

DEPARTMENT OF
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RAYMOND P. MERRY, REHS
Director

March 14, 2010

Mr. Scott Franklin

U.S. Army Corps of Engineers
9307 South Wadsworth Blvd.
Littleton, CO 80128-6901

Sent via e-mail to: moffat.eis@usace.army.mil

Re: Moffat Collection System Project (NOW-2002080762 DEN)

Dear Mr. Franklin,

Eagle County would like to offer the following comments, concerns and issues regarding the Moffat Collection System Draft Environmental Impact Statement (DEIS). As you know, the Colorado River traverses Eagle County from Red Gorge (south and downstream of Kremmling) to the mouth of Glenwood Canyon (just west of Dotsero).

The Colorado River main stem through Eagle County is a very important recreational and cultural resource used by local as well as visiting anglers, boaters and sight-seers. We are concerned that the impacts associated with 18,000 acre feet of additional diversions through the Moffat System, when considered cumulatively with other projects undergoing NEPA review, may cause long-term, unanticipated, socioeconomic impacts, especially since the scope of the DEIS does not go beyond the confluence with the Blue River and did not consider the impacts cumulatively with the proposed Windy Gap FIRMing Project, whose scope ended at the Kremmling stream gage.

We feel that the DEIS is premature due to number of factors and that the benefits of additional conservation measures implemented by Denver Water in the meantime would allow time to find a global solution to the benefit of all Coloradans, especially since their conservation measures are estimated to result in "freeing up" an additional 16,000 acre feet of water.

In 2005, the Colorado Legislature passed House Bill 1177 which was referred to as the "Water for the 21st Century Act". This legislation led to the formation of Technical Roundtables to foster cooperation among water suppliers and citizens in every water basin to examine and implement options to fill the gap between ongoing water planning and future water needs. The basin roundtables throughout Colorado are tasked to identify consumptive and non-consumptive water needs within their respective basin. It was the vision of the Colorado Legislature that the roundtables would be the forum to globally

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evaluate water projects prior to permitting to assure the project could be sustained without serious impacts. We believe the Moffat Collection System Project should be brought to the Colorado Basin Roundtable for a more broad evaluation of impacts and mitigation strategies that extend beyond the scope of the DEIS.

In 2006, the Bureau of Land Management (BLM) identified many segments of the Colorado River as eligible for protection under the Wild and Scenic Rivers Act and as such, a Stakeholders Group consisting of both east and west slope interests has developed an alternative management plan for inclusion in the NEPA review as an alternative to Wild and Scenic designation management. The DEIS must take this into consideration in order for the Stakeholder Group's alternative to be an effective management strategy for protection of the outstandingly remarkable values identified by the BLM.

In 2007, Eagle County applied to the Colorado Water Conservation Board (CWCB) for a minimum instream flow to be placed on the segment of the Colorado River that flows through Eagle County. This request is currently being considered by the CWCB for an instream flow appropriation in 2011. We understand that this junior right would not need to be taken into consideration within the scope of the DEIS but thought it would be useful to convey our desire to eventually develop a Stream Management Plan for the Colorado River in Eagle County. This is another example of why it is important to evaluate cumulative impacts beyond points that terminate in Grand County.

To drive this point home even further, Eagle County is very concerned that this DEIS and Windy Gap both assume that impacts downstream of Grand County on the Colorado River will be mitigated due to Xcel Energy's senior water right associated with the Shoshone hydroelectric plant always being exercised. We believe that this is a fatal flaw in the DEIS. The Shoshone hydroelectric plant is aging and it would be naive for any water user along the Colorado River to assume certainty of the existing water right. The final EIS should consider this fact and require that if the plant were to operate differently in the future, the EIS should be reopened to consider any new impacts that might be caused if this call were not in place.

The uncertainty of the senior Shoshone water right has additional implications as it relates to yet another DEIS being prepared which addresses water quantities and sources needed to protect the endangered fish species within a 15 mile reach of the lower Colorado River. In August 2009, when the Shoshone hydroelectric plant was under repair, the call was not on. Simultaneously, a group that declares excess water available in Green Mountain Reservoir had yet to declare available water from that supply resulting in all of the water for the endangered species coming from Ruedi Reservoir. This unfortunate set of circumstances in August of 2009 made fishing on the gold metal Frying Pan River virtually impossible and down right dangerous. We are consulting with

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the Bureau of Reclamation to see how this economically devastating situation can be avoided in the future, with or without other projects in operation.

In summary, Eagle County believes that the Moffat Collection System DEIS must be reviewed cumulatively with all other activities and projects currently in the planning stages. We believe we are at a critical juncture in Colorado water history which requires that we take the time to more thoroughly evaluate all of the water projects together in order to assure that we've struck the most appropriate balance which meets the needs of all beneficial uses of our finite water resources.

Sincerely,

A handwritten signature in blue ink, appearing to read "Raymond P. Merry". The signature is stylized and somewhat cursive, with a large loop at the end.

Raymond P. Merry, REHS
Director

cc: Eagle County Board of County Commissioners
 Bryan Treu, Eagle County Attorney
 Keith Montag, Eagle County Manager