City of Greeley Colorado

September 2, 2015

Mr. John Urbanic
NISP EIS Project Manager
U.S. Army Corps of Engineers
Omaha District, Denver Regulatory Office
9307 South Wadsworth Boulevard
Littleton, CO 80128
nisp.eis@usace.army.mil

*(via email: nisp.*eis@usace.army.mil *and U.S Mail)*

RE: The City of Greeley's Comments on NISP SDEIS

Dear Mr. Urbanic:

The City of Greeley, Colorado ("Greeley" or "City") respectfully submits the following comments on the Supplemental Draft Environmental Impact Statement ("SDEIS") prepared for the U.S. Army Corps of Engineers ("Corps") to evaluate the Northern Integrated Supply Project ("NISP") proposed by the Northern Colorado Water Conservancy District ("Applicant"). Greeley's comments are based on known and unaccounted-for impacts to the City and are contained, in full, in the attached Technical Memorandum ("Technical Memo"). This letter is a summary of Greeley's most critical comments. The critical comments were selected by creating a list of the SDEIS failed attempts to accurately or completely quantify impacts and identify the means to mitigate those impacts. From that list, Greeley chose to comment only if the failed impact analysis and/or insufficient mitigation would result in irreparable injury or shift mitigation costs from the Applicant to Greeley. Because this is only a summary, the Corps should refer to the Technical Memo for a complete list and analysis of Greeley's comments.

I. BASIS FOR GREELEY'S COMMENTS AND REQUESTED REMEDIES.

Greeley is concerned by the SDEIS's failure to quantify certain impacts to the Cache la Poudre River ("Poudre River"). Geographically, the City is located along the lower reach of the Poudre River. Because of Greeley's location, the Poudre River is a major resource for the City, providing significant recreation, aesthetic, and wildlife resources. As a public water and sewer provider, Greeley obtains a large portion of its municipal water supplies from the Poudre River. After municipal use, it also discharges the treated wastewater back into the Poudre River. To meet future growth and demand, Greeley is also in the process of permitting the enlargement of its Milton Seaman Reservoir, located on the North Fork of the Poudre River just upstream of its confluence with the mainstem.

Greeley understands the need for, and is a general proponent of, water storage in Northern Colorado. Nevertheless, the SDEIS is frequently supported by incomplete or incorrect analysis. As a result, the SDEIS does not correctly quantify the extent to which (1) Poudre River flows are diminished; (2) water quality and aquatic habitat are degraded; and (3) stream temperature is increased. Without accurately quantifying the impacts and identifying the appropriate means of mitigation, Corps approval could result in irreparable injury or shift the cost of mitigating NISP's impacts from the Applicant to Greeley. This is unacceptable. By submitting these comments, Greeley is attempting to avoid irreparable injury or incurring the cost of mitigating NISP's impacts. Greeley is also confident that its comments will assist the Corps in developing a more accurate and defensible environmental impact statement ("EIS").

To prevent irreparable injury and shifting the cost of mitigation from the Applicant to Greeley, the City is asking that the Corps: (1) re-analyze various aspects of the SDEIS, including surface water diversion, water quality, aquatic habitat, and stream temperature; (2) release all reports related to the revised analysis to Greeley, in draft, giving the City an opportunity to review and comment at least sixty (60) days before such reports and the final EIS ("FEIS") are finalized and prepared for public comment; (3) include appropriate mitigation (which includes compensation or any other remedy) for all identified impacts to Greeley; and (4) impose special conditions in the permit that obligates the Applicant to: (1) monitor impacts and propose mitigation to surface water diversion, water quality, aquatic habitat, and stream temperature and (2) link the construction and operation of project components to the Applicant's demonstration (via monitoring) that the impacts have first been fully mitigated.

II. THE SDEIS FAILS TO CAREFULLY CONSIDER DETAILED INFORMATION CONCERNING SIGNIFICANT ENVIRONMENTAL IMPACTS AND MAKE INFORMATION AVAILABLE TO THE PUBLIC AND, AS A RESULT, RISKS IRREPARABLE INJURY AND SHIFTS THE COST OF ENVIRONMENTAL IMPACTS FROM THE APPLICANT TO GREELEY.

A. The purpose of an EIS is to ensure that the decision-maker will have available, and will carefully consider, detailed information concerning significant environmental impacts and to make information available to the public.

Under the National Environmental Policy Act ("NEPA")[1] an EIS is an "action-forcing device" with two primary purposes: (1) to ensure that the decision-maker will have available, and will carefully consider, detailed information concerning significant environmental impacts, and (2) to make information available to the public, which may also play a role in both the decision-making process and the implementation of that decision.[2] Thus, an EIS is deemed adequate when there is a reasonable, good faith, objective presentation of the topics, such that it fosters both informed decision-making and informed public participation.[3]

---

1 42 U.S.C. §§4321-4370h.

2 *See, Superior v. U.S. Fish & Wildlife Serv.*, 913 F. Supp. 2d 1087, 1120 (D. Colo. 2012) (aff'd sub nom. *WildEarth Guardians v. U.S. Fish & Wildlife Serv.*, 784 F.3d 677 (10th Cir. 2015) (quotes removed).

3 *See, Colorado Envtl. Coal. v. Dombeck*, 185 F.3d 1162, 1172 (10th Cir. 1999).

To achieve the first purpose, an EIS must discuss the direct, indirect, and cumulative effects of the proposed action.[4] In determining whether an effect is significant, an agency must consider its context, including the scale of the proposed action, and its intensity, meaning the severity of the impact or the degree to which it is adverse.[5] Cumulative impacts are those environmental impacts resulting "from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions."[6] In considering the cumulative impacts of a proposed action, agencies must offer some "quantified" or otherwise detailed information.[7] To achieve the second purpose, an agency "must ensure that environmental information is available to public officials and citizens before decisions are made and before actions are taken." The information must be of high quality. Accurate scientific analysis, expert agency comments, and public scrutiny are essential to implementing NEPA."[8] The public disclosure purpose also requires that the agency provide the public with "the underlying environmental data" from which the agency develops its opinions and arrives at its decisions.[9]

Although an EIS is prepared in two phases (i.e., a draft and final phase), the draft EIS ("DEIS") must fulfill and satisfy, to the fullest extent possible, the requirements established for an FEIS.[10] If a draft statement is so inadequate as to preclude meaningful analysis, the agency must prepare and circulate a revised draft of the appropriate portion.[11]

B. This SDEIS is inadequate and prevents meaningful analysis of surface water diversion, water quality, aquatic habitat, and stream temperature impacts.

1. <u>The SDEIS selected study period in the surface water modeling underestimates river depletion</u>.

The selected study period in the SDEIS for surface water modeling does not adequately represent long-term river depletions. This precludes meaningful analysis of the impacts to the Poudre River by underestimating river depletions. As discussed in more detail in the Technical Memo[12], the SDEIS uses an inappropriate study period for river diversions and, as a result, severely underestimates NISP's long-term river depletions. River depletions during the selected study period (1980-2005) are 39,250 acre-feet per year ("AFY"), or about 5,550 AFY less than the expected long-term average diversions of 44,800 AFY, which were determined by using the full study period (1950-2005) in the Common Technical Platform ("CTP"). This discrepancy was caused by selecting a study period that presumes the reservoir starts nearly full and ends nearly empty. This misrepresentation not only underestimates the long-term average depletions

---

4 *See, Superior*, at 1120; 40 C.F.R. §§ 1508.8, 1508.25.
5 40 C.F.R. § 1508.27; *Envtl. Protection Info. Ctr. v. U.S. Forest Serv.*, 451 F.3d 1005, 1012 (9th Cir. 2006).
6 40 C.F.R. §1508.7.
7 *See, Superior*, at 1120.
8 40 C.F.R. § 1500.1(b).
9 *See, WildEarth Guardians v. Montana Snowmobile Ass'n*, 790 F.3d 920, 925 (9th Cir. 2015).
10 40 C.F.R. § 1502.9(a).
11 *Id.*
12 Technical Memo, Surface Water #1, at pg. 1.

but is also inconsistent with the obligation to ensure "the professional integrity, including scientific integrity, of the discussions and analyses in environmental impact statements."[13]

Greeley has two reasons for objecting to the use of the unrepresentative study period. First, underestimated project diversions may lead to underestimated flow-related impacts, including water quality related impacts to Greeley's Bellvue Water Treatment Plant and its wastewater treatment plant. Second, any unaccounted-for impacts in the NISP EIS may be shifted and attributed to future permit applicants for infrastructure projects on the Poudre River.

To correct this flaw and accurately assess flow-related impacts, the Corps must select a CTP study period that better reflects NISP's expected long-term operations and depletions to the Poudre River. To comply with NEPA's public disclosure requirements, the new study period, and all reports that are revised to reflect the new study period, must be released to Greeley, in draft, giving the City an opportunity to review and comment at least sixty (60) days before such reports and the FEIS are finalized and prepared for public comment. If the study period is not revised, the Corps must impose special permit conditions to monitor impacts and link the construction and operation of project components to the Applicant's demonstration (via monitoring) that flow-related impacts have first been fully mitigated. Such special conditions must include restricting the Applicant's average annual diversions to the levels identified in the shortened period of analysis (i.e., 1980-2005).

2. <u>The SDEIS water quality analysis does not disclose all impacts, identify those impacts that are significant, or identify mitigation for those adverse impacts and thus precludes any meaningful analysis of water quality impacts</u>.

The Corps has only completed the first phase of a two-phase water quality analysis. As discussed more fully in the Technical Memo[14] and section 3, below, the *Phase I Water Quality Assessment Report* ("*Phase I Report*") does not comply with 40 C.F.R. §1502.16. It does not disclose all direct and indirect impacts, the significance of those impacts, and the means to mitigate those impacts.[15] Instead, the SDEIS indicated that it would reserve such analysis for the *Phase II Water Quality Assessment Report* ("*Phase II Report*"), without justifying why the analysis could not be completed and included in the SDEIS.[16] A complete analysis of water quality impacts is necessary to determine their significance. Since the impacts were not fully disclosed and their significance were left undetermined, mitigation of those impacts is likely inadequate. Until the impacts are fully disclosed in the *Phase II Report*, the *Phase I Report* alone is inadequate to provide any meaningful analysis on water quality impacts.[17]

---

13 40 C.F.R. §1502.24.

14 Technical Memo, Water Quality #1-2, at pgs. 5-6.

15 *See*, 40 C.F.R. §1502.16 (Discussion must include direct and indirect effects, their significance, and means to mitigate adverse environmental impacts (if not fully covered under §1502.14(f))).

16 March 2015 Draft Water Quality Effects Technical Report, p. 1 ("The second phase of analysis will be completed for the final EIS and will include modeling and analysis sufficient to satisfy both NEPA requirements and Section 401 water quality certification.").

17 *See*, 40 C.F.R. § 1502.9(a) (The DEIS must fulfill and satisfy, to the fullest extent possible, the requirements established for an FEIS and be adequate to provide meaningful analysis of impacts.).

To remedy the failure to comply with 40 C.F.R. §1502.16, the *Phase I Report* and *Phase II Report* must disclose all water quality impacts, identify which are significant, and provide mitigation for all significant impacts to Greeley's facilities. To comply with NEPA's public disclosure requirements, the *Phase I Report* and *Phase II Report*, and all reports related to the revised analysis, must be released to Greeley, in draft, giving the City an opportunity to review and comment at least sixty (60) days before such reports and the FEIS are finalized and prepared for public comment.

3. The SDEIS *Phase I Report* is inadequate and precludes any meaningful analysis of water quality impacts.

As discussed in detail in the Technical Memo[18], the *Phase I Report* is wholly inadequate and precludes any meaningful analysis of water quality impacts. The *Phase I Report* screened out parameters that did not exceed or come close to exceeding (within 20 percent) water quality standards or parameters that impacted only one site along the stream. It disregarded acute impacts to water quality and incorrectly analyzed potential impacts to wastewater treatment plants by using a concept called "regulatory low flows."

Using a methodology to screen out parameters that do not exceed or come close to exceeding (within 20 percent) water quality standards ignores other important changes to water quality that could constitute a significant impact. Diminished water quality, even if the diminishment is not large enough to cause the stream to violate (or almost violate) the standard, can cause significant impacts to water and wastewater treatment facilities. A similar flaw exists with screening out parameters that only impact one site along the stream. This methodology overlooks impacts to the stream as a whole and excludes segments of the stream where water quality may become an issue. Increased pollutants and contaminates in a screened-out segment could constitute significant adverse water quality impacts to a water treatment facility (by necessitating additional treatment) or a wastewater treatment facility (by using up existing assimilative capacity, resulting in more stringent effluent limits).

In addition to the parameters that were prematurely screened out, the *Phase I Report* disregarded acute impacts to water quality and incorrectly analyzed potential impacts to wastewater treatment plants by using a "regulatory low flows" concept. Short-term impacts (and associated required mitigation) cannot be identified without an analysis of acute water quality impacts. The "regulatory low flow" analysis incorrectly compares predicted project flows with "regulatory low flows" to assess impacts to wastewater treatment plants, rather than using the correct method, which would be to calculate how the project flows would actually impact a wastewater treatment plant's effluent limits.

Screening out important parameters, disregarding acute impacts, and using a faulty "regulatory low flows" method of analysis excludes the information necessary to accurately assess impacts and the significance of those impacts. Since the impacts were not fully disclosed and the significance left undetermined, mitigation of those impacts cannot be accurately assessed. To provide meaningful analysis, the *Phase I Report* must be corrected to: (1) include

[18] Technical Memo, Water Quality #2-5, at pgs. 6-9.

all increased or changed parameters that are important to water and wastewater treatment facilities and to carry those parameters forward into the Phase II; (2) modify the screening analysis so that potential problems at individual sites, especially those sites immediately above drinking water intakes and wastewater treatment plant discharges, are not excluded but are carried forward into Phase II; (3) include both acute and chronic parameters in the *Phase II Report*; and (4) the Phase II mass balance modeling must include a water quality-based effluent limits ("WQBEL") mass balance to estimate future WQBELs for Greeley's Bellvue Water Treatment Plant, for both chronic and acute conditions.

To comply with NEPA's public disclosure requirements, the revised *Phase I Report* and the completed *Phase II Report*, and all reports related to the revised analysis, must be released to Greeley, in draft, giving the City an opportunity to review and comment at least sixty (60) days before such reports and the FEIS are finalized and prepared for public comment. Appropriate mitigation must be identified and imposed for any identified impacts, including compensation or any other remedy capable of mitigating any increased raw water or wastewater treatment costs to Greeley necessary to meet water quality standards or its revised effluent limits. In addition, the Corps must impose special permit conditions to monitor impacts and link the construction and operation of project components to the Applicant's demonstration (via monitoring) that water quality impacts have first been fully mitigated.

4. <u>The SDEIS Reservoir Comparative Analysis reveals significant water quality impacts from Glade Reservoir that are not adequately analyzed and mitigated and thus precludes any meaningful analysis of water quality impacts</u>.

As discussed in more detail in the Technical Memo[19], the Reservoir Comparative Analysis reflects several water quality impacts resulting from the operation of Glade Reservoir. Those impacts and corresponding mitigation measures are not adequately analyzed and identified. As a result, the Reservoir Comparative Analysis is inadequate to provide any meaningful analysis on water quality impacts.[20]

For example, as compared to Carter and Horsetooth Reservoirs, the Comparative Analysis concludes that, due to elevated inflow concentrations of organic matter into Glade Reservoir, stored water is expected to have reduced dissolved oxygen ("DO") levels and higher total organic carbon ("TOC") levels in water releases. The high level of TOC expected in its releases is a significant adverse water quality impact to water treatment facilities that receive Glade Reservoir water as a direct or indirect raw water supply. The Reservoir Comparative Analysis further acknowledges that nutrient (phosphorus and nitrogen) levels in Glade Reservoir will be considerably higher than in Carter or Horsetooth Reservoirs, but concludes that such levels will be within anticipated future nutrient standards. As discussed in the Technical Memo[21], this conclusion is not supported and must be supplemented by using high nutrient inflow years

---

19 Technical Memo, Water Quality #7-8, at pgs. 13-14.
20 40 C.F.R. § 1502.9(a) (The DEIS must be adequate to provide meaningful analysis of impacts.).
21 Technical Memo, Water Quality #7, at pg. 13.

for Carter and Horsetooth Reservoirs to more accurately predict average nutrient concentrations for Glade Reservoir.

Although Greeley is not a NISP Participant, the SDEIS identifies several operational scenarios where water stored in Glade Reservoir will be delivered, either directly or indirectly, to Greeley's Bellvue Water Treatment Plant. Therefore, the Reservoir Comparative Analysis, and the FEIS as a whole, must thoroughly analyze all of the Glade-related impacts.[22] To comply with NEPA's public disclosure requirements, the revised Reservoir Comparative Analysis, and all reports related to the revised analysis, must be released to Greeley, in draft, giving the City an opportunity to review and comment at least sixty (60) days before such reports and the FEIS are finalized and prepared for public comment. Appropriate mitigation must be identified and imposed for any identified impacts, including compensation or any other remedy capable of mitigating any increased raw water treatment costs to Greeley necessary to meet water quality standards. In addition, the Corps must impose special permit conditions to monitor impacts and link the construction and operation of project components to the Applicant's demonstration (via monitoring) that water quality impacts have first been fully mitigated.

5. The SDEIS aquatic habitat analysis is overly simplistic and does not disclose underlying hydrology in the supporting aquatic resource document.

As discussed in more detail in the Technical Memo[23], the SDEIS concludes that there are no impacts to aquatic habitat. These conclusions are based on an overly simplistic approach to the calculation of changes to aquatic habitat and cannot be supported. The analysis improperly takes an artificial construct of habitat, removes all outliers, and then compares it to a synthetic alternative to reach a conclusion of no impacts. Specifically, the change of fish habitat is based on synthetic graphs of 20 percent median and 80 percent habitat constructed from a 25-year daily habitat time series. The annual graphs are then summarized into minimum, maximum, and average habitat values. The percent change between the single average value derived from the 25-year daily simulation is then used to determine the level of impact.

This over-simplification of what should be a very detailed analysis does not allow the evaluation of inter- or intra-annual changes in habitat, which affect the fish species. As a result, there is no means to directly compare a habitat value with a specific discharge. The SDEIS, on page 4-314, discusses changes in habitat with changes in flow but there is no means to verify any of the statements made because any underlying hydrology is missing from the supporting aquatic resource document. The over-simplified analysis, without the means to verify any of the statements made, is inconsistent with the obligation to ensure "the professional integrity, including scientific integrity, of the discussions and analyses in environmental impact statements."[24] Furthermore, it does not satisfy the obligation to provide the public with "the underlying environmental data" from which the Corps developed its opinions and arrived at its decisions.[25]

---

22 *Id.*
23 Technical Memo, Aquatics #1, at pg. 14.
24 40 C.F.R. §1502.24.
25 *WildEarth Guardians*, at 925.

To remedy this flawed analysis, the Corps must either provide the data tables used in the habitat synthesis or revise the SDEIS to include the analysis of habitat over time without synthesizing the daily habitat data into percentiles. To comply with NEPA's public disclosure requirements, the data tables or the revised aquatic habitat analysis, and all reports related to the revised analysis, must be released to Greeley, in draft, giving the City an opportunity to review and comment at least sixty (60) days before such reports and the FEIS are finalized and prepared for public comment.

6. The SDEIS stream temperature analysis remains inadequate and continues to preclude any meaningful analysis of impacts to stream temperature.

The 2008 DEIS was criticized for lack of adequate water temperature analysis. However, the 2014 Hydros report prepared for the SDEIS to fill that gap includes only a qualitative review of water temperature data, with a subjective discussion of potential changes resulting from NISP. As discussed in more detail in the Technical Memo[26], the projected water temperature changes are not quantified in any alternative. As a result, the conclusion in the SDEIS of "minor to moderate" temperature changes is not supported and is inconsistent with the obligation to ensure "the professional integrity, including scientific integrity, of the discussions and analyses in environmental impact statements."[27]

Stream temperature is an important issue for Greeley. Any increases to the stream could adversely affect its past and ongoing aquatic habitat enhancement efforts and directly increase its wastewater treatment costs.

To address the above shortcomings, additional analysis and modeling of water temperature impacts and appropriate mitigation must be performed before the FEIS. The additional water temperature analysis, and all reports related to the revised analysis, must be released to Greeley, in draft, with an opportunity to review and comment at least sixty (60) days before such reports and the FEIS are finalized and prepared for public comment. Appropriate mitigation must be identified and imposed for any identified impact, including compensation or any other remedy capable of mitigating any increased wastewater treatment costs to Greeley necessarily incurred to meet water quality standards. In addition, the Corps must impose special permit conditions to monitor impacts and link the construction and operation of project components to the Applicant's demonstration (via monitoring) that impacts to water temperature have first been fully mitigated.

7. The SDEIS does not identify appropriate mitigation for reduced peak flows necessary for channel maintenance and sediment transport.

As discussed in more detail in the Technical Memo[28], flows in the Poudre River will be reduced if NISP is implemented as described in the SDEIS. Changes in the flow regime are

---

26 Technical Memo, Aquatics #2-3, at pgs. 15-16.
27 40 C.F.R. §1502.24.
28 Technical Memo, Geomorphology #1, at pg. 18.

expected to occur mainly during the high flow periods of late spring to early summer. Geomorphologic processes depend on peak flows to initiate bed movement and generate sediment transport. If high flows are reduced, these processes may not occur at the frequency or magnitude required to maintain the channel. Decreases in the magnitude and frequency of events that transport sediment could have multiple impacts on Greeley. Reduction in peak flows associated with NISP may constrain Greeley as it pursues future water supply projects if the cumulative effects on channel morphology are deemed to be excessive. Flow reductions and associated sediment aggradation may require additional maintenance in the form of removal or management of sediment, which if left unmitigated could increase flooding risks through Greeley

To fully mitigate this change, flows must be increased back to their current condition levels, especially during the periods of high flow described above. The Corps must revise the SDEIS to identify the means of accomplishing this mitigation.[29] The identified means of mitigation, and all reports related thereto, must be released to Greeley, in draft, with an opportunity to review and comment at least sixty (60) days before such reports and the FEIS are finalized and prepared for public comment. In addition, the Corps must impose special permit conditions to monitor impacts and link the construction and operation of project components, which may include utilizing exchanges or regulating when flows are diverted upstream of Greeley, to the Applicant's demonstration (via monitoring) that impacts caused by reduced flows in the Poudre River have first been fully mitigated.

8. <u>The SDEIS does not identify appropriate mitigation for Greeley's Mitigation and Greenspace Projects on the Poudre River</u>.

As discussed in more detail in the Technical Memo[30], the SDEIS data indicates that NISP will lower river stage and/or lower groundwater elevations during the growing season for riparian and wetland vegetation within the lower reach of the Poudre River. Areas that would be affected include Greeley's 59th Avenue Mitigation Site and other targeted mitigation and greenspace projects located along the lower Poudre River. These adverse impacts will affect the design and construction costs of the mitigation and greenspace projects. Further analysis is required to determine the full extent of variation from existing conditions to develop the design basis necessary to support construction adjustments (e.g., greater extent and depth of excavation/grading and/or installation of instream check structures required to raise and maintain adjacent water table to support wetland vegetation). If the adverse effects of NISP are not addressed during the design and construction phases, they will affect the potential long-term viability/sustainability of wetland and riparian habitat in the lower reach of the Poudre River.

The Corps must revise the SDEIS to identify appropriate mitigation.[31] Appropriate mitigation includes compensation or any other remedy capable of mitigating any increased construction or maintenance costs necessary to establish Greeley's mitigation and greenspace

---

29 *See*, 40 C.F.R. §1502.16 (Discussion must include means to mitigate adverse environmental impacts (if not fully covered under §1502.14(f))).

30 Technical Memo, Wetlands & Riparian Areas #1, at pg. 19.

31 *See*, 40 C.F.R. §1502.16 (Discussion must include means to mitigate adverse environmental impacts (if not fully covered under §1502.14(f))).

projects located along the Poudre River. The appropriate mitigation, and all reports related thereto, must be released to Greeley, in draft, with an opportunity to review and comment at least sixty (60) days before such reports and the FEIS are finalized and prepared for public comment. In addition, the Corps must impose special permit conditions to monitor impacts and link the construction and operation of project components to the Applicant's demonstration (via monitoring) that impacts caused by reduced flows in the Poudre River have first been fully mitigated.

III. CONCLUSION: THE CORPS MUST RE-ANALYZE VARIOUS ASPECTS OF THE SDEIS; PROVIDE OPPORTUNITY TO REVIEW AND COMMENT BEFORE THE ANALYSIS AND FEIS IS FINALIZED AND PREPARED FOR PUBLIC COMMENT; PROPOSE ADEQUATE MITIGATION; AND IMPOSE SPECIAL PERMIT CONDITIONS TO MONITOR AND LINK THE CONSTRUCTION AND OPERATION OF PROJECT COMPONENTS TO THE APPLICANT'S DEMONSTRATION THAT IMPACTS HAVE FIRST BEEN FULLY MITIGATED.

As stated above, and more fully addressed in the attached Technical Memo, the SDEIS is inadequate and precludes meaningful analysis with regard to surface water diversion, water quality, aquatic habitat, and stream temperature. Accordingly, the Corps must: (1) re-analyze various aspects of the SDEIS, including surface water diversion, water quality, aquatic habitat, and stream temperature; (2) release all reports related to the revised analysis to Greeley, in draft, giving the City an opportunity to review and comment at least sixty (60) days before such reports and the FEIS are finalized and prepared for public comment; (3) include appropriate mitigation (which includes compensation or any other remedy) for all identified impacts to Greeley; and (4) impose special conditions in the permit that obligate the Applicant to: (1) monitor impacts and proposed mitigation to surface water diversion, water quality, aquatic habitat, and stream temperature and (2) link the construction and operation of project components to the Applicant's demonstration (via monitoring) that the impacts have first been fully mitigated.

Greeley appreciates this opportunity to comment on the NISP SDEIS. Please contact me if you need any additional information or clarification of the points made in this letter or the attached Technical Memo.

Sincerely,

Burt Knight,
Water and Sewer Director
BK/jcs

Encl.

Cc: Roy H. Otto, City Manager
Greeley City Council
Greeley Water and Sewer Board