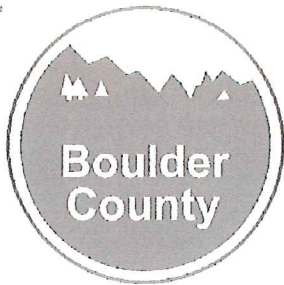


EXHIBIT B



Land Use Department

Courthouse Annex

2045 13th Street ♦ 13th & Spruce Streets ♦ Boulder, Colorado 80302 ♦ (303) 441-3930
<http://www.bouldercounty.org/lu/>

Denver Water Board Proposed Gross Reservoir Expansion Plan: Pre-Application Document (PAD) Comments – September 25, 2008

- 1) **Review Process.** Denver Water asserts that the Federal Power Act preempts Boulder County from applying its Article 8 – Areas and Activities of State Interest (a.k.a. HB 1041) or other land use regulations to this proposed project. To avoid a conflict over applicable regulatory authority, the County believes that an intergovernmental agreement (“IGA”) between Denver Water and Boulder County is a worthwhile option to explore. An IGA would provide both parties with a means for reaching mutually acceptable commitments, would accommodate a good public participation component, and is explicitly permitted under the County’s land use code as an alternative to the 1041 process.
- 2) **Property Owner Notification.** The County believes Denver Water should take responsibility for notifying in writing all potentially affected Boulder County adjacent property owners within 1,500 feet of travel routes/corridors to be used by Denver Water as well as:
 - property owners within 1,500 feet of State Highway 72 between the Peak-to-Peak Scenic Byway on the west and the Boulder County/Jefferson County line to the east who are not within platted subdivisions but including Wondervu;
 - property owners within 1,500 feet of County Roads 77S (aka Gross Dam Road) and 77; and
 - property owners within the platted subdivisions of Lakeshore Park, Pine Needle Notch, Kuhlmann Heights, The Dell, Copperdale Lane Shady Wood, Crescent Lake Estates, and Cedar Ridge Estates.

The notice should inform property owners about the project scope, plans (including construction-related transportation routes) and timelines. The County is willing to provide Denver Water with a list of the owners within Boulder County at Denver Water’s expense.

- 3) **Acreage Compensation.** Because approximately 400 acres of shoreline, tributary and bank habitat will be lost as a result of the expansion, Boulder County requests that Denver Water compensate for the loss. An appropriate method of compensation would be adding the amount of inundated land to publicly owned forested lands/riparian areas within the County. Other or additional options could include restoration of South Boulder Creek above Gross to a more natural channel, purchase of Preble’s habitat,

contribution of funds to Boulder County's South Boulder Creek rehabilitation projects, etc. We do not believe that the creation of "new" riparian areas along the elevated pool level can be ecologically assured or provides a sufficient offset.

- 4) **Projected Water Supply and Demand.** Information provided by Denver Water states that the agency expects a 34,000 acre-feet shortfall in supply by the year 2030 (we presume this is for the entire Denver Water system, not just the North system), and that 16,000 acre-feet of that shortfall will be addressed through additional conservation measures, leaving a need to develop 18,000 acre-feet of additional supply. The Gross Reservoir Expansion Project proposes increasing capacity at that facility by 72,000 acre-feet or roughly 300% more than the projected demand. The County would like Denver Water to provide an explanation of these figures relate along with an identification of the amounts of water presently being delivered by Denver Water to its customer jurisdictions and the additional amounts proposed for delivery to each from the Gross Reservoir/Moffat Collection System.
- 5) **SmartGrowth/Sustainability.** The County requests that Denver Water notify jurisdictions that will receive water from this project that contracts for delivery will be conditioned in part on those jurisdictions incorporating water conservation requirements for all interior and exterior uses into their land use and building permit approval processes. This should include requiring subdivision, HOA or other covenants to encourage or mandate drought tolerant landscaping plans, watering plans and flora as part of any Final Plat or other development approval. We are particularly interested in Denver Water providing information about the amount of additional water slated for delivery to Arvada, and how that contributes or provides support to the city's plans for expansion to the west along SH 72
- 6) **Transportation and Rail Option.** Denver Water should provide the County with the primary and secondary transportation routes used in the expansion project along with specific information on the numbers and types of trips projected, hours of travel, vehicle types, overweight and wide loads, possible infrastructure and traveled way improvements, etc. The County also strongly encourages Denver Water to prepare detailed costs and impacts analyses comparing over-the-road transport vs. rail transport to potential project staging areas at the intersection of County Road 77 South (Gross Dam Road) and the UP&SR Railroad. The efficiencies of rail transport and the consequent reduction in vehicle trips/traffic incidents and congestion/road and road infrastructure impacts/air pollution/fuel costs/other environmental and neighborhood impacts should all be factored into such an analysis.
- 7) **Wildfire Mitigation/Forest Restoration.** Denver Water is probably more aware of the impacts of wildfire on watersheds than any other municipal water provider between the Front Range and the West Coast. However, wildfire mitigation is not listed in the June 18, 2008 PAD under Section V. – Affected Environment. The expansion project provides a tremendous opportunity for implementing a broader wildfire mitigation/forest restoration program around the reservoir, and the County is interested in talking with Denver Water and other area stakeholders (as well as the jurisdictions

which will be receiving water from this expansion) about possible collaboration or partnerships. Such an effort could also be used as a demonstration project consistent with the long-term objectives and tasks laid out by the Front Range Fuels Treatment Project Roundtable Findings and Recommendations report of May, 2006, of which Denver Water is a participating member.

- 8) **Concrete/Aggregate Sources.** It is not clear from the information submitted to date whether Denver Water plans to quarry rock products and manufacture cement/concrete on site for the expansion at Gross Reservoir or intends to transport these materials to the site from other locations. Please provide more specific information about this component of the project.
- 9) **Trail Corridor.** The County would like to discuss the opportunities for being able to establish a trail corridor along the South Boulder Diversion Canal from the south county line to Coal Creek Canyon. We raise this here as an FYI even though it may not be a formal part of the PAD process.
- 10) **Hydropower Production.** The County would like to have a discussion with Denver Water about the potential for additional hydropower production opportunities that may be available from expansion, both at Gross Reservoir's current power plant and elsewhere, utilizing the hydraulic head in the pipeline and diversion canal.
- 11) **Increased Recreational Uses.** The County preference is that "no net increase" in dispersed or overall recreational opportunities be the objective of the recreation management plan for a number of reasons such as timely emergency response, law enforcement, patrolling of recreation/shoreline/closure areas, wildlife needs and habitat protection including possible seasonal or impact mitigation closures, wildfire prevention, and so forth. The County will want to work closely with Denver Water in formulating the recreation plan so that these and other issues will be addressed in a collaborative manner.

On November 6, 2003 the Boulder County Commissioners sent a letter to Peter Chandler, the Regulatory Project Manager for the U.S. Army Corps of Engineers in the Wyoming Regulatory Office, in response to the scoping process for the Moffat Collection System EIS. Some of those comments are germane to the Gross Reservoir expansion and are summarized here:

- 1) Will additional flood storage be provided, and has Denver Water had discussions with the City of Boulder regarding how the revised floodplain/floodway mapping that has been underway along South Boulder Creek might be affected by the expansion project?
- 2) Has an assessment be completed on the downstream hydrologic effects of flow variations from the expansion on riparian and aquatic habitat as well as the identification of mitigation measures to offset the impacts? Have increased flows into the South Boulder Diversion Canal been calculated and their impacts on habitat been addressed?

- 3) Has Denver Water identified the junior and senior direct flow/storage water rights of other jurisdictions, particularly Boulder County's, within the South Boulder and Boulder Creek Basins and developed plans to insure that these rights are not injured?
- 4) Is the existing 2,500 acre feet of year-round instream flow storage space at Gross Reservoir, established by intergovernmental agreement between the City of Boulder and Denver Water, to be continued, or are other plans going to be proposed? Is Denver Water going to contribute water rights to this conservation pool?

This concludes our comments at this time. We appreciate the opportunity to participate in the PAD process and trust that our input will be factored into the on-going project planning. Please contact me at your convenience if I or other county reviewers can provide further clarification.

Yours truly,

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cc: County Commissioners
County Attorney
County Parks and Open Space
County Transportation
City of Boulder