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May 14, 2009

Julie McKay
Project Manager
Boulder County Transportation Department
P.O. Box 471
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Via Email

RE: Boulder Feeder Canal Trail

Dear Julie:

Western Ecological Resource represents some of the property owners along the Boulder Feeder Canal Trail Alignment. We are an ecology consulting firm located in Boulder with over 30 years of experience, including developing Alternatives Analyses for linear facilities such as a trail and the preparation of Environmental Assessments to evaluate the alternatives.

The introduction of 40,000 people and upwards per year into the rural environment of Boulder County, a pastoral area with a sensitive ecology, has the potential to generate significant impacts to the human, natural, and cultural environments.

It is our understanding that the Project Purpose is to determine the alignment for a trail extending from the Boulder Reservoir to Lyons. We have reviewed documents on the website and have serious issues with the process the County is using to determine the trail alignment.

The accepted industry standard for the selection of an alignment for a linear facility such as a trail is to:

- First, select a study corridor that allows for the development and analysis of all practicable alternatives as identified by the Project Purpose. The County selected corridor, with its east and west boundary, limits the selection of less damaging practicable alternatives and hence biases the process towards the requirement for the acquisition and use of private property. Specifically, placing the west corridor boundary across Table Mountain precludes alternatives west of Table Mountain, an area with a significant acreage of County property potentially suitable for trail alignments. The corridor boundary must be expanded to the west.

- There must be an inventory and mapping of the sensitive human and natural features of the study corridor, including residences and farms, cultural and historical resources, paleontological resources, traditional cultural properties of Native Americans, natural landmarks, wetlands, native prairies, riparian habitat, streams and ditches, raptor nest sites, raptor perches, raptor foraging areas, prairie dog populations, occupied and potential habitat for federally-listed species such as Prebles' meadow jumping mouse (*Zapus hudsonius preblei*), Ute ladies' tresses orchid (*Spiranthes diluvialis*), and Colorado butterfly plant (*Gaura neomexicana ssp. coloradensis*), rare plant habitat, critical wildlife habitat, and wildlife movement corridors.

More specifically, our concerns include:

Raptors. The County does not have a current mapping of all raptor nests within the study corridor. The 2002 winter raptor survey was only along the Feeder Canal alignment, is out of date, and was conducted at a time when there was significant pedestrian use of the trail. Since the elimination of the foot traffic resulting from NCWCD enforcement efforts, raptors have returned and created new nests. We are considering conducting an independent raptor survey.

As you may know, the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act protect nest sites of raptors, and will likely require the closure of the trail for significant periods of the year. We will work with the U.S. Fish and Wildlife Service to be sure that any trail is routed away from raptor nest sites or to establish closure periods to protect nesting raptors.

Federally Listed Species. There is known occupied and unoccupied habitat for the Prebles' meadow jumping mouse within the study corridor. Surveys for this mouse must be conducted and the results incorporated into the planning process. Other species of concern include the Ute ladies' tresses orchid and the Colorado butterfly plant. Has habitat for these species been identified and mapped? Again, we will work with the U.S. Fish and Wildlife Service to protect these federally listed species.

Other Wildlife Concerns. Other concerns include impacts to:

- Prairie dog habitat
- Burrowing owls, a state protected species
- Bell's twinpod (*Physaria bellii*) populations on Haystack Mountain and elsewhere
- Wildlife movement corridors along streams such as Left Hand Creek and St. Vrain Creek
- Great blue heron, which feed in the Feeder Canal and numerous other areas
- Nesting migratory birds

Why has the County not involved the Colorado Division of Wildlife, an agency with direct knowledge of wildlife and wildlife issues in the study corridor in this process?

Wetlands. As you may know, wetlands are protected by the Clean Water Act. Any impacts to wetlands will require a permit from the U.S. Army Corps of Engineers. If wetland impacts exceed one half acre, the County will be required to obtain an Individual Permit. The Individual Permit requires a Public Notice to advertise the project and also has provisions for a Public Hearing, which may be essential considering the potential of this project to create significant impacts to the human, natural and cultural environment.

Native Prairie & Riparian Habitat. There are numerous areas of native prairie and high quality climax riparian communities along the corridor. Have you identified and mapped these resources? These unique resources must be identified, mapped and protected from impacts.

Cultural, Paleontological & Historical Resources. Have there been any surveys to document the cultural, paleontological and historical resources within the study corridor? Have you been in contact with the State Historic Preservation Office? For example, Haystack Mountain, a County designated Natural Landmark Area, likely has significance to the Arapahoe Indian Nation as a village was once located near the mountain. We are initiating studies to document the significance of Haystack Mountain to the Arapahoe Indian Nation.

Private Property. Potential impacts to private property include loss of acreage due to eminent domain, impacts to the quality of life, disruption of agricultural operations, and disruption of operations due to trespassing. The quality of life for residents along the trail will be significantly impacted by the loss of privacy, noise, debris, water pollution, potential vandalism, increased risk for wildfires, illegal trespassing, and increased risk of property damage and theft by 40,000 people per year moving close to residences and often wandering off the trail. Property values will decline.

Once the resource base has been inventoried, alternative trail alignments can be selected and evaluated. The assumption that the Boulder Feeder Canal is the only alignment and then having residents add alternative trail segments to a base map is no substitute for an alternatives analysis process. Any process that fails to develop and evaluate alternatives that avoid impacts to private property such as the condemnation of private property for the trail is flawed. We will soon provide the County a No-Impact to Private Property Alternative to be analyzed with the other practicable alternatives generated by the above described approach.

It is imperative that cost be a factor in the alternatives analysis process, especially during this recession era. It is our understanding that your trail consultant engineer has estimated the cost of a bridge to cross a canal near Niwot Road and 55th Street to be in excess of \$200,000. Perhaps there is a practicable alternative to this alignment that will save the taxpayers money. Your process appears to assume that the County has already determined the trail alignment and is proceeding with the design. Transparency is important not only to the federal but to the Boulder County government as well. We would like to know what other segments of the trail have been engineered.

The County's desire to add bridges over Left Hand Creek and canals, and align a trail through the high quality climax plains cottonwood (*Populus deltoides*) riparian forest along Left Hand Creek and through the high quality riparian habitat along St. Vrain Creek is in direct conflict with Section OS 6.01 of the Comprehensive Plan, which states:

OS 6.01 Trails and trailheads shall be planned, designed, and constructed to avoid or minimize the degradation of natural and cultural resources, especially riparian areas and associated wildlife habitats. Riparian areas proposed for preservation but for which trail development is inappropriate include: 1) Boulder Creek between 55th Street and U.S. Highway 287, 2) St. Vrain Creek west of Airport Road, 3) Left Hand Creek west of State Highway 119, and 4) Rock Creek west of McCaslin Boulevard.

We strongly request that Boulder County respect and comply with the Comprehensive Plan. The County interests are not above those of the general public.

Please note, the Comprehensive Plan has data that are very useful for the alternatives analysis process. However, much of the data in the Plan are out of date and must be updated in order to conduct a fair Alternatives Analysis and protect the resources.

We have also reviewed the Boulder Feeder Canal Trail Community Environmental Assessment Process (CEAP) Report. First, this report assumes that any trail built would be routed along the

Feeder Canal, and therefore excludes less damaging practicable alternatives elsewhere. This approach is flawed. For example, the CEAP Report identifies primary issues but totally fails to even address impacts to private property and the quality of life of residents along the trail. The CEAP Report also fails to address cultural and historical resources and has no comment on trail costs.

There can be no fair and defensible trail alignment until a comprehensive alternatives analysis process is developed and implemented. Due to the requirement for numerous federal permits for this project, the potential use of federal property (U.S. Bureau of Reclamation), and the potential for significant impacts, we believe that the public interest is best served by the preparation of a comprehensive Environmental Assessment in accordance with National Environmental Policy Act guidelines.

Sincerely,



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