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Town of Hot Sulphur Springs

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January 28, 2010

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US Army Corps of Engineers, Omaha District
Denver Regulatory Office
9307 South Wadsworth Boulevard
Littleton, CO 80128

Moffat DEIS Comments from the Town of Hot Sulphur Springs, Grand County, Colorado

Dear Mr. Franklin,

The Town of Hot Sulphur Springs (ToHSS) appreciates this opportunity to comment on the Draft Environmental Impact Statement (DEIS) dated 30Oct09 for the proposed Denver Water Department Moffat Collection System Project (Moffat Project). We understand the Moffat Project proposal would include trans-mountain diversion of an additional 18,000 acre feet per year from the Colorado River headwaters upstream from ToHSS. We are directly downstream from the proposed additional diversions and are deeply concerned that the project will affect our town and river in Pioneer Park.

We have supplied our residents with drinking water via an intake on the Colorado River since 1910, well before the first Moffat diversion. We have been treating wastewater at our present facility and discharging back to the river since 1973.

We would like to be on record with the following concerns for the proposed Moffat Project as presented in the DIES:

1) The Draft EIS (DEIS) does not meet the NEPA Requirement for "Plain Language"

The DEIS is unwieldy, displays serious lapses of disclosure, lacks reasoned analysis, and presents unsupported conclusions. The document thus clearly does not meet the NEPA requirement for "plain language" in 40 CFR Part 1502.8: *"Environmental Impact Statements should be written in plain language and may use appropriate graphics so that decisionmakers and the public can readily understand them."*

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We understand the document is so big it was not printable for the general public, which has led to many people being unable to obtain, read, and understand the proposal and predicted impacts. This document is actually larger than the Spotted Owl EIS which evaluated a multi-state, multi-watershed area with numerous cooperating agencies. The sheer volume of the Moffat DEIS makes it nearly impossible for us to understand what is being proposed and how it could affect our town and our residents. The document relies on quantity rather than quality.

We believe that another DEIS version is needed and the USACE should rework this document and produce a user-friendly, readable document. The changes needed in this this document are so significant and substantial that it only makes sense for you to prepare another DEIS version and not the final EIS. The public deserves the right to comment on the additional data, research and analysis that the DEIS clearly needs to provide. We would be happy to review the next EIS document version.

- The next EIS version must be cut to a reasonable size and focus on clear presentation of baseline conditions, logical analysis of impacts, and reasonable conclusions. This would in turn support a realistic risk analysis, project design, and mitigation that would address real issues affecting West Slope stakeholders including municipalities and residents.
- The USACE must meet its mandate of reducing unnecessary paperwork (33 CFR Part 320.1 (a) (4) and not just shift the paperwork burden to the interested public.
- The next EIS version should incorporate much of this material by reference (40CFR 152.21) to *"cut down on bulk"* and improve communicating technical discussions. Supporting information should be *"cited in the [EIS] and the content briefly summarized."*
- The next EIS version team should utilize capable scientific managers who can focus real studies and analysis that clarifies environmental concerns and drives toward real solutions and project mitigation. That team of capable scientific writers and editors should develop a reasonable DEIS document that would be understandable by the general public. *"Agencies should employ writers of clear prose or editors to write, review, and edit"* NEPA documents (40CFR 1502.8).
- The next EIS version should be consistent in every possible way. *"Minor to moderate effects"* deep in the text of Chapter 4 should not become *"negligible to minor"* in the Executive Summary or *"negligible"* in the Mitigation Section.
- There must be a clear and comprehensive Executive Summary with direct references to document text so the reader can explore details where needed.
- Technical conclusions such as *"negligible affect"* must be fully supported by real analysis of relevant baseline data based upon realistic metrics, not proponent-friendly surrogates.
- Finally, next EIS version must include analysis and conclusions on the most sensitive areas such as our ToHSS water intake and wastewater discharge areas where cumulative effects are likely to

have dramatic implications for local stakeholders and force unreasonable costs upon our local municipality.

2) Water Rights

We were unable to find a discussion of water rights in the DEIS and how the “*firming*” process works and would affect senior water rights. The DEIS states that Denver Water holds “*conditional water rights*” and that this project would convert those conditional rights to “*absolute rights*” for 18,000 acre feet of “firm water yield.” This could be dangerous and have enormous consequences upon Grand County residents who, we believe, hold senior water rights such as ToHSS and our neighboring ranchers. A thorough list of diversions along the Fraser and Colorado Rivers is available in the 2008 Draft Grand County Stream Management Plan. This list was available during preparation of the DEIS and should have been utilized.

- The next EIS version must evaluate the impacts of the project on water rights including a reasonable effort to model the effects of past, present, and future Moffat diversions upon surface water and shallow groundwater in our riparian zones and irrigated hay fields. Colorado water law cannot be ignored!
- The next EIS version must evaluate all water diversions along the Fraser and Colorado Rivers and their associated water rights and priorities, and evaluate the impacts upon those water rights.
- The next EIS version must address how this “*firming process*” affects priority water rights in general including the question of whether or not your agency decision would create a precedent for future water users. This must be in plain language and needs to explain how “*conditional rights*” could trump senior absolute water rights based upon Denver Water’s clear engineering and legal advantage.
- Finally, the next EIS version must discuss the water rights impact of the no-action alternative. Would the conditional 18,000 acre feet then be available to other water users including conservation flows? What other “*firming*” projects would be affected by a no-action decision?

3) Sustainability and Conservation

We are pleased to see that Denver Water has put in place conservation measures resulting in a 21% drop in water use (DEIS page 1-13), which reduces their overall need for new water sources. However, we understand certain California municipalities with longer lawn-growing seasons have recently achieved reductions of up to 50% (Water Efficiency Magazine Winter 2009). We wonder why Denver Water cannot pursue a similar goal?

- The next EIS version must address conservation in both the Purpose and Need and Alternatives Sections along with economic analyses of cost effectiveness (“*conservation potential of various*

alternatives” in 40CFR 1502.16 (e)). USACE policy requires the “efficient use of water resources in all actions which involve the significant use of water or that significantly affects the availability of water for alternative uses including opportunities to reduce demand and improve efficiency in order to minimize new supply requirements (33 CFR 320.4 (m).

- USACE should prioritize conservation as the “*low-alteration strategy*” to preserve natural ecosystem function (see Ecological Society of America Position Statement on Ecosystem Management in a Changing Climate dated January 2010). Indeed, we suspect that an aggressive conservation campaign could be the most cost-effective way for Denver Water to meet their future water needs without this firming project.
- The next EIS version must include evaluation of the measures put in place in 2002 that resulted in significant water conservation in Denver. Which of these measures could be put in place permanently and what are the ramifications of those measures to the Denver water users?
- The next EIS version must address the ever-expanding Denver Water service area and how this plays into the project purpose and need. Denver Water should not be allowed to continually increase the size of their service area; thereby increasing their need for water. The USACE must balance the needs of Front Range developers and new bluegrass lawns against the needs of progressively water-starved Grand County.
- The next EIS version must include a discussion of how Denver Water’s corporate structure could be changed in order to better support conservation. We understand that aggressive conservation measures in the early part of the last decade led to significant water savings but this in turn affected Denver Water’s “bottom line”, which is unfair and counterproductive. Denver Water customers should be applauded and compensated for conservation not penalized.
- The next EIS version must include an evaluation of other institutional drivers for water waste including local municipalities in the Denver Water service area that require thirsty bluegrass lawns. Should bluegrass remain an option with more sophisticated watering technology now readily available in the conservation/landscaping market?
- The next EIS version Proposed Action must include lining all Denver Water ditches on both West and East slopes. How much water is wasted on seepage from these ditches and how much could be conserved?
- The next EIS version must include at least one alternative that addresses all possible conservation measures and how this would reduce the need for additional firm yield.
- The next EIS version must recognize that there are unresolved conflicts as to the best use of the water resource, and should seriously evaluate conservation as an alternative method to accomplish Denver Water’s objective of 18,000 acre feet firm yield.

- Finally, the next EIS version must present a firm-yield target less than 18,000 acre feet based upon increased conservation targets.

4) River/Stream Flows

We are concerned that reduced flows in the Colorado River will have enormous consequences on our town property and residents. The DEIS is inconsistent, with different proportions of predicted depleted flows in different parts of the document, then unsubstantiated extrapolations to other resources.

Part of the technical argument is based upon historic flows at Hot Sulphur Springs through 1994 (DEIS Figure 3.1-3). This graphic does give the reader a sense of flows at different times including our water/wastewater operators who must monitor flows for operations. But the discussion changes from daily flows to average annual yield at Kremmling (DEIS page ES-18). This is a good example of what we see as “proponent-friendly surrogates” that prevent ToHSS from understanding real affects upon our river reach. In another example, Table 3.1-14 presents various existing depletions as measured at Windy Gap between 1985 and 2004 but the total existing depletion (a whopping 62%) is buried in the text on page 3-38. This pattern of obfuscation only makes the document unusable for decisionmakers (see concern #1 above).

- The next EIS version must be based upon conservative long term climate models and river flows, then present consistent hydrologic models in plain language that help us understand the actual affects upon flows in the river on a reasonable time scales of value to water/wastewater plant operators.
- The next EIS version must offer a reader-friendly presentation of more recent flows in the river. Averaged flows should separate data from the first half of the 20th Century before the transmountain diversions were in place, from the second half of the 20th Century; in fact we should see things compared to the last 10 years which would better reflect recent additions of water storage on the Front Range and recent climate change.
- The next EIS version must analyze the cumulative effects of all “past, present, and reasonably foreseeable future actions” (40CFR 1508.7) upon the Colorado River. Indeed, we already experience 60% reductions in river flows and are very concerned the additional proposed flows will be cumulatively crippling to the river. Graphical presentations must include a comparison of ALL trans-mountain diversions, historic, present, and proposed.
- The next EIS version must analyze the cumulative effects of past, present, and proposed Windy Gap diversions on the Colorado River (See for instance Page 4 of Considering Cumulative Effects Under the National Environmental Policy Act by the Council on Environmental Quality, Executive Office of the President dated January 1997).

- The next EIS version must extend analysis as far downstream as effects can reasonably be traced, at least as far as the confluence with the Blue River in Kremmling.
- The next EIS version must expand analysis to include the effects upon other diversions along the river such as ranchers with senior water rights to Denver. Such models could then support mitigations such as assisting ranchers with re-fitting headgates to deal with incrementally lower flows.
- The next EIS version must expand analysis laterally to evaluate impacts to shallow aquifers in riparian zones including ranchlands.
- The next EIS version must then integrate the cumulative effects upon water flows into all subsequent modeling and discussion of water quality, groundwater, riparian vegetation, fisheries, socioeconomics, environmental justice, and mitigation.

5) River Water Quality

We are concerned that reduced flows in the Colorado River will make our water and wastewater treatment more difficult in ToHSS and perhaps drive us into violation of our permits with the Colorado Department of Public Health and Environment (CDPHE). As discussed above in Concern #4, the DEIS offers no reasonable modeling of flows in our reach of the Colorado River other than general reductions from 7-29%. We know that flow reductions of this magnitude would reduce our discharge dilutions to dangerous levels for our operations. These flow reductions would certainly be noticeable by local anglers as well as children playing in the river during warm summer months.

We are now investing ARRA/Stimulus funds into our drinking water infrastructure which includes our town taking on significant debt. The DEIS predicts increased water temperatures and increased concentration of nutrients at upstream wastewater treatment plants but somehow concludes negligible to minor impacts to water quality in the Colorado River. This dangerously unsubstantiated claim gives us no way to actually understand how the proposed changes would affect our daily operations in ToHSS or how we would be expected to engineer our own solutions.

Our wastewater treatment plant, which is operated under CDPHE permit, is not recognized in parts of the DEIS (compare for instance DEIS page 3-42 versus page 4-75) and we were generally unable to find any usable predictions of changes in water quality in our reach of the river at particular times of year. It is thus impossible for us to understand how the proposed action would affect our day-to-day operations or how the document concludes *“no change with regards to WWTPs and their discharges”* (page 4-75).

- The next EIS version must model the cumulative effects of increased diversions, including Moffat and NCWCD Windy Gap Firming Projects, upon water quality in the Colorado River in ToHSS and operations of our water-treatment and wastewater-treatment plants.

- The next EIS version must evaluate impacts and compliance with all applicable effluent limitations on water quality standards (33 CFR Part 320.4 (d)).
- The next EIS version must consider the past and present patterns of significant algal blooms and effects upon biological oxygen demand (BOD) in the river and our water-wastewater system. We already see an overabundance of algae now, how much will this increase and when will we be subjected to a septic river and fish kills?
- USACE must protect water quality and quantity by evaluating long-term sustainability of our water resources including what may be painful social tradeoffs to protect coldwater resources from warming (see Ecological Society of America [Position Statement on Ecosystem Management in a Changing Climate](#)).
- The next EIS version must evaluate the affects of flows on river temperature in different channel morphologies. We challenge the unsubstantiated concept that water temperature is solely controlled by air temperature. Remember we are downstream from Windy Gap which receives enormous solar gain.
- The next EIS version must evaluate temperatures in relation to any future TMDL for temperature on the Colorado River (see NWCCOG pre-hearing comments on Temperature TMDL dated 5Jan09).
- The next EIS version must model the cumulative effects of temperature + nutrients and BOD at different times of year and likely effects upon our water-wastewater system including permit compliance. For instance, how often are we likely to be forced into non-compliance with our permits due to the Moffat project?
- The next EIS version must present the cumulative models in graphical form with acceptable ranges in water quality parameters to better inform the public how the Moffat proposal affects operations and why, for instance, our local taxpayers may have to spend more on capital improvements to deal with the lower flows and reduced water quality because of this project.

6) River Morphology

We rely on the Colorado River for municipal needs as well as recreation and are concerned that the river may now, as it presently flows, not have the natural resilience to withstand additional impacts. Our concern is that river is already on the verge of ecological collapse and the DEIS does not properly address river health in any reasonable way.

The proponent-friendly surrogate of sediment transport does nothing to tell us about equilibrium conditions between the river and riparian corridor. We see reference to "Rosgen-style" analysis, but the studies do not complete the analysis and present data that is difficult to interpret. For instance, the data

for study area CR1 (DEIS Table 3.1-19) describe a river that is straight (sinuosity = 1) and over-wide (width/depth ratio greater than 90% of C3 rivers) (see Rosgen 1996). Studies show that a straight and over-wide river is not a healthy river. In fact, this morphology, plus the excessive sediment transport, put this reach well outside the “norm” of a healthy C3 river as we understand it. How can such abnormal river morphology be extrapolated to overall stream conditions and “negligible effects”? In fact this morphology goes a long way toward explaining high water temperatures and lack of overbank flows.

Although the DEIS outlines the dynamics of surface water-groundwater interactions (page 3-84) and the importance of water-quality functions of wetlands (DEIS page 3-120), we were unable to find any serious modeling of how the proposed reduced flows would affect our vital river-riparian corridor, including loss of cleansing wetlands (water quality functions) and other protective vegetation.

- The next EIS version must re-evaluate all studies in the DEIS that are based upon flawed river evaluations founded primarily on excessive sediment transport. In fact, C3 rivers are dynamic, meandering systems with active floodplains. They are only slightly entrenched and “flows greater than bankfull stage [recurrence interval 1-2 years] overtop their streambanks and extend onto their floodplains” (Applied River Morphology by Dave Rosgen, page 5-21). These macro-characteristics must be considered in any evaluation of stream health.
- The next EIS version must include a full description of river morphology at a statistically representative number of locations. This must include standard parameters such as entrenchment, extent of overbank flows, width/depth ratios, and riffle-pool sequence and graphical presentation of how these parameters compare to normal (using the proper use of the term) C3 rivers.
- The next EIS version must address the existing, cumulatively affected river channel and effects upon the local ranching community. How will the existing ranch diversions respond to reduced flows and will ranchers be expected to pay the cost of modifying in-stream structures? How many ranchers will be forced to use pumps rather than gravity-fed diversions?
- The next EIS version must include consideration of numerous local river studies and restoration efforts, including Grand County’s Stream Management Plan, with assessments of success and cost-effectiveness.
- The next EIS version must include target parameters that would guide future river restoration back toward a healthy river in equilibrium with its riparian corridor. This must include dimensionless variables including width/depth ratio, flood prone width/bankfull width (entrenchment), and riffle-pool spacing.

7) Floodplains and Groundwater Recharge

We are pleased to see the DEIS recognize the importance of river-riparian interactions (page 3-117) but are concerned that the document only makes general observations of impacts to groundwater elevations and increased gradients toward streams (DIES page EX-25). In fact, Robert Hirsch, Chief Hydrologist for the US Geological Survey wrote in 1998: *"effective land management requires a clear understanding of the linkages between ground water and surface water as it applies to any given hydrologic setting...Effective policies and management practices must be built on a foundation that recognizes that surface water and ground water are simply manifestations of a single integrated resource"* (US Geological Survey Circular 1139 Ground Water and Surface Water, A Single Resource).

The Fraser/Colorado River corridor floodplain possesses significant natural values that carry out numerous functions important to the public interest (See 33 CFR Part 320.4 (l)) including a) water resource values, b) living resource values, c) cultural resource values, and d) cultivated resource values. Our concern is that the DEIS presents the indirect effects of further dewatering of our floodplains by the proposed Moffat Project as constituting minor changes when in fact the project can lead to significant degradation of floodplain values and functions and increased potential harm for downstream activities (see Presidential Executive Order 11988).

In fact, we already see the dramatic effects of trans-mountain diversions. We can only expect the continued and increased trans-mountain diversions will drain additional riparian areas and other valley bottom areas including local hay fields. Yet the DEIS minimizes these effects with no technical reasons, analysis or substantiations. Here the DEIS borders on being flippant! (DEIS page 4-77). ToHSS residents and neighbors including 4th generation ranchers with senior water rights deserve to know how the project will affect their day-to-day operations (see concern #2 Water Rights above). We know that recent studies show that even small changes in groundwater elevations could dewater root zones of wetland vegetation and hay fields, the latter of which would require additional irrigation to maintain vegetative health and possibly trigger additional cumulative effects.

- The next EIS version must include detailed studies of surface water – groundwater interactions throughout the Fraser-Colorado River corridor from at least the Denver Water diversions near Winter Park to the downstream boundary of Grand County.
- The next EIS version must present a clear model showing groundwater-surface water interactions.
- The next EIS version must analyze the cumulative effects of reduced river flows on all valley floor habitats, including Pioneer Park, as far as flows are expected to be measurable (Kremmling? Radium?).
- The next EIS version must map and model groundwater in three dimensions throughout the project area (Winter Park to Kremmling) and identify areas predicted to experience various drops

in groundwater elevation. Which areas would no longer support wetland vegetation? Which areas would no longer support hay grasses? Which areas will require additional irrigation to support a viable hay crop?

- The next EIS version must offer enough groundwater mapping detail to support an assessment of socioeconomic effects upon our already stressed local ranching community who rely on irrigation for their livelihood. Many of these neighbors hold senior water rights to Denver Water.
- The next EIS version must analyze the cumulative effect of ranchers having to divert more water from the rivers in order to make up for these groundwater losses.
- The next EIS version must also analyze the effects on river bank vegetation from reduced groundwater elevations. What would this do to riverbank stability? How many more banks will begin caving into the river with lost riparian vegetation?
- The USACE should deny any Moffat project alternatives that do not honor Presidential Executive Order 11988 by evaluating practicable alternatives to dewatering our floodplains.

8) Riparian Vegetation Including Wetlands

The Fraser/Colorado River riparian corridor includes wetlands with important functions important to the public interest including a) wetlands that offer natural biological functions, b) wetlands that offer valuable storage areas for flood waters, groundwater recharge/discharge, and maintain minimum base flows, c) wetlands that offer significant water purification, and d) wetlands that are increasingly scarce in this region (See 33 CFR Part 320.4 (b)).

This river corridor already shows evidence of wetland loss. Extensive areas that were once wetlands (hydric soils) are now perched and dry above depleted groundwater elevations. Vegetation patterns in our Pioneer Park show old river channel paths, now perched, support only mesic vegetation. Other areas that were once productive agricultural land are now dry, supporting only sage and sparse grasses. We are particularly concerned for the health of our majestic cottonwood gallery woodland and flanking wetland areas.

Although the DEIS presents the Moffat Project as a minor alteration with minor changes to our rivers, the cumulative effect of this and other piecemeal changes could result in a major impairment of wetland resources.

- The next EIS version must re-evaluate the conclusion of only minor project impacts to a few acres of wetland at Gross Reservoir (DEIS Page ES-28). In fact we believe the indirect affects could include loss of hundreds of acres of wetlands in the Fraser-Colorado River headwaters in addition to thousands of acres already lost due to 60% diversions on-going now.

- The next EIS version must evaluate the effects of reduced flows and groundwater elevations on specific plant communities including wetlands, especially the 833 acres of Riparian Herbaceous Vegetation along the Colorado River that would be predicted to become partially dewatered (Table 3.6-7 on DEIS page 3-141). How much of this wetland community would be forced from obligate/perennially saturated species toward facultative/seasonally saturated species? What about facultative wetland species that would become toward mesic uplands?
- The next EIS version must include determination of “*Significant Nexus*” for all adjacent wetlands to better understand the project impacts to waters of the US (see USACE Jurisdictional Determination Form Instructional Handbook dated 30May07).
- The next EIS version must make a reasonable estimate of actual wetland losses due to indirect and cumulative effects and include these wetland losses in the permitted totals to be fully mitigated under Clean Water Act Section 404 regulations.
- The next EIS version must direct West Slope wetland losses to be fully mitigated along the Fraser and Colorado Rivers in such a way as to restore river-riparian health, in particular groundwater recharge and water quality functions.
- The next EIS version must evaluate the wildlife habitat losses associated with indirect and cumulative wetland losses and evaluate these losses in context of CDOW wildlife goals for viability and connectivity.
- The next EIS version must evaluate the effects to the Colorado River Flyway including migratory songbirds, waterfowl, birds of prey, and bald eagles. What are the programmatic implications of these losses? What about the international implications?

9) Fishing and Other Outdoor Recreation

ToHSS has made significant investments in the Colorado River at our Pioneer Park in partnership with Great Outdoors Colorado, USEPA/Colorado Department of Public Health and Environment, National Fish and Wildlife Foundation, Colorado Division of Wildlife, USACE, Natural Resources Conservation Services, and the Grand County Board of County Commissioners, among others. Our obvious concern is that the proposed reduced flows will affect our local fishery habitat value but we were unable to find information about our local fishery even though extensive data is available at our local office of the Colorado Division of Wildlife just outside ToHSS. Study area CR1 may not have any deep pools but our Pioneer Park does.

We see that the DEIS models reduced river flows but we are unable to find any usable extrapolation toward actual effects upon our local fishery both in terms of water quality (temperature, nutrients, etc) and habitat availability (especially riffle/pool depth, shading, and connectivity). Instead we are offered unsubstantiated arguments of “*no changes to water quality or channel geomorphology...that would affect fish or other aquatic biological resources*” (DEIS page ES-32-33).

The DEIS states that *“habitat relationships [in the Colorado River] indicate the highest habitat availability for most life stages of trout at flows from approximately 200 to 600 cfs”* (DEIS pg 3-240) yet flows in the Colorado River in Pioneer park are below these numbers for most of the year and the proposed action will result in even lower flows. How can this support negligible affects?

- The next EIS must re-evaluate the conclusion of no impacts upon fishing in the Colorado River at Pioneer Park. Most reasonable people would expect the cumulative effects to be significant, even disastrous. What do we know about an ecosystem crash in the Colorado River?
- The next EIS must evaluate riffle-pool characteristics in our river reach and predict changes in water depths and temperatures at different time of the year. Such information could then be used to predict changes in fishery habitat and loss of fishery value including our 2002-2009 river restoration areas.
- The next EIS must give us enough clear detail for a reasonable prediction of changes to existing habitat. Which pools would become disconnected by shallower riffles? How many children will lose their favorite fishing holes?
- The next EIS must predict the extent of channel bed that will become choked with algae and other water plants due to shallow flows. We have seen that channel areas less than 18 inches deep tend to be covered in vegetation, covering aquatic macroinvertebrate habitat.
- The next EIS must provide guidelines for restoration of a viable river channel with normal C3 characteristics critical to a quality fishery including off channel habitat, overbank flows, food chain support, riffle-pool spacing and ratios, cover, and instream structure.
- The next EIS must provide a realistic evaluation of the fishery in Pioneer Park and risks from the proposed action upon the fishery. Will we be forced to return grant funding because we failed to protect our river project areas?

10) Socioeconomics

The DEIS rightly points to the importance of water-based recreation on our local economy (page 3-330) including fishing, camping, and other outdoor recreation in the riparian corridor. This is of course one of the reasons we and our agency partners have invested so heavily in Pioneer Park. The DEIS presents a convoluted argument of no socioeconomic impacts based upon conclusions of no impacts upon boating and fishing in the Colorado River. We would be pleased if this were the case but, as discussed above, have no confidence in the technical merits of the argument.

Tourism is critical to our small town and our residents are concerned that the Moffat project will devastate local businesses. In addition, we believe that the cost of a new wastewater treatment plant

would be crippling for our small town. We believe that the Moffat project would have unacceptable adverse effects on our municipal water supplies, fishery areas, and recreational areas (See 33 CFR Part 230.2 (f) and 40 CFR Part 230).

- The next EIS version must re-evaluate the conclusion that there will be no socioeconomic impacts upon boating and fishing and related businesses here in ToHSS. Most reasonable people see that lowering the flows in the Colorado River will have impacts upon boating, rafting, and fishing as well as other day uses and camping.
- The next EIS version must evaluate the project costs of reduced flows and water quality on our newly installed water intake system and soon-to-be installed water filter.
- The next EIS version must evaluate the project costs of reduced flows and water quality upon our wastewater system including dilution factors in the Colorado River. We should have a realistic idea of how often we will be forced into violation of our CDPHE permit and the cost of remedying the low-flow situations.
- The next EIS version must make realistic predictions of water quality at various times of Moffat project buildout so that we can begin engineering and financing additional wastewater treatment.
- The next EIS version must analysis the costs of restoring river and riparian habitats lost in Pioneer Park, including jurisdictional wetlands.
- The next EIS version must analyze the loss of business and employment due to reduced fishing opportunities, day use, and camping in Pioneer Park.

11) Environmental Justice

ToHSS is a small town of 625 residents, many of whom are blue-collar workers commuting to work in larger towns. Our water/wastewater rate structure has been raised 50% in the last few years in order to catch up on infrastructure needs including paying off debt. We do not have the resources to pay attorneys and Front-Range consultants to press our arguments in this NEPA process. We are deeply concerned that we will be held responsible under our CDPHE permits for the reduction in dilutions and temperature-stabilizing flows. The cost of remedying these impacts, imposed upon us by larger more affluent Front-Range communities, would be enormous for our small town.

We are also deeply concerned for our local ranching community, many of whom live in our town. The cumulative effects of reduced flows and groundwater elevations could have a crippling effect on irrigation needs and operations.

- The next EIS version must make a full analysis of the comparative economic effects between Front Range beneficiaries and those of us in Grand County who will bear the cost burdens.

- The next EIS version must evaluate the specific cost ratios to Denver Water customers versus our local water/wastewater customers. The Moffat Project gives Denver Water an unfair engineering and legal advantage over Grand County water users.
- The next EIS version must evaluate the cost-benefits of East Slope recreational opportunities versus our local losses in recreational opportunities.
- Finally, the next EIS version must evaluate the costs to our local ranching community in terms of needed infrastructure (headgates and diversions that will need modification to honor their senior water rights) and additional time that would be needed to irrigate fields. Why should 4th-generation ranchers pay for Front Range convenience? Why is Denver bluegrass more important than Grand County hay?

12) Mitigation

The DEIS mitigation plan reflects a fatal underestimate of project impacts. We believe that an honest assessment of project impacts will drive vastly increased mitigation for the numerous impacts to flows, water quality, water temperature, groundwater, wetlands, ranching, fishing, boating, socioeconomics, and environmental justice.

We agree to the need for water quality monitoring and reasonable bypass during times of exceedences (DEIS page M4), but we question the focus on worst case situations such as extreme low flows, temperatures warm enough to kill trout and species of concern. This supports our fears that increased trans-mountain diversions will push conditions past certain unpredictable thresholds and devastate us with massive fish kill and septic river conditions.

- The next EIS version must present realistic mitigation plans that help the proponent meet legal requirement to avoid, minimize, rectify, reduce, and compensate for lost resource values (40CFR 1508.20).
- The next EIS version must include a practicable mitigation plan to replace lost aquatic resource functions with a minimum 1:1 ratio for all wetlands lost by indirect affects (40 CFR Part 230 Section 332.3 (f)).
- The next EIS version must place high priority on restoring and rehabilitating aquatic functions in the river channels and riparian wetlands (40 CFR Part 230 Section 332.3 (a) (1)), using a watershed approach (40 CFR Part 230 Section 332.2 (b) (4)).
- The next EIS version Mitigation Plan must include the real cost of fully mitigating cumulative effects upon the Fraser and Colorado Rivers. Since the primary river impacts are from historic and ongoing trans-mountain depletions, it is only reasonable that these newly proposed

diversions are mitigated to such an extent that the rivers are restored to full viable equilibrium, especially water quality functions.

- The next EIS version must include monitoring in perpetuity and contingency plans paid for in advance in an escrow account placed in a local Grand County bank.
- The next EIS version Mitigation Plan must present a detailed summary of all impact costs that would be forced upon ToHSS and how those costs would be fully borne by the project proponent, including contingencies in an escrow account.
- The next EIS version Mitigation Plan must include contingencies and monitoring milestones that clearly alert West Slope water providers when mitigation efforts are not reaching goals and leaving ToHSS at increased risk.
- Finally, the next EIS version Mitigation Plan must present, in plain language, how the mitigations will reduce project impacts upon ToHSS.

Looking Forward

It is possible that we have missed key data in the DEIS due to its ponderous size, encyclopedic presentation, and lack of clear analysis. If so we apologize and ask you to point us toward some of the answers we seek. Looking forward, we would be pleased to work with USACE and Denver Water to address these concerns and suggest you contact our local NEPA consultant Grand Environmental Services (970-627-5464) for further discussion.

Thank you for the opportunity to comment on the Moffat DEIS,

Sincerely,



Mayor Hershel Deputy
Hot Sulphur Springs

Distribution:

Scott Franklin, US Army Corps of Engineers

Gary Bumgarner, Grand County Commissioner

Mely Whiting, Trout Unlimited

Senator Mark Udall c/o Matt Sugar

Kirk Klancke, East Grand Water Quality Board

Lane Wyatt, Northwest Colorado Council of Governments

Geoff Elliott, Grand Environmental Services