

Enclosure 3
US Forest Service Comments
Moffat Collection System Project
Denver Water Draft License Amendment Application
Gross Reservoir Hydroelectric Project, P-2035
March 2010

Enclosed are the comments of the US Forest Service (USFS) for the proposed Moffat Collection System Project (Project). Denver Water (DW), presented their analysis in a Draft License Amendment Application (DLAA), published in October 2009.

Draft License Amendment Application (DLAA)

Exhibit E

Page E-1, first paragraph, next-to-last sentence: The DLAA states: “Therefore, Denver Water (DW) believes that the impact analyses for the Proposed Action of the DEIS (the Alternative Proposed Project of this license amendment application) reasonably represent impacts for both the Proposed Project and the Alternative Proposed Project.”

There are multiple populations of rare plants around Gross Reservoir, occurring along South Boulder Creek, Winiger Gulch, Forsythe Canyon, and unnamed tributaries flowing into Gross Reservoir. The extent of inundation, which is somewhat greater under the Proposed Project than under the Alternative Proposed Project analyzed in the DEIS, determines the rare plant occurrences that will be inundated and therefore permanently destroyed. DW must acknowledge and analyze this difference between the Proposed Project and the Alternative Proposed Project (collectively, “Project”).

The DLAA does not reasonably represent the impacts to Proposed, Threatened, Endangered, and Forest Service Sensitive plants and species of local concern plants. Based on the best available data, a loss of some taxa would result in a loss of viability on the planning unit.

Page E-9, Botanical Resources/Tree Removal: The DLAA states: “The U.S. Forest Service (USFS) has requested Denver Water conduct a cruise design, approved by a qualified USFS cruiser...” This statement leads the reader to believe that DW is simply agreeing to a USFS request. In fact, a timber cruise of this type is a requirement for any project planning to remove timber belonging to the people of the United States. Removal of timber from National Forest System (NFS) land including that covered by this proposed project will adhere to USFS policy and direction regarding valuation and payment for said timber.

Page E-10, Acreage Compensation: The DLAA states: “Boulder County has requested that Denver Water compensate for the loss of approximately 400 acres of shoreline, tributary and bank habitat that would result from expansion of Gross Reservoir. Denver Water anticipates that the lost riparian resources would reestablish over time along the shoreline of an expanded Gross Reservoir.” Proactively establishing riparian vegetation adjacent to an expanded reservoir may

address compensating for shoreline and bank habitat currently occurring adjacent to Gross Reservoir. However, expansion of the Project will also inundate riparian resources upstream along South Boulder Creek and multiple tributaries flowing into the reservoir. Compensating for these lost resources would require restoration and/or acquisition of comparable areas with similar ecological values. Refer to the additional mitigation recommended for DEIS Section 4.6.7.1.

The Project will flood riparian rare plant communities and/or rare plant taxa that will not be recovered. The USFS supports transplantation and other salvage operations, but these mitigation actions would not entirely offset the loss.

Page E-13, second paragraph: The DLAA states: "Mitigation of potential adverse impacts to cultural resources will be determined by the SHPO and the Corps during Section 106 consultation. Treatment plans will be developed in accordance with the terms of the Programmatic Agreement." The USFS, as the land management agency, will be involved in the development of mitigation for adverse effects to any historic property located on NFS Land.

"Possible treatment would be documentation of the historic resource per the Colorado SHPO's standards for site documentation, including historic resource documentation of Gross Dam and the Resumption Flume." Although this may be one of the required mitigations, it may not be the only mitigation required.

- (a) "A schedule for implementing mitigation proposals. Historic resource documentation of Gross Dam and the Resumption Flume would occur prior to construction." Although photo-documentation is likely to be one of the required mitigations, it is premature to say that it is the only mitigation, as the stakeholders have not finalized either the Programmatic Agreement or subsequent consultation on mitigation.

Attachment E-1, Tree Removal Plan - Supplement

Roads: The Tree Removal Plan and Supplement to the Tree Removal Plan mention the reconstruction of Forest Service Road (FSR) 359 and use of temporary roads, but there is no discussion of reconstruction methods or locations. Likewise, there is no discussion of the use and management of the temporary roads. DEIS Figure 2-3 shows that reconstruction of FSR 359 will occur outside the Study Area for Gross Reservoir. The Environmental Report (Exhibit E) does not mention road reconstruction or construction and use of temporary roads. This indicates there was no environmental analysis or consideration of management of roads on NFS land. Road proliferation and density on NFS land is a concern on the Boulder Ranger District.

A likely requirement for this Project would be a "Road Management Plan" describing the location and management of all roads. The plan should include specific details on construction and reconstruction, status of the road (temporary/permanent, administrative/public use, etc.), and closure/rehabilitation methods. The plan should include all Project-related roads on NFS land whether inside or outside the current Federal Energy Regulatory Commission (FERC) project boundary. Road management within the FERC project boundary should be coordinated with and compatible with USFS road management in the vicinity.

Tree Removal: DW proposes to remove all trees and their associated debris to reduce future problems with floating debris. The Project proposes pool expansion clearing, considering several logging methods, to an elevation of 7410 feet, which is 10 feet above the proposed new

pool elevation. All residue from the pool expansion clearing needs to be disposed; methods that have been considered include the use of Air Curtain Destructors, whole tree grinding and haul to landfill, and whole tree removal to landfill

If DW proposes to use fire (in any form) on NFS land, the USFS will need to approve a burn plan. DW can obtain requirements for an acceptable burn plan from the Boulder Ranger District Fire Management Officer. State of Colorado air quality permits may also be necessary.

Quarry on NFS land: The quarry on NFS land will require a Mineral Material permit issued by the USFS. Material removed will require an appraisal and payment to the United States.

Page 7 of 8: Under Winiger Ridge (West) Haul Route the DLAA states: “CR 97E has a private land gate on it so it is not recommended for access to the old Winiger Gulch road or stands. A new temporary road will likely need to be constructed from the old Winiger Gulch road to the Winiger Ridge road (FR 359).”

The possibility of using the existing road CR 97E, which may be preferable from a resource impact standpoint, is simply dismissed, with no mention of whether any communication has occurred with the private landowner and assumes that a new road will be built. The Forest Service has concerns about the possible location of any new temporary roads in this area. Depending on the final route of the proposed new temporary road, the road would either bisect or be adjacent to an area designated for old growth development under the Arapahoe-Roosevelt NF Forest Plan. In addition, the topography in this area is very steep and may not support a road, even in the short term.

Attachment E-2, Gross Reservoir Recreation Relocation Plan

Recreation-related action alternatives denote a simple (in-kind) relocation of existing facilities with very little applicable analysis. For example, the Gross Reservoir Recreation Relocation Plan dated 2008, shows that all south shore recreation sites will be relocated and recreation use consolidated. This analysis is deficient because it does not provide information on Project effects for recreation-related concerns such as pedestrian safety, user conflict associated with concentrated use, sustainability of a positive recreation experience, and potential unanticipated operational issues. DW did not consider mitigations for these and other potential Project effects.

Inundation and recreation site relocation will result in changes in use dynamics, extend cumulative affects well beyond the FERC boundary (Winiger Ridge and S. Boulder Creek), and prompt a number of changes to law enforcement and operational plans. The DLAA does not disclose affects related to road relocation, duration of temporary closures, duration of water releases, reservoir-level fluctuations, concentration of recreation use, lack of replacement of existing day use, and overnight camping opportunities lost to inundation (Winiger Ridge). The DLAA does not adequately analyze a number of other actions that will result in a shift in use dynamics, including:

- Recreation that occurs below High Water Mark during drawdown periods. Future management needs to consider the greater HWM fluctuation and related safety and fishing access;
- Options for either recreation-site development, or mitigation measures necessary to address changing demographics and recreation demand along the Front-Range;

- Alteration of kayaking and fishing opportunities that may result from changes in water release duration;
- Multiple year use of temporary roads and closure areas that may result in inappropriate access or use during the implementation period;
- Location of the Osprey Trailhead directly in the spillway zone (aesthetics and safety);
Location of staging and stockpile area needed during construction that will restrict vegetation re-generation.