



DENVER WATER

1600 West 12th Avenue • Denver, Colorado 80204-3412
Phone 303-628-6000 • Fax No. 303-628-6199 • www.denverwater.org

May 1, 2008

Re: Denver Water's Proposed Enlargement to Gross Reservoir, FERC Project No. 2035

Dear Agency or Interested Stakeholder,

The U.S. Army Corps of Engineers (Corps) is currently drafting an Environmental Impact Statement (EIS) to analyze alternatives for a water supply project for Denver Water. Denver Water approached the Corps with a need to increase its water supply on the North end of its system (i.e., the Moffat Collection System) to meet demand and system reliability needs. The alternatives analyzed in the Draft EIS include, as a component or as an entire solution, an enlargement of Denver Water's Gross Reservoir, located in Boulder County, Colorado. Denver Water has directed the Corps to analyze the Large Gross Enlargement alternative in the draft EIS as its preferred alternative. Denver Water will file an application for its preferred alternative prior to the release of the draft EIS.

Gross Reservoir is part of a hydropower project licensed by the Federal Energy Regulatory Commission (FERC). Therefore, to construct this project, Denver Water will also need a FERC license amendment. Information regarding the impacts of the proposed enlargement will be analyzed in the Corps' EIS, and the FERC is a cooperating agency in the NEPA process. Nonetheless, the FERC will still require a license amendment application from Denver Water. Part of the application process requires Denver Water to consult with interested stakeholders and agencies about the proposed changes to the current FERC license. In the past, the Corps or Denver Water notified you of the public meetings at the start of the Corps' EIS process or Denver Water contacted you to determine your interest in participating in the Gross Reservoir FERC re-licensing process completed in 2000. In this case, Denver Water is again contacting you to determine your interest in participating in the consultation process with Denver Water on its FERC license amendment process for an enlargement of Gross Reservoir.

Unlike the Corps' EIS process, whereby the public will comment to the Corps on the Draft EIS once it is released, the FERC amendment process requires the applicant (Denver Water) to consult with and take comments from interested stakeholders and agencies on the applicant's proposed changes to the FERC license, rather than those

comments being directed to the FERC. This is because Denver Water has not yet filed a license application with the FERC. The consultation process is to help Denver Water craft the FERC license amendment application with input from resource agencies and other interested parties, in compliance with FERC regulations at 18 CFR § 4.38. The consultation with Denver Water regarding the proposed changes to the FERC license applies to Denver Water's proposal and the resulting environmental impacts. Again, the impacts associated with a Gross Reservoir enlargement will be addressed in the Corps' EIS, but Denver Water will want to hear comments from the public and agencies on the changes it is proposing to the FERC license (e.g. relocated recreation facilities, changes in hydropower generation, etc.) and help determine if further information is needed to address the proposed changes.

The FERC Consultation Process:

A chart at the end of this letter summarizes the FERC consultation process. As mentioned already, most of the analysis for an enlargement of Gross Reservoir will be covered in the Corps' Draft EIS. Therefore, the Corps Draft EIS will be included as attachments or exhibits to Denver Water's draft FERC application and made available for public comment. The Final EIS will be included in Denver Water's final FERC amendment application along with a description of the comments made during the consultation process.

Before the Corps' Draft EIS is released, Denver Water will be providing preliminary amendment information (in a document that will be called the Pre-application Information Document) to those parties who have responded to Denver Water about wanting to participate in the consultation process. Denver Water will then hold a public meeting soon after the release of the Pre-application Information Document. This public meeting is held prior to and independent from the Corps' Public Hearing on the Draft EIS. Agencies and stakeholders will have 60 days from the date of the Denver Water public meeting to comment on Denver Water's pre-application information.

Following this comment period, Denver Water will take comments into consideration and prepare the draft FERC amendment application. This will be sent to the interested agencies and stakeholders around the time the Corps Draft EIS is released to the public and agencies. The Draft EIS will contain much of the information that is needed in an amendment application. Therefore, the Draft EIS will be included as attachments or exhibits to the draft FERC application. The agencies and stakeholders will be given 90 days to comment to Denver Water on the draft application. It will be important to recognize that this comment period will coincide with the same comment period for providing comments to the Corps regarding the draft EIS for purposes of its Clean Water Act §404 permit to construct the project. Therefore, the parties may wish to comment separately to the Corps and to Denver Water. The Corps has agreed to issue the Draft EIS for a public comment period of 90 days rather than the regulatory requirement of 45 days.

After this 90 day comment period, the Corps will complete its NEPA review process, eventually issuing the Final EIS along and its Record of Decision regarding Denver Water's §404 permit. Denver Water will use the comments provided from the 90-day comment period to finalize its amendment application and exhibits. Once the Final EIS is completed, Denver Water will submit its amendment application to the FERC and send a copy to the participating agencies and stakeholders. The FERC will notice this application for public comment.

After reading this letter, we request that you respond to Denver Water by **May 16, 2008** as follows:

- If you would like to participate as an interested party or agency in Denver Water's pre-application consultation process regarding proposed changes to the Gross Reservoir Hydropower Project license, please notify Denver Water's project manager, Travis Bray via email travis.bray@denverwater.org or by phone at 303-628-6551 and provide an email address if you have one. You will be put on our mailing list and receive a Pre-application Information Document. You will also be notified about the public meeting.

After you have received the Pre-application Information Document, you may waive your participation in the remaining consultation process (i.e., waive receiving a draft of the amendment application for review and comment). If you determine that the pre-application information and the later release of the Draft EIS will address your needs or interests, you may send a letter to Denver Water suggesting that the remaining consultation efforts be waived with regard to your participation.¹ This would mean that you do not wish to receive a draft amendment application from Denver Water for review and comment.

- If you are not interested in participating in this FERC consultation effort, we would appreciate it if you would notify Travis Bray (contact information above) indicating your decision. You will not receive further information from Denver Water.
- You may choose to remain silent, in which case Denver Water will presume that you are not interested in consulting on the documents Denver Water prepares before filing an amendment application to the FERC. You will not receive further information from Denver Water.

¹ If, after reviewing Denver Water's Pre-application Information Document, the agencies and stakeholders believe Denver Water's pre-application information and the Corps analysis of the impacts from enlarging Gross Reservoir address all their study needs, Denver Water will request that the FERC waive the remaining consultation process pursuant to 18 CFR 4.38(e). If consultation is waived, the parties are still able to comment to the Corps when the Draft EIS is released and the FERC will notice the submission of Denver Water's amendment application in the *Federal Register*.

Please note that if you waive consultation in the FERC process, you are still allowed to comment to the Corps on their Draft and Final EISs, which are an independent process from the FERC license amendment process. In addition, the FERC will provide public notice of the receipt of the final amendment application from Denver Water after the Final EIS is completed.

Denver Water estimates that the FERC consultation process will begin this summer (approximately June), and, if you wish to participate, you will receive from Denver Water documents or notice of documents available online.

We appreciate your consideration of this information. Please respond to Travis Bray by **May 16, 2008** regarding your decision relative to participation in the FERC consultation process.

Sincerely,

Travis Bray
Project Manager
Denver Water
Phone: 303-628-6551
Travis.bray@denverwater.org

FERC Consultation Process

FERC Regulation	Step	Timeline
18 CFR 4.38(b)	Applicant provides pre-application information	30-60 days before public meeting
18 CFR 4.38(b)	Applicant holds public meeting to explain proposal	15 days notice will be provided
18 CFR 4.38(b)	Comment period	60 days from the date of the public meeting
18 CFR 4.38(c)	Applicant reviews comments, gathers additional data or conducts additional studies, if needed	“diligently”
18 CFR 4.38(c)	Applicant provide draft application to parties for comment. This is when the Corps’ Draft EIS will be released to the public and attached as Exhibit E to the draft application	
18 CFR 4.38(c)	Comment period on: 1) Comments to Corps’ on Draft EIS for CWA § 404 permit; and 2) Comments to Denver Water on Denver Water’s draft application and exhibits	90 days from the date of transmittal/release Corps will hold Public Hearings on the Draft EIS approximately 45 days into the 90-day comment period
18 CFR 4.38(d)	(1) Applicant prepares final amendment application for FERC. Denver Water will submit final application with exhibits to FERC and participating parties. (2) The Corps’ Final EIS and Record of Decision will be issued.	
18 CFR 2.1(a)(iii)(C)	FERC notices application in Federal Register	