MEETING NOTES

PROJECT:	23982 I-70 West Vail Pass Safety and Operations Improvements
PURPOSE:	SWEEP ITF #9 Meeting
DATE HELD:	June 6, 2022
LOCATION:	Online Google Meet Meeting
ATTENDING:	John Kronholm, Project Manager, CDOT Region 3 Karen Berdoulay, Resident Engineer, CDOT Region 3 Rob Beck, Program Engineer, CDOT Region 3 Jason Huddle, Environmental CDOT Region 3 Cinnamon Levi-Flinn, Environmental, CDOT Region 3 Paula Durkin, Environmental, CDOT Region 3 Jen Klaetsch, Environmental, CDOT Region 3 Marcus Dreux, US Forest Service Melvin Woody, US Forest Service Justin Anderson US Forest Service Kristin Salamek, CDOT USFWS Liaison Scott Garncarz, CDPHE Nolan Hahn, EPA Region 8 Julie Smith, EPA Region 8 Dick Cleveland, Town of Vail Larissa Read, ERWSD Tanner Rausch, Kiewit Randal Lapsley, R S & H Mary Jo Vobejda, Jacobs Jim Clarke, Jacobs Pat Hickey, Jacobs Amy Hopkins, Jacobs Loretta LaRiviere, Jacobs
COPIES:	Attendees

SUMMARY OF DISCUSSION:

1. **Introductions & Meeting Purpose**
   a. Karen introduced the attendees at today's meeting.
   b. Jim said throughout our meetings with you we have been updating you on impacts, our efforts to avoid and minimize per the SWEEP MOU, the 404 permitting and our mitigation approach and strategy. At the last SWEEP meeting, Pat provided a mitigation update. Today we have some updates about the 404 permitting and our mitigation approach that we want to discuss with you and get your feedback.
2. **Wetland Permitting Update**
   a. Pat said Construction Package (CP) 2 Nationwide Section 404 authorization was received in March 2022. The wetland impacts were reduced from EA estimates by 0.35 acres. Our mitigation was not required at that point in time other than to agree that we would restore Polk Creek upon completion of that project.
   b. CP 3 Nationwide Section 404 authorization was received in late May 2022. Again, we were able to substantially reduce impacts by 1.21 acres with design refinements and avoidance minimization measures. In CP 3 we did have mitigation obligations and we

proposed the fen mitigation which we have presented to you before as well as bioswale mitigation. That has slightly changed since the authorization was received.

c. There is a site visit with US Army Corp Engineers (USACE) and Wilson scheduled on June 28th to evaluate our wetland delineation and evaluate the jurisdictional nature of some of the features that will be affected by CP 4.

d. We had an EPA field visit with Nolan Hahn last fall and agreed upon what was we should be looking at and how we should be making these calls for jurisdictional and non-jurisdictional wetland features. We are going to be submitting a formalized jurisdictional determination request for CP 4 & 5 within the next few weeks. That is limited to the areas immediately along the highway which is where we have a lot of roadside ditches so there are some issues with the jurisdictional versus non-jurisdictional nature of those wetlands.

3. EA Wetland Mitigation Commitment

a. As you are all aware the EA had some commitments related to where and how mitigation would be completed for wetlands within the project. We have evaluated with CDOT over 25 potential mitigation areas. A lot of those were identified during the EA process and we also identified additional areas during the design refinement and field work process.

The EA commitment was to utilize on-site mitigation as it's first priority and working with USACE to confirm specific mitigation strategies and we have done that. We have shifted our mitigation strategy a little bit because of the other mitigation requirements that are ancillary to the EA: the Executive Order on Wetlands/FHWA Policy/CDOT Environmental Stewardship Agreement in which CDOT is required to mitigate for all wetlands regardless of their jurisdictional nature as they are affected by the project at a 1:1 ratio. The 2008 Mitigation Rule/404 puts a priority on mitigation banking and fee credits prior to on-site mitigation. There is a bit of a conflict between the 2008 mitigation rule and what we agreed to in the EA. That is why we have shifted our mitigation strategy a little bit and what we are proposing helps to mitigate that conflict.

We looked at many sites over the entire corridor for mitigation opportunities. At our last SWEEP meeting we showed you what we were presenting to the USACE for CP 3 which included the fen and bioswale mitigation.

We created a summary memo that summarized what we looked at and why we rated those potential mitigation areas as we did. In that process many were eliminated because they were too difficult to access, could be potentially impacted by future construction projects and some did not provide an effective mitigation benefit for the corridor. This resulted in the three on-site mitigation locations.

- Miller Slide bioswale channel and wetland creation

  In this area we are realigning the recreation trail to avoid a small fen and we will create a new bioswale and there is another fen upslope of the new trail. Last week we installed groundwater monitoring wells in this area to ensure we will not have secondary hydrological effects on this fen system. We don't anticipate these to be affected. We are doing mitigation to a fen which is a rare because not a lot of projects have the opportunity to do this.

The bioswale will be similar to the existing one which is a drainage way on the edge of the trail which is dominated by wetland grasses and willows. This is a good in-kind replacement for a lot of our impacts along the project corridor. Much of our impacts are to these drainage swales and intermittent drainage ways and this is a very appropriate mitigation in-kind replacement for what is being lost. These swales provide water quality benefits but also provide aesthetic benefits for the trail users and buffer the trail from the surrounding natural landscape.

- Maintenance shed fen complex enhancement (hydrologic restoration)

  This fen complex was dewatered by a 2' ditch that was dug many years ago. The fen complex will be restored by backfilling the ditch and restoring the hydrology to the entire fen system. We have installed groundwater monitoring wells up there so we will have a baseline condition of what it is now. During the high-water period like we are in now, there is only a few inches of water in the ditch. It is running very quickly, and it is clear the surrounding fen has been dewatered that would naturally be saturated to the surface. The groundwater monitoring data we are collecting will help to show that we have degraded hydrology in this fen system. The hope is once we fill this ditch with organic wetland topsoil we are receiving from the Rest Area project that we will see an immediate change in the hydrology of this fen wetland system.

  1. Justin asked if you have a stockpiling location for the Rest Area project topsoil and a way to conserve the topsoil as long as you need to?

     Pat said it's really good topsoil with high organic content sedge community, so we were really keen on trying to preserve the viability of that soil what exists within it. The Rest Area they will probably be removing that topsoil sometime in July and we will stockpile it right behind the shed for as short of a period of time as we can and locate it onto the receiving areas hopefully in the August timeframe. Unfortunately, we couldn't coordinate the two schedules to drop it into place right away. The specifications state the contractor will have to keep it moist to make sure it stays viable prior to installation.

  2. Justin said he would be interested in a site visit to the fen restoration area.

     Pat said he will send Justin an invite for a visit for June 17th. Melvin said he won't be able to make that date but will connect with Justin to discuss afterward.

- Maintenance Shed terraced slope wetland creation

  Just below the fen is a low-lying area between the fen and the shed that has been adversely affected by what happened with the ditch. It resulted in channelization of water below and this area is dryer than it historically would have been if the ditch hadn't been there. The goal of this mitigation will be to create a sloped wetland system addressing the eroded channel and create a tiered wetland sloping wetland that will control some of the water that is coming off the fen. It is clear the CDOT maintenance staff have struggled with pooling of water near the shed. Our hope is we can improve the drainage system for the facility and also create some nice

wetland areas. This will also be using the high-quality organic wetland topsoil from the Rest Area project.

b. The total on-site mitigation proposed in CP 3 involves 1.91 acres. Some is not straight creation, there is some level of restoration and enhancement involved, so it is not necessarily a straight 1:1 creation but we are affecting and either creating or enhancing 1.91 acres of wetlands within the project corridor.

4. Off-Site in Lieu Fee Mitigation

a. Pat said most of you are probably aware of the western slope In Lieu Fee Program administered by the National Forest Foundation. Because of the aggressive project schedule plus the requirements of the 2008 mitigation rule, it puts an emphasis on banking or in-lieu fee credits where possible. We elected to buy some credits initially for this phase under the In-Lieu Fee program and the credits will be purchased from a bank that is on Soda Creek near Lake Dillon. It is not within the Eagle River Watershed, it is in the Blue River Watershed. The In-Lieu Fee program combines the Blue and Eagle into one service area so from the USACE's and banking perspective it is legitimately within the service area of our project. CDOT plans to purchase 0.67 composite wetland credits for the Blue-Eagle Service Area to compensate for the loss of 0.27 acres of palustrine wetlands and intermittent streams.

The credit ratio is much higher than our impacts;.67 compared to .27. The .27 is for jurisdictional wetlands and as I mentioned before, we have jurisdictional impacts as well as what we are calling FHWA wetland impacts which are related to the non-jurisdictional wetlands that CDOT is required to mitigate for.

To reiterate why we elected to do in the in-lieu credit purchase:

- Cost and Feasibility:

  Difficulty finding practicable and cost-reasonable mitigation within project corridor.

- Regulatory Policy:

  USACE has expressed preference for the purchase of credits in accordance with the 2008 Mitigation Rule Hierarchy.

- Project Schedule:

  Pat said we wanted to present this to you because it is a change in strategy. The In-Lieu Fee program credits will allow the project to move forward with Section 404 permitting process as onsite plans are still being developed to mitigate for impacts to non-jurisdictional wetlands.

  Jim said the EA commitment is to prioritize on site and I think with regard to looking at all of the mitigation opportunities on the corridor that Pat talked about and the on-site mitigation that we are still pursuing, I think we have met the intent of that commitment. We felt the in-lieu program was more reasonable from a schedule standpoint and help the 404 permitting requirements based on the 2008 hierarchy.

    1. Melvin asked if you have looked at doing wetland restoration at the recreation trail close to east Vail where the wetland has been drained with some sort of culvert. Also, on the south side of the interstate close to east Vail there is another wetland that has been disconnected hydrologically from the hill slope runoff.

Pat said we did evaluate the drained pond upslope of the trail near the Basin of Last Resort and that is still on the table if we need additional mitigation for CP 4 or 5. We haven't advanced at this point mainly because it is kind of an unnatural feature. It would serve some benefit to the local area so that pond is still on the table and is something that needs to be addressed from a drainage perspective. I'm not sure of the other wetland you mentioned near the bottom of the pass.

Jim said we are still evaluating options for CP 4 & 5, and we would like to talk to the Forest Service about the one at the bottom of the pass.

2. Melvin asked if you have reached the design phase of the fen restoration at the top of the pass. He's worked with David Cooper on other fen restorations, and he would be a good resource.

   Pat said we haven't reached out to David, but we have cited his research and evaluated his techniques that were used on fens. We looked at restoration techniques that were utilized on past fen restorations and we evaluated those, and we are implementing the same techniques.

b. We are still looking for on-site mitigation and roughly half of the impacts are jurisdictional, and the other half are non-jurisdictional, so we will be mitigating for most of our jurisdictional impacts off-site. The only reason we are structuring it this way is to accommodate the permitting schedule and the complications that arise from timing and the requirements of the 404-permitting process.

   Karen said if you have any questions or concerns, feel free to reach out to us.