

Corps of Engineers Regulatory Program and Northern Colorado Water EIS's

An Overview of the Regulatory Process

March 24, 2010

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“The Poudre Runs Through It”
Educational Session



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Let's Discuss...

- Why the Corps is involved.
- The Regulatory Process (10 Steps).
- Status of some water supply EIS's.
- Interesting facts.
- Important points to remember.



Why is Corps Regulatory involved?

- Any proposed “placement of fill” into a stream or wetland requires review by the Corps Regulatory Program.
- This requirement is a result of the Clean Water Act of 1972.
- The goal is to protect the physical, chemical, and biological quality of the nation’s waters.



Why is Corps Regulatory involved?

- When Corps Regulatory receives any type of proposal from anyone (public or private), our first questions are...
 - What is the “placement of fill” in streams or wetlands?
 - How “significant” are the impacts?
 - ▷ “significant” in light of the environment and people’s needs and interests.
 - What level of review should we do?



Why is Corps Regulatory involved?

- Levels of Corps permit review
 - Small Review (example: culvert replacement)
 - ▷ “General permit” – takes ~30 days
 - Med Review (example: housing development)
 - ▷ “Environmental Assessment” (“EA”) – takes ~4 months
 - Large Review (example: water supply).
 - ▷ **“Environmental Impact Statement”** (“EIS”) – takes...years.



What is the Corps' role in these reviews?

Corps Regulatory is an independent reviewer of these proposals.

- No influence by proponents or other outside groups.
- No bias or mission to build new reservoirs.
- Goal is to follow National Environmental Policy Act and Clean Water Act rules, do the best, most consistent study possible, and disclose this information to the public so that all local, state, and federal agencies can make informed decisions.
- Corps Regulatory provides no federal funding for the proposal.



Corps Regulatory's Review Process for an EIS?

► Let's boil it down to 10 Steps...

1. Corps asks the public what to study

2. Corps questions "need" for water.

3. Corps lists ALL possible solutions that might meet the need.

4. Corps narrows the list and takes an in-depth look at the impacts of a few solutions, and the impacts of doing nothing.

5. Corps brings the study full circle by exploring possible mitigation to impacts that may have been found.

6. Corps writes up the "story" of this consideration process and all that was found, and calls it a DRAFT EIS.

7. The Corps invites the public to read the DRAFT EIS and give us feedback on whether we studied the issues well enough.

8. The Corps reads the public's comments and decides if revisions or more study is needed.

9. The Corps releases the final EIS, which becomes the final version of the study intended to fully inform decision makers.

10. All applicable agencies (local, state, federal) make decisions on what solution to choose.



Corps Regulatory EIS Review Process – Ten Steps

Remember, upon receipt of any proposal, the Corps first asks...

- Does the proposal involve a “placement of fill material” into streams or wetlands?



- If yes, what level of review is required?



Corps Regulatory EIS Review Process – Ten Steps

1. Corps asks the public ‘what’ to study and ‘how’ to study it.

- Corps holds a public “scoping” meeting.
- Corps presents the proponent’s idea to the public.
- Corps asks the public...
 - What should we study?
 - How should we study it?
 - What’s most important?



Corps Regulatory EIS Review Process – Ten Steps

2. Corps reviews the claimed “need” for water.

Question the Need

3. Corps lists ALL possible solutions that might meet the need.

List Alternatives

4. Corps narrows the list and takes an in-depth look at the impacts of a few solutions, and the impacts of doing nothing.

Analyze Impacts

5. Corps brings the study full circle by exploring possible mitigation to impacts that may have been found.

Consider Mitigation

6. Corps writes up the "story" of this consideration process and all that was found, and calls it a DRAFT EIS.

Write the “Story”



Corps Regulatory EIS Review Process – Ten Steps

Step 3 Example: Some of the initial 200 + alternative water sources considered in the **NISP** EIS:

- Agricultural Water Conservation (C-BT) and (non C-BT)
- Agricultural Water Purchases and sub-options
 - (includes full or partial supplies with preserving and drying up ag)
- Cloud Seeding
- Foothills-Plains Storage Transfer (evap reduction)
- Forest Management and Phreatophyte Removal
- Groundwater (alluvial and bedrock)
- Reservoir Reoperations, Exchanges, other ops strategies
- Reuse (Direct and Indirect Potable – advance treatment)
- Temporary Dry Year Transfers (Leasing Ag or M&I)
- Trans-basin diversions
- Water Bank
- Water Rights Development (various basins)
- More...



Corps Regulatory EIS Review Process – Ten Steps

Step 3 Example: Some of initial 20 + alternative water infrastructure options considered in the **NISP** EIS:

- Aquifer (alluvial and bedrock) Storage and Retrieval
- Gravel Lakes
- New Reservoirs
- Reservoir Rehabilitation
- Reservoir Enlargement
- Pumping facilities, water treatment plants (reverse osmosis, high pressure membrane, etc.)*
- More...



Corps Regulatory EIS Review Process – Ten Steps

7. Corps invites public to read the DRAFT EIS and give us feedback on whether we studied the issues well enough.

Public Reviews Draft EIS

8. The Corps reads the public's comments and decides if revisions or more study is needed.

Corps Listens, Revises



Corps Regulatory EIS Review Process – Ten Steps

9. The Corps releases the final EIS, which becomes the final version intended to fully inform decision makers.

Corps Releases Final EIS

10. All applicable agencies (local, state, federal) make decisions on what solution to authorize.

All Local, State, Federal Agencies Make Decision



Status of some Northern Colorado Corps Regulatory Water Supply EIS's

- Corps Regulatory's EIS Review for **NISP** (Glade and Galeton Reservoirs).
- Corps Regulatory's EIS Review for **Halligan / Seaman** (Reservoir Expansions)
- *Notice that the EIS is written by and developed by the Corps...not the proponent.*



Status of some Northern Colorado Corps Regulatory Water Supply EIS's

- **Corps Regulatory's EIS for the NISP proposal (Glade and Galeton Reservoirs).**
 - Corps started EIS in 2004 (Step 1), asking public what to study.
 - Corps released Draft EIS (Step 7) in 2008, received comments from the public.
 - Corps now working on "Supplemental" Draft EIS – available by end of 2011.
 - Corps' been reviewing this for 7 years.



Status of some Northern Colorado Corps Regulatory Water Supply EIS's

- Corps Regulatory's EIS Review for the **Halligan / Seaman** Reservoir Expansion proposals.
 - Corps started EIS in 2006 (Step 1), asking public what to study.
 - Corps to release Draft EIS (Step 7) in mid 2012.
 - Corps' been reviewing this for 6 years.



Corps Regulatory's Review Process for an EIS?

10 Steps:

1. Corps asks the public what to study

2. Corps questions "need" for water.

3. Corps lists ALL possible solutions that might meet the need.

4. Corps narrows the list and takes an in-depth look at the impacts of a few solutions, and the impacts of doing nothing.

5. Corps brings the study full circle by exploring possible mitigation to impacts that may have been found.

6. Corps writes up the "story" of this consideration process and all that was found, and calls it a DRAFT EIS.

< H/S

7. The Corps invites the public to read the DRAFT EIS and give us feedback on whether we studied the issues well enough.

8. The Corps reads the public's comments and decides if revisions or more study is needed.

< NISP

9. The Corps releases the final EIS, which becomes the final version of the study intended to fully inform decision makers.

10. All applicable agencies (local, state, federal) make decisions on what solution to choose.



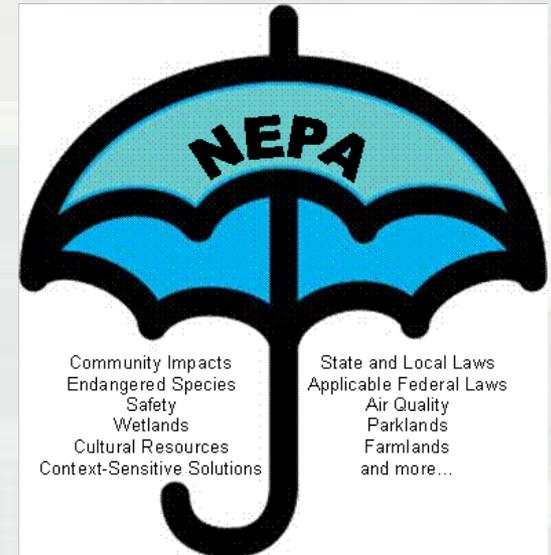
Some controversial issues

- Population growth predictions (real or exaggerated?)
- Do new reservoirs encourage growth?
- Poudre River flows (past, present, future)
- If we build something, what will happen?
- If we build nothing, what will happen?



Key Points to Remember

- An EIS is simply a document that **discloses** information about what was studied.
- When the Corps prepares an EIS, there is a purposeful “sequence” of considerations.
 1. Question the need.
 2. List all possible solutions that might satisfy the need, and narrow down.
 3. Analyze impacts, consider ways to mitigate.



NEPA = “Disclosure”



Key Points to Remember

- Preparing an EIS does not guarantee a permit will be issued.
- Final decisions are made after the Final EIS is released (~1 year later).
- Other permits need to be issued besides the Corps' permit. The EIS's purpose is to help all decision-makers make informed decisions.



Corps Regulatory EIS Review Process – Ten Steps

Step 10 Example: Who makes decisions for **NISP**?

- **Corps Regulatory** – Section 404 Clean Water Act Permit *
- **Bureau of Reclamation** – Water Services Contract
- **Colorado** – Section 401 Water Quality Certification
- **Larimer County** – County Master Plan Approvals

* Concurrence must also come from these agencies:

- **U. S. Fish and Wildlife** (Endangered Species)
- **U. S. Environmental Protection Agency**
- **Colorado Historic Society** (Cultural Resources)
- **Colorado Dept of Transportation** (Hwy Impacts)



Some interesting facts...

- Corps Regulatory operates under specific rules of the Clean Water Act and National Environmental Policy Act.
- Corps Regulatory does not have the authority to tell local communities to slow growth, or stop watering lawns.
- Corps Regulatory does not set the price of water...our job is only to disclose the price in the EIS.



Some interesting facts...

- Corps Regulatory does not interfere with water rights decisions...but we do study environmental impacts of “using” water rights (river exchanges) if it relates to specific proposals.
- Corps Regulatory does not have authority to do “regional planning” for water supply. We are only allowed to react to submitted proposals.
 - *However...there is an “exception” in the case of NISP and H/S...*



Corps Regulatory EIS Review Process – Ten Steps

Step 4 Example: Impact Analysis – NISP and H/S Hydrology Analysis

- What is the **“Common Technical Platform”**?
- After Corps Regulatory released Draft EIS for NISP, we recognized there were many differences in the hydrology modeling between the separate Corps teams working on the NISP and H/S EIS's.
- Corps Regulatory, as an independent reviewer and lead federal agency of both proposals, recognized that the modeling needed to be the same for sufficient comparison - since both projects are in the same Poudre watershed basin.
- This was a controversial decision...forcing two proponents of separate projects is typically not a requirement under Section 404 of the Clean Water Act...but it was imperative with regard to the environment and the interests of the public.



Some interesting facts...

- Corps Regulatory is not “engineering” anything. We are a team of independent...
 - biologists,
 - ecologists,
 - hydrologists,
 - fish specialists,
 - archeologists,
 - economists,
 - and more, taking a hard look at all issues and concerns related to water needs and providing the best information in the EIS document so decision makers can make an “informed” decision.



Last thoughts...

From the Feb 3, 2011 “The Poudre Runs Through It”
Part 1 – Public Forum...comment...

One tension I need to work through is...

“Don’t get me started, my head is about to explode already!”



That’s why we
wear hard hats. 😊



Thank you

**Find EIS's and associated technical reports on the
Corps Denver Regulatory Website:**

<http://www.nwo.usace.army.mil/html/od-tl/tri-lakes.html>

