

From: Carey, Timothy T NWO [<mailto:Timothy.T.Carey@usace.army.mil>]  
Sent: Friday, July 15, 2011 2:37 PM  
To: Beverley Heffernan; [Wasco.Melanie@epamail.epa.gov](mailto:Wasco.Melanie@epamail.epa.gov); [kpaulin@fs.fed.us](mailto:kpaulin@fs.fed.us); [Mary.Risser@nps.gov](mailto:Mary.Risser@nps.gov); 'Rebecca.Mitchell@state.co.us'; Mike Purcell; [judyedwards@utah.gov](mailto:judyedwards@utah.gov); Jeff Comstock; [johnsonw@sweet.wy.us](mailto:johnsonw@sweet.wy.us); Jean Dickinson; Dave Allison; Floyd Briggs; Mike McKee; Hank Castillion; Craig Nelson  
Cc: [Rollin.Daggett@aecom.com](mailto:Rollin.Daggett@aecom.com); [d75simon@blm.gov](mailto:d75simon@blm.gov); [James.Fargo@ferc.gov](mailto:James.Fargo@ferc.gov)  
Subject: Regional Watershed Supply Project Environmental Impact Statement (EIS) - Section 404 Clean Water Act Permit Application Withdrawals and Termination of EIS Process (UNCLASSIFIED)

Classification: UNCLASSIFIED

Caveats: NONE

Cooperating Agency Contact -

1. The purpose of this message is to inform you that the U.S. Army Corps of Engineers, Omaha District, Denver Regulatory Office (Corps) has officially withdrawn the Section 404 Clean Water Act permit application for the Regional Watershed Supply Project (RWSP) per regulations on the processing of permit applications found at 33 CFR 325.1(d) and 33 CFR 325.2(d)(5), and terminated the Environmental Impact Statement (EIS) evaluation process. The RWSP was proposed by the Million Conservation Resource Group (MCRG).

2. The Corps' regulations at 33 CFR 325.1(d) require that a permit application, in order to be considered complete, must contain the purpose and need for the proposed activity. The original permit application submitted for the RWSP stated that the purpose of the project was water supply for southeastern Wyoming and the Front Range of Colorado. This project purpose was utilized for all EIS related work, to include public and agency scoping. The primary purpose of the project may now change to electrical power generation, an activity appropriately under the purview of the Federal Energy Regulatory Commission. Since the purpose of the project is now fluid and the need for a Section 404 Clean Water Act permit is uncertain, the Corps now considers the permit application incomplete.

3. Additionally, 33 CFR 325.2(d)(5) requires that applicants be provided sufficient time to respond to requests from the Corps, normally not to exceed 30 days. At the close of a recent 60-day stop work request by MCRG, the Corps decided to withdraw the permit application, as MCRG did not officially respond with a decision about how the EIS was to proceed, as requested by the Corps.

4. Therefore, the Corps is now withdrawing the permit application and terminating the EIS process for the RWSP. Concurrently, the Corps will issue a Federal Register notice announcing that the EIS process has ended and will release a Section 404 public notice announcing that the permit application has been withdrawn. Withdrawal of the permit application does not prohibit the applicant from re-applying with a complete application at a later time.

5. From past communications with MCRG, it is the Corps' understanding that MCRG may attempt to modify the proposed RWSP design such that no placement of fill would occur in Waters of the United States, including wetlands, thus avoiding

Section 404 Clean Water Act regulations. However, if the project does end up involving a placement of fill into waters of the United States, a Section 404 Clean Water Act permit would be required, and the Corps would require a full scope of review to determine the environmental consequences, including development of project need to support the Corps' definition of the project purpose statement as well as a reasonable range of alternatives and their associated impact analyses and mitigation.

6. If you have any questions concerning this matter, please contact Ms. Rena Brand, EIS Project Manager, at (303) 979-4120.

Tim

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Timothy T. Carey, Program Manager  
Denver Regulatory Office  
U.S. Army Corps of Engineers

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