



## Board of County Commissioners

June 5, 2014

Rena Brand  
Moffat EIS Project Manager  
U S Army Corps of Engineers  
Omaha District, Denver Regulatory Office  
9307 S. Wadsworth Blvd  
Littleton, CO 80128

*RE: Boulder County's Comments on the Final Environmental Impact Statement for the Moffat Collection System Project*

Dear Ms. Brand;

Boulder County appreciates the opportunity to comment upon the Final Environmental Impact Statement (FEIS) for the Moffat Collection System Project but must state at the outset that we are disappointed that, despite the approximately 16,000 pages in the FEIS and accompanying appendices, the response time was not extended beyond 45 days. Because the Proposed Action, if selected and constructed, would be the largest construction project in Boulder County's history, we would have preferred to have been able to perform a more thorough review of the FEIS before responding. In addition, the response time was not long enough for us to schedule a public hearing at which our citizens could provide input to us on the FEIS so that we could incorporate what we learned at that hearing into our comments. Despite the fact that the response time expires on June 9<sup>th</sup>, we have scheduled a public hearing on the FEIS for June 16, 2014. If we believe it warranted after that public hearing, we will send supplemental comments on the FEIS to the Corps and we hope that they will be considered.

In 2010, Boulder County submitted extensive comments about deficiencies in the Draft Environmental Impact Statement for the Moffat Collection System Project (DEIS). While some of Boulder County's concerns have been addressed in the FEIS, the analysis in the FEIS remains inadequate on most issues raised in our 2010 comments and we urge you to review those comments anew in light of the FEIS.

In performing its review under the NEPA, the Corps is required to identify the "least environmentally damaging practicable alternative." 40 C.F.R. Part 230.10. Before Denver Water imposes the Proposed Action upon us, there should be a requirement for a more robust discussion of the purpose and need for the project and alternatives to the Proposed Action, rather than simply accepting as an article of faith that the purpose and need are reasonable objectives that can't be met through conservation and a combination of smaller projects that are less environmentally detrimental. Based upon the experience of other metropolitan communities in

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the arid southwest, we believe that the potential for water conservation and efficiency in Denver Water's existing system have been understated and the Denver Water's price structure is too low, sending a weak conservation price signal.

Even if the Corps does not deny approval of Denver Water's Proposed Action based upon a failure to demonstrate that it is the least environmentally damaging preferred alternative, the Proposed Action should not be approved unless and until there is, at a minimum, a description of the project design and its implementation that is specific enough that its impacts can be known. As it currently stands, the FEIS does not provide an adequate description of the project because it does not describe what its design will be, how it will be constructed, or what impact its construction will have upon the environment and the surrounding community. There is no description of the construction plans for the dam, how it will be constructed, what volumes of various construction materials will be used, where those materials will be sourced, what transportation routes will be used for what purposes, what the quarry size on site will be, or how trees will be removed and disposed of. Depending on the answers to these questions, the environmental impacts to Boulder County and its citizens will be very different.

Rather than describing what construction truck traffic levels will be and their timing, the FEIS just acknowledges that there will be vehicle queuing behind slow-moving trucks. How much, when, and for how long? We don't know. The FEIS states that Denver Water has met with CDOT to discuss potential alternatives for reducing construction delays, including improving turnouts on SH 72 for slow-moving traffic. The recommendation from the HDR Borrow Haul Study regarding the installation of turnouts on SH 72 pre-dated the DEIS yet, apparently, no further progress has been made on firming up plans for pullouts. Why isn't the installation of pullouts on SH 72 a mandatory component of the Proposed Action? Table 5.13-9 lists "possible control measures to minimize fugitive dust" but doesn't require these measures. Why not? Without this information the analysis necessary to conclude this is the least damaging environmental alternative is insufficient and the FEIS must be rejected.

The FEIS assumes that 60% of aggregate materials will be developed on site and that 40% will be hauled from Longmont. Upon what are these assumptions based and what is the change in impacts, and to whom, if the actual results are different? We don't know and no justification or analysis is provided. The lack of details on this issue alone warrants rejection of the FEIS. The on-site aggregate mining could have tremendous impacts to the environment. Additional loss of habitat, forested lands and impacts to views will be permanently altered. The FEIS assumes that trucks hauling materials to and from the project site and construction activities at the site will comply with local and state noise standards but there is no analysis of actual testing that indicates this is possible. At public hearings conducted a few years ago, neighbors and truckers each stated their skepticism that noise standards could be met. Without knowing these data points, the Corps cannot be in a position to judge the impacts on the human and natural environment unless it determines that, no matter what the impacts are, they are the "least environmentally damaging." We don't believe this is reasonable.

A major flaw in the FEIS analysis of the Proposed Action is its failure to adequately analyze how more than 400 acres of trees, including more than 200,000 trees of greater than 4" in diameter, will be removed to accommodate the larger reservoir. Denver Water has commissioned a study

of potential methods of removal and potential methods of disposal, but the FEIS does not discuss what will actually occur or the relative environmental impacts of each method. The FEIS states that “Denver Water will work with the USFS to determine the best disposal option, which may involve the use of an air curtain incinerator onsite, grinding the trees and removing the chips, and/or sale of merchantable timber.” Denver Water has elsewhere said it will collaborate with the USFS and Boulder County to review and approve a plan and contractor to remove trees to ensure the final plan maximizes product utilization and minimizes traffic and environmental effects. The method that is selected matters. While it would be most beneficial if a commercial use could be put to the timber, Boulder County’s experience has been that there is not a market for the Ponderosa pine and Douglas fir found in the project area. This leaves Denver Water with limited options. One listed option is burning the timber. In addition to smoke and risk of fire, the 50,000 tons of trees contain the equivalent of 66,000 tons of sequestered carbon dioxide, which is several times more than the carbon footprint of the remainder of the Proposed Action (as shown in Table 5.13-1), but this impact is not thoroughly analyzed and/or compared to the impact of hauling the timber to a landfill. If the timber were to be hauled to a landfill, the FEIS does not tell us how many truck trips that would take, by what routes, at what times, and with what impacts to traffic congestion and/or the noise impacts of heavily laden trucks applying their brakes while descending small mountain roads. Boulder County believes that these are important decisions, having serious consequences on our citizens, and that these decisions should be made before, and not after, the Record of Decision is issued.

Appendix M to the FEIS is Denver Water’s “Conceptual Mitigation Plan.” Its stated purpose is to mitigate the various unavoidable adverse environmental effects identified in the FEIS and “Additional Environmental Protections for Grand County through the Learning by Doing Cooperative Effort.” It also includes a summary of additional enhancement efforts Denver Water has committed to accomplish in related agreement, which will be incorporated as Section 404 Permit conditions for the Moffat Project.

While the NEPA requires that proposed mitigation be considered throughout the process, no agreements exist regarding issues outside the Colorado River basin and with which Boulder County has expressed concern in its comments about either the DEIS or the FEIS. The public deserves binding mitigation measures acceptable to residents regarding impacts to roads, traffic levels, traveler safety, access to homes during emergencies, noise, light, and air pollution. The FEIS states that “Denver Water is working closely with Boulder County to address concerns regarding temporary construction impacts on the area around Gross Reservoir. Denver Water is proposing measures to minimize, to a reasonable extent, noise, dust, traffic congestion and road wear in the Project area during construction. Some of the types of measures that are being negotiated include restricting truck hauling times during the day and night to minimize noise and traffic congestion, providing shuttle transportation for workers to minimize traffic, restricting truck traffic from using Flagstaff Road, and maintaining soft-surface County Roads used by Project construction traffic and rehabilitating as determined by the Boulder County Transportation Department. Denver Water has offered to maintain all of Gross Dam Road (County Road 77S) during construction.” While we have engaged in discussion, Denver Water has made no commitments on any of these issues and there has not been any agreement between Boulder County and Denver Water on any mitigation at all. In fact, the FEIS is so lacking in necessary project details that we still don’t know the full impacts and, therefore, what acceptable

mitigation measures need to be applied. This should be seen by the Corps as evidence of failure to fully analyze the alternative and identifies the need for binding mitigation measures, not that these issues have been adequately addressed elsewhere.

Some of the impacts from the Proposed Action would involve a permanent loss of natural resources. Denver Water has said that it will purchase credits from a wetland mitigation bank to compensate for 1.95 acres of wetlands lost and it will establish a riparian vegetation plan to compensate for 4 acres of riparian area lost. Boulder County has asked that wetland and riparian mitigation occur within the South Boulder Creek watershed and that forest acreage lost through inundation be compensated with like amounts of additional forest protection as compensatory mitigation. These requests have not been agreed to by Denver Water or addressed in the FEIS.

The FEIS contends that the impacts from construction of the Proposed Action would be analogous to ordinary construction activity and are temporary. No part of the construction of the Proposed Action is ordinary; there has never been a construction project of this size anywhere in Boulder County and Boulder County has deliberately zoned its rural mountain areas to preclude large-scale industrial development. And, while some of the impacts to Boulder County and its residents are associated with the construction of the Proposed Action are not permanent, the FEIS unfairly diminishes their impact by calling them "temporary." A four-year construction schedule does not seem temporary to those residents in the vicinity who will have to live through it. Our residents deserve more consideration than has been offered to them in the FEIS.

For the forgoing reasons, we urge you, on behalf of all of Boulder County citizens, to not approve of the Proposed Action unless and until our concerns are addressed. Thank you.

Sincerely,

THE BOARD OF COUNTY COMMISSIONERS OF BOULDER COUNTY

By:   
Cindy Domenico, Chair

By:   
Deb Gardner, Vice-Chair

By:   
Elise Jones, Commissioner