

March 2, 2010

U.S. Army Corps of Engineers
Attn: Mr. Scott Franklin
9307 South Wadsworth Boulevard
Littleton, CO 80128-6901

RE: Moffat Collection System Project Draft Environmental Impact Statement

To Whom It May Concern:

Please accept this letter as public comment from the Winter Park Town Council regarding the Moffat Collection System Project Draft Environmental Impact Statement ("Moffat DEIS"). The following is a list of concerns that we would like entered into the record regarding the impact of the Moffat DEIS:

General

- We firmly believe that the projected impacts of the Moffat DEIS and the previously-submitted Windy Gap Firming Project should be reviewed cumulatively. These two projects will create significant impacts to the Fraser and Upper Colorado Rivers in Grand County, and their total effect should be calculated in sum. On average, well over half of the total water in the Upper Colorado River system is diverted to the east slope of Colorado. If Denver Water's Moffat DEIS and the Windy Gap Firming Project are both implemented it is expected that up to three quarters or more of the annual water yield will be diverted to the Front Range, which creates significant municipal, environmental, social, economic, and aesthetic impacts on our small mountain communities in Grand County.
- The Moffat DEIS states that there will be little to no impact caused by the project; however, it is nearly impossible to guarantee that there will be no impacts. Therefore, the Corps of Engineers should condition any approvals on the basis that if there are new impacts revealed by sound scientific discovery, new impacts will be addressed according to the enforceable mitigation outlined along with any approval of the project.

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- Coloradoans living on the Western Slope choose to live here for the enhanced quality of life that the Rocky Mountains provide. Water is a common thread between all of us who choose to live, work, and play here. Visitors and guests from around the world, including the Front Range of Colorado, come to the Fraser Valley to enjoy the quality of life and amenities we have worked so hard to maintain. Reductions in water mean a direct reduction in quality of life.

Impacts

- Due to the numerous transmountain diversion projects currently operating in Grand County, existing conditions in our creeks and rivers need to be evaluated and resolved prior to new diversions of water to the Front Range. A variety of users are already impacted, including agricultural irrigators not being able to divert water in late summer, municipalities having to pump water to meet surface diversion needs, and warmer water temperatures that endanger fish populations and affect the local recreation-based economy. The Moffat DEIS does not adequately explain the current impacts that existing diversions create on our creeks and rivers. Additional diversions will only exacerbate problems created by reduced flows, and the Moffat DEIS does not accurately combine all conditions.
- The Moffat DEIS purports that the impacts from the project are negligible; however, the Upper Colorado River basin – and especially the Fraser River – are already severely stressed. Even a negligible impact would be considered severe when all cumulative impacts (existing diversions as well as future ones) are evaluated.
- The Moffat DEIS acknowledges there are fragile environmental conditions in 2016 (low flows, substantial effluent, etc.); however, the Moffat DEIS concludes that past water-related projects may have had an adverse effect but future water projects would have limited new effects. NEPA guidelines say that the EIS should state whether resources are healthy, deteriorating or considerably compromised. Conditions in the Fraser River may be at such a seriously compromised condition that the river is at a tipping point where it cannot return to any reasonably healthy state.
- The Moffat DEIS claims that additional water will only be diverted during runoff months and the impact to be negligible to the existing ecosystem. However, annual high water flows which naturally occur with runoff are necessary to clear sediment from spawning beds and maintain stream channel structure. If unmitigated, increased water diversions may prevent such “flushing flows” from occurring, and this in turn causes negative impacts to aquatic life and to the natural function of wetlands in mountain areas. A natural hydrograph (high spring flows) is necessary to allow wetlands to serve as natural reservoirs and to filter and recharge alluvial aquifers. This project removes the natural hydrograph, and the Moffat DEIS ignores the important ecological services that flushing flows and channel maintenance flows provide to the ecosystem.
- The Moffat DEIS states that only 1.95 acres of wetlands will be impacted by new diversions (specifically around Gross Reservoir). At no time does the Moffat DEIS contemplate the existing degradation of wetlands caused by existing diversions, nor the degradation and loss of existing wetlands following the removal of the semi-natural but still impacted hydrograph that occurs in the Fraser River. The loss of this wetland habitat has significant environmental, cultural, and water quality impacts to the residents of Grand County. Further removal of a natural hydrograph will only further destroy the existing wetlands that we are fortunate enough to enjoy.

- The Moffat DEIS Proposed Action calls for water to be diverted in wet years following dry years, specifically in the spring and early summer months. Under this scenario, water will be diverted exactly when the overall environment (both aquatic and terrestrial habitat) has an opportunity to replenish water from the previous dry year or years. This only extends dry conditions when the impacted habitat is already severely stressed, which may create a tipping point beyond which no habitat may be able to recover. Further, the Moffat DEIS fails to consider the impacts on expected yield should changes in climate result in earlier and more-concentrated spring runoff as well as reduced water supplies in the Colorado River basin.
- As our local communities transition from resource-extraction economies to recreation-based economies, water becomes more integral to our local businesses. Our local economies rely on fishing, rafting, kayaking, and alpine skiing (snow-making) and will all be significantly impacted by reductions in flows in the Colorado River. For industries that are as low-impact as these, every drop of water in the river is a significant financial benefit. The Moffat DEIS states that no impact to sales-tax collection would occur; however, it is clear that if these industries cannot operate then a significant impact is felt in our local communities that are dependent on water resources for environmental and aesthetic (and not consumptive) purposes.
- As stated earlier, visitors and guests from around the world, including the Front Range of Colorado, come to the Fraser Valley to enjoy the quality of life and amenities we have worked so hard to maintain. Reduced flows in our rivers and streams have direct impacts on our community's quality of life. Socioeconomic impacts to Grand County communities have only slightly been considered in the Moffat DEIS. Any final Moffat DEIS should include a thorough study of the socioeconomic impacts to our community, and consideration of mitigation for these impacts should be provided.

Water Quality

- For municipal water providers on the Western Slope, the impact of increased diversions is two-fold: less water for municipal purposes and less water for treatment of wastewater. Ongoing changes to state and federal requirements for treatment of water have been exclusively borne by local communities in the form of enhanced treatment facilities, and reduced flows will surely mean additional treatment requirements in the future. The Moffat DEIS does not contemplate the state of water quality for treatment when the impacts of past and future diversions occur.
- Additional depletions of quality water from the Fraser River and its tributaries will tend to lower the quality of water pumped at Windy Gap, which will tend to decrease the quality and clarity of water in Grand Lake. This was not addressed in the Moffat DEIS even though conditions in Grand Lake are already visibly stressed.
- The Fraser River already faces significantly elevated water temperatures seasonally, and removal of flows will only exacerbate the river's ability to sustain itself ecologically during the seasonal fluctuation of temperature. Stretches of the Fraser River and the Colorado River below Windy Gap have been listed as a 303(d) impaired stream requiring Total Maximum Daily Load (TMDL) regulations. It is easy to correlate the impairment with the existing diversions of Denver Water, and the Moffat DEIS needs to include mitigation for further impairment that will surely occur due to increased diversions. The Moffat DEIS should be modified to analyze this listing and the additional impacts that will be created by the proposed actions of Denver Water.

- Approval of the Moffat DEIS would result in the depletion of flushing flows, which significantly improve the Fraser River's ecosystem (as identified in Grand County's Stream Management Plan). Removal of flushing flows will also deposit additional materials in the river from traction materials placed on local roads and highways without the ability to mitigate their impact. Any new diversions should be limited to prevent further long-term degradation in these demanding periods.

Mitigation

- The Moffat DEIS needs to comply with the requirements of the Clean Water Act (CWA). The CWA has a substantive requirement that impacts must be avoided, minimized, or adequately mitigated. None of these requirements are being followed in the Moffat DEIS. It is difficult to avoid, minimize, or truly mitigate when the real past actions and cumulative impacts are not identified or are blatantly ignored. It is difficult to mitigate against a collapsing ecosystem when the process refuses to recognize what has happened in the past, what is currently happening, and what is likely to happen due to the proposed actions. Unfortunately, a collapsed ecosystem could occur simply from the Denver Water Board's "Full Use" 2016 scenario before the proposed Moffat project actually is in effect.
- The Moffat DEIS provides little information on potential mitigation in exchange for increased diversions and no mitigation for existing diversions. The lack of mitigation proves further that municipal providers of water on the northern Front Range have little regard for all of the above-mentioned issues. As communities that rely on strong, healthy streams for many of the aspects that keep us here, mitigation of the impacts of diversions to improve our rivers and streams is critical. Any diversion should be offset by fair mitigation provided by those performing the impact.
- The Moffat DEIS concludes that there are little to no impacts from the project by utilizing a baseline in 2016 as opposed to today and assumes that other projects (specifically the Windy Gap Firming Project) will be approved and running. It is true that the Moffat project would have little impact when compared to the significant degradation that would have occurred at that point (half of nothing is nothing). This flawed model should be revised in the Moffat DEIS to accommodate both existing conditions and proposed cumulative conditions.
- The Moffat DEIS needs to include Grand County's Stream Management Plan as mitigation for the project. Grand County and its municipal water providers have been involved in an ongoing effort to provide a scientific study for the analysis and recommendation for preferred flow regimen for streams and rivers in our area. The Stream Management Plan takes into consideration the concerns of cumulative impact and looks at the river system and various project operations as a whole. The Moffat DEIS should include information from the Stream Management Plan and mitigation needs to be based on the findings in the Plan.
- Denver Water has discussed an opportunity to include bypass flows as part of mitigation for increased diversions as part of the Moffat DEIS. The bypass flows would undoubtedly provide great relief for municipalities in Grand County that struggle to provide water during times of low flows. Any mitigation proposed or approved as part of the permit process should include bypass flow usage for Grand County municipalities.

- The Moffat DEIS considers the impact of population growth and need only until 2030. Denver Water's charter requires that any need be met for any required amount with no concern for where the water comes from. The Town of Winter Park, in its master plan, has limited its ability to grow exponentially by considering the impacts of our own water use on stream habitat and quality. The Town's master plan requires that growth be restricted in order to keep minimum stream flows in both the Fraser River and Vasquez Creek (ironically below Denver Water's diversions on both watersheds). The Town has negotiated this solution with our water and sanitation districts and has put itself on a strict diet when it comes to new development and growth. There are no efforts to do so by Denver Water, which only continues to perpetuate unrestricted growth that will have additional negative impacts to the Fraser and Colorado Rivers past 2030. The Moffat DEIS should contemplate a solution where a realistic limitation on growth is put in place to reflect that this water resource is finite.
- Denver Water is acknowledged as a leader in Colorado for water conservation efforts. Outdoor water use for lawns and landscaping constitutes half of Denver Water's total use. The Moffat DEIS identifies that 16,000 acre-feet of water will be acquired through "aggressive conservation". It is our belief that any water conservation effort that does not place a significant emphasis on outdoor water use can hardly be called "aggressive". The Moffat DEIS should identify explicit plans for this conservation effort, and if these plans are not met in the future any approved permit needs to be re-evaluated based on non-compliance with Denver Water's own stated goals.
- The Moffat DEIS does not contemplate the development of a comprehensive re-use system that uses the existing water from transmountain diversions to extinction. A substantial re-use program should be developed and in place prior to allowing for any further diversions from Grand County. Other neighboring communities have found cost-effective and reliable technologies for reuse. The City of Aurora's Prairie Water project illustrates how a major water utility in Colorado can develop an indirect potable re-use project. Re-use has proven to provide a highly competitive and cost-effective means of augmenting water supplies.
- Permit requirements must include adequate protections, enhancements, and mitigation for water quality, which suffers as a result of low flows and high temperatures. This should include mandatory flushing flows as identified in the Grand County Stream Management Plan,
- The Moffat DEIS does not capture the biological effects of the proposed changes that will likely occur due to the fact that the Fraser River ecosystem is so complex. Any approval should allow for mid-course corrections in the event that the predicted outcomes are incorrect. This should include tree removal and mitigation after a significant wildfire event, construction of the sedimentation basin on the Fraser River near the entrance to the Mary Jane Ski Area, accommodation of enhancements in the upper Fraser Valley (such as pump-back pipelines and additional storage, if appropriate), and mandatory flushing flows that are appropriate based on the Grand County Stream Management Plan.

- The Moffat DEIS process should identify a plan for enforcement to ensure the provisions in the permit or any other Intergovernmental Agreement (IGA) that may be procured as part of this process. Enforcement needs to be a requirement of all of the participants in this process as it is simply not fair or sustainable for Grand County to solely protect the water resources that are owned and enjoyed by all residents and guests of the state of Colorado (including the Front Range). Active management by the Corps of Engineers, beyond just the permitting process, is essential to a sustainable solution.

Thank you for this opportunity to comment on the Moffat Collection System Project Draft Environmental Impact Statement. Our community is concerned about the significant potential impacts of this project, and would appreciate your consideration of this letter. Thank you for your time in this matter.

Sincerely,



James F. Myers
Mayor

CC: Grand County Board of County Commissioners
Town of Fraser Board of Trustees
Town of Grand Lake Board of Trustees
Town of Granby Board of Trustees
Town of Kremmling Town Council
Town of Hot Sulphur Springs Board of Trustees
Grand County Water and Sanitation District No. 1
Winter Park Water and Sanitation District
Winter Park Ranch Water and Sanitation District