
Appendix C: Comments Received

Alison Deans Michael

CO Department of Transportation / US Fish and Wildlife Service Liaison

CO Field Office

- Requested update of *Biological Resources* Section.
 - Provided clarifications concerning coordination with CPW and USFWS regarding usage of CPW's Raptor Guidelines. Provided Information Planning and Conservation (IPaC) link as most accurate threatened or endangered species resource (Dec, 29 2014).
 - Suggested coordination with CPW and USFWS in the event that a BGEPA permit is needed (Dec 30, 2014).

Daniel Jones

Sr. Aquatic Biologist / Platte River Basin Aquatics

FEMA

- Provided migratory birds and raptor condition outlining responsibilities to survey nesting substrates both within and beyond documented breeding seasons.

Ken Kehmeier

Sr. Aquatic Biologist / Platte River Basin Aquatics

CO Parks and Wildlife

- Provided clarification of CO Senate Bill 40 coordination guidelines and CO Parks and Wildlife species profile and raw data links (Jan 06, 2015).

Amy Pallante

Intergovernmental Services Unit Director

CO State Historic Preservation Office

- Requested clarification of NHPA Section 106 allowance discussion such that allowances are a part of, as opposed to an exemption from, the section 106 process.

Terri Sage

Agriculture Conservation Experienced Services Program

NRCS – Colorado State Office

- Provided context for the ongoing debate of official avian breeding seasons in Colorado.



Parks and Open Space

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April 27, 2014

Dear Mr. Hardegen and Mr. Jeffrey Fullmer,

Boulder County's Creek Recovery and Restoration Program team has reviewed the Federal Emergency Management Agency's *Watershed Resiliency Projects, Programmatic Environmental Assessment, Colorado*, dated March 2015, and wholly supports moving Alternative 2: Watershed Resiliency Activities forward. This alternative allows federal agencies to provide financial and technical assistance to local agencies, such as Boulder County, for disaster recovery projects related to the September 2013 flood. This includes "restoration, replacement, and mitigation of existing watershed elements." We have reviewed the assessments of impacts under Alternative 2 and do not have any concerns with the analysis. We understand that this Programmatic EA does not supersede any required site-specific analysis for individual projects.

Boulder County appreciates the support of the Federal Agencies as we continue to restore our waterways following the September 2013 flood.

Sincerely,

Jeff Moline
Resource Planning Manager
Boulder County Parks & Open Space



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8**

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APR 30 2015

Ref: EPR-N

Steven Hardegen, Regional Environmental Officer
Department of Homeland Security
Federal Emergency Management Agency
Denver Federal Center, Bldg 710A
Denver, CO 80225-0267

RE: Colorado Watershed Resiliency Projects Environmental Protection Agency Comments on the Draft Programmatic Environmental Assessment

Dear Mr. Hardegen:

This letter responds to the Department of Homeland Security, Federal Emergency Management Agency's (DHS/FEMA) March 29, 2015 request for comments on the Draft Programmatic Environmental Assessment (PEA) for Watershed Resiliency Projects in Colorado.

The EPA commends DHS/FEMA and its Disaster Unified Review Team (DURT) for its rapid response and program innovation during times of natural disaster and longer term disaster recovery. This Draft PEA, which currently is proposed to be in place indefinitely unless DHS/FEMA clarifies that it sunsets, is one of several efforts intended to expedite community and watershed resiliency projects for disaster recovery in Colorado in response to recent natural disasters of 2013 and 2012 (e.g., previous wildfire restoration and mitigation and PEAs for roads, trails, and highways restoration).

Program Description

The PEA was prepared in accordance with Unified Federal Review as outlined in the Sandy Recovery Improvement Act (SRIA), Section 6: mandating the establishment of an "...expedited and unified interagency review process to ensure compliance with environmental and historic requirements under Federal law relating to disaster recovery projects, in order to expedite the recovery process, consistent with applicable law."

The proposed purposes of the PEA are to support efforts by multiple federal agencies and their programs to perform comprehensive watershed resiliency actions by funding river restoration, bank stabilization, and hydraulic capacity mitigation measures that restore watershed function, and track subsequent natural and cultural resource cumulative impacts in Colorado.

The need is to respond to conditions that impede watershed functionality as a result of major disaster events. Most actions will be implemented under funding programs administered by the Federal Emergency Management Agency (FEMA), the Federal Highways Administration (FHWA), the Natural

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Resources Conservation Service (NRCS), U.S. Department of Agriculture (USDA) Emergency Watershed Protection (EWP) Program, and possibly the U.S. Department of Housing and Urban Development (HUD). Other federal agency grant programs may also be applicable. This analysis is programmatic in nature, was prepared to analyze the potential environmental consequences associated with a broad spectrum of proposed recovery actions, and does not address site-specific impacts, which will be evaluated for individual projects prior to approval. The U.S. Army Corps of Engineers (USACE) will be responsible for issuing appropriate Clean Water Act (CWA) Section 404 permits as required.

The EPA's Comments and Recommendations

The EPA generally agrees with DHS/FEMA that many of the typically recurring actions proposed for funding, and for which an Environmental Assessment (EA) is required under NEPA, can be grouped by type of action or location. The EPA views this PEA as a relevant SRIA streamlining measure. By tiering off the Programmatic EA, those subsequent site-specific project EAs are likely to be much shorter and more targeted, saving time and resources. We do not envision a scenario where projects could be approved under this PEA without additional site-specific NEPA documentation or an applicable categorical exclusion. Watershed recovery can often be complex, and the impacts will vary based on project design and site specific conditions. EPA agrees that some subset of projects or actions may be able to be grouped and site-specifically evaluated in a tiered NEPA document without the need to develop documents for each individual project. We recommend identifying in the PEA and/or attachments (e.g. **Appendix D/Compliance Checklist**) the types of projects or circumstances that might be considered for grouping in a single NEPA document. In this way one stated proposed purpose of this PEA, to streamline the federal environmental review process, can be met.

The EPA's comments and recommendations here are focused on an emphasis that for the 2013 Colorado flood phases and 2012 wildfires, upon which much of the background for this PEA is based, the emergency response phases of recovery have passed and the subsequent watershed resiliency projects are likely to be more complex and long term in nature than at earlier phases of disaster recovery. This could make some actions subject to a more complex level of environmental analysis. The EPA recommends that careful consideration be given in using this PEA approach for long term disaster recovery in order to support the State of Colorado's desire for restoration to healthy watershed conditions. This healthy watersheds approach has been identified as the preferred recovery goal through the ongoing Colorado Resiliency Framework effort influenced and led by the Colorado Water Conservation Board with involvement by several federal and Colorado agencies. Watershed recovery efforts can be larger and more complex than the typical recurring actions addressed by this PEA. The EPA recommends the PEA include language that identifies and acknowledges the State's resiliency framework process, its goals and its commitment to a healthy watershed approach in the Program Description Section of this PEA.

The EPA recommends that DHS/FEMA clarify that for certain types of proposed recovery projects, it may be appropriate to assess environmental impacts beyond the analysis provided in this PEA. For example, some projects, such as those included in comprehensive watershed master plans proposed as a result of the 2013 Colorado flood, can be more complicated and involve larger-scale geomorphic and

water quality restoration efforts than those contemplated for grouping in this PEA. The EPA recommends that the PEA describe the possibility that not all watershed recovery and resiliency projects may fit into the PEA or be satisfied by an EA level analysis tiered to the PEA. The EPA also recommends that the PEA make it clear that while projects that are covered by PEA are intended to restore watershed resiliency and health, they could also unintentionally have a detrimental effect on comprehensive watershed master plans and should be integrated into the comprehensive watershed master plans to ensure consistency.

The EPA recommends additional language be included in paragraph 2, page 9, and on page 5 in **Appendix D/Compliance Checklist** at “**VI. Conclusion and Recommendation**” to assure an appropriate level of analysis is considered. Specifically, the EPA recommends language early in the PEA text that alerts and identifies project proponents (e.g., watershed coalitions, private land owners, and/or their consultants, etc.) to utilize the Appendix D Checklist to identify if an individual (vs. grouped) EA or EIS is required for more complex watershed resiliency projects that need that level of analysis.

The EPA suggests that another way to provide clarity and appropriate application of the PEA, is to include in the Alternative Section, 3.2, or elsewhere, a clear description or list of the types of projects that could be grouped into and covered by the PEA. In this case, the EPA recommends the Alternative 2 description be rewritten to be consistent with a programmatic level environmental review. In particular, the opening sentence, "This alternative applies . . ." is not clear on what potential projects are being addressed by this PEA. Specifically, the EPA recommends repeating and expanding the information from the introduction, which states, "... to perform comprehensive watershed resiliency actions through river restoration, bank stabilization and hydraulic capacity mitigation measures to restoring watershed function."

The EPA also recommends including language that will make it clear that projects that are not part of a comprehensive watershed master plan may not be suitable for establishing a healthy and resilient watershed and may need a more complicated individual environmental assessment or an EIS.

The EPA suggests DHS/FEMA consider adding language in Section 3.2, the description of the No Action Alternative, clarifying that pursuing a no action alternative may result in undesirable water quality, stream function and riparian area impacts. We also recommend clarifying that collaborative land use decisions often considered by completing comprehensive watershed plans, and which can be helpful for restoring watershed health, would also not be completed.

The EPA recommends that DHS/FEMA consider providing a reference to its list of categorical exclusions to help users of the PEA understand which types of projects are not subject to this PEA tool, in Section 3.3, page 14 (e.g. http://www.fema.gov/media-library-data/20130726-1730-25045-3430/catex_documentation_policy.pdf or most recent).

The EPA recommends Alternative 2 or the Alternatives Not Considered section more clearly describe the types of projects the PEA does not apply to. For example, it does not appear that the PEA is intended for new levees and dams, though it does not currently preclude such use. It is possible the EPA may

have objections to using this PEA for some projects to increase the capacity of existing dams and levees.

The EPA also recommends Alternative 2 under this PEA clearly answer the following questions:

- Does there have to be a disaster first, or can deteriorated/unhealthy watersheds which are receiving federal funds also use this PEA mechanism?
- Is a project covered by this PEA intended only to be clearly associated with the Stafford Act and SRIA Laws, thus predicating use of this PEA mechanism for only a formally Presidential or State level declared disaster area and recovery activity?
- Can the PEA be used for activities that include property acquisition?

The EPA also recommends DHS/FEMA clarify that this PEA is for use beyond the recovery efforts associated with the 2013 floods and 2012 wildfires. This is best facilitated by inserting language in existing Section 1.2 BACKGROUND and/or Section 1.3 PROCESS FOR USE OF PEA. That language should make it clear this PEA can be used from now until the time this PEA is superseded. The EPA recommends DHA/FEMA make that clear and provide a specific rationale why this is desirable and appropriate for all future watershed resiliency disaster scenarios beyond the primary goal of streamlining the environmental review process (e.g., why is this PEA not intended to be used for a limited timeframe until all current watershed resiliency are completed and then no longer applicable until the need for another one like it is identified and proposed?).

Air Pollution

The EPA recommends that all references relating to dust and air pollution control during construction be tied to federal, State and/or local requirements, and not limited to taking action to suppress and mitigate dust when complaints are filed. This could be accomplished by changing the language in section 4.5.2, page 22 and in the Summary of Impacts Tables to show a more proactive and regulation-based implementation of pollution controls.

General Considerations

The EPA completed a search of the History of Water Rights page of the reference (8) in the footnote of page 11 and did not locate the descriptor “notorious.” The word “unique” does appear on the “Prior Appropriation Page.” The EPA recommends DHS/FEMA consider changing or deleting the word as a descriptor of Colorado water law history.

The EPA recommends explaining further and providing examples of how communities will benefit from watershed resiliency activities in Section 4.3.2., page 19, Alternative 2: paragraph one.

The EPA recommends using the more inclusive breakdown of Colorado River Basins found in the Draft Colorado Water Plan of 2014 where the 10 basins are listed (including the Colorado River main stem), rather than the seven listed in Section 4.8.1 if the intention of the PEA is to be Statewide Basins (or sub basins) such as the North Platte and San Miguel may be unintentionally excluded as not being within this PEA action if the PEA is not consistent with the Draft State Plan. The EPA also recommends that Figure 3 be retitled to “State of Colorado River Basins” for clarity and accuracy. It should also be replaced with a more current map found in the Draft Colorado Water Plan of 2014.

The EPA appreciates references to technical guidance documents such as the “Engineering with Nature, Alternative Techniques to Riprap Bank Stabilization” and other references such as the NRCS bioengineering resources and EPA references for protecting wetlands and meeting Clean Water Act Section 404 requirements. Additional references that could be used to improve watershed restoration planning could include *Stream Corridor Restoration: Principles, Processes, and Practices* by the Federal Interagency Stream Restoration Working Group and the EPA’s *Identifying and Protecting Healthy Watersheds*. The website links are provided below.

<http://www.nrcs.usda.gov/wps/portal/nrcs/detailfull/national/water/?cid=stelprdb1043244>

http://water.epa.gov/polwaste/nps/watershed/hw_techdocument.cfm.

Thank you for the opportunity to comment on the PEA. If you have any questions or would like to discuss our comments, please contact me at 303-312-6704, or Nat Miullo at 303-312-6233.

Sincerely,



Philip S. Strobel
Acting Director, NEPA Compliance and Review Program
Office of Ecosystem Protection and Remediation

