



April 22, 2011

To: Chandler Peter, U.S. Army Corps of Engineers
Jim Martin, U.S. Environmental Protection Agency

From: Save the Poudre: Poudre Waterkeeper

Regarding: Wetlands Impacts caused by the Northern Integrated Supply Project

Dear Mr. Peter and Director Martin,

The Corps of Engineers received numerous public comments in response to the Northern Integrated Supply Project (NISP) Draft Environmental Impact Statement (DEIS) regarding the condition and state of wetlands in the Cache la Poudre River Valley. Individuals and organizations paid particular attention to the current extent and condition of riparian wetlands as well as irrigation-associated wetlands, and to how those wetlands would be affected by the alternatives presented in the DEIS, including the no-action alternative (NAA). In comments on the DEIS, Save the Poudre: Poudre Waterkeeper analyzed the methods used in the DEIS wetlands inventory and how that inventory was used to estimate potential wetlands loss due to the project alternatives. Per the Corp's request, we offered different approaches for how an accurate wetlands inventory might be conducted. One of the approaches we recommended was a 100% inventory of the portion of the watershed most likely to be affected by the action alternatives and the NAA.

In 2010 we decided to conduct a 100% wetlands survey on our own, and after extensive research we contracted with the Colorado Natural Heritage Program (CNHP) to conduct the inventory on our behalf. CNHP is one of the most respected organizations with experience in vegetation analysis and mapping in the Central/Southern Rocky Mountain Region. They have been doing work on wetlands inventory and analysis throughout Colorado for decades, and recently began a systematic process to digitize and update the existing but outdated National Wetlands Inventory (NWI) maps completed roughly 30 years ago. A portion of the Cache la Poudre Valley had already been mapped prior to our contract with them, so we funded them to extend that analysis to the remaining unmapped quadrangles in the Cache la Poudre Valley from the canyon mouth to the confluence with the South Platte River, plus five additional quadrangles along the South Platte River between the confluence with the Cache la Poudre River and the Colorado-Nebraska border. The report and the quadrangles mapped were done in strict compliance with the NWI methods and protocols, and are to be contributed to the permanent repository for the NWI. The report is attached to this email and posted here:

http://poudriver.home.comcast.net/~poudriver/CNHP_FINAL_Poudre_Wetland_Mapping_Report-2011_03_23.pdf

In the remainder of this letter we would like to call your attention to some key details in the report as they relate to the NISP DEIS and related water projects, and describe the analysis we intend to complete before the NISP Supplemental DEIS (SDEIS) is released. In addition, the Corps needs to ensure that the SDEIS for NISP addresses these wetlands issues so that the SDEIS complies with all applicable federal permitting laws.

Screening Criteria for NISP: This wetlands survey indicates that the action alternatives in the NISP DEIS likely violated one of the key screening criteria. Section 2.1.2.2 (*Environmental Screening Criteria, Wetlands*) said this:

Wetlands are special aquatic sites as defined in 40 CFR 230.41 and are part of the aquatic ecosystem. Elements that passed this screen did not cause permanent, direct loss to 60 acres or more of wetlands.

This updated survey of the Cache la Poudre Watershed indicates there are more than 5,000 acres of natural wetlands in the Cache la Poudre River Valley that are not ponds, streams, rivers, intermittently flowing channels or canals, or riverbanks. The great majority of these are riparian-associated wetlands. That is, they are directly associated with the Cache la Poudre River and its associated water table, and hence would be directly affected by any water project causing changes in river flow volume and intensity. The great majority of these wetlands are extremely likely to be jurisdictional and subject to regulation under the Clean Water Act. Decreases in peak flow intensity and overall loss of river flows associated with the action alternatives in NISP are extremely likely to directly and permanently cause the loss of several hundreds and perhaps thousands of acres of riparian-associated jurisdictional wetlands. The amount of riparian-associated jurisdictional wetlands lost due to NISP is likely vastly larger than the 60-acre screening criterion for direct loss of wetlands, and therefore the action alternatives likely violate this key screening criterion. The inventory also indicates there are over 3,300 acres of natural riparian areas in the valley, nearly all of which are directly associated with the Cache la Poudre River, and therefore would be directly impacted by the project.

Irrigation-associated wetlands with regards to NISP: The NISP DEIS estimated a loss of more than a thousand acres of irrigation-associated wetlands if the project were built. We and others presented analyses indicating this estimate was grossly overstated, and the methods used in the analysis were deficient and did not follow accepted practice for wetlands inventory and analysis. This new inventory indicates that the entire Cache la Poudre Watershed contains less than 800 total acres of wetlands in the same category as above and which may be associated with irrigation practices. This is far less than the wetlands loss estimate in the DEIS, and it supports our contention that the analysis presented in the DEIS was severely flawed. The great majority of these wetlands are unlikely to be jurisdictional and therefore not subject to regulation under the Clean Water Act.

NISP RNAA Triggering NEPA and Clean Water Act: In a document developed by MWH dated, April 2010, and titled "Northern integrated Supply Project No Action Alternative Evaluation,"¹ the authors

¹ <http://www.gladereservoir.org/Docs/2010.04.22%20NISP%20NAA%20Report.pdf>

claim that their “Recommended No Action Alternative” (RNAA) will not require a Clean Water Act permit nor trigger the National Environmental Policy Act. Given that the RNAA described in this document involves changing the diversion point of water to upstream locations (page 73, paragraph 3; page 74, paragraph 1; page 78, paragraph 3), thus causing tens-of-thousands of acre-feet of water to no longer flow to its previous downstream diversion points, this RNAA will also very likely cause significant degradation to riparian-associated jurisdictional wetlands along the Cache la Poudre River. As such, this RNAA will very likely require a Clean Water Act permit and also trigger the National Environmental Policy Act – the SDEIS must analyze this likelihood.

Greeley Water Pipeline and other Poudre River projects: In a memo dated September 24, 2008², Counsel for the City of Greeley informed the Army Corps of Engineers of the following information related to the proposed Greeley Water Pipeline withdrawals from the Cache la Poudre River:

“The increase in river diversions of 3,249 acre-feet added to the decrease in river accretions of 1,453 acre-feet results in an increase of 4,702 acre-feet per year in Poudre River depletions.”

Such a significant decrease in river flows is likely to affect riparian-associated jurisdictional wetlands downstream of the new diversion point and may also trigger both NEPA and the Clean Water Act. We strongly suggest that the Corps consider if the City of Greeley should go through the NEPA process in order to be considered for a permit for the Greeley Water Pipeline. Additionally, the “cumulative effects study” for NISP, Halligan, Seaman, and the Greeley Water Pipeline all need to take into account this new wetlands inventory to analyze impacts to riparian-associated jurisdictional wetlands along the Poudre River. Even further, any new diversion of water from the Cache la Poudre River, or any change of diversion point to an upstream location, involved with NISP or any other currently proposed or contemplated project in the Poudre River watershed may also cause significant degradation to the riparian-associated jurisdictional wetlands along the river and thus trigger NEPA and the Clean Water Act. If those projects have already triggered NEPA (such as in Halligan and Seaman), then those projects need to take into account this new wetlands inventory and then analyze impacts to riparian-associated jurisdictional wetlands along the Poudre River.

Future Work: We are proceeding with the following research:

1. Quantify the full extent and condition of both riparian and irrigation-associated wetlands in the Cache la Poudre Valley.
2. Quantify the direct impacts of NISP’s flow volume and intensity reductions on riparian-associated wetlands along the Cache la Poudre River.
3. Determine which wetlands in the valley have jurisdictional standing under the Clean Water Act.

We intend to use the results of the above work to inform our comments on the Supplemental Draft Environmental Impact Statement when it is released. If the Corps has not done so already, we

² http://poudreriver.home.comcast.net/~poudreriver/Greeley_Bellvue_Depletions_Memo.pdf

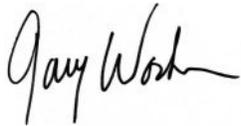
recommend that the Corps do the same analysis for this project, as the analysis has direct bearing on how the Corps would select the Least Environmentally Damaging Practicable Alternative and interpret the Clean Water Act in examining the project alternatives. The SDEIS must fully analyze the impacts on wetlands of NISP or any NAA related to NISP.

Thank you for the opportunity to provide this input on the Northern Integrated Supply Project Environmental Impact Statement process. Please acknowledge receipt of this letter.

Sincerely,

Handwritten signature of Mark J. Easter in black ink.

Mark J. Easter
Chair, Save the Poudre: Poudre Waterkeeper

Handwritten signature of Gary Wockner in black ink.

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