

NISP EIS Project Manager
U.S. Army Corps of Engineers, Omaha District
Denver Regulatory Office
9307 S. Wadsworth Blvd.
Littleton, CO 80128
E-mail: nisp.eis@usace.army.mil

Dear Mr. Urbanic,

3 September 2015

Save the Poudre: Poudre Waterkeeper (STP) submits the attached comments and supporting materials to the US Army Corps of Engineers (Corps) on the Supplemental Draft Environmental Impact Statement (SDEIS) for the Northern Integrated Supply Project (NISP) released June 2015.

Despite a seven year and multi-million dollar effort, the SDEIS is fatally flawed and incomplete. The failure of the SDEIS to meet the requirements of our nation's foundational environmental laws after such great labor calls in to question the feasibility of NISP ever being permitted. STP urges the Corps, project proponents (Northern Colorado Water Conservancy District), and the 15 project participants to take this opportunity to review their commitment to the project, the effort that has been extended and that remains, and the possibility of meeting their desires through other options.

STP is a 501c(3) non-profit corporation registered with the State of Colorado and with the U.S. Internal Revenue Service. Our organizational mission is To Protect and Restore the Cache la Poudre River. STP represents thousands of supporters in Colorado and elsewhere within the United States. Save The Poudre: Poudre Waterkeeper is an affiliate with the Waterkeeper Alliance, a 501c(3) organization dedicated to a vision for swimmable, drinkable, fishable waterways worldwide.

STP has been fully engaged in the NISP review process from its earliest days. STP participated in the comment period for the NISP Draft Environmental Impact Statement (DEIS) by submitting formal written comments on September 12, 2008, and providing verbal testimony at the public hearings. STP has remained active with the public review of NISP after the close of the comment period by submitting numerous letter and documents providing the Corps with relevant and timely information during the Corps' development of the SDEIS.

Thirty four subject matter experts in the field of ecology, biology, economics, environmental law, hydrology, geomorphology and water chemistry participated in the development of these comments. The majority have a graduate degree or graduate training in their field.

In general, STP finds that the SDEIS fails to meet the requirements of the National Environmental Policy Act (NEPA), the Clean Water Act (CWA) and the Endangered Species Act (ESA), under which the SDEIS was required. In light of the serious concerns identified by STP and other commenters, including the project proponent, the Corps cannot rely on the SDEIS to meet its NEPA and CWA requirements. This document details these concerns and states what steps the Corps must take to rectify the shortcomings. At a minimum, the Corp must prepare a revision to the SDEIS or an additional Supplemental Draft Environmental Impact Statement. If the Corps fails to do so, it must provide a meaningful opportunity for public review of the Final Environmental Impact Statement (FEIS).

STP's concerns about the SDEIS may be summarized as:

- The fails to meet the requirements of NEPA and the CWA as it is flawed and incomplete
- The preferred alternative is not the LEPDA under the CWA
- The SDEIS presents an inadequate mitigation plan
- The Corps has failed to provide adequate opportunity for public review of the SDEIS

The SDEIS is nearly 1,500 pages long and is accompanied by dozens of technical reports. Its release comes seven years after the DEIS and comes at a cost of "nearly \$10 million." Clearly, a massive amount of effort went into generating this unfortunately incomplete and fatally flawed document.

Despite a thorough understanding of the effort that was required to generate this analysis and the scope of the final product, the Corps has only granted the public 75 days to acquire, review, and comment on the SDEIS. The Corps' action in this regard is a clear rebuke of the intent of NEPA.

Further, despite the volumes submitted for public review, the Corps has failed to make all of the information necessary to fully review the SDEIS publicly available. After an initial review of the SDEIS, STP submitted, on July 19, 2015, a Freedom of Information Act (FOIA) request for USACE documents necessary for the public to fully understand several elements of the SDEIS. This request includes at least one document explicitly referenced by the SDEIS that does not appear to be publicly available. After it was clear that the Corps would not produce the requested materials in a timely manner, STP submitted a request for an extension of the comment period. The Corps failed to grant an extension although never provided a response as to why.

STP presents these comments without reference to the relevant materials identified in the FOIA request. STP expects the Corps to give full consideration to any comments based on that material that supplement or revise these comments submitted in a timely fashion even if such are submitted after the close of the official comment period.

Throughout the NISP review process, STP has provided a wealth of information for the Corps' consideration; regrettably, much of that information has gone without a response. STP hereby incorporates by reference all of its previous submissions including, but not limited to, comments submitted on the DEIS (attached here in Appendix B at B13) and various submittals made after the close of the DEIS comment period but prior to the release of the SDEIS (attached here in Appendix C). This incorporation into our comments submitted today is inclusive of all such material regardless of its explicit or implicit reference in the attached comments. STP expects the Corps to respond to all of the proper submissions under the NEPA and CWA requirements for public review prior to any decision making on NISP.

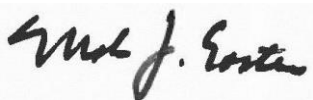
Similarly, STP hereby incorporates the comments reviewing the SDEIS submitted to the Corps by LeRoy Poff on, or about, August 26, 2015.

STP partially endorses the comments reviewing the SDEIS submitted by the City of Fort Collins, on or about September 3, 2015, and as approved by the City Council of Fort Collins on September 1, 2015. STP specifically endorses the following portions of the City of Fort Collins comments:


- No Action Alternative (Section 2)
- Failure to Complete "Hard Look" (Section 3)
- Water Quality (Section 5)
- Operations (Section 6)
- Storm Water and Hydraulics (Section 7)
- Air Quality and Climate Change (Section 8)
- Recreation and Aesthetics (Section 9), except with regard to the Fort Collins whitewater park as noted below
- Biological Resources (Section 10); STP expects the Corps to review and respond to the attached results from the Poudre River Ecosystem Response Model

Thank you for this opportunity to provide these comments. Please acknowledge timely receipt of these comments. Also, please contact us at the contact information below if you need further information or have questions about these comments.

Sincerely,



Mark Easter
Mark.easter@savethepoudre.org
Chair, Board of Directors
Save The Poudre: Poudre Waterkeeper
PO Box 20
Fort Collins, CO 80522



Gary Wockner
gary.wockner@savethepoudre.org
Executive Director