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Subtopic F7: Wetlands, Other Waters of the US, and Riparian Areas

Ten public and agency comments were submitted in relation to the subtopic of F7: Wetlands, Other Waters of the US, and Riparian Areas. From those 10 comments, 7 common concern statements were developed. Themes for the Wetlands, Other Waters of the US, and Riparian Areas subtopic include:

- The Draft PEIS draws conclusions from the SWEEP program, which was abandoned before it was completed.
- Because the Draft PEIS did not describe several pre-existing sections of I-70 that are in violation of the Clean Water Act, these issues need to be summarized and addressed in a revised draft, a supplemental draft, or the Final PEIS.
- The Draft PEIS did not contain an analysis and agreement from the US Army Corps of Engineers nor did it use the Corps of Engineers process for identifying dredge-and-fill sites and avoiding wetlands.
- The Minimal Action alternative was not adequately analyzed and may be considered a practical alternative under Section 404 of the Clean Water Act.
- The 15-foot sensitivity zone is not large enough to address wetland hydrology, upland hydrology and habitat, and induced development.
- The Final PEIS should explain how the sensitivity zone was selected and identify the criteria to support the 15-foot zone.

CCS No.	Environmental Sensitivity Common Concern Statements (CCSs)
Subtopic F7: Wetlands, Other Waters of the US, and Riparian Areas	
Stream and Wetland Ecological Enhancement Program	
F7-a	The Draft PEIS draws conclusions from the Stream and Wetland Ecological Enhancement Program (SWEEP), but the program was abandoned before it was completed and consensus was not achieved. Site-specific mitigation for wetlands and streams will not be effective without the specific policy that the SWEEP may have led to. CDOT and FHWA are not concerned about developing an effective SWEEP plan to protect the water quality during I-70 construction.
Clean Water Act Violations	
F7-b	The Draft PEIS does not describe that a number of pre-existing sections of I-70 are in violation of the Clean Water Act (Black Gore Creek, for example). The Final PEIS should incorporate a detailed summary of current Clean Water Act violations, as well as immediate, practicable steps to correct these issues, not only how to avoid future violations as does the Draft PEIS. A revised Draft PEIS, supplemental Draft PEIS, or the Final PEIS should address these issues more thoroughly.
Analysis	
F7-c	How have CDOT and FHWA met the USACE requirement that impacts on wetlands could be avoided unless there is no practicable alternative (40 CFR 230.10)? The Draft PEIS does not include an analysis and agreement from the USACE concerning wetlands and other waters of the US that could be affected by the I-70 project.

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F7-d	<p>The Draft PEIS should have used the USACE advanced identification process for identifying suitable sites for dredge and fill and avoidance of wetlands.</p> <p>USACE and EPA have an advanced process to identify suitable discharge sites and areas that should remain free of dredge and fill material. Per the Redbook, "The process may be particularly useful when highway projects are initially analyzed on a broad scale, corridor basis. Advanced identification may aid corridor selection or choices among the alternatives within the corridor." (Applying the Section 404 Permit Process to Federal-Aid Highway Projects, page 11-5, September 1988). Information of this nature should have been sought out and incorporated into the discussion in Section 3.6 of the Draft PEIS and depicted as suitable areas, for dredge and fill materials, or avoidance areas on Resource Maps 3.6-1 through 3.6-22 in the Draft PEIS.</p>
Least Environmentally Damaging Practicable Alternative (LEDPA)	
F7-e	<p>Page 2-119 of the Draft PEIS stated that "while the Minimal Action alternative has been included for disclosure in the Draft PEIS, it does not meet the need for the project and, therefore is not considered a 'reasonable alternative' by NEPA criteria. As such, while the components of the Minimal Action alternative as a single mode may collectively result in the least damage to the aquatic resources, it should not be considered in the determination of the least damaging practicable alternative." Because the Minimal Action alternative has not been adequately evaluated, this premise may not be appropriate. If adequately analyzed, it may still be considered a practicable alternative under Section 404 of the Clean Water Act.</p>
Sensitivity Zone	
F7-f	<p>The 404/NEPA merger process used on this project worked smoothly. The PEIS describes some very good work done to avoid and minimize wetland and aquatic habitat. However, a sensitivity zone of 15 feet on either side of the highway is used to address the indirect impacts on wetlands. This is not large enough to address the adjacent wetland hydrology, upland hydrology and habitat, and induced development. An explanation of how the 15-foot zone was selected, and the criteria used to support the distance should be provided in the Final PEIS.</p>
USACE's Review of the Draft PEIS	
F7-g	<p>The Corps of Engineers' review focused on impacts on the aquatic ecosystem, including wetlands, streams, lakes and riparian areas. Comments in this letter supplement earlier comments provided during two internal cooperating-agency reviews.</p> <p>While completion of the Tier 1 EIS will not result in a request to the Corps for authorization under Section 404 or the Clean Water Act, subsequent Tier 2 documents will result in such requests for authorization. Therefore, as another federal agency with decisions to make regarding the I-70 Mountain Corridor, the Corps must insure that the Tier 1 alternatives evaluation and elimination process complies with the 404(b)(1) guidelines. With this letter, I am pleased to advise you that the PEIS complies with 40 CFR Part 230. More specifically, the least environmentally damaging (to the aquatic ecosystem) practicable alternative has not been eliminated.</p>