

Dated: August 29, 1989.

John W. Melone,
Director, Chemical Control Division, Office of
Toxic Substances.

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[OPTS-59272B; FRL-3640-6]

Certain Chemicals; Approval of Test Marketing Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of an application for test marketing exemption (TME) under section 5(h)(1) of the Toxic Substances Control Act (TSCA) and 40 CFR 720.38. EPA has designated this application as TME-89-17. The test marketing conditions are described below.

EFFECTIVE DATE: August 29, 1989.

FOR FURTHER INFORMATION CONTACT:

Karen K. Pollard, New Chemicals Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Room E-611, 401 M Street SW., Washington, DC 20460 (202) 475-8993.

SUPPLEMENTARY INFORMATION: Section 5(h)(1) of TSCA authorizes EPA to exempt persons from premanufacture notification (PMN) requirements and permit them to manufacture or import new chemical substances for test marketing purposes if the Agency finds that the manufacture, processing, distribution in commerce, use and disposal of the substances for test marketing purposes will not present an unreasonable risk of injury to health or the environment. EPA may impose restrictions on test marketing activities and may modify or revoke a test marketing exemption upon receipt of new information which casts significant doubt on its finding that the test marketing activity will not present an unreasonable risk of injury.

EPA hereby approves TME-89-17. EPA has determined that test marketing of the new chemical substance described below, under the conditions set out in the TME application, and for the time period and restrictions specified below, will not present an unreasonable risk of injury to health or the environment. Production volume, use, and the number of customers must not exceed that specified in the application. All other conditions and restrictions described in the application and in this notice must be met.

The following additional restrictions apply to TME-89-17:

1. A bill of lading accompanying each shipment must state that the use of the substance is restricted to that approved in the TME.

2. During manufacturing, processing, and use of the substance at any site controlled by the Company, any person under the control of the Company, including employees and contractors, who may be exposed via inhalation to the substance shall use:

a. Organic vapor respirator with dust prefilter.

3. The applicant shall maintain the following records until 5 years after the date they are created, and shall make them available for inspection or copying in accordance with section 11 of TSCA:

a. Records of the quantity of the TME substance produced and the date of manufacture.

b. Records of dates of the shipments to each customer and the quantities supplied in each shipment.

c. Copies of the bill of lading that accompanies each shipment of the substance.

T-89-17

Date of Receipt: June 22, 1989.

Notice of Receipt: July 14, 1989 (54 FR 29779).

Applicant: Confidential.

Chemical: (G) Cross linked starch hydrolyzed acrylonitrile copolymer.

Use: (C) Oil fracturing fluid, thickening agent.

Production Volume: Confidential.

Number of Customers: Confidential.

Test Marketing Period: Two year period.

Risk Assessment: EPA identified concerns for delayed lung toxicity to workers exposed via inhalation, based on an analogous chemical substance. However, during manufacturing, processing, and use, this concern will be mitigated with the use of a respirator where there is exposure in the form of a dust or particulate. Therefore, the test market activities will not present an unreasonable risk of injury to health. EPA identified no significant environmental concerns for the test market substance. Therefore, the test market activities will not present an unreasonable risk of injury to the environment.

The Agency reserves the right to rescind approval or modify the conditions and restrictions of an exemption should any new information come to its attention which casts significant doubt on its finding that the test marketing activities will not present an unreasonable risk of injury to health or the environment.

Dated: August 29, 1989.

John W. Melone,
Director, Chemical Control Division, Office of
Toxic Substances.

[FR Doc. 89-20766 Filed 9-1-89; 8:45 am]

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[FRL-3640-3]

Proposed Determination To Prohibit, Restrict, or Deny the Specification, or the Use for Specification, of an Area as a Disposal Site; South Platte River

AGENCY: Environmental Protection Agency (EPA).

SUMMARY: Section 404(c) of the Clean Water Act (CWA) 33 U.S.C. 1344(c), authorizes the Environmental Protection Agency (EPA) to prohibit or restrict the discharge of dredged or fill material at defined sites into waters of the United States whenever it determines, after notice and opportunity for hearing, that use of such sites for discharge would have an unacceptable adverse impact on various resources, including fisheries, recreation areas and wildlife. Pursuant to section 404(c), EPA Region VIII proposes to prohibit or restrict use of the South Platte River in Douglas and Jefferson Counties, Colorado, as a discharge site for fill material in connection with construction of Two Forks dam and reservoir. On behalf of itself and the Metropolitan Water Providers (Providers), the Denver Board of Water Commissioners (DWB) has applied for a 404 permit to construct and operate Two Forks dam and reservoir which would eliminate approximately 30 miles of coldwater stream fishery, approximately 300 acres of wetland, and 7,300 acres of related upland areas. Inundation of the streams, wetlands and upland areas of the site would have an unacceptable adverse effect on fisheries, recreation and wildlife habitat.

Purpose of Public Notice: EPA seeks comments on this proposed determination to prohibit or restrict the discharge of dredged or fill material into the South Platte River in connection with the construction and operation of Two Forks dam and reservoir. See Solicitation of Comments, at the end of this public notice, for further details.

Public Comment: Comments on or requests for additional copies of the proposed determination should be submitted to the EPA Region VIII's designated Record Clerk, Mary Alice Reedy, U.S. EPA, Region VIII, 8WM-SP, 999 18th Street, Suite 500, Denver, CO 80202-2405.

EPA seeks comments concerning the issues enumerated under the Solicitation

of Comments at the end of this notice. Copies of all comments submitted in response to this notice, as well as the administrative record to date, will be made available for public inspection during normal working hours (8:00 a.m. to 4:00 p.m.) at the EPA Region VIII office.

In accordance with EPA regulations at 40 CFR 231.4, the Regional Administrator has decided that public hearings on this proposed 404(c) determination would be in the public interest. Mr. Lee A. DeHihns, III, has been appointed the Regional Decision Officer for purposes of any EPA action on Two Forks dam and reservoir pursuant to section 404(c); since Mr. DeHihns has been designated to exercise all such authority of the Regional Administrator for the Two Forks dam and reservoir project, Mr. DeHihns will hereafter be referred to as the Regional Administrator. A separate public notice will be published in advance of the hearings in the Federal Register and local newspapers to announce the date, time and location of these hearings and describe the hearing procedures. Written comments may be submitted prior to the hearings, and both oral and written comments may be presented at the hearings.

Because of the scale of the proposed project, the complexity of issues, and the large volume of information which exists about this project, the Regional Administrator hereby determines that good cause exists to establish a comment deadline of November 17, 1989. This will also provide an opportunity for people to visit the site and make their own observations if they wish to do so.

FOR FURTHER INFORMATION CONTACT: Dr. Gene Reetz, EPA, Region VIII, State Programs Branch, 8WM-SP, 999 18th Street, Suite 500, Denver, CO 80202-2405. (303) 293-1570.

SUPPLEMENTARY INFORMATION AND BACKGROUND:

Table of Contents

- I. Section 404(c) Procedure
- II. Project Description and Background
- III. Characteristics of the Site
 - A. Area Affected by Construction and Inundation
 - B. Area Affected by Hydrologic Operations
 - (1) West Slope
 - (2) East Slope
 - (3) Nebraska

- IV. Basis of the Proposed Determination
 - A. Section 404(c) Criteria
 - B. Adverse Impacts of the Proposed Project
 - (1) Area Affected by Construction and Inundation
 - (2) Area Affected by Hydrologic Operations
 - (3) Nebraska
 - C. Project Purpose, Need and Alternatives
 - (1) Project Purpose
 - (2) Project Need
 - (a) Population Forecasting
 - (b) DWD's Available Water Supply
 - (c) Planning Uncertainty
 - (d) Role of Water Conservation
 - (3) Alternatives
 - (a) Structural
 - (b) No Federal Action
 - (c) Ground Water
 - D. Other Issues
 - (1) Metropolitan Cooperation
 - (2) Agricultural Water Exchanges and Transfers
 - (3) Current and Potential Use of the Reservoir Area
- V. Proposed Determination
- VI. Mitigation
- VII. Solicitation of Comments

I. Section 404(c) Procedure

The Clean Water Act, 33 U.S.C. 1251 *et seq.*, prohibits the discharge of pollutants, including dredged or fill material, into waters of the United States except under a permit issued pursuant to section 404 33 U.S.C. 1344. Section 404 establishes a federal permit program to regulate the discharge of dredged or fill material subject to environmental regulations developed by EPA in conjunction with the Department of the Army Corps of Engineers (COE).

The COE may issue permits authorizing dredged and fill material discharges into waters and wetlands if the permits comply with, among other things, EPA's section 404(b)(1) Guidelines at 40 CFR Part 230 (herein after "Guidelines"), except as provided in section 404(c). Section 404(c) authorizes EPA, after providing notice and opportunity for hearing, to prohibit or restrict the discharge to waters of the United States where EPA determines that such use would have an unacceptable adverse effect on wildlife or other specified environmental values. EPA, in its discretion, can exercise section 404(c) authority to "veto" a permit the COE has decided to issue.

Regulations published at 40 CFR part 231 establish the procedures to be followed by EPA in exercising its section 404(c) authority. Whenever the Regional Administrator has reason to believe that use of a site may have

unacceptable adverse effects on one or more of the pertinent resources, EPA is to notify the COE and the applicant that EPA intends to issue a proposed determination under section 404(c). Unless the applicant or the COE persuades the Regional Administrator within 15 days that no unacceptable adverse effects will occur, the Regional Administrator is to publish a notice in the Federal Register of his proposed determination, soliciting public comment and offering an opportunity for a public hearing. Today's notice represents this step in the process.

Following the close of the comment period, the Regional Administrator may withdraw the proposed determination or prepare a recommended determination. A decision to withdraw will be reviewed by the Assistant Administrator for Water at EPA Headquarters. If the Regional Administrator prepares a recommended determination, he forwards it and the complete administrative record to the Assistant Administrator for Water. The Assistant Administrator then makes the final decision affirming, modifying, or rescinding the recommended determination.

II. Project Description and Background

The proposed Two Forks dam would be located on the South Platte River about 1 mile downstream from the confluence of the North Fork of the South Platte with the South Platte River. The dam would straddle the Jefferson-Douglas County line approximately 24 miles southwest of Denver.

The dam would consist of a concrete arch structure approximately 615 feet high with a crest length of 1,700 feet. The normal maximum reservoir pool level would be at an altitude of 6,547 feet. The reservoir would have a surface area of approximately 7,300 acres and provide an active storage capacity of 1,100,000 acre-feet (AF).

Two Forks dam and reservoir would provide long term storage for flows from the South Platte basin upstream from the dam, as well as storage of transmountain water diversions from the west slope of Colorado. Two Forks dam and reservoir storage would allow the Denver Water Department (DWD) to further integrate the northern and southern sections of its water supply system and improve yields from the existing Williams Fork and Fraser River collection systems. The DWD consists of a five-member board appointed by the Mayor of Denver to formulate the water supply and water development policies

for the City and County of Denver. The DWD is the public utility which implements the DWB policy.

The operation of the proposed reservoir, in conjunction with the rest of the DWD water supply system would result in an estimated 98,000 acre-feet of safe yield per year (AFY) from Two Forks dam and reservoir. The Blue River would supply 42 percent of the safe yield; the South Platte, 33 percent; the Fraser River, 20 percent; and the Williams Fork, 5 percent.

In December 1981, the DWB requested the COE be the lead agency in preparation of the Systemwide Environmental Impact Statement (SEIS). The SEIS was required to meet a stipulation of the 1979 Foothills Consent Decree which resulted from litigation initiated in the late 1970s concerning the construction of DWD's Strontia Springs dam and the Foothills water treatment plant. The primary purpose of the SEIS was to document the environmental impacts of the proposed future development of the DWD water supply system. The SEIS was also to include analysis of alternatives, including a No Federal Action alternative, consistent with requirements of the National Environmental Policy Act (NEPA) (42 U.S.C. 1421 *et seq.*).

In February 1984, prior to completion of the SEIS, the DWB requested section 404 permits for construction of the Two Forks dam and reservoir project. The DWB permit request changed the nature of the SEIS from that of a systemwide planning document to a site-specific EIS designed to meet all federal and state permitting requirements for the Two Forks dam and reservoir project.

In January 1987, after three years of extensive studies, review and coordination, the COE provided public notice of availability of the draft environmental impact statement (DEIS) and section 404 permit applications for Two Forks dam and reservoir project. The DEIS clearly indicated that the Two Forks dam and reservoir project was the most environmentally damaging of the alternatives examined. In April 1987, the EPA submitted comments to the COE on the DEIS and rated the draft EU-3 (environmentally unsatisfactory-inadequate information). The primary bases for the EU-3 rating were that adverse environmental impacts of the project would be significant and an appropriate mitigation plan had not been developed. Additionally, EPA expressed concerns that the DEIS inadequately addressed potentially significant water quality standards violations and failed to fully address reasonably available alternatives which had the potential to reduce or obviate

the significant adverse environmental impacts. In view of the substantial inadequacies of the document, EPA recommended that the COE prepare a supplement to the DEIS to address these outstanding issues.

In March 1988, the COE issued the final environmental impact statement (FEIS). While improvements, especially a more detailed impact analysis, had been made between the DEIS and FEIS, EPA concluded a number of major issues had not been adequately addressed. EPA's May 26, 1988 comments on the Two Forks dam and reservoir FEIS and public notice identified that major concerns remained, including the (1) lack of a definitive mitigation plan, (2) length of the proposed permit, (3) adequacy of the implementation program for "interim" water supplies and effective conservation, and (4) the lack of a re-opener of the permit process in the future to reassess need. Even with the mitigation measures developed between the DEIS and FEIS, EPA indicated the Two Forks dam and reservoir alternative remained the most environmentally damaging of the alternatives examined.

On June 9, 1988, EPA provided the COE with detailed NEPA comments on the Two Forks dam and reservoir FEIS. The detailed comments addressed (1) alternative water supply sources, (2) mitigation, (3) water quality, (4) aquatics, (5) wetlands and (6) water conservation. In addition, EPA announced that it was considering its options under section 404, including referral to a higher COE authority under section 404(q) and referral of the matter to the Council on Environmental Quality.

During an extensive, post FEIS coordination effort among EPA, the COE, the DWD and the Providers, numerous reviews and proposed modifications of the proposed Two Forks dam and reservoir 404 permit conditions were undertaken. Following these efforts, on March 15, 1989, the COE issued a "notice of intent" to issue the permit for the Two Forks dam and reservoir. In response, EPA informed the COE on March 24, 1989, that EPA would commence the 404(c) process by preparing a public notice in accordance with 40 CFR part 231. During the "15 day" period (which was extended to July 14, 1989 by mutual agreement between the applicant and EPA) available to project applicant's and the COE to convince EPA that unacceptable effects would not occur as a result of the proposed discharge, EPA met numerous times with the DWD, the Providers, and their consultants. In addition, meetings

were held with the Governor of Colorado, Mayor of Denver, numerous other elected officials, and representatives of the environmental community. EPA also received, and reviewed, thousands of comments submitted by mail. The materials received during the meetings and the correspondence will be in the Agency administrative record. During this period, visits were made to the Two Forks dam and reservoir site, Cheesman Canyon, the DWD's system and portions of northeastern Colorado.

III. Characteristics of the Site

The South Platte basin upstream from the Two Forks dam and reservoir site is approximately 2,580 square miles and contains a mix of land uses and habitat types. South Park, a large, nearly treeless high mountain basin of approximately 1,000 square miles dominates the upper portion of the basin. The remainder of the basin is dominated by rugged rocky slopes which are heavily forested at the higher altitudes. The primary upland habitat types in the immediate project area are Douglas fir and ponderosa pine coniferous forests, with gambel oak, mountain grassland and mountain shrubland accounting for the majority of the remaining upland habitat.

A. Area Affected by Construction and Inundation

The reservoir would inundate approximately 7,300 acres of upland and aquatic habitat, including approximately 300 acres of vegetated wetlands and approximately 30 miles of riffle and pool complexes. Twenty five wetland community types were identified in the FEIS with the dominant types being cottonwood-willow, wet meadow, willow thicket and willow-sedge. The majority of the wetlands in the immediate project vicinity are small (79 percent are less than 1 acre) and associated with the streamside riparian areas. Wetland mammals common in the area include beaver and muskrat, and wetland birds include Wilson's warbler, belted Kingfisher, Lincoln's sparrow, dipper, and many others.

The fishery in the Two Forks dam and reservoir area is an extremely valuable and unique resource. The Colorado Division of Wildlife examined the historic records concerning the South Platte fisheries and concluded that the entire South Platte basin upstream from Denver possessed a phenomenal native fishery prior to initial settlement. By the late 1880s this quality fishery was being actively promoted by the railroads in an effort to attract fare-paying fishermen.

This large area of quality fishery has been reduced to limited portions of the basin today, much of which is in the Two Forks dam and reservoir area.

In recognition of the value and uniqueness of the remaining resource, both the U.S. Fish and Wildlife Service (USFWS) and the Colorado Wildlife Commission have selected the South Platte River in the inundation area for special status. The USFWS has designated portions of the stream in the inundation area as a Resource Category 1 indicating the "habitat to be impacted is of high value for evaluation species and is unique and irreplaceable on a national basis or in the ecoregion section". The Colorado Wildlife Commission has designated much of the stream as a Gold Medal trout fishery, one of the highest quality habitats for trout which offers the greatest potential for trophy trout fishing and angling success. The primary game fish in the area are rainbow and brown trout.

It has been suggested that the high quality fishery below Chessman Dam is a result of the presence of the dam itself. While the dam provides a warmer winter thermal regime for the fish, Colorado Division of Wildlife studies have documented the negative effects of Chessman Dam on the existing fishery. The general conclusion is that fishery management, in the presence of exceptional physical habitat, has resulted in the high quality fishery in the inundation area. This high quality fishery consists of both a high biomass (in 1985 the second highest in the State, second only to the Frying Pan River) and the density of large fish (in 1985 there were more trout greater than 14 inches per acre than any other river in Colorado).

Additional information provided by the DWD during the recent consultation period indicated that of 53 stream segments considered to be high quality fisheries in the western United States, the three South Platte stream segments to be inundated are three of the top ten fisheries on the list. Only two segments of the Frying Pan River in Colorado and single stream segments in Montana, Idaho, Wyoming, Utah, and New Mexico contained fisheries which the DWD considered to be higher quality than the three segments of the South Platte in the inundation area.

The primary recreational resources in the inundated areas are related to the free-flowing stream reaches. The high quality scenic vistas, Gold Medal trout fishing, white water rafting and tubing are further enhanced by the ease of access to the 1.9 million people in the Denver metropolitan area. There is also

an extensive system of hiking and motorized vehicle trails in the area.

The adjacent upland habitat provides food and shelter to support game species such as mule deer and elk. Other upland species of concern include Merriam's turkey, bighorn sheep, golden eagle and the endangered bald eagle, and peregrine falcon. The Two Forks dam and reservoir project area comprises a major portion of the known habitat of the threatened pawnee montane skipper butterfly.

B. Area Affected by Hydrologic Operations

(1) West Slope

The primary resources on the west slope of Colorado to be affected by the Two Forks dam and reservoir project are related to basins from which water would be diverted for storage in Two Forks reservoir, or other DWD reservoirs. These basins include the Blue River from Dillon Reservoir downstream, the Williams Fork, the Fraser River and the Colorado River downstream from the confluence with the Fraser. The Blue River downstream from Dillon Reservoir, as well as a 20-mile reach of the Colorado River downstream from the Fraser River, are Gold Medal trout streams. The Blue River and the Colorado River are also used for whitewater recreation and Dillon Reservoir is used for extensive water-based recreation. The Colorado River near Grand Junction contains populations of the endangered Colorado squawfish, bonytail and humpback chubs. The razorback sucker, a species presently proposed for listing as endangered is also found in this area. Much of the stream banks on these west slope rivers are bordered by riparian wetlands.

(2) East Slope

The hydrologically affected areas of the eastern slope of the Continental Divide extend downstream through Nebraska. The fisheries and recreational resources of the North Fork of the South Platte as well as the South Platte downstream from Antero Reservoir would be affected as a result of the operation of Two Forks dam and reservoir. South Boulder Creek from the Moffat tunnel downstream to the Ralston diversion also contains fisheries and recreational resources. Most of these stream reaches are bordered with riparian wetlands. Downstream from Denver the stream channel resources include warmwater fisheries, wetland/riparian areas and wildlife. Riparian areas are critical to this reach.

(3) Nebraska

The Platte River and its surrounding habitat in Nebraska provides essential habitat for many species of migratory birds. Habitat losses have caused concern for the millions of migratory birds that use the Platte River and its associated habitats. There is also concern for the welfare of summer, winter and year-round resident species. Migratory species of major importance include the Federally endangered whooping crane, peregrine falcon, bald eagle, least tern and the threatened piping plover. In addition to these endangered and threatened species, the Platte River supports about one-half million sandhill cranes and 5 to 7 million ducks and geese, including white-fronted geese, Canada geese, mallards, pintails and other waterfowl species during the spring staging period.

The area of the Platte River from Chapman to Lexington, Nebraska, has been designated as Resource Category 1, by the USFWS, indicating the uniqueness of this area. Many species of migratory birds other than waterfowl, sandhill cranes and endangered and threatened species use the Platte River Valley (such as, hawks, owls, wading birds, shore birds, gulls, terns, crows, some game birds, and songbirds).

These birds use the area during spring migration, fall migration, and for reproduction. The migratory species are of international, national, state, regional and local importance. There is also a diverse group of local fish and wildlife which is composed of game species which provide recreational and consumptive use and nongame species whose importance is predominately nonconsumptive, recreational and ecological.

IV. Basis of the Proposed Determination

A. Section 404(c) Criteria

The CWA requires that exercise of the final Section 404(c) authority be based on a determination of "unacceptable adverse effect" to municipal water supplies, shellfish beds, fisheries, wildlife or recreational areas. EPA's regulations define "unacceptable adverse effect" at 40 CFR 231.2(e) as:

Impact on aquatic or wetland ecosystem which is likely to result in significant degradation of municipal water supplies or significant loss of or damage to fisheries, shellfishing, or wildlife habitat or recreation areas. In evaluating the unacceptability of such impacts, consideration should be given to the relevant portions of the section 404(b)(1) Guidelines (40 CFR part 230).

The Guidelines prohibit the discharge of dredged or fill material into waters of

the United States if there is a less environmentally damaging practicable alternative, if it would cause or contribute to a violation of a State water quality standard, or if it would cause or contribute to significant degradation of waters of the United States. Those portions of the Guidelines which are particularly important in evaluating the unacceptability of environmental impacts in this case are:

- Less environmentally damaging practicable alternatives and special aquatic sites (§ 230.10(a));
- Water quality and endangered species impacts (§ 230.10(b));
- Significant degradation of waters of the United States (§ 230.10(c));
- Minimization of adverse impacts to aquatic ecosystems (§ 230.10(d));
- Impacts on existing indigenous aquatic organisms or communities (§ 230.11(e));
- Cumulative effects (§ 230.11(g)); and
- Secondary effects (§ 230.11(h)) to the aquatic ecosystem.

A major consideration during the application of the Guidelines is the definition of the "applicant". Although formally the permit applicant for the Two Forks dam and reservoir is the DWB, the section 404(b)(1) practicability analysis must consider both the DWB and the Providers as the applicant. One of the primary reasons the DWB wishes to build a Two Forks dam and reservoir is to supply water to the Providers. Since the Providers have an 80 percent interest in the cost and yields from Two Forks dam and reservoir, it is logical to consider the Providers as a part of the "applicant". Without the Providers the DWB has no "Need" to build the project. The approach taken by the COE in narrowly defining the applicant to include only the DWB during the practicability analysis while broadly defining the applicant to include the DWB as well as the Providers to establish the need for the project is obviously inconsistent.

B. Adverse Impacts of the Proposed Project

(1) Area Affected by Construction and Inundation.

Construction and filling of the Two Forks dam and reservoir would inundate a diverse riverine/wetland/upland complex which has extremely high fish, wildlife and recreational value. The riffle and pool component includes 21.3 miles of the main stem of the South Platte River and 8.8 miles of the North Fork of the South Platte River. Inundation of these resources would result in the loss of 1,467,600 square feet (33.7 acres) of adult trout habitat with

the corresponding loss of sustained trout standing crop estimated at 38,200 pounds. The inundated adjacent wetland/upland component comprises 7,300 acres of various vegetation types, including approximately 300 acres of wetlands.

As described in section III(A), approximately 20 miles of the main stem of the South Platte River in the inundation area has been designated as Gold Medal Trout Waters by the Colorado Wildlife Commission. This stretch of stream has also been designated as a Resource Category 1 by the USFWS. Furthermore, the three South Platte segments to be inundated are unique in terms of their proximity to a major metropolitan area. The outstanding aquatic resource and the readily available stream fishing on these high quality waters would be irretrievably lost as a result of the project.

The significant recreational uses described above would also be lost. The South Platte corridor is the only area within a convenient day-use driving distance from the Denver metropolitan area where a relatively natural setting along a major waterway is available for dispersed public recreation use. This area is also used for whitewater recreation as well as more leisurely tubing and other water-oriented recreation. No comparable substitute recreational opportunities exist in similar proximity to the Denver metropolitan area or any other city of its size.

Major wildlife impacts associated with the Two Forks dam and reservoir project in the inundation area are related to the construction and inundation impacts on 7,300 acres of terrestrial wildlife habitat. Construction and inundation will result in the loss of mule deer, elk, wild turkey and bighorn sheep habitat. The potential also exists that the bighorn sheep herd may be completely lost as a result of stress induced during construction. New roads and construction activities may also disturb potential peregrine falcon nesting.

Two Forks dam and reservoir project has the potential to affect the federally threatened and endangered bald eagle, peregrine falcon and pawnee montane skipper. The pawnee montane skipper was officially listed as a threatened species on September 25, 1986. The present montane skipper range covers about 38 square miles (24,328 acres) along the North and South Forks of the Platte River and their tributaries, Buffalo and Horse Creeks.

The 1,100,000 AF Two Forks dam and reservoir would result in a direct impact

on approximately 5,376 acres (22 percent) of the "best" montane skipper habitat. This would result in the loss of 23 to 42 percent of the montane skipper population. Additional significant, but unquantified, impacts to the pawnee montane skipper would result from the construction of recreation facilities around Two Forks Reservoir, boat launching ramps, residential development, the isolation of small pieces of habitat, and the splitting of the habitat along the North Fork of the South Platte and the mainstem of the South Platte into two separate isolated habitats.

The official position of the USFWS is that with full implementation of the conservation measures contained in the biological opinion, the project is not likely to jeopardize the continued existence of the montane skipper. Nevertheless, concern has been expressed that, even with the proposed conservation measures, the project would cause the loss of more than 40 percent of the skipper populations and the species classification could be downgraded from threatened to endangered.

(2) Area Affected by Hydrologic Operations

Two Forks dam and reservoir operations would reduce the flow of west slope streams with the potential for adversely affecting water quality on the west slope. EPA is concerned about potentially significant negative effects in the Williams Fork and Fraser River basins related to the loss of dilution, as well as increased salinity concentrations downstream on the Colorado River. Channel stability effects also have the potential to degrade the physical, chemical and biological integrity of the affected streams; these effects may have been understated in the FEIS. Whitewater recreation on the west slope will be negatively affected through the loss of peak flows.

The FEIS did not contain a detailed analysis of impacts of Two Forks dam and reservoir on fish and wildlife resources on the South Platte River from the Henderson gauge (just north of Denver) to the Colorado-Nebraska state line. During the summer of 1989, the Colorado Division of Wildlife sighted an endangered least tern in this area. The COE has not consulted with the USFWS concerning impacts of Two Forks dam and reservoir on the endangered least tern in Colorado.

(3) Nebraska

Concerns in Nebraska center around the recreational and wildlife habitat

losses, including impacts to endangered species, as a result of reduced peak flows and sediment transport. However, there is wide disagreement among the USFWS, COE and the applicant and the State of Nebraska and national environmental organizations concerning impacts of Two Forks dam and reservoir in Nebraska.

The State of Nebraska has two general concerns with the Two Forks dam and reservoir project. First, the projected impacts are based on what Nebraska believes to be an invalid hydrologic model. The Nebraska Department of Water Resources has reviewed one part of the hydrologic models and believe it is seriously flawed. Nebraska's level of concern has led the State to initiate a lawsuit with Wyoming over the use of a similar model for the Deer Creek dam and reservoir project to the U.S. Supreme Court. Further, the issues of the hydrologic model and sufficiency of the conservation measures are subject of ongoing litigation in U.S. District Court in Nebraska.

Second, Nebraska argues that the mitigation scheme for the endangered species is unauthorized, untested and has no scientific basis. Both the Nebraska Game and Parks Commission and the Department of Water Resources have reviewed the "conservation measures", which replace a water based habitat need with a land based mitigation approach, and found them untested at best and lacking in scientific validity at worst. The National Audubon Society and the National Wildlife Federation are in agreement with Nebraska concerns.

C. Project Purpose, Need and Alternatives

(1) Project Purpose

EPA considers the basic project purpose for Two Forks dam and reservoir is to supply water to the Denver metropolitan area. The Guidelines at 40 CFR 230.10(a) provide that no discharge is to be allowed if there is a practicable alternative to the proposed discharge which would have less adverse impact on the aquatic ecosystem, unless the alternative has other significant adverse environmental consequences. Under 40 CFR 230.10(a)(2) and 230.3(q), an alternative is practicable if it is available and capable of being done considering cost, existing technology and logistics in light of overall project purposes. Obviously, how project purposes are defined will determine the scope of practicable alternatives.

To that end, the DWB developed a ten-point project purpose statement. This was supplemented with three Provider-specific project purposes. The DWB and the Providers argue that EPA is required to use these project purposes in determining the practicability of any alternative to the Two Forks reservoir. They also argue that the EPA cannot ignore an applicant's statement of project purpose or substitute a different project purpose for that of an applicant. In addition, they believe that the EPA should give conclusive deference to a project purpose defined by a public entity.

Under the authority in the CWA and the regulations, the federal government has the responsibility for defining project purpose. Further, project purpose should be defined at its most basic or fundamental level, i.e., without qualifiers or additional criteria often unrelated to the project's basic water supply goal. Consideration is to be afforded an applicant's stated purpose, but it would be inconsistent with the CWA and the Guidelines to simply adopt without question an applicant's definition of the project purpose.

Otherwise, an applicant could craft its project purpose so that every possible alternative would be excluded from consideration. This would reduce the Guideline alternative analysis to little more than a procedural requirement to be perfunctorily carried out by the COE.

Furthermore, the COE agrees with this need to avoid unduly narrowing both the purpose of the Two Forks dam and reservoir project and the corresponding scope of alternatives. In its 404(b)(1) Evaluation (March 10, 1989) the COE concluded:

The applicant's stated project purposes taken at face value would seem to preclude the practicability of any alternative to the 1.1 million acre-foot (MAF) Two Forks * * * it would be inappropriate to accept without question or review a statement of project purpose so narrowly defined.

(2) Project Need

EPA questions whether the applicant has demonstrated current need for the proposed project within the appropriate time period, that is, by 2035. There are four factors to consider in determining the need for the proposed Two Forks dam and reservoir: (a) The amount of water needed to meet the expected population increase, (b) the DWD water available in the near future to meet that need, (c) the uncertainty of planning estimates, and (d) the role of water conservation.

(a) Population Forecasting. The COE revised the Denver metropolitan area population estimates between the DEIS

and FEIS. Using estimates from the Bureau of Economic Analysis, the population projections made by the Denver Regional Council of Governments (DRCOG) for the DEIS were reduced by 13 percent. Since publication of the FEIS, both the Census Bureau and DRCOG have further reduced population estimates for the Denver metropolitan area.

DRCOG population estimates showed the area gained 0.1 percent during 1988 with births exceeding net migration. More people left the region during 1988 than moved in with a net migration out of approximately 16,750 persons. According to DRCOG's August 1989 projections, even if the Denver metropolitan area is able to recover from its current economic slump and return to growth rates of 2.4 percent per year by 2000, the expected population would be about 8 percent lower in 2010 than that indicated in the FEIS. This projected lower 2010 population would reduce projected water demand by 46,000 AFY. This factor alone would delay the need for additional water supplies by approximately 15 years.

(b) DWD's Available Water Supply. The DWD indicated it will have 107,000 AFY of available water supplies without Two Forks dam and reservoir by 1995. These sources include 21,000 AFY available from current sources not now listed (firm safe yield less current use), 26,600 AFY in conservation reductions by DWD, and 60,000 AFY of sources to become available to DWD by 1995. DWD indicates these latter sources consist of system enhancements, water rights acquisitions, new alluvial wells, water transfers, and water exchanges that have been approved by the water courts. This 60,000 AFY had been listed in the FEIS as "interim supplies". However, DWD indicated these will be available water supplies by 1995.

The DWB indicates it may not be willing to share its available supplies. DWB indicated it cannot share its water supplies because the needs of the residents of Denver must be considered first under its charter obligations. However, the history of the DWB since expanding its service area to the adjoining suburban communities has been to share its available supplies. DWD planning documents indicated its intention to reserve sufficient water to buildout its land area including the proposed new airport. Buildout would entail residential and commercial expansion to current zoning densities. DWD also intends to reserve another 10 percent of its supply. DWD also stated a need to meet the upper limits of certain special contracts and adequate water to

build out the land area of its suburban distributors. At the expected rates of growth, such buildout would not occur until long after the 2035 planning period, possibly after the end of the next century.

The FEIS indicated that about 9000 AFY of additional water will be needed for the City and County of Denver through 2035 although Denver's proposed new airport may result in an additional water need. By comparison, DWD has reserved 20 percent, or 19,600 AFY of the proposed Two Forks dam and reservoir project safe yield. If DWB chose to reserve water needed for its own growth until 2035 or the amount that Two Forks would have provided, rather than that needed for many centuries, the remainder of the supplies could be available for the metropolitan area. This remainder is a significant amount since the DWD appears to have or will shortly have, available supplies to meet its needs and those of its suburban distributors until 2035.

Despite the finding of the COE that no sharing would take place, the 1982 Metropolitan Water Development Agreement provides for a means of adding water supply projects to be shared with DWD and the suburban communities. DWB could add its available supplies to the Metropolitan Water Development Agreement thereby providing sources of water for suburban expansion.

(c) Planning Uncertainty. DWD asks that the following "safety factors" be considered in assessing project need: Drought beyond that planned; uncertainties in population estimates, delays in obtaining the first yield of the project, provisions for system failure (primarily a potential failure of the Roberts Tunnel), reduced ability to decrease demand through conservation efforts, and uncertainties in "interim supplies." According to DWD, including or excluding such safety factors can accelerate or delay the need for the additional water supplies by approximately 25 years. However, most of these uncertainties appear to have been accounted for in the water demand projections. These uncertainties indicate that the timing of the Two Forks project itself is uncertain, and therefore, need for the project has not been reasonably established.

DWD's expressed desire to hold the permit for an unusually long period, also indicates uncertainty. The applicant requested that the permit life be at least 25 years with renewal options. This indicates that the need is neither immediate nor compelling. Until many of the above planning uncertainties are resolved, it appears that available

supplies and water conservation can provide for additional community growth during the planning time frame. Thus, the Two Forks dam and reservoir, and the concurrent loss of unique environmental resources, can be deferred.

(d) Role of Water Conservation. The COE has indicated that, as a condition of permit issuance, it would require approximately an 8 percent reduction (or 42,000 AFY) in the anticipated water demand by 2035 to be achieved through water conservation programs. DWD plans to achieve approximately 26,600 AFY of savings by 1995 by completing its ongoing meter installation plan and other conservation measures. DWD also has stated its willingness to make its conservation water available for future growth of Denver and possibly for use by the suburbs.

Experience in other communities in the western U.S. has shown that effective water conservation programs, such as rate increases and financial rebate programs for plumbing and irrigation improvements, can reduce water demand by 15 to 30 percent over 5 to 10 years. Reduction of water use by the proposed 8 percent over anticipated use is far less than can be achieved by a utility determined to cut customer use. Such savings could be achieved without changing lifestyles or landscaping practices. The water saved would also be available to supply community growth and thus avoid additional water supply projects.

DWD agreed, as part of the Foothills Consent Decree in 1979, to take steps to reduce per capita consumption by approximately 20 percent between 1979 and 1999. Yet, information developed by the COE during the NEPA process projects increased water use with higher personal incomes and household size reductions and, thus, makes this prior 20 percent reduction commitment more difficult to attain.

In fact, the COE used these factors to conclude that per capita water use would increase.

The COE has indicated that if the per capita consumption goals of the 1979 Foothills Consent Decree were attained, an additional 29,000 AFY would not be needed by 2000. Reasonable, cost-effective conservation measures are available to achieve the proposed permit reduction of 42,000 AFY and the additional 29,000 AFY necessary to achieve the Foothills goals. Further reductions of water conservation may be possible as demonstrated in other communities.

EPA is now conducting a detailed investigation of cost effective water conservation programs suitable for

Denver as part of the EPA 1989 evaluation of the DWD compliance with the Foothills Consent Decree conservation goals. A draft report on this effort is expected by January 1990. This evaluation should define additional programs suitable for Denver to achieve further water savings.

(3) Alternatives

The following discussion concentrates on alternative supply solutions analyzed in the COE's regulatory permit process and is by no means complete. The water supply needs of the Denver metropolitan area have been extensively studied at the local, State and Federal levels for many years, and many alternatives have been proposed. However, today's notice includes the proposed determination of whether there is a practicable, less environmentally damaging alternative, or combination of alternatives, to supply the Denver metropolitan area with sufficient water supply to replace that which would be available should Two Forks dam and reservoir be constructed. The available information supports the conclusion that there are such alternatives.

(a) Structural. The FEIS examined in detail four practicable, structural alternatives to the 1,100,000 AF Two Forks dam and reservoir project: 660,000 AF New Cheesman dam and reservoir, 400,000 AF Two Forks dam and reservoir, 400,000 AF Estabrook dam and reservoir and 200,000 AF Estabrook dam and reservoir. These projects would supply a safe yield of 68,000, 62,000, 58,000, and 46,000 AFY to the Denver metropolitan area respectively. While these are not the only alternatives available to supply water to the Metropolitan area, they were considered reasonable alternatives for the NEPA analysis, and, determined to be practicable under the Guidelines. Each of these structural alternatives is less environmentally damaging than Two Forks dam and reservoir. Consequently, it is questionable whether Two Forks dam and reservoir complies with the Guidelines, specifically § 230.10(a).

(b) No Federal Action. The FEIS presented a practicable, No Federal Action alternative, comprised primarily of ground-water sources and conservation, which would result in a yield of approximately 79,000 AFY. The 1982 Metropolitan Water Development Agreement is the principal basis by which the No Federal Action alternative is considered practicable since this constitutes the existing institutional arrangement by which other water can be shared or developed. Failure to question the DWB's ability to enter into

other water sharing arrangements and by accepting the pre-existing agreements, allows the DWB to characterize the project so as to preclude the existence of practicable alternatives. This type of pre-permit application action which attempts to limit the range of available alternative is not binding. Otherwise an applicant could, through agreements or other means, foreclose all possible alternatives except its own.

(c) *Ground Water.* There are sufficient ground-water resources stored in aquifers beneath the Denver metropolitan area to warrant the careful use of those resources, in conjunction with surface waters, as part of an alternative supply to Two Forks Dam and Reservoir. The area's ground water can be categorized as having a "renewable" portion (basically the ground water in the alluvial aquifers and a small portion of the ground water in the bedrock aquifers) and a "non-renewable" portion (predominately the ground water found in the bedrock aquifers). The quality of water contained in the bedrock aquifers is generally suitable for drinking with little or no treatment.

Ground water contained in the bedrock aquifers beneath the metropolitan area is legally and physically available for use if a sound water management plan can be developed. Based on estimates by the Colorado State Engineer's Office, EPA has calculated that approximately 69 million acre-feet of legally and physically recoverable ground water are contained in the five major aquifers beneath the 1,440 square-mile Denver metropolitan area. Even if only a portion of this would be economically available, a sufficient total ground-water supply exists to expand ground water use into the next several centuries.

While EPA recognizes that a portion of the ground water can be considered as a "non-renewable" resource, this is not an excluding criterion for the purposes of the Guidelines analysis. In order for the ground water within the Denver metropolitan area to be used in conjunction with surface water, Denver and its suburbs need to consider locating wells throughout the area and integrating this source directly into their existing water supply systems. For example, the U.S. Geological Survey estimates that 3,000 AFY could be used by Denver to provide water for three city parks. As noted in the FEIS, opportunities exist for nontributary ground water to supply an additional supply of 30,000 AFY. This could mean depleting the ground water at a

somewhat faster rate than its recharge. However, with the large volume of water economically available, such a rate of depletion could be sustained for well over 1000 years.

For the purposes of the alternatives to the Two Forks dam and reservoir, ground water should be considered as part of a practicable approach to meeting metropolitan water supply needs. Just because a resource is finite does not mean the resource is unavailable for use; rather, its use must be judicious and coordinated with other available supplies.

D. Other Issues

1. Metropolitan Cooperation

The DWD has stated in its permit application that one purpose of the proposed Two Forks dam and reservoir is to provide water to share as an inducement to extend non-water related cooperation among community governments. Community officials have expressed a variety of hopes for future cooperative efforts to share the costs of hospital, cultural, and transportation facilities. As part of these cooperative efforts, some officials hope to consolidate regional land use planning to reduce the costs and environmental burdens of independent decision making. The applicants have suggested that such sharing and cooperation depend upon a sufficiently large water supply.

Many intergovernmental relationships are now well established and such arrangements are likely to expand where mutually beneficial. The current efforts by the City and County of Denver to offer water to its neighboring communities so they can then better share regional costs and burdens is an exciting prospect for community leaders and is endorsed by EPA.

The success of these cooperative efforts appear to be dependant on the amount of water available for sharing and not on the construction of the Two Forks dam and reservoir or any other project. Since its inception, the DWB has had a history of sharing its well-managed water supply system. This practice will continue with or without the Two Forks project or as long as sufficient water is available to share. So long as sufficient water is available, conditions appear conducive to metropolitan cooperation.

As noted above, the DWB indicated that its available sources will amount to 107,000 AFY by 1995. Because the City and County of Denver may only require as much as 9,000 AFY for its own growth during the planning period or choose to reserve that amount it would have

retained from the Two Forks dam and reservoir (19,600 AFY), sufficient water appears to be available to allow the sharing of DWD's water to promote metropolitan cooperation without the Two Forks dam and reservoir.

Moreover, the 1982 Metropolitan Water Development agreement provides an existing contractual arrangement for this purpose. In addition, the DWB has had, and indicated in its April 1989 policy statement it will continue to have, a policy of sharing available water beyond that needed to meet its direct charter obligations to the residents of Denver.

(2) Agricultural Water Exchanges and Transfers

One of the applicant's stated project purposes is to maintain Colorado's irrigated agricultural economy. Some project proponents have asserted that without the Two Forks dam and reservoir, Providers will acquire irrigation water, resulting in the "dry-up" of irrigated lands. Those proponents also alleged that this would result in substantial reduction in wetlands and other wildlife habitat. While recognizing the importance of agriculture in Colorado's economy, EPA agrees with the COE's analysis of the applicant's project purpose relating to protecting the state's agricultural economy. Protection of the States' agricultural economy is indeed an important planning goal.

It should be noted that irrigated agriculture in Colorado accounts for approximately 85-90 percent of total water use, whereas municipal and industrial use accounts for only 10-15 percent. Colorado water law permits the transfer of water rights and such transfers occur in a basically "free market" forum within the current Colorado water court process. Given the substantial proportion of water used by agriculture, and the legal system's flexibility, it is not surprising that, even without a decision of Two Forks dam and reservoir, Provider communities (Aurora and Thornton for example) have acquired agricultural water rights with the intent of transferring those rights to municipal uses.

There is no clear evidence that agricultural "dry-up" will occur as a result of a Two Forks dam and reservoir permit denial. During the "15-day" consultation period, local experts could not agree on the potential effects on irrigated agriculture of either proceeding, or not proceeding, with Two Forks dam and reservoir. No documentation was provided which indicated that the historical trends in irrigated agriculture would change with,

or without, Two Forks dam and reservoir. It would appear that local and regional land use decisions governing urban, commercial and industrial expansion, coupled with agriculture's "soft" economic situation, have driven the shifting patterns of irrigated agriculture in Colorado.

Acquisition of agricultural waters can be a component for meeting metropolitan water supply needs. Such transfers can also occur with adequate and appropriate environmental safeguards. There may be creative arrangements (such as, dry year leasing or acquisition of water "salvaged" through improved irrigation practices) which could benefit both the agricultural community and the metropolitan area and also protect environmental values. Some arrangements could be implemented now, whereas others (use of "salvaged" water) may require institutional changes.

The Governor of Colorado, in his 1988 "A Colorado Agenda for Water", made a number of observations and recommendations which have a bearing on these issues. " * * * I believe the General Assembly should investigate ways to encourage water savings in the State's agricultural sector. Agriculture uses the vast majority of our water, and thus the potential for savings are tremendous. Yet our current system discourages water conservation by Agricultural users." The Governor further observed, "We know that there are a number of ways to reduce water consumption without reducing agricultural production, and we know that these methods often are cheaper than building a dam. We should seriously consider legislation which encourages farmers to find those savings and allow them to profit from their initiative." The Governor's statement also noted the need to balance a diversity of competing interests (protection of basin of origin, municipal, agriculture, environmental and recreational uses) and the desirability of fostering greater metropolitan cooperation.

(3) Current and Potential Use of the Reservoir Area

During the initial "15-day" consultation period, several commenters expressed the opinion that the area to be directly inundated by Two Forks reservoir was not especially valuable because it was "trashed-out" and "poorly managed". The areas to be inundated range from pristine (such as Cheesman Canyon) to areas of virtually uncontrolled use (such as portions of the lower North Fork of the South Platte). No doubt the resources and recreational

opportunities of the entire area could be better managed to capitalize on the outstanding natural amenities and recreational opportunities.

V. Proposed Determination

The Regional Administrator proposes to recommend that the discharge of dredged or fill material into the South Platte River at the Two Forks dam and reservoir site be restricted or prohibited for the purpose of constructing the proposed Two Forks dam and reservoir and ancillary facilities. Based on current information, the adverse effects of the Two Forks dam and reservoir would be unacceptable. Moreover, it appears these impacts are partly or entirely unnecessary and avoidable.

This proposed determination is based primarily on the adverse impacts to fisheries, wildlife and recreational resources. EPA has reason to believe the project would cause or contribute to significant degradation of waters of the United States and violate the Guidelines. It would directly destroy approximately 30 miles of riffle and pool complexes, approximately 300 acres of wetlands, an irreplaceable mix of recreational values readily available to the Denver metropolitan area population, and 22 percent of the known pawnee montane skipper habitat. In addition, operation of the Two Forks dam and reservoir has the potential to degrade both east and west slope recreational opportunities, and threatened and endangered fish and bird populations in Colorado and Nebraska, as well as other wildlife such as the big horn sheep. Furthermore, there are less environmentally damaging practicable alternatives for meeting regional water supply needs. Impacts which are avoidable are unacceptable.

VI. Mitigation

As discussed above, there are practicable, less damaging alternatives to the Two Forks dam and reservoir project, without considering mitigation of potential adverse effects. However, because of the great emphasis which has been placed on mitigation throughout the COE's NEPA and permitting process, the following summarizes the Agency's major concerns with the environmental mitigation contained in the proposed Section 404 permit conditions.

The proposed Section 404 permit conditions provide for mitigation efforts for 16 different resources. The COE recognized Two Forks dam and reservoir would result in significant visual impacts but chose to defer to the U.S. Forest Service for permit conditions for this resource (Permit Conditions

page 16). During the 404(q) process, the permit conditions were altered in an attempt to address EPA's concerns with the wetland, aquatic life, water quality, conservation and available supplies. However, the mitigation plan remains insufficient to fully replace the values which would be lost as a result of Two Forks dam and reservoir construction and operation.

For example, replacement of 90 percent of the lost instream trout biomass is inappropriate. Mitigation should be used to replace all the values lost. Every effort should be made to replace the value lost with equal values. The mitigation proposal for Two Forks dam and reservoir would allow, for example, replacement of one mile of 400 pound per acre stream fishery with 2 miles of 200 pound per acre stream fishery. This approach to mitigation does not address the real value of the resource to be lost, that is, there are very few 400 pound per acre stream fisheries. This inappropriate, out-of-kind mitigation is equally unacceptable in the replacement of the quality fishing recreational values.

Furthermore, the COE and the applicant believe all practicable steps to mitigate the impacts have been taken, the permit conditions require that additional mitigation be pursued if the proposed mitigation proves ineffective. This logic renders the recreation and aquatic permit conditions suspect. It is difficult to see how the applicant will be able to pursue mitigation to replace unsuccessful mitigation if the applicant has already determined there is presently no additional practicable mitigation available.

EPA is also concerned with the after-the-impact approach to aquatic mitigation. The net result of this approach is that the risk of loss is placed on the resource. Much of the resource will be lost before the mitigation methods can be proven to work. A similar approach is used for the threatened pawnee montane skipper.

These concerns with the mitigation plan underscore the conclusion that the resource is of great value, that the resource is difficult if not impossible to replace in-kind, and impacts to this resource should be avoided if less damaging, practicable alternatives are available. As note above, there are less damaging, practicable alternatives.

VII. Solicitation of Comments

EPA is today soliciting comments on all issues discussed in this notice. In particular, comments on the likely adverse impacts to fish, wildlife and recreational values of the rivers,

streams, and wetlands in all areas which would be affected by the construction and operation of Two Forks dam and reservoir are requested. All relevant data, studies, knowledge of studies, or informal observations are appropriate. Where comments or materials have been previously submitted to EPA, it is sufficient to reference them by title and date of submission rather than resubmitting them.

While the significant loss of aquatic and recreational values and the availability of less damaging practicable alternatives serve as EPA's main bases for this proposed 404(c) determination, EPA Region VIII has additional concerns with the proposed project, including water quality impacts, threatened and endangered species, alternatives and project need. Therefore, EPA also solicits comments on the following aspects of the project:

(1) The potential for the Two Forks dam and reservoir project to violate State water quality standards, especially as related to potential channel stability alterations;

(2) Whether, based on information collected since preparation of the biological opinions, the threatened and endangered species consultation should be reinitiated for any of the species potentially affected by the Two Forks dam and reservoir project;

(3) Information on the wildlife species which would be affected by changes in the aquatic ecosystem;

(4) Information on the recreational uses which would be affected;

(5) Information on the availability of less environmentally damaging practicable alternatives to satisfy the basic project purpose of municipal and

industrial water supply, taking into account cost, technology, and logistics, and including other alternatives which do not require the discharge of dredged material into the waters of the United States;

(6) Whether the discharge should be prohibited forever, allowed as proposed by the COE, or restricted in time, size or other manner; and

(7) Information on recent population projections by DRCOG, information on what criteria Denver should utilize to supply water under its charter obligation, and the affect of planning uncertainties on water supply planning.

Dated: August 29, 1989.

Lee A. DeHihns, III,
Regional Decision Officer.

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FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirement Submitted to Office of Management and Budget for Review

August 28, 1989.

The Federal Communications Commission has submitted the following information collection requirement to the Office of Management and Budget for review and clearance under the Paperwork Reduction Act, as amended (44 U.S.C. 3501-3520).

Copies of the submission may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037. Persons wishing to comment on this information collection should contact

Eyvette Flynn, Office of Management and Budget, Room 3235 NEOB, Washington, DC 20503, (202) 395-3785. A copy of the comments should also be sent to the Commission. For further information contact Jerry Cowden, Federal Communications Commission, (202) 632-7513.

Please note: The Commission has requested emergency processing of this item under the provisions of 5 CFR 1320.18 and has requested that the Office of Management and Budget take action by August 28, 1989.

OMB Number: None.

Title: Tariff Update Format.

Action: New collection.

Respondents: Businesses.

Frequency of Response: One-time response.

Estimated Annual Burden: 39 responses; 3,900 hours; 100 hours average burden per respondent.

Needs and Uses: The information is needed to provide a simplified, consistent format for a scheduled update of rates charged by local telephone companies. Use of the format allows waivers of other cost support rules and a more focused and efficient review by the FCC and the public. Respondents are local telephone companies, with the exception of most small telephone companies.

Text of Tariff Update Format

In accordance with the provision of 5 CFR 1320.15(b)(1) the text of the Tariff Update format follows in its entirety.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

BILLING CODE 6712-01-M