new recreational facilities.

Executive Order No. 13352 of August 26, 2004: Facilitation of Cooperative Conservation

In compliance

This Executive Order requires that the secretaries of the Interior, Agriculture, Commerce, and Defense and the Administrator of the EPA shall “carry out the programs, projects, and activities of the agency that they respectively head that implement laws relating to the environment and natural resources in a manner that: (a) facilitates cooperative conservation; (b) takes appropriate account of and respects the interests of persons with ownership or other legally recognized interests in land and other natural resources; (c) properly accommodates local participation in Federal decision making; and (d) provides that the programs, projects, and activities are consistent with protecting public health and safety.” The project is in accordance with this Executive Order because its design, operation, and siting incorporates conservation aspects and safety requirements and has considered the needs of neighboring landowners and input from public involvement.

Executive Order No. 13443 of August 20, 2007: Facilitation of Hunting Heritage and Wildlife Conservation

In compliance

This Executive Order requires federal agencies, consistent with each agency’s mission, to “(a) evaluate the effect of agency actions on trends in hunting participation and, where appropriate to address declining trends, implement actions that expand and enhance hunting opportunities for the public; (b) Consider the economic and recreational values of hunting in agency actions, as appropriate; (c) Manage wildlife and wildlife habitats on public lands in a manner that expands and

enhances hunting opportunities, including through the use of hunting in wildlife management planning; (d) Work collaboratively with State governments to manage and conserve game species and their habitats in a manner that respects private property rights and State management authority over wildlife resources; (e) Establish short and long term goals, in cooperation with State and tribal governments, and consistent with agency missions, to foster healthy and productive populations of game species and appropriate opportunities for the public to hunt those species; (f) Ensure that agency plans and actions consider programs and recommendations of comprehensive planning efforts such as State Wildlife Action Plans, the North American Waterfowl Management Plan, and other range-wide management plans for big game and upland game birds; (g) Seek the advice of State and tribal fish and wildlife agencies, and, as appropriate, consult with the Sporting Conservation Council and other organizations, with respect to the foregoing Federal activities.” Although hunting is prohibited on project lands, the proposed activity does not adversely impact conservation measures to enhance habitat for game species such as waterfowl.

Council on Environmental Quality (CEQ) Memorandum, August 10, 1980, Interagency Consultation to Avoid or Mitigate Adverse Effects on Rivers in the Nationwide Inventory
Not applicable

This memorandum states that each federal agency shall take care to avoid or mitigate adverse effects on rivers identified in the Nationwide Inventory. No portion of this project is listed on the Nationwide Rivers Inventory.

ATTACHMENTS

- Attachment 1 Correspondence between EPA and Corps
- Attachment 2 Correspondence between SHPO, Jefferson County Planning and Zoning Commission, and Corps
- Attachment 3 Letter from National Park Service to Colorado State Parks regarding the Land and Water Conservation Fund program
- Attachment 4 Letters from the Corps to Native American tribes

Attachment 1

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

1595 Wynkoop Street
DENVER, CO 80202-1129
Phone 800-227-8917
<http://www.epa.gov/region08>

Ref: 8EPR-EP

MAY 13 2009

Colonel David C. Press
Commander
U.S. Army Corps of Engineers, Omaha District
1616 Capitol Avenue
Omaha, NE 68102-4901

Dear Colonel Press:

The Environmental Protection Agency Region 8 (EPA) has reviewed the Preliminary Draft Environmental Impact Statement (PDEIS) and Feasibility Report for the Chatfield Storage Reallocation Project. We are writing to notify you of our overarching concerns regarding the scope of analysis for this project and the potential for significant environmental impacts from the proposed action, and to request a meeting to discuss EPA's concerns. EPA acknowledges the need to ensure adequate water supply storage for the project sponsors. However, EPA wants to ensure that the decision of selecting an appropriate storage solution is made consistent with the relevant laws and regulations. As you are well aware, Chatfield is a valuable environmental and recreational resource in close proximity to Denver. Therefore, it is in the public interest that the U.S. Army Corps of Engineers (Corps) carefully consider the anticipated adverse impacts to Chatfield and thoroughly evaluate the practicability of other alternatives, so that the alternative selection withstands close scrutiny. EPA is offering to work with the Corps to resolve these issues in order to allow the project to move forward.

This letter is intended to convey the overarching concerns of the EPA Wetlands program, in particular, in regard to the lack of a thorough Clean Water Act §404(b)(1) analysis. We expect the EPA National Environmental Policy Act (NEPA) program to provide a separate correspondence voicing their concerns regarding this PDEIS soon.

As you are aware, federal agencies must analyze the environmental impacts of certain actions as required by NEPA, §404 of the Clean Water Act (CWA) and its implementing regulations, as well as Executive Order 11990. Among other requirements, these authorities mandate that information pertaining to any projects affecting wetlands and waters of the United States must be thoroughly disclosed and evaluated, and the least environmentally damaging practicable alternative (LEDPA) must be selected.

As an initial matter, EPA is concerned that the analysis in the PDEIS considers the raising of water levels in the reservoir separately from the other associated actions, including the relocation of infrastructure. In the case of a civil works project like this one, EPA understands

the Corps is bound by all substantive requirements normally required of an individual permit applicant according to 40 CFR 230.2(a)(2); 33 CFR § 336.1(a); Army Corps of Engineers, *Planning Guidance Notebook*, App. C, C-6. These requirements include consideration of a single and complete project as well as compliance with the CWA §404(b)(1) Guidelines. In this instance, the raising of the water levels at Chatfield Reservoir and all actions that must be taken as a result of the higher water levels must be evaluated together as a single and complete project. EPA believes the Corps must consider the scope and impacts of the entire project when conducting the analysis required by the CWA §404(b)(1) Guidelines and in determining the LEDPA.

In addition, EPA is concerned the PDEIS inappropriately constrained the alternatives analysis given the identified purpose and need of the action, to increase availability of water in the greater Denver area. According to the PDEIS, alternatives were selected, designed and evaluated to determine the best and highest use of Chatfield Reservoir. Instead of analyzing all potential alternatives against the purpose and need of the project and implementing the requirements of NEPA, CWA § 404 and its implementing regulations and Executive Order 11990, the clear focus of the PDEIS is on the reallocation of storage space in Chatfield Reservoir. This analysis began with the assumption that "new storage space made available in an existing structure is without the costly and (presumably) more environmentally impacting action of constructing new storage facilities" (page 2-3 PDEIS). However, as shown in Chapter 2 of the PDEIS, the preferred alternative is potentially the most environmentally damaging alternative analyzed. EPA is concerned that the PDEIS does not adequately consider alternatives for increasing water supply that may be less environmentally damaging than the reallocation at Chatfield. The PDEIS provides much of the analysis required for a CWA §404(b)(1) analysis in its current form, however EPA does not believe that an adequate practicability analysis was done, which allowed alternatives to be discarded rather than fully considered and analyzed. EPA strongly recommends the alternatives analysis thoroughly address all appropriate alternatives for increasing water supply and adequately consider the practicability of each alternative.

Among the issues EPA has identified thus far regarding the environmental impacts of this project, the project as proposed in the PDEIS will potentially inundate approximately 587 acres of shoreline; including 81.8 acres of what EPA believes to be high quality wetlands. The project also impacts 75.3 acres of Prebles Mouse habitat, and 81.8 acres of bird habitat. The project would also inundate approximately 200 acres of mature, difficult to replace cottonwood galleries. Although the PDEIS states that these impacts will be mitigated for, and provides a conceptual plan which will only inundate these resources if mitigation can be found in advance of the impacts, EPA does not believe that adequate mitigation can be found in the affected watersheds.

In addition, EPA is concerned with the high probability of violating certain water quality standards for Chatfield Reservoir. The current water quality standards for chlorophyll *a* and phosphorus are predicated on the reservoir having no further assimilative capacity. According to the PDEIS, the project is predicted to cause a significant increase of nutrients due to what is termed the new lake effect. EPA also believes that the wetlands which will be inundated currently provide some nutrient uptake functions which will be lost, thereby increasing further

the nutrient load reaching the reservoir as a result of this project. The increase in phosphorus load will likely result in violations of the associated water quality standards.

We look forward to working closely with the Corps to resolve the issues raised by this letter. If you have any questions regarding this letter, please contact Brian Caruso of my staff at [REDACTED].

Sincerely,



Humberto L.Garcia Jr., Program Director
Ecosystems Protection Program

cc: Eric Laux, USACOE-Omaha
Tim Carey, USACOE-Denver





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

1595 Wynkoop Street
DENVER, CO 80202-1129
Phone 800-227-8917
<http://www.epa.gov/region08>

MAY 15 2009

Ref: EPR-N

Colonel David C. Press
Commander
U.S. Army Corps of Engineers, Omaha District
1616 Capitol Avenue
Omaha, NE 68102-4901

Re: EPA Comments on the Preliminary Draft
Environmental Impact Statement for
Chatfield Storage Reallocation Project

Dear Colonel Press,

The U.S. Environmental Protection Agency, Region 8 (EPA) has reviewed the U.S. Army Corps of Engineers' (Corps) Preliminary Draft Environmental Impact Statement (PDEIS) for the Chatfield Storage Reallocation (Chatfield) Project. EPA offers these comments in accordance with our responsibilities under Section 102(2)(C) of the National Environmental Policy Act (NEPA), 42 U.S.C. Section 4332(2)(C), and our authority pursuant to Section 309 of the Clean Air Act (CAA), 42 U.S.C. Section 7609, and Section 404 of the Clean Water Act (CWA), 33 U.S.C. 1344. The NEPA staff has worked closely with the Wetlands program and we concur with the overarching concerns raised in their letter (attached). Additionally, we offer the following, more detailed comments on the alternatives considered in the PDEIS. In order to best resolve these concerns, we would like to request a meeting with you and your staff as soon as possible.

Background

The Colorado Water Conservation Board (CWCB), a division of the State of Colorado's Department of National Resources, requested that the Corps consider reallocating space within Chatfield Reservoir for water supply purposes, on behalf of a group of 15 water users in the Denver metropolitan area. Some of the water users requesting the reallocation currently rely on non-tributary groundwater from the Denver Basin aquifer, which cannot be replenished with runoff water from rain or snow-melt. To decrease their dependence on nonrenewable aquifers, many

water users have secured rights to surface water in the South Platte River and Plum Creek. These sources are considered renewable, because they can be replenished with seasonal run-off from rain or snow-melt. However, because many of the water users' surface water rights are considered junior, they can only call on this supply when the rivers are high enough to accommodate senior rights first. If approved, a reallocation at Chatfield would store renewable surface water for storage and use during low-flow periods, thereby helping these regional water users meet demand for municipal and industrial needs in response to population growth in the region, and provide additional water supplies for agricultural and recreational uses.

Four alternatives were evaluated in the PDLIS, including the No Action Alternative. The proposed action, Alternative 3, would use Chatfield Reservoir to store renewable surface water from Plum Creek and the South Platte River for storage and use during low-flow periods. Under this alternative, storage from the flood control pool would be reallocated to the joint flood control-conservation pool. The elevation of the multipurpose/conservation pool would be raised 12 feet; from 5,432 mean sea level (msl) to 5,444 feet msl. The average annual yield under Alternative 3 is estimated at 8,539 acre-feet. However, the exact pool elevation of 5,444 feet msl would not be achieved every year due to fluctuations in the amount of runoff available on an annual basis; elevations would fluctuate up to 21 feet, creating water levels anywhere from 5,423 msl to 5,444 msl (page 4-24).

EPA understands that the planning process has been underway for several years, and that the project sponsors strongly support Alternative 3. Unfortunately, EPA was not involved in the development of this document, and it was not until February 2009 that we realized the project involved the discharge of dredged and fill material in waters of the U.S. and, therefore, triggered the substantive requirements of an individual 404 permit. EPA's review of the PDEIS has identified significant concerns with regard to the project's conformity with the CWA Section 404(b)(1) Guidelines, as well as impacts to water quality, wetlands and habitat for endangered species. EPA is also concerned with the lack of a detailed mitigation plan for offsetting these impacts. EPA believes these concerns, summarized below, must be addressed prior to moving forward with issuing the DEIS.

Clean Water Act Section 404 Issues

EPA believes the PDEIS does not provide sufficient information to establish compliance with the CWA Section 404(b)(1) Guidelines, 40 CFR Part 230 (Guidelines). Specifically, the PDEIS does not include a complete 404(b)(1) alternatives analysis and, based on the information in the document, EPA believes the Proposed Action is not the Least Environmentally Damaging Practicable Alternative (LEDPA). The Corps has indicated that it plans to provide a 404(b)(1) analysis for the relocation of the swim beach but does not intend to apply the 404(b)(1) analysis to other elements of the proposed action, including the relocation of infrastructure like recreational facilities and roads, which would also impact Waters of the U.S. However, EPA is concerned that the project is being improperly segmented, as all proposed relocation of infrastructure is a direct result of the proposed rising elevation of the reservoir for water storage. Therefore, EPA believes a (b)(1) alternatives analysis is needed that considers the entire proposed action as a single and complete project, in determining the LEDPA.

For purposes of both NEPA and Clean Water Act requirements, the analysis regarding the availability of less environmentally damaging practicable alternatives (40 CFR §230.10(a)) does not appear sufficient. EPA believes the PDEIS inappropriately constrained the alternatives analysis given that the purpose and need for action is identified as increasing availability of water in the greater Denver area. Council on Environmental Quality regulations require the EIS to examine all reasonable alternatives to the proposal (Section 1502.14). The PDEIS only rigorously explored and objectively evaluated the reallocation of storage space in Chatfield Reservoir. This alternative has significant environmental impacts, and EPA is concerned that the PDEIS does not adequately consider alternatives for increasing water supply that may be less environmentally damaging than the reallocation at Chatfield. This will be particularly important to the 404 program, as the 404 program outlined in a separate letter to you. EPA strongly recommends that all reasonable alternatives that are practicable and feasible from a technical and economic standpoint be considered in the DEIS.

Water Quality

EPA believes the PDEIS may not adequately address the project's potential to exacerbate existing water quality concerns in Chatfield Reservoir. The Chatfield Reservoir Clean Lakes Study identified potential water quality problems for Chatfield Reservoir because of increases in eutrophication caused by nutrient loading and other pollutants. At the same time a Total Maximum Annual Load was approved by the State for phosphorous, the Colorado Water Quality Control Division developed a target for chlorophyll-a (page 3-10). The PDEIS states that its water quality model predicts the Proposed Action would result in a long-term phosphorous concentration increase of 60 percent over the No Action alternative. The increased phosphorus load will likely result in violations of the associated water quality standards. Furthermore, E. coli concentrations are estimated to be highest under Alternative 3, which would have the greatest potential increase in shoreline areas. The PDEIS states that E. coli concentrations could increase by roughly 32 percent, which is an aesthetic and a human health concern for this recreational amenity. In addition, several segments of the South Platte River below Chatfield Reservoir are on the State's 303(d) list of impaired water bodies for E. coli. This project would likely increase loads of E. coli into these already impaired water bodies. EPA believes these are significant impacts, and the PDEIS must analyze these potential impacts fully and mitigate as much as possible.

Lack of Mitigation

The PDEIS states that the Proposed Action will potentially inundate approximately 587 acres of shoreline, including 81.8 acres of what EPA believes to be high quality wetlands. The project would also impact 75.3 acres of Prebles Mouse habitat and 81.8 acres of bird habitat, and inundate approximately 200 acres of mature, difficult-to-replace cottonwood galleries. The PDEIS states that these impacts will be mitigated, and the document provides a conceptual plan which states that they will only inundate these resources if mitigation can be found in advance of the impacts. While there appears to be an intention to replace the functions and values of those resources, EPA does not believe that adequate mitigation can be found in the affected watersheds. We are also concerned that the PDEIS does not address the feasibility of

implementing the proposed mitigation.

EPA appreciates the opportunity to comment at this stage of the planning process. We are committed to working with the Corps and other stakeholders to improve the analysis of potential impacts of this proposal as we coordinate to identify an alternative that satisfies the project purpose and ensures effective protection for human health and the environment. We look forward to scheduling a meeting with you to discuss our concerns at your earliest convenience. If we may provide further explanation of our concerns, please contact Melanie Wasco of my staff at [REDACTED]
[REDACTED], or me at [REDACTED] [REDACTED].

Sincerely,



Larry Svoboda
Director, NEPA Program

CC:

Tim Carey, U.S. Army Corps of Engineers
Eric Laix, U.S. Army Corps of Engineers





REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, OMAHA DISTRICT
1616 CAPITOL AVENUE
OMAHA NE 68102-4901

February 3, 2010

District Commander

Carol Campbell
Assistant Regional Administrator, Ecosystems Protection and Remediation
U.S. Environmental Protection Agency Region 8
1595 Wynkoop Street
Denver, Colorado 80202-1129

Dear Ms. Campbell:

The U.S. Army Corps of Engineers, Omaha District (Corps) has reviewed the concerns expressed in your agency's letters dated 13 May 2009 and 15 May 2009. We appreciate your review of our preliminary draft Feasibility Study and Environmental Impact Statement (preliminary FS/EIS). As our aim is to ensure open communication, the Corps has worked to regularly coordinate with its federal and non-federal partners, including the EPA, throughout the conduct of the Chatfield Reallocation Study. The subject letters sent by the EPA convey several concerns pertaining to the study. The key concerns are discussed below.

Clean Water Act Compliance

The EPA mentioned in their letters that the preliminary FS/EIS does not provide sufficient information to establish compliance with Clean Water Act (CWA) Section 404(b)(1) guidelines based on the fact that the document does not contain a complete 404(b)(1) analysis and the belief that the preliminary proposed action is not the Least Environmentally Damaging Practicable Alternative (LEDPA).

Because the document reviewed by the EPA is preliminary, not all analysis had yet been completed, including the 404(b)(1) evaluation. When the preliminary FS/EIS are completed and ready for public review, the document will demonstrate that the recommended plan is in compliance with Guidelines by ensuring a complete evaluation of the effects of the proposed discharge, as well as a thorough public review process.

While implementation of the CWA under the Regulatory program ensures compliance for proposed projects under its purview by applying the guidelines developed jointly between the EPA and the Corps (40 CFR 230), Civil Works proposed projects apply the Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies (P&G). While separate processes, it is our opinion that there is no overarching conflict in addressing water resource development projects through either approach; this opinion is based upon the flexibility of the language contained within the CWA regulations and additional guidance provided to Districts to insure prudent implementation of these programs.

One difference that exists in application of the Guidelines between the Civil Works process and that of the Regulatory process is the timing of when mitigation is considered in the project development process. Guidance for the Regulatory program is provided in a 6 February 1990 Memorandum of Agreement (MOA) between the EPA and the Department of the Army Concerning the Determination of Mitigation Under the Guidelines, i.e. the LEDPA. Mitigation is not to be considered in identifying the LEDPA, but is added to the LEDPA only after it has been identified. However, as stated in the purpose, "This MOA is specifically limited to the Section 404 Regulatory Program." In contrast, the Civil Works program must apply the P&G in the development of alternatives, and must consider appropriate mitigation as an integral component of each alternative plan.

With regard to practicability, the analysis must include alternatives "available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes." We believe application of the P&G methodology for this analysis provides a comprehensive approach in the determination of practicability.

Range of Alternatives

The EPA identified a concern that the preliminary FS/EIS inappropriately constrained the alternatives analysis given the purpose and need statement contained in the document. The statement of purpose and need is important in determining the range of alternatives to be evaluated in the preliminary FS/EIS. In the case of this study, the purpose and need is currently stated "to increase availability of water, sustainable over the 50-year period of analysis, in the greater Denver area so that a larger proportion of existing and future (increasing) water needs can be met." In this context, we believe the preliminary FS/EIS evaluates an adequate range of alternatives for meeting the stated purpose and need to which our agency is responding, and does not unnecessarily constrain the alternatives to reallocated storage within Chatfield. In identifying the purpose and need, the Corps was very deliberate in not focusing only on storage alternatives, as the underlying need is not storage, but water supply. In fact, components of the other alternatives being compared in detail include surface storage in sandpits, continued reliance on non-tributary groundwater, and the construction of a new surface storage. In addition, a broad range of other alternatives were also considered, but eliminated from further study.

It should be noted that any alternative evaluated in our study will only provide for a portion of the overall need in the Denver Metropolitan area. There will be many other water supply projects pursued in future years in order to meet growing water supply demand. In this light, it is very practical to closely consider taking advantage of the opportunities that Chatfield might provide in meeting part of this demand. These opportunities include, but are not limited to:
1) Chatfield is an existing facility; 2) Chatfield exists directly on the main tributary of the South Platte, ideally suited for capturing flows, and 3) Chatfield sits relatively high within the basin, allowing gravity flow delivery of water.

Sufficiency of Mitigation

As we mentioned above, the document reviewed by the EPA is preliminary and does not contain all of the components that the completed product will. One of the pieces not yet completed in the preliminary FS/EIS is the mitigation plan; however, we believe that sufficient mitigation is likely available to compensate for the ecological values impacted by the recommended plan. The Corps is working closely with the U.S. Fish and Wildlife Service, Colorado Department of Wildlife, and other stakeholders in this effort. It is worth noting that the current planning effort for mitigation is taking a systems approach, both looking to the effected watershed and considering existing regional conservation and recovery plans that have been developed by others to identify the most appropriate mitigation sites. In addition, rather than utilizing a basic unit of measure (such as acres), the mitigation plan will use an ecologically based unit to measure impacts, and demonstrate how those values will be replaced via plan implementation.

Water Quality

The EPA mentions that it does not believe the preliminary FS/EIS adequately address the project's potential to exacerbate existing water quality concerns in Chatfield Reservoir. Regarding the concern over phosphorus loading, a worst-case/best-case assessment was completed, using a detailed localized analysis. A range of hypolimnetic depths were considered in order to capture the range of all possible anaerobic conditions that might occur in Chatfield, since anoxic conditions lead to mobilization of constituents bound to reservoir sediments, particularly phosphorus. While the EPA's concerns appear to be focused on the scenarios where there is a significant increase in the hypolimnetic zone, there appears to be more evidence to accept the best-case scenario based on the fact that anoxia seems to be a rare phenomenon in Chatfield. Likewise, the *E. coli* analysis provides a worse case scenario, and likely oversimplifies the issue, and overestimates the potential increase that would truly be expected. The Corps plans to revise this analysis in order to more realistically explain the expected relationship of a reallocation with water quality.

Again, thank-you for taking time to review our preliminary FS/EIS. We look forward to working closely with you to resolve any issues you may have. In the spirit of cooperation, we would like to meet with you very soon to discuss these issues and our planned direction to complete this study. Eric Laux is the Chatfield Reallocation Study project manager and the main point of contact for the study. You may contact him directly at [REDACTED] if you have any questions or concerns. He will soon be in contact to discuss timing of such a meeting. I am also providing a copy of this letter to Humberto L. Garcia Jr. and Larry Svoboda from your agency.

Sincerely,



Robert J. Ruch
Colonel, Corps of Engineers
District Commander



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

1595 Wynkoop Street
DENVER, CO 80202-1129
Phone 800-227-8917
<http://www.epa.gov/region08>

MAY 18 2010

Ref: 8EPR-EP

Colonel Robert J. Ruch
District Commander
U.S. Army Corps of Engineers, Omaha District
1616 Capitol Avenue
Omaha, Nebraska 68102-4901

Re: Chatfield Reallocation Study

Dear Colonel Ruch:

Thank you for your February 3, 2010, letter regarding the Chatfield Reallocation Study. The Environmental Protection Agency (EPA) is committed to open communication with the U.S. Army Corps of Engineers (Corps) on the Chatfield Storage Reallocation project to ensure the long-term water needs of the Denver metropolitan area are addressed while protecting this valuable urban amenity. We understand the Feasibility Study/Draft Environmental Impact Statement (FS/DEIS) has not been finalized and are hopeful our concerns may be resolved prior to publication of the FS/DEIS. This letter applies to the Clean Water Act Section 404 issues as our NEPA review will be performed when the FS/DEIS is published.

One of the major issues facing the western United States is a projected shortage of potable water delivery reservoirs. As a result, my staff has recently reviewed several EIS documents for water supply projects, mainly in conjunction with the Corps' regulatory program. As you are aware, EPA and the Corps must review all water supply projects and ensure that regulations for environmental protection are consistently and properly applied.

The Chatfield Reservoir State Park (Chatfield) provides a broad array of uses ranging from traditional uses such as camping and boating to more distinctive uses such as scuba diving. The proximity to the Denver metropolitan area combined with the diversity of available activities makes it a very important resource in Colorado and deserving of protection. These resources, in an otherwise arid region of the western United States, are valuable to not only birds, fish and other wildlife but to the residents of the Denver area as well.

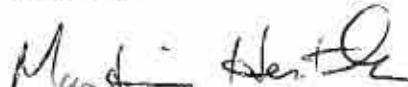
Compliance with applicable Clean Water Act (CWA) requirements for the Corps' civil works projects such as Chatfield must be ensured. The requirements include selection of the Least Environmentally Damaging Practicable Alternative (LEDPA) in accordance with the Clean Water Act (CWA) §404(b)(1) Guidelines (Guidelines). In your February 3, 2010, letter you indicate that rather than considering the Guidelines in Corps' civil works projects, the Corps applies the *Economic and Environmental Principles and Guidance for Water and Related Land*

Resources Implementation Studies (P&G). Consideration of the P&G does not preclude applicability of and compliance with the Clean Water Act requirements, including the Guidelines, to civil works projects. In particular, EPA notes the Corps' regulations at 33 C.F.R. § 335.2 state "the Corps does not issue itself a CWA permit to authorize Corps discharges of dredged material or fill material into U.S. waters, but does apply the 404(b)(1) guidelines and other substantive requirements of the CWA and other environmental laws."

In order to comply with the Guidelines, alternatives must be considered prior to mitigation to identify the LEDPA. The Guidelines require avoidance and minimization of adverse impacts and the selection of the LEDPA before applying compensatory mitigation for unavoidable impacts. This sequencing requirement was clarified in the February 6, 1990 *Memorandum of Agreement between the EPA and Department of Army Concerning the Determination of Mitigation Under the CWA Section 404(b)(1) Guidelines* (Mitigation MOA) and the *2008 Compensatory Mitigation for Losses of Aquatic Resources Final Rule*. According to the Corps *Mitigation MOA Q's and A's* and the *Memorandum for See Distribution, Subject: Section 404 Mitigation Memorandum of Agreement*, February 7, 1990, the Department of Army intended integration of this sequencing framework into all Corps activities including civil works projects. In addition, the sequencing requirement applicability to Corps civil works projects was affirmed in the recent *§404(c) EPA Final Determination regarding the Proposed Yazoo Backwater Area Pumps Project, Issaquena County, Mississippi*, which stated that "adverse environmental impacts associated with the proposed discharge of fill material to waters of the United States first be avoided to the maximum extent practicable and then minimized to the extent appropriate and practicable. For unavoidable impacts which remain, compensatory mitigation is required to offset wetland and other aquatic resource losses." (p. 60).

As we discussed in our May, 2009 letter, the Corps is required by regulation to analyze the alternatives to ensure the selection of the LEDPA. In order to assure compliance with the Guidelines, the alternatives must be reanalyzed to determine how each alternative avoids and minimizes impacts to waters of the United States independent of mitigation. We look forward to discussing these issues prior to the issuance of the FS/DEIS. If you have any questions, please contact Karen Reed, Wetlands and Tribal Unit Chief, at [REDACTED] or Brent Truskowski, Wetlands Team, at [REDACTED].

Sincerely,


Carol L. Campbell
Assistant Regional Administrator,
Office of Ecosystems Protection
and Remediation

CC: Martha Chieply, USACE, Omaha District
Tim Carey, USACE, Omaha District



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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1595 Wynkoop Street
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October 6, 2010

Ref: 8EPR-EP

Colonel Robert J. Ruch
District Commander
U.S. Army Corps of Engineers, Omaha District
1616 Capitol Avenue
Omaha, Nebraska 68102-4901

Dear Colonel Ruch:

I am writing regarding the preliminary draft Clean Water Act (CWA) §404(b)(1) Guidelines analysis for the Chatfield Reallocation Project provided for review to the Environmental Protection Agency (EPA) on September 7, 2010. We appreciate the U.S. Army Corps of Engineers (Corps) work with us on this project, and acknowledge your significant effort in preparing this analysis.

In the draft CWA §404(b)(1) analysis provided in September, the Corps proposed that reallocation of storage space will not require a discharge of dredge or fill material into waters of the U.S. Based upon our review of the specific facts for the Chatfield Reallocation Project, EPA is comfortable with the approach taken by the Corps in the preliminary draft CWA §404(b)(1) analysis.

We would like to continue our ongoing collaborative efforts to formulate alternative scenarios or other means to avoid and minimize the overall environmental impacts of the project. It will be necessary to develop a comprehensive and thorough Compensatory Mitigation Plan to address unavoidable impacts of the project. The details related to monitoring, mitigation and adaptive management will be critical parts of the document for public review.

I'd like to thank you and your staff for your work with EPA on this project, and I look forward to our continued efforts. Should you have any questions, please feel free to contact me at [REDACTED] or have your staff contact Jim Luey of my staff [REDACTED].

Sincerely,

Carol Rushin
Carol Rushin
Deputy Regional Administrator

Attachment 2



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, OMAHA DISTRICT
106 SOUTH 15TH STREET
OMAHA NE 68102-1618

RECEIVED

January 4, 2005

#4N74C
AJP

JAN 10 2005

Planning, Programs, and Project Management Division

CHS/OAHP

Mrs. Georgianna Contiguglia, President
State Historic Preservation Officer
1300 Broadway
Denver, Colorado 80203

Dear Mrs. Contiguglia:

To further identify significant issues related to reallocation of water storage at Chatfield Reservoir, the U.S. Army Corps of Engineers, Omaha District (Corps) would like to invite you or your designated representative(s) to an agency scoping meeting in late January or February 2005 in the Denver area.

Public scoping meetings for the Feasibility Report/Environmental Impact Statement for the reallocation of water storage at Chatfield Reservoir were held in Littleton and Greeley, Colorado, October 26 and 27, 2004. Written comments have been received from only a few Federal, state, and local government agencies to date, and they are summarized in the enclosure.

Ms. Sandy Rayl of the Corps' Colorado Service Office will coordinate with you, as well as representatives of other agencies, by phone regarding preferred dates, times, and locations for the agency scoping meeting. Afterwards, she will notify you by email and/or letter regarding the finalized meeting time and location. Please be thinking about who would likely be representing your agency to assist Ms. Rayl with the coordination effort.

Several of the written agency comments noted that environmental impacts would be expected and mitigation would be needed. Please consider whether your agency would prefer to have the environmental impacts and mitigation requirements expressed in terms of some type of habitat units. If your agency has a preference for a specific type of habitat analysis, your representative(s) should identify it at the agency scoping meeting.

The Corps eagerly anticipates the input your representative(s) will provide at the agency scoping meeting. If you have any questions, please contact Ms. Betty Peake at [REDACTED].

Sincerely,

Martin D. Timmerwilke
Project Manager

Enclosure

SUMMARY OF WRITTEN SCOPING COMMENTS, CHATFIELD REALLOCATION
FR/EIS – Elizabeth B. Peake, NEPA Coordinator, 12-15-04

FEDERAL AGENCIES:

National Park Service, Intermountain Support Office, 12795 West Alameda Parkway, PO Box 25287, Denver, CO 80225-0287:

The entire Chatfield State Park (SP) is under the protection of Section 6(f) of the Land and Water Conservation Fund Act (PL 88-578, as amended). "No property acquired or developed with assistance under this section shall, without the approval of the Secretary [of the Interior], be converted to other than public outdoor recreation uses." It was recommended that the Corps consult with the Colorado Division of Parks and Outdoor Recreation (DPOR).

10-29-04 Letter signed by Cheryl Eckhardt, NEPA/106 Specialist.

Natural Resources Conservation Service (NRCS), Assistant State Conservationist (Water Resources), 655 Pearl Street, Room E200C, Lakewood, CO 80215:

The change in storage would likely change reservoir operations, resulting in longer residence times, reservoir elevations that are higher and fluctuate more widely, and changes in timing of withdrawals. Recreation impacts would be expected, and Colorado State Parks would be expected to comment on this.

Existing riparian woody vegetation would suffer mortality from inundation. "The woody vegetation will re-establish at the new higher water line, but will create significant habitat and aesthetic impacts would be expected for several years." The increased fluctuation in water level would impact perennial vegetation and encourage weeds and wind erosion while inhibiting access for some recreators.

The highest storage alternative would result in a now-isolated pond becoming part of the lake, impacting its water quality and thus its suitability for scuba diving.

"The decrease in upland habitat will likely cause significant impacts to the wildlife species currently using the site." Wildlife agencies and groups would likely provide detailed comments on impacts to wildlife.

11-4-04 Letter signed by Frank Riggle, Assistant State Conservationist, Water Resources [REDACTED]

US Fish and Wildlife Service (USFWS), Ecological Services, Colorado Field Office, 755 Parfet Street, Suite 361, Lakewood, CO 80215:

The USFWS provided a list of federally listed T&E species known to occur in each county in Colorado, effective 8-16-04. If information regarding the presence of, habitat extent of, or effects of an action on, a particular species is needed, the Corps should contact a knowledgeable consultant.

On 11-10-03, the USFWS discussed potential effects of reallocation, especially regarding the Preble's meadow jumping mouse, with Corps and Tetra-Tech staff. Another meeting would be needed after alternatives and impacts were better defined. This meeting has not taken place yet. "Although much of the Service's input on this project will be through section 7 consultation, migratory birds, wetlands, and riparian habitats will also be issues of concern." USFWS recommends setting up another

meeting/conference call to discuss the above issues and need for a Planning Aid Report and/or Fish and Wildlife Coordination Act Report and the possibility of the USFWS becoming a cooperating agency on the EIS.

11-4-04 Letter signed by Susan C. Linner, Colorado Field Supervisor. POC is Pete Plage, [REDACTED].

STATE OF COLORADO:

Colorado Department of Natural Resources (CDNR), 1313 Sherman Street, Room 718, Denver, CO 80203, (303) 866-3311, & Colorado Water Conservation Board (CWCB):

The State believes it is feasible to reallocate up to 20,600 acre-feet for water storage and recommends that the Corps conduct an antecedent flood study to verify this rather than implement structural solutions. Colorado State House Joint Resolution 03-1017, in 2003, supported the reallocation. Several studies indicated that: recreational facilities could be relocated or adequately mitigated [under then-existing Corps regulations]; reallocation would meet existing water rights and meet new demands in most years; no cultural resources or T&E plants were found in the area to be inundated at 5444 feet msl; and the State will use water users allocation recommendations it expects to receive 12-31-04 to develop the reservoir operational plan.

10-25-04 Memo signed by Russell George, Executive Director, CDNR, and Rod Kuharich, Director, CWCB.

LOCAL GOVERNMENTS:

Douglas County, CO – Community Development Department, Planning Division, 100 Third Street, Suite 200, Castle Rock, CO 80104, (303) 660-7460:

Additional water storage would aid South Platte Basin and Douglas County water providers. Chatfield SP recreation quality and public availability should be maintained.

Colorado Department of Public Health and Environment Regulation 73 sets specific water quality (WQ) standards for Chatfield Reservoir, and these standards are used to set WQ requirements for point-source wastewater discharge permits and non-point WQ targets. The added water storage would change the concentration and retention of nutrients and other parameters that affect algae growth and the ability to meet basin-wide WQ standards. The EIS should consider the potential for changes to reservoir WQ and the ramifications on wastewater service providers. The Corps should also coordinate with the Chatfield Watershed Authority (CWA), the designated Section 208 WQ management agency for Chatfield Reservoir and associated reaches of the South Platte, which represents Douglas County and other governmental and private interests.

It is estimated that 200 acres of existing wetlands and riparian areas along the reservoir, Plum Creek, and the South Platte would be lost at the 5444 feet msl elevation alternative. Douglas County desires to be included in any discussions regarding replacement of these areas for three reasons. First, replacements could limit the amount of phosphorus entering the reservoir. Second, this would aid Douglas County, which would be managing limited development of Preble's meadow jumping mouse habitat in accordance with a Habitat Conservation Plan being submitted to USFWS. Finally, this would ensure good vegetative communities so that Chatfield SP can remain a habitat

conservation area; and the South Platte River and Plum Creek can remain wildlife corridors, as designated in the Douglas County Comprehensive Master Plan. As part of the mitigation for impacts to riparian habitat and wildlife corridors, Douglas County proposes a tree/shrub corridor on the south side of Chatfield SP, between Plum Creek and the South Platte, and has already coordinated this proposal with Chatfield SP, Colorado Division of Wildlife, the Denver Water Board, Lockheed Martin, and Shea Homes.

11-8-04 Letter signed by Andy Hough, Planning Resource Specialist, or Don Moore, Senior Planner.

Chatfield Watershed Authority (CWA), 1529 South Telluride Street, Aurora, CO 80017-4333:

The CWA is the WQ management agency for the Chatfield Watershed and is responsible under the Colorado Chatfield Reservoir Control Regulation #73 for WQ monitoring and reporting to the Colorado Water Quality Control Division and Commission, to assure point and nonpoint source WQ compliance. Any increase in the Chatfield Reservoir storage volume will affect the CWA's WQ management program, and a raise to or above 5437 feet msl would alter the current prediction models used to determine WQ compliance and could alter the approved total maximum daily load for the reservoir. CWA efforts help stabilize WQ in Chatfield Reservoir. A change in reservoir residence time caused by increased storage could trigger new eutrophication problems and, consequently, more restrictive nutrient criteria. WQ models relating to with-project conditions will need to evaluate a wide range of WQ parameters, be dynamic, and predict changes in WQ under different storage/residence allocations. CWA requests that the Corps and contractor(s) work closely with them in the WQ portion of the study.

10-27-04 Letter signed by Russell N. Clayschulte, CWA Manager, [REDACTED]

City of Denver, Denver Botanic Gardens (DBG), 909 York Street, Denver, CO 80206-3799:

It may be feasible to use the DBG at Chatfield as a site for mitigating vegetation and habitat impacts of the reallocation project. If so, DBG would like to work with the Corps to identify mitigation areas and activities that compliment DBG's existing and future plans for the site and how DBG might become stewards for these mitigation areas.

11-16-04 Letter signed by John Scully, CEO, [REDACTED]

NON-GOVERNMENTAL ORGANIZATIONS:

Colorado Trout Unlimited, 1320 Pearl Street, Suite 320, Boulder, CO 80302:

The EIS should detail how the potential reallocated storage would be used, the operational plan, and impacts of different scenarios.

The EIS should examine the impacts on fishery resources above, below, and within the Chatfield Reservoir. The following impacts should be included in the EIS: impacts of greater water level fluctuations on the reservoir fishery; effects of additional inundation of existing stream and riparian habitat; impacts on aquatic life of changes in flows above and below the reservoir; and impacts on the source basin of any trans-basin diversions to Chatfield Reservoir.

The no-action alternative should include off-channel storage, greater water conservation, and water re-use; not only enlarged and/or new reservoirs.

11-8-04 Email signed by David Nickum, Executive Director, [REDACTED]

Colorado Sail & Yacht Club (CS&YC), Littleton, CO:

On behalf of boat owners who store boats at Chatfield Marina, the CS&YC would like a longer period of water records used that would include the recent 5-year drought, not only the 1947-1991 period; and for recreation impacts, they were concerned about reservoir fluctuations from April through October, not just Memorial Day to Labor Day.

They prefer that fluctuation be minimized on a week-to-week basis, perhaps from balancing reservoir inflows and outflows. In any case they recommend that a website be made available where the general public can find out the current and projected Chatfield Reservoir levels to avoid the same fate as 3 owners of boats with keels stuck in the mud at the marina when levels fell to 5423 feet msl.

They welcome the larger lake surface area at 5444 feet msl but are concerned the trees killed by the inundation would become underwater hazards. They are also concerned that the marina building could be flooded after it is placed on land. They prefer that any excavation of material from the marina bed be done during the marina off-season. They would also like additional boat ramp lanes to be installed.

They wanted more information about which entities were responsible for paying facility relocation costs and other mitigation costs. Two of their members attended the 10-26-04 scoping meeting, and they desire 30 days' notice for the next public meeting.

11-10-04 Letter signed by Ross John Lowe, Commodore, [REDACTED]

GENERAL PUBLIC:

Jan and Dave Waddington, [REDACTED]:

Birdwatchers who were concerned about the effects of higher water elevations on vegetation and wildlife habitat. They prefer water conservation and leasing water rights from agriculture to the diminishing of needed flood storage and recreational resources.

11-1-04 Email signed by Jan Justice-Waddington, [REDACTED]

Copy furnished (with enclosure):

Ms. Sandy Rayl
Colorado Service Office
1600 Broadway, # 1070
Denver, Colorado 80202

Mr. Gary Drendel
Tetra Tech FW, Inc.
143 Union Blvd, Suite 1010
Lakewood, Colorado 80228

Mr. Brad Buckner, Park Manager
Chatfield State Park
11500 N. Roxborough Park Rd.
Littleton, Colorado 80125

Mr. Fred Rios
U.S. Army Corps of Engineers
Tri-Lakes Project Office
9307 South Wadsworth
Littleton, Colorado 80128-6901

June 30, 2005
TTDN-CHAT2/GEN-05-031(X)

Ms. Lovella Kennedy
Office of Archaeology and Historic Preservation
1300 Broadway
Denver, CO 80203

Subject: Chatfield Reservoir Storage Reallocation Project—Request for Data Search

Dear Ms. Kennedy:

I spoke with you on the phone earlier this morning regarding Tetra Tech's request for archaeological, cultural, and all other prehistoric and historic data (e.g., surveys, inventory, etc.), along the South Platte River (300 feet from the edge of the river during normal flow periods on each side), from the Denver Gaging Station to the Adams/Weld county line. As requested, listed below are the townships, ranges, and sections heading from south to north. A map is also attached.

T3S, R68W, Sections 28 (start at the Denver Gaging Station), 27, 23, 22, 14, 12, 1

T2S, R68W, Sections 36, 25

T2S, R67W, Sections 30, 20, 19, 17, 16, 9, 8, 4, 3

T1S, R67W, 35, 34, 26, 23, 14, 12, 11, 1

T1S, R66W, 6 (stop at the Adams and Weld county lines)

If you have any questions concerning this request, please contact me at [REDACTED] or via email [REDACTED]. Please send the information to my attention at the letterhead address. Thank you for your assistance with this request.

Sincerely,
Tetra Tech EC, Inc.

Shaun Brooks
Environmental Planner

SB:bl
Enclosure
cc: G. Drendel
Project File



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, OMAHA DISTRICT
106 SOUTH 15TH STREET
OMAHA NE 68102-1618

July 10, 2006

46527 CAPPIC
AJP

RECEIVED

JUL 13 2006

CHS/OAHP

Planning, Programs, and Project Management

Ms. Georgianna Contiguglia
State Historic Preservation Officer
Office of Archaeology and Historic Preservation
1300 Broadway
Denver, Colorado 80203

Dear Ms. Contiguglia:

The US Army Corps of Engineers, Omaha District (Corps) is conducting a feasibility study for the reallocation of storage at Chatfield Reservoir in Douglas and Jefferson Counties. The project was initially coordinated with your office by letter on December 12, 2005. At that time, the hydrologic study for the project had not been completed. The Corps has now completed this study and has determined the maximum storage increase needed, and downstream impacts for the project. This letter continues Section 106 coordination for the proposed project.

In the December 2005 letter, the Corps coordinated three possible pool raise alternatives with your office. The Corps also coordinated a 300-foot buffer along both sides of the South Platte River downstream from the dam to the Adams/Weld County line to ensure that any potential impacts were addressed. In a letter dated December 19, 2005 (CHS 46527), SHPO concurred with the Corps Area of Potential Effect (APE) recommendations and requested continued consultation as stipulated in 36 CFR 800.4(a).

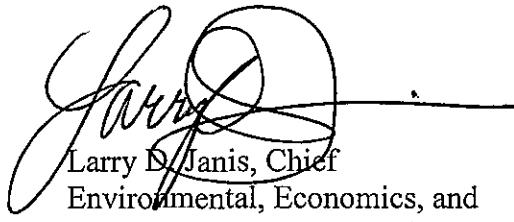
As mentioned, the Corps has now completed the flood hydrologic study for the project. The model shows that the Chatfield Reservoir would be raised 12 feet from a mean pool elevation of 5,432 feet above mean sea level (amsl) to a mean of 5,444 amsl. The APE will also include a 50-foot buffer around the lake to account for needed facility relocations. The new data also shows that flooding discharges downstream would be less than the current baseline conditions. The river stages resulting from these flows would also be reduced from the current baseline. Therefore, the impacts will not extend the 300 feet considered in the previous correspondence and will instead be limited to the existing river channel. The revised project map is attached for your review.

Given the results of the flood model, the Corps has revised it's determinations of the proposed reallocations APE. At this time, we request your concurrence that the APE for the Chatfield Reservoir now includes the reservoir changes as described above. Also, because the hydrologic study has found that the flooding discharges would not exceed the current baseline conditions, we also request your concurrence that the project will have no downstream impacts.

-2-

Thank you for your consideration on the matter. If you have any questions or need further information, please contact Mr. Timothy Meade, Corps Archeologist, at [REDACTED].

Sincerely,



Larry D. Janis, Chief
Environmental, Economics, and
Cultural Resources Section
Planning Branch

Enclosure

Copies Furnished:

Ms. Kim Scherschligt
Administrator to Historic Preservation Board
Douglas County
Historic Preservation Board
100 3rd Street, Suite 220
Castle Rock, Colorado 80104

Ms. Janet Bell
Long Range Planning Coordinator
Jefferson County
Historical Commission
Planning and Zoning Department
100 Jefferson County Parkway, Suite 3550
Golden, Colorado 80419

Andrea Mimnaugh
Historic Preservation Planner
City of Littleton
2255 W. Berry Ave.
Littleton, Colorado 80165

Robert Atkinson
Historic Preservation Staff
City of Denver
201 W. Colfax Ave. Dept 205
Denver, Colorado 80202

Sheryl Johnson
Senior Administrator Assistant
City of Brighton
22 S 4th Avenue
Brighton, Colorado 80601

Terrance Quinn
City of Northglenn
PO Box 330061
Northglenn, CO 80233

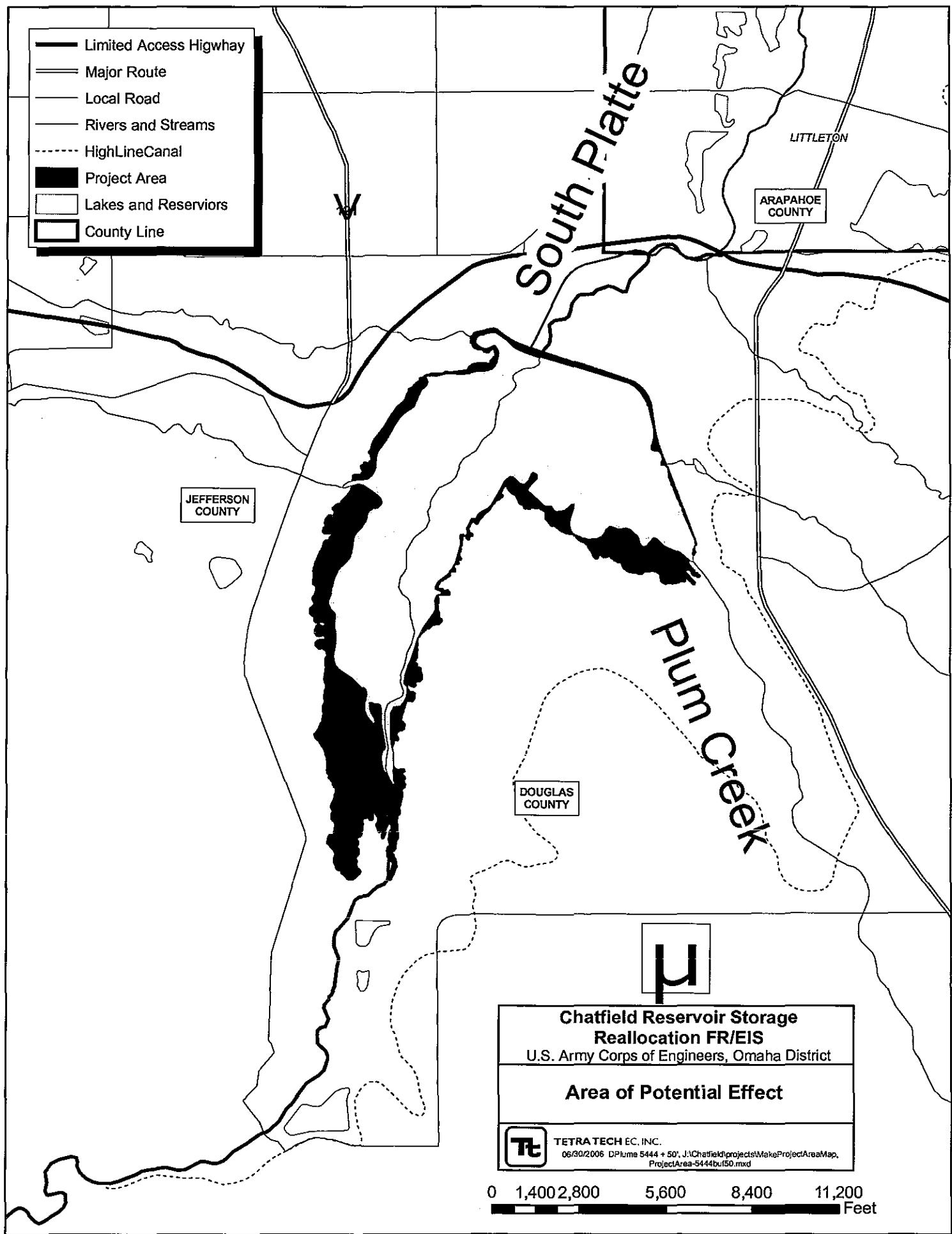
Steve Timms
Community Planning and Development Services
Commerce City
5291 E 60th Avenue
Commerce City, Colorado 80022

Karen Brogdon
Records Coordinator
City of Thornton
9500 Civic Center Drive
Thornton, Colorado 80229

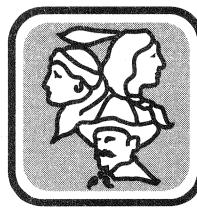
Clifford Muller
City of Sheridan
4101 S. Federal Blvd.
Sheridan, Colorado 80110-5399

Anthony Fruchtl
City Planner
City of Englewood
Englewood Civic Center
1000 Englewood Parkway
Englewood, Colorado 80110-2373

Shaun Brooks
Environmental Planner
Tetra Tech EC, Inc.
143 Union Blvd, Suite 1010
Lakewood, Colorado 80228



Deb



COLORADO
HISTORICAL
SOCIETY

The Colorado History Museum 1300 Broadway Denver, Colorado 80203-2137

July 24, 2006

Larry D. Janis
Environmental, Economics, and
Cultural Resources Section
Planning Branch
Corps of Engineers, Omaha District
106 South 15th Street
Omaha, NE 68102

Dear Mr. Janis,

Thank you for your correspondence dated July 10, 2006 and received by our office on July 13, 2006 regarding the above-mentioned project.

After review of the submitted information, we agree with the proposed Area of Potential Effects (APE) for the reallocation of storage at Chatfield Reservoir in Douglas and Jefferson counties.

We request being involved in the consultation process with the local government, which as stipulated in 36 CFR 800.3 is required to be notified of the undertaking, and with other consulting parties. Additional information provided by the local government or consulting parties might cause our office to re-evaluate our eligibility and potential effect findings.

Please note that our compliance letter does not end the 30-day review period provided to other consulting parties. If we may be of further assistance, please contact Amy Pallante, our Section 106 Compliance Coordinator, at [REDACTED].

Sincerely,

for *Mark Wolfe*
Georgianna Contiguglia
State Historic Preservation Officer

Timothy Meade/CORPS

Deb



Board of County Commissioners

Jim Congrove
District No. 1
J. Kevin McCasky
District No. 2
Dave Auburn
District No. 3

July 27, 2006

Ms. Georgianna Contiguglia
State Historic Preservation Officer
Office of Archaeology and Historic Preservation
1300 Broadway
Denver, Colorado 80203

Dear Ms. Contiguglia:

SUBJECT: SECTION 106 COORDINATION FOR CHATFIELD RESERVOIR'S AREA OF POTENTIAL EFFECT (APE)

This letter is in response to the US Army Corps of Engineers, Omaha District (Corps), feasibility study for the reallocation of water storage at Chatfield Reservoir in Jefferson County.

On behalf of the Jefferson County Historical Commission, I would like to thank you for the opportunity to review and comment on the proposed change in water storage to Chatfield Reservoir.

The Chatfield Reservoir area is included in both the South *Jefferson County Community Plan* and the *C-470 Corridor Plan*. There are no properties with historic significance noted on the Plan's historic location map inside or adjacent to the Corps designated Area of Potential Effect (APE). In addition, when cross-referencing with the County's Assessors records and the Unincorporated Jefferson County's Cultural Resource Survey, 1999 – 2002, there were no properties found within the potentially affected areas. This finding would also include the downstream portion of the South Platte River channel.

Please let me know if I could be of further assistance. You may call or email me at: [REDACTED]

Sincerely,

A handwritten signature in black ink that appears to read "Dennis Dempsey".

Dennis Dempsey

Planner / Historical Commission Liaison
Planning and Zoning Division
Jefferson County

C: Mr. Timothy Meade, Corps Archeologist



 OFFICE of ARCHAEOLOGY and HISTORIC PRESERVATION

December 13, 2007

John Palensky
CENWO-PM-C
U.S. Army Corps of Engineers
Omaha District
106 South 15th Street
Omaha, NE 68102

Re: Chatfield and Cherry Creek State Parks cultural resources inventories
(CHS #50911 and 50912)

Dear Mr. Palensky,

We have received two cultural resource inventory reports for the projects referenced above, supplied directly by 4G Consulting on November 19, 2007 (received by our office on November 26). Additional associated documentation was supplied by 4G Consulting on December 6 (received by our office on December 10).

After review of the information submitted, we have the following comments regarding the Chatfield State Park inventory report:

- The isolated find form for 5DA2355 was not provided. Please provide it to our office at your earliest convenience.
- Although the resources were not relocated (and in most cases are presumed destroyed), a re-evaluation form should be submitted for the following sites to document this effort and information: 5DA81, 5DA82, 5DA84, 5DA90, 5DA100, 5JF28, 5JF128, 5JF129, and 5JF135.
- The site map included with the site forms for 5JF258.4 does not show the entire extent of this segment of the resource as shown in Figure 3 of the report.
- Site form for 5JF716 notes “three low stone cairns at NE, SW, and SE corners of site” while site map indicates only two cairns, one at the north edge of the site and one near the center of the site.
- Because of limited ground surface visibility throughout the park and the possibility for buried deposits, the potential remains for undocumented cultural resources within the park which may be eligible for the NRHP.

We have the following comments regarding the Cherry Creek State Park inventory report:

- The report indicates isolated find 5AH2951 was incorporated into site 5AH2947 but the site map for 5AH2947 and the map in Figure 3 do not reflect this.

- Although the resources were not relocated (and in many cases are presumed destroyed), a re-evaluation form should be submitted for the following sites to document this effort and information: 5AH33, 5AH36, 5AH122, 5AH208, 5AH212, 5AH268, and 5AH1648.
- The site map included with the site forms for 5AH263.4 does not show the entire extent of this segment of the resource, as Figure 3 of the report indicates that it extends further to the south. The same applies for the site map for 5AH2954.
- The report recommends that the site is eligible for the National Register of Historic Places while the site form for 5AH2948 indicates additional information is needed to determine the eligibility of the site. It is our opinion that the site is eligible for the NRHP under Criterion D for its potential to provide significant information regarding the prehistory of the area.
- Because of limited ground surface visibility throughout the park and the possibility for buried deposits, the potential remains for undocumented cultural resources within the park which may be eligible for the NRHP.

Our office has noted these corrections to the reports and documents, so revised copies need not be sent to our office. Please make the appropriate corrections to any other existing copies of the documents and provide the requested re-evaluation forms and corrected maps at your earliest convenience.

The black and white photocopies of site photos submitted with the site forms for each inventory are not acceptable as they are not archivally stable and in some cases are illegible. Please submit chemically processed photographs or printed digital images (archival paper is strongly encouraged). For more information regarding acceptable photographic documentation please refer to pages 30-34 of our Survey Manual (available online at <http://www.coloradohistory-oahp.org/crforms/pdf/1527.pdf>).

It is our understanding that these inventories were not conducted “in response to any specific planned undertaking, but as a pro-active action to gather comprehensive information about the cultural resources of the parks”. It is important to note that any future undertaking within the parks that has Corps oversight or financial assistance, requires a review by the Corps, or requires a Corps permit still requires the Corps’ compliance with Section 106 of the National Historic Preservation Act. Consultation with our office must occur regarding the effect of such undertakings on historic properties (i.e. cultural resources eligible or potentially eligible for the NRHP). Please note that the Corps remains legally responsible for all required findings and determinations if the services of a consultant have been utilized for the purpose of obtaining recommendations regarding NRHP eligibility and project effect (36 CFR 800.2(a)(3)) or if an applicant for federal assistance has been authorized by the Corps to initiate consultation with the SHPO (36 CFR 800.2(c)(4)).

Based on the information provided, we agree with the recommendations of the consultants that the following resources are **not eligible** for the NRHP:

Sites 5DA81, 5DA82, 5DA84, 5DA90 through 5DA94, 5DA98 through 5DA101, 5DA105, 5DA106, 5DA226, 5DA1912, 5DA2335, 5DA2336, 5DA2338 through 5DA2340, 5JF28, 5JF128, 5JF129, 5JF135, 5JF4428, 5JF4432, 5JF4433, 5JF4435 through 5JF4439, plus isolated

finds 5DA2341 through 5DA2343, 5DA2345 through 5DA2352, 5DA2355, and 5JF4440 through 5JF4445 (Chatfield State Park); sites 5AH33, 5AH34, 5AH36, 5AH157, 5AH208, 5AH212, 5AH268, 5AH1648, 5AH2950, 5AH2954, 5AH2957, and 5AH2963 plus isolated finds 5AH2951, 5AH2952, 5AH2953, 5AH2955, 5AH2956, 5AH2958, 5AH2959, 5AH2961, and 5AH2962 (Cherry Creek State Park).

Similarly, we agree that the segment of the Denver Water System Conduit No. 1 (5DA2353.1), the segment of an unidentified irrigation ditch system (5DA2354.1), the segment of the old Platte Canyon Road (5JF4429.1), the segment of Denver Water System Conduit No. 7 (5JF4430.1), the segment of an unidentified irrigation ditch (5JF4431.1), and the segment of Denver Water System Conduit No. 2 (5JF4448.1) recorded within Chatfield State Park lack sufficient integrity to support the potential (i.e. unevaluated) eligibility of the greater linear resources of which they are a portion. We also agree that the segment of the Denver and New Orleans Railroad recorded within Cherry Creek State Park (5AH263.4) lacks sufficient integrity to support the potential eligibility of the railroad as a whole.

Likewise, we agree with the recommendations of the consultants that the following resources are **eligible** for the NRHP: sites 5DA128, 5DA2332, 5DA2333, 5DA2337, and 5JF716 (Chatfield State Park) plus sites 5AH2947, 5AH2948, 5AH2949, and 5AH2960 (Cherry Creek State Park).

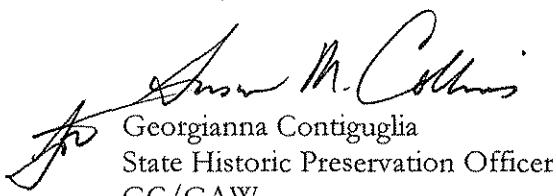
We also agree that the segment of the Platte Canyon Ditch (5JF258.4) recorded within Chatfield State Park retains sufficient integrity to support the potential eligibility of the ditch as a whole.

Additional information is necessary to determine the eligibility of sites 5DA2334, 5DA2337, and 5JF4434 (Chatfield State Park) plus 5AH121 and 5AH122 (Cherry Creek State Park).

Should unidentified archaeological resources be discovered during the course of future undertakings, such activities must be interrupted until the resources have been evaluated in terms of the National Register of Historic Places eligibility criteria (36 CFR 60.4) in consultation with our office. Such discoveries may necessitate re-evaluation of sites previously determined not eligible for the NRHP.

If we may be of further assistance, please contact Greg Wolff, Section 106 Compliance Coordinator, at [REDACTED]

Sincerely,



Georgianna Contiguglia
State Historic Preservation Officer
GC/GAW

CC: Peg Boden, 4G Consulting
Marilyn Martorano, RMC Consultants



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, OMAHA DISTRICT
106 SOUTH 15TH STREET
OMAHA NE 68102-1618

44740

4CP

Other no.
46527

29 February 2008

Planning, Programs, and Project Management Division

Georgianna Contiguglia, State Historic Preservation Officer
President, Colorado Historical Society
Colorado History Museum
1300 Broadway
Denver, Colorado 80203-2137

RECEIVED

MAR 07 2008

CHS/OAHP

Dear Ms. Contiguglia:

The U.S. Army Corps of Engineers (Corps), Omaha District is conducting a feasibility study for the reallocation of storage at Chatfield Reservoir in Douglas and Jefferson counties. The project was initially coordinated with your office by letter on December 12, 2005 and later revised on July 10, 2006 once the hydrologic study for the project was completed, which determined the maximum storage increase needed and downstream impacts for the project. Since that time, the project alternatives have further expanded. This letter details those changes and continues Section 106 coordination for the proposed project.

In the December 2005 letter, the Corps coordinated three possible pool raise alternatives with your office. The Corps also coordinated a 30-foot buffer along both sides of the South Platte River downstream from the dam to the Adams/Weld County line to ensure that any potential impacts were addressed. In a letter dated December 19, 2005 (CHS 46527), the State Historic Preservation Office (SHPO) concurred with the Corps Area of Potential Effect (APE) recommendations and requested continued consultation as stipulated in 36 CFR 800.4(a).

In the July 2006 letter, the Corps coordinated the exclusion of the 300-foot buffer along both sides of the South Platte River downstream from the dam to the Adams/Weld County line, as well as the inclusion of a 50-foot buffer around the lake to account for needed facility relocations. This APE was changed after the Corps completed the flood hydrologic study for the project, which showed that flooding discharges downstream would be less than the current baseline conditions and therefore, the impacts will not extend the 300 feet considered in the previous correspondence and will instead be limited to the existing river channel. In a letter dated July 24, 2006, SHPO concurred with the Corps APE recommendations and requested continued consultation as stipulated in 36 CFR 800.3.

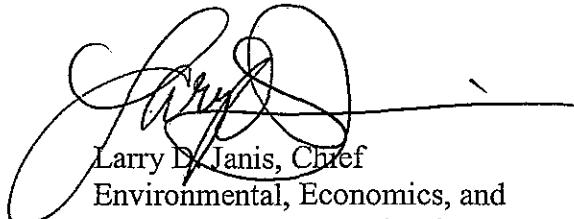
The additions to the alternatives include four gravel pits on the South Platte River downstream of Chatfield and a proposed reservoir and infrastructure (e.g., pump stations, pipelines) south of Chatfield (as shown in the attached figure). The APE will include a 50-foot buffer around Chatfield Lake to account for needed facility relocations (as stated previously) and will also include a new 50-foot buffer around all pipeline construction and proposed construction locations of pump stations. Additionally, the APE will include a 50-foot buffer around the gravel pits and proposed reservoir. No downstream impacts are anticipated because data show

that flooding discharges downstream will be the same or less than the current baseline conditions. The river stages resulting from these flows will also be reduced from the current baseline. The revised project map is enclosed for your review.

Given the addition of the features indicated above, the Corps has revised its determination of the proposed project APE. At this time, we request your concurrence that the APE for the Chatfield Reservoir now includes the changes as described above.

Thank you for your consideration on the matter. If you have any questions or need further information, please contact me at [REDACTED] or Mr. Timothy Meade, Corps Archeologist, at [REDACTED].

Sincerely,



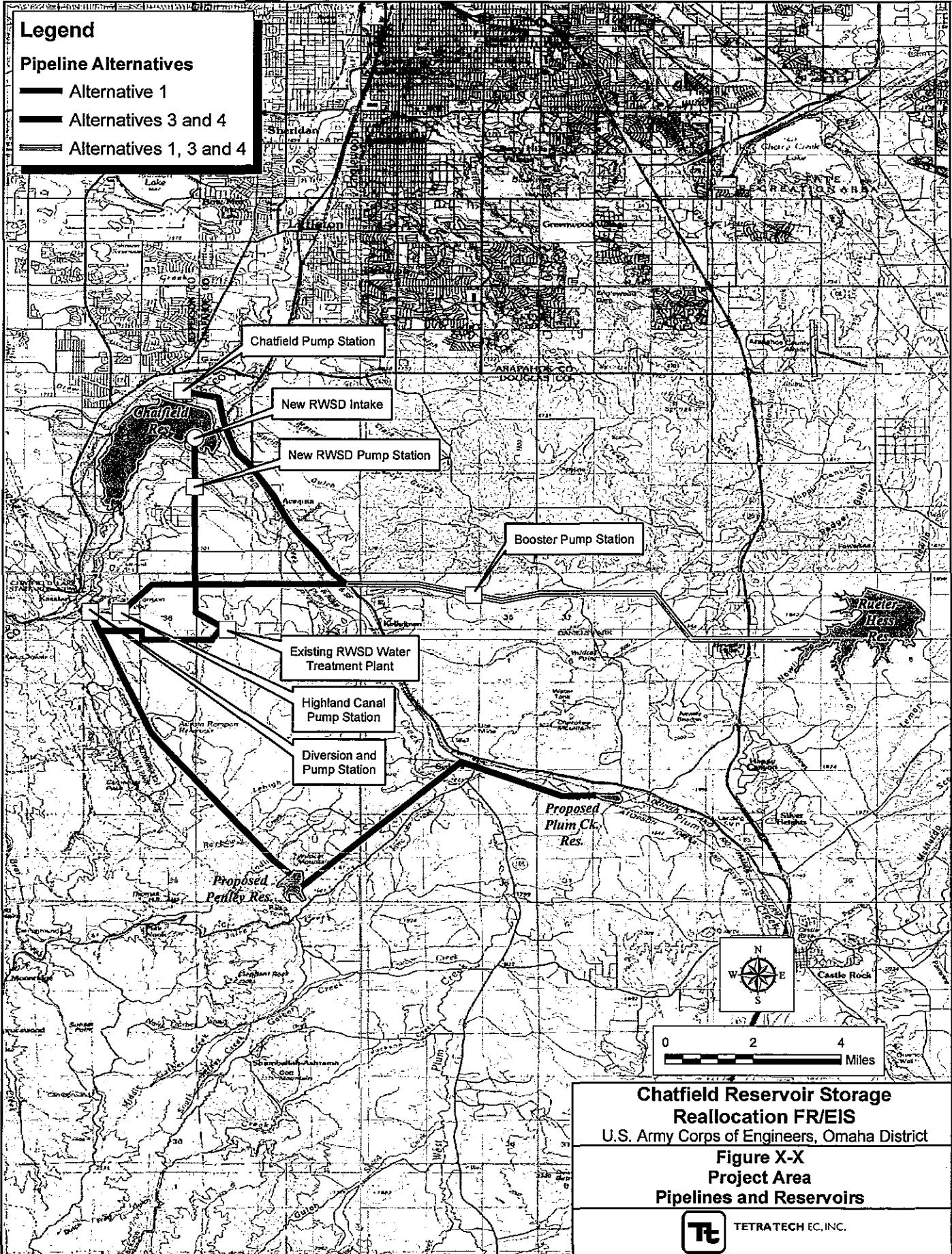
Larry D. Janis, Chief
Environmental, Economics, and
Cultural Resources Section
Planning Branch

Enclosure

Copy Furnished:

Ms. Kim Scherschligt
Administrator to Historic Preservation Board
Douglas County
Historic Preservation Board
100 3rd Street, Suite 220
Castle Rock, Colorado 80104

Ms. Janet Bell
Long Range Planning Coordinator
Jefferson County
Historical Commission
Planning and Zoning Department
100 Jefferson County Parkway, Suite 3550
Golden, Colorado 80419



 OFFICE of ARCHAEOLOGY and HISTORIC PRESERVATION

March 20, 2008

Larry D. Janis
Environmental, Economics, and
Cultural Resources Section
Planning Branch
Corps of Engineers, Omaha District
106 South 15th Street
Omaha, NE 68102

Re: Feasibility Study for the Reallocation of Storage at Chatfield Reservoir, Jefferson and Douglas Counties. (CHS #46527)

Dear Mr. Janis:

Thank you for your correspondence dated June 27, 2007 and received by our office on July 2, 2007 regarding the review of the above-mentioned project under Section 106 of the National Historic Preservation Act (Section 106).

After review of the submitted information, we agree with the proposed changes to the Area of Potential Effects (APE) for the proposed undertaking. We request being involved in the consultation process with the local government, which as stipulated in 36 CFR 800.3 is required to be notified of the undertaking, and with other consulting parties. Additional information provided by the local government or consulting parties might cause our office to re-evaluate our eligibility and potential effect findings.

Please note that our compliance letter does not end the 30-day review period provided to other consulting parties. If we may be of further assistance, please contact Amy Pallante, our Section 106 Compliance Coordinator, at [REDACTED].

Sincerely,

for *Mark Wolfe*
Georgianna Contiguglia
State Historic Preservation Officer

Timothy Meade/CORPS

duVall, Shina

From: Barnum, Sandra V NWO [REDACTED]
Sent: Monday, April 13, 2009 6:16 AM
To: duVall, Shina
Subject: RE: Chatfield Reallocation follow up

Hi Shina,

Hope you had a nice holiday weekend! Thanks very much for sending the correspondence files for Chatfield- I didn't have the last letters in my file (perhaps because that when we began our agenc move to our new building- Grrrrr!). The Class III report you have is indeed the same one I was referencing, so we are both on the same page there.

It looks to me that we (COE) need to a) ask for concurrence on eligibility determinations for a number of sites based upon the report, and b) consult upon a revised APE- it appears at least one of the 4 proposed borrow areas is outside of the current APE (I'll know better when I can see more detailed maps).

The project manager for this action is travelling today and tomorrow, but I will bring him up to speed on Wednesday.

Thanks again,
Sandy

Sandra V. Barnum
Archeologist
U.S. Army Corps of Engineers
Omaha District
1616 Capitol Avenue
Omaha, NE 68102-4901

[REDACTED]

-----Original Message-----

From: duVall, Shina [REDACTED]
Sent: Sunday, April 12, 2009 3:34 PM
To: Barnum, Sandra V NWO
Subject: Chatfield Reallocation follow up

Hi Sandy,

I am glad that we were finally able to talk on Friday. I have attached the correspondence that I have on the subject project. Also, I could not find a report by 4G Consulting regarding the Class III inventory that was conducted at Chatfield, but we do have the following report. Could this have been the one conducted for the subject project?

Class III Cultural Resource Survey of Chatfield State Park, Arapahoe, Douglas, and Jefferson Counties, Colorado, RMC Consultants, Inc. for the Army Corps of Engineers, December 1, 2007, Authors: Steven Dominguez, Michelle Slaughter, and Judy King.

I look forward to taking a look at the revised APE when it comes in, and to working with you on this project!

Best regards,
Shina

<<Chatfield Realloc Correspondence copy.pdf>> Shina duVall, RPA Section 106 Compliance Manager Office of Archaeology and Historic Preservation 1300 Broadway Denver, CO 80203
Phone: [REDACTED]
Fax: [REDACTED]
www.coloradohistory-oahp.org <<http://www.coloradohistory-oahp.org>>

Attachment 3



United States Department of the Interior



National Park Service

Midwest Region

601 Riverfront Drive

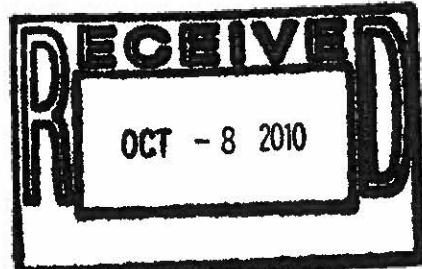
Omaha, Nebraska 68102-4226

04 OCT 2010

08-00741(MWR-P/G)

08-00715;08-00512

Mr. Gary Thorson
Deputy Director
Colorado Division of Parks and Outdoor Recreation
1313 Sherman Street, Room 618
Denver, Colorado 80203



Dear Mr. Thorson:

This is in response to your August 31 letter requesting a determination as to whether or not the proposed Chatfield Reservoir Storage Reallocation Project (Reallocation Project) within Chatfield State Park constitutes a section 6(f) (3) conversion under the Land and Water Conservation Fund (L&WCF) program. This park was improved with assistance from the L&WCF program under grants 08-00512, 08-00715, and 08-00741. In our opinion, it does not constitute a section 6(f)(3) conversion.

The original project scope for grant 08-00512 states in part: "The Colorado Division of Parks and Recreation will acquire water rights and adjudicated use therefore to maintain a minimum pool for outdoor recreation use by the general public at Chatfield Lake..." We do not believe that raising the surface water table from 5,426.94' to 5,444' will negatively impact the scope for grant 08-00512 or for grants 08-00715 and 08-00741. Rather, the proposed Reallocation Project could potentially promote additional outdoor recreational use within Chatfield State Park.

In summary, based upon our understanding of the Reallocation Project in relationship to the three L&WCF grants at Chatfield State Park, we concur with your analysis that this proposal will not result in a section 6(f)(3) conversion.

Please feel free to contact me at [REDACTED], or Carol Edmondson at [REDACTED], with any future questions or concerns related to this matter.

Sincerely,

Dennis B. Burmeister
Outdoor Recreational Planner

Attachment 4



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, OMAHA DISTRICT
106 SOUTH 15TH STREET
OMAHA NE 68102-1618

October 13, 2005

Planning, Programs, and Project Management Division

[REDACTED]; Chairman
Cheyenne River Sioux Tribe
[REDACTED]

Dear Chairman Frazier:

The U.S. Army Corps of Engineers, Omaha District (Corps) is conducting a feasibility study for the reallocation of storage at Chatfield Reservoir in Douglas County. The reallocation would provide local users for municipal, industrial, agricultural, recreational, and fishery uses in response to population growth in the area. The project would be undertaken with Federal funding. This letter initiates Section 106 consultation for the project.

The Corps is considering three alternatives that would increase the pool elevation of the reservoir from its current level of 5432 feet mean sea level (m.s.l.). The first alternative would raise the pool elevation to 5434 feet m.s.l., providing 2900 acre-feet of storage. The second alternative would raise the pool elevation to 5437 feet m.s.l. and would provide 7700 acre-feet storage. The third alternative would raise the pool to 5444 feet m.s.l. and would provide 20,600 acre-feet of storage. For the project, the Corps is examining an area that extends 300 feet around the South Platte River from the reservoir to the Adams/Weld County line. Further information on the project is included in the attached feasibility report/environmental impact statement scoping notice.

At this time, the Corps requests comment from your Tribe on the proposed alternatives and any future necessary studies. If you have any questions or have need of further information, please contact Mr. Timothy Meade, Corps Archeologist, at [REDACTED].

Sincerely,

Candace M. Gorton, Chief
Environmental, Economics, and
Cultural Resources Section
Planning Branch

Enclosure



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, OMAHA DISTRICT
106 SOUTH 15TH STREET
OMAHA NE 68102-1618

October 13, 2005

Planning, Programs, and Project Management Division

Tribal Historic Preservation Officer
Cheyenne River Sioux Tribe
[REDACTED]

Dear [REDACTED]:

The U.S. Army Corps of Engineers, Omaha District (Corps) is conducting a feasibility study for the reallocation of storage at Chatfield Reservoir in Douglas County. The reallocation would provide local users for municipal, industrial, agricultural, recreational, and fishery uses in response to population growth in the area. The project would be undertaken with Federal funding. This letter initiates Section 106 consultation for the project.

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Sincerely,

Candace M. Gorton, Chief
Environmental, Economics, and
Cultural Resources Section
Planning Branch

Enclosure



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, OMAHA DISTRICT
106 SOUTH 15TH STREET
OMAHA NE 68102-1618

October 13, 2005

Planning, Programs, and Project Management Division

[REDACTED] Interim Chairman
Cheyenne-Arapaho Tribes of Oklahoma
[REDACTED]
[REDACTED]

Dear Chairman [REDACTED]

The U.S. Army Corps of Engineers, Omaha District (Corps) is conducting a feasibility study for the reallocation of storage at Chatfield Reservoir in Douglas County. The reallocation would provide local users for municipal, industrial, agricultural, recreational, and fishery uses in response to population growth in the area. The project would be undertaken with Federal funding. This letter initiates Section 106 consultation for the project.

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At this time, the Corps requests comment from your Tribe on the proposed alternatives and any future necessary studies. If you have any questions or have need of further information, please contact Mr. Timothy Meade, Corps Archeologist, at [REDACTED].

Sincerely,

Candace M. Gorton, Chief
Environmental, Economics, and
Cultural Resources Section
Planning Branch

Enclosure



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, OMAHA DISTRICT
106 SOUTH 15TH STREET
OMAHA NE 68102-1618

October 13, 2005

Planning, Programs, and Project Management Division

[REDACTED], Chairman
Comanche Nation
[REDACTED]
[REDACTED]

Dear Chairman [REDACTED]:

The U.S. Army Corps of Engineers, Omaha District (Corps) is conducting a feasibility study for the reallocation of storage at Chatfield Reservoir in Douglas County. The reallocation would provide local users for municipal, industrial, agricultural, recreational, and fishery uses in response to population growth in the area. The project would be undertaken with Federal funding. This letter initiates Section 106 consultation for the project.

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At this time, the Corps requests comment from your Tribe on the proposed alternatives and any future necessary studies. If you have any questions or have need of further information, please contact Mr. Timothy Meade, Corps Archeologist, at [REDACTED].

Sincerely,

Candace M. Gorton, Chief
Environmental, Economics, and
Cultural Resources Section
Planning Branch

Enclosure



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, OMAHA DISTRICT
106 SOUTH 15TH STREET
OMAHA NE 68102-1618

October 13, 2005

Planning, Programs, and Project Management Division

[REDACTED], Chairman
Eastern Shoshone Tribe
[REDACTED]
[REDACTED]

Dear Chairman [REDACTED]:

The U.S. Army Corps of Engineers, Omaha District (Corps) is conducting a feasibility study for the reallocation of storage at Chatfield Reservoir in Douglas County. The reallocation would provide local users for municipal, industrial, agricultural, recreational, and fishery uses in response to population growth in the area. The project would be undertaken with Federal funding. This letter initiates Section 106 consultation for the project.

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At this time, the Corps requests comment from your Tribe on the proposed alternatives and any future necessary studies. If you have any questions or have need of further information, please contact Mr. Timothy Meade, Corps Archeologist, at [REDACTED].

Sincerely,

Candace M. Gorton, Chief
Environmental, Economics, and
Cultural Resources Section
Planning Branch

Enclosure



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, OMAHA DISTRICT
106 SOUTH 15TH STREET
OMAHA NE 68102-1618

October 13, 2005

Planning, Programs, and Project Management Division

[REDACTED], Chairman
Kiowa Indian Tribe of Oklahoma
[REDACTED]
[REDACTED]

Dear Chairman [REDACTED]:

The U.S. Army Corps of Engineers, Omaha District (Corps) is conducting a feasibility study for the reallocation of storage at Chatfield Reservoir in Douglas County. The reallocation would provide local users for municipal, industrial, agricultural, recreational, and fishery uses in response to population growth in the area. The project would be undertaken with Federal funding. This letter initiates Section 106 consultation for the project.

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At this time, the Corps requests comment from your Tribe on the proposed alternatives and any future necessary studies. If you have any questions or have need of further information, please contact Mr. Timothy Meade, Corps Archeologist, at [REDACTED].

Sincerely,

Candace M. Gorton, Chief
Environmental, Economics, and
Cultural Resources Section
Planning Branch

Enclosure



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, OMAHA DISTRICT
106 SOUTH 15TH STREET
OMAHA NE 68102-1618

October 13, 2005

Planning, Programs, and Project Management Division

[REDACTED], Chairman
Lower Brule Sioux Tribe
[REDACTED]

Dear Chairman [REDACTED]:

The U.S. Army Corps of Engineers, Omaha District (Corps) is conducting a feasibility study for the reallocation of storage at Chatfield Reservoir in Douglas County. The reallocation would provide local users for municipal, industrial, agricultural, recreational, and fishery uses in response to population growth in the area. The project would be undertaken with Federal funding. This letter initiates Section 106 consultation for the project.

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At this time, the Corps requests comment from your Tribe on the proposed alternatives and any future necessary studies. If you have any questions or have need of further information, please contact Mr. Timothy Meade, Corps Archeologist, at [REDACTED].

Sincerely,

Candace Gorton

Candace M. Gorton, Chief
Environmental, Economics, and
Cultural Resources Section
Planning Branch

Enclosure



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, OMAHA DISTRICT
106 SOUTH 15TH STREET
OMAHA NE 68102-1618

October 13, 2005

Planning, Programs, and Project Management Division

[REDACTED], Chairman
Northern Arapaho Tribe
[REDACTED]
[REDACTED]

Dear Chairman Brannan:

The U.S. Army Corps of Engineers, Omaha District (Corps) is conducting a feasibility study for the reallocation of storage at Chatfield Reservoir in Douglas County. The reallocation would provide local users for municipal, industrial, agricultural, recreational, and fishery uses in response to population growth in the area. The project would be undertaken with Federal funding. This letter initiates Section 106 consultation for the project.

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Sincerely,

Candace Gorton

Candace M. Gorton, Chief
Environmental, Economics, and
Cultural Resources Section
Planning Branch

Enclosure



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, OMAHA DISTRICT
106 SOUTH 15TH STREET
OMAHA NE 68102-1618

October 13, 2005

Planning, Programs, and Project Management Division

[REDACTED], President
Northern Cheyenne Tribal Council
[REDACTED]
[REDACTED]

Dear Mr. [REDACTED]:

The U.S. Army Corps of Engineers, Omaha District (Corps) is conducting a feasibility study for the reallocation of storage at Chatfield Reservoir in Douglas County. The reallocation would provide local users for municipal, industrial, agricultural, recreational, and fishery uses in response to population growth in the area. The project would be undertaken with Federal funding. This letter initiates Section 106 consultation for the project.

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Sincerely,

Candace Gorton

Candace M. Gorton, Chief
Environmental, Economics, and
Cultural Resources Section
Planning Branch

Enclosure



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, OMAHA DISTRICT
106 SOUTH 15TH STREET
OMAHA NE 68102-1618

October 13, 2005

Planning, Programs, and Project Management Division

Tribal Historic Preservation Officer
Northern Cheyenne Tribe
[redacted]
[redacted]

Dear Mr. [redacted]:

The U.S. Army Corps of Engineers, Omaha District (Corps) is conducting a feasibility study for the reallocation of storage at Chatfield Reservoir in Douglas County. The reallocation would provide local users for municipal, industrial, agricultural, recreational, and fishery uses in response to population growth in the area. The project would be undertaken with Federal funding. This letter initiates Section 106 consultation for the project.

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Sincerely,

Candace M. Gorton, Chief
Environmental, Economics, and
Cultural Resources Section
Planning Branch

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REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, OMAHA DISTRICT
106 SOUTH 15TH STREET
OMAHA NE 68102-1618

October 13, 2005

Planning, Programs, and Project Management Division

[REDACTED], Director
Environmental Affairs
Northern Cheyenne Tribe
[REDACTED]
[REDACTED]

Dear Mr. [REDACTED]:

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Sincerely,

Candace M. Gorton, Chief
Environmental, Economics, and
Cultural Resources Section
Planning Branch

Enclosure



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, OMAHA DISTRICT
106 SOUTH 15TH STREET
OMAHA NE 68102-1618

October 13, 2005

Planning, Programs, and Project Management Division

[REDACTED], Chairman
Northern Ute Tribe
[REDACTED]
[REDACTED]

Dear Chairman [REDACTED]:

The U.S. Army Corps of Engineers, Omaha District (Corps) is conducting a feasibility study for the reallocation of storage at Chatfield Reservoir in Douglas County. The reallocation would provide local users for municipal, industrial, agricultural, recreational, and fishery uses in response to population growth in the area. The project would be undertaken with Federal funding. This letter initiates Section 106 consultation for the project.

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Sincerely,

Candace Gorton

Candace M. Gorton, Chief
Environmental, Economics, and
Cultural Resources Section
Planning Branch

Enclosure



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, OMAHA DISTRICT
106 SOUTH 15TH STREET
OMAHA NE 68102-1618

October 13, 2005

Planning, Programs, and Project Management Division

[REDACTED], President
Oglala Sioux Tribe
[REDACTED]
[REDACTED]

Dear Ms. [REDACTED]:

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Sincerely,

Candace Gorton

Candace M. Gorton, Chief
Environmental, Economics, and
Cultural Resources Section
Planning Branch

Enclosure



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, OMAHA DISTRICT
106 SOUTH 15TH STREET
OMAHA NE 68102-1618

October 13, 2005

Planning, Programs, and Project Management Division

[REDACTED], President
Rosebud Sioux Tribe
[REDACTED]
[REDACTED]

Dear Mr. [REDACTED]

The U.S. Army Corps of Engineers, Omaha District (Corps) is conducting a feasibility study for the reallocation of storage at Chatfield Reservoir in Douglas County. The reallocation would provide local users for municipal, industrial, agricultural, recreational, and fishery uses in response to population growth in the area. The project would be undertaken with Federal funding. This letter initiates Section 106 consultation for the project.

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Sincerely,

Candace Gorton

Candace M. Gorton, Chief
Environmental, Economics, and
Cultural Resources Section
Planning Branch

Enclosure



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, OMAHA DISTRICT
106 SOUTH 15TH STREET
OMAHA NE 68102-1618

October 13, 2005

Planning, Programs, and Project Management Division

[REDACTED], Cultural Representative
Sisseton-Wahpeton Oyate
[REDACTED]
[REDACTED]

Dear Mr. [REDACTED]:

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Sincerely,

Candace Gorton

Candace M. Gorton, Chief
Environmental, Economics, and
Cultural Resources Section
Planning Branch

Enclosure



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, OMAHA DISTRICT
106 SOUTH 15TH STREET
OMAHA NE 68102-1618

October 13, 2005

Planning, Programs, and Project Management Division

[REDACTED], Chairman
Sisseton-Wahpeton Sioux Tribe
[REDACTED]

Dear Chairman [REDACTED]

The U.S. Army Corps of Engineers, Omaha District (Corps) is conducting a feasibility study for the reallocation of storage at Chatfield Reservoir in Douglas County. The reallocation would provide local users for municipal, industrial, agricultural, recreational, and fishery uses in response to population growth in the area. The project would be undertaken with Federal funding. This letter initiates Section 106 consultation for the project.

The Corps is considering three alternatives that would increase the pool elevation of the reservoir from its current level of 5432 feet mean sea level (m.s.l.). The first alternative would raise the pool elevation to 5434 feet m.s.l., providing 2900 acre-feet of storage. The second alternative would raise the pool elevation to 5437 feet m.s.l. and would provide 7700 acre-feet storage. The third alternative would raise the pool to 5444 feet m.s.l. and would provide 20,600 acre-feet of storage. For the project, the Corps is examining an area that extends 300 feet around the South Platte River from the reservoir to the Adams/Weld County line. Further information on the project is included in the attached feasibility report/environmental impact statement scoping notice.

At this time, the Corps requests comment from your Tribe on the proposed alternatives and any future necessary studies. If you have any questions or have need of further information, please contact Mr. Timothy Meade, Corps Archeologist, at [REDACTED]

Sincerely,

Candace M. Gorton, Chief
Environmental, Economics, and
Cultural Resources Section
Planning Branch

Enclosure



REPLY TO
ATTENTION OF

**DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, OMAHA DISTRICT
106 SOUTH 15TH STREET
OMAHA NE 68102-1618**

October 13, 2005

Planning, Programs, and Project Management Division

[REDACTED] Preservation Officer
Standing Rock Sioux Tribe
[REDACTED]
[REDACTED]
[REDACTED]

Dear Mr. [REDACTED]:

The U.S. Army Corps of Engineers, Omaha District (Corps) is conducting a feasibility study for the reallocation of storage at Chatfield Reservoir in Douglas County. The reallocation would provide local users for municipal, industrial, agricultural, recreational, and fishery uses in response to population growth in the area. The project would be undertaken with Federal funding. This letter initiates Section 106 consultation for the project.

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Enclosure



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ATTENTION OF

DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, OMAHA DISTRICT
106 SOUTH 15TH STREET
OMAHA NE 68102-1618

October 13, 2005

Planning, Programs, and Project Management Division

[REDACTED], Chairman
Standing Rock Sioux Tribe
[REDACTED]
[REDACTED]

Dear Chairman [REDACTED]:

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Sincerely,

Candace M. Gorton, Chief
Environmental, Economics, and
Cultural Resources Section
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Enclosure



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ATTENTION OF

DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, OMAHA DISTRICT
106 SOUTH 15TH STREET
OMAHA NE 68102-1618

October 13, 2005

Planning, Programs, and Project Management Division

[REDACTED], Chairman
Ute Mountain Tribe
[REDACTED]
[REDACTED]

Dear Chairman [REDACTED]:

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