

# EXHIBIT H



1600 West 12th Ave  
Denver, CO 80204-3412  
303.628.6000  
denverwater.org

April 28, 2021

Mr. Dale Case, Director of Community Permitting and Planning  
Boulder County Community Permitting and Planning  
2045 13th Street  
Boulder, CO 80302

**Re: Docket SI-20-0003: Gross Reservoir & Dam Expansion – Denver Water’s Response to Referral Agency and Public Comments on 1041 Permit Application**

Dear Mr. Case,

Please find enclosed Denver Water’s responses to the re-referral comments that you transmitted to us on April 8, 2021, concerning our 1041 Permit Application, Docket SI-20-0003: Gross Reservoir and Dam Expansion Project (GRE Project).

Over the past decade, Denver Water has sought to work with Boulder County to find a collaborative way forward for the GRE Project. Just as we have done successfully with all other communities affected by the Project, we have endeavored to respond to Boulder County’s concerns and address disturbances to neighbors to the maximum extent feasible. With this submission and the draft plans previously scheduled to be distributed to you on May 3rd, we ask that you move our application forward so that we can complete the County’s 1041 process in time to meet the construction deadlines that the Federal Energy Regulatory Commission (FERC) has ordered for the GRE Project.

Included with this submission are our responses to the technical questions from the re-referral comments you transmitted on April 8. In addition to the technical questions, County staff requested several draft plans that we are preparing pursuant to FERC’s order. We already have provided drafts of the Tree Removal Plan, Invasive Species Management Plan, Recreation Management Plan, and Recreation Monitoring Plan for your review and comment. In addition, we anticipate providing drafts of the Traffic Management Plan and Quarry Operation and Reclamation Plans to you as scheduled on May 3, 2021. We welcome Boulder County’s comments on these plans according to the schedule we previously provided so we can consider and incorporate the County’s feedback before submitting the plans on or before July 16, 2021, for FERC’s final approval.

With respect to visual resources, as previously explained, the GRE Project’s visual impacts were fully analyzed in the U.S. Army Corps of Engineers’ (Corps) Final Environmental Impact Statement and FERC’s Supplemental Environmental Assessment. FERC’s order also requires Denver Water to prepare an addendum to the Project’s Visual Resource Protection Plan for U.S. Forest Service and FERC approval before construction begins, and Denver Water is developing the addendum in accordance with the required FERC schedule. At your request, we are attaching additional visualizations of the completed Project from several different vantage points.

Mr. Dale Case  
April 28, 2021  
Page 2

Denver Water would welcome specific suggestions for measures that Boulder County would like to see included in the addendum to reduce the GRE Project's visual impacts.

In addition to the comments from referral agencies, the re-referral packet you transmitted on April 8 also included collected comments from the public. Denver Water has reviewed the public comments, which repeat comments to which Denver Water already responded in its February 19, 2021, submittal to the County, and to which FERC and the Corps responded during the federal permitting process. Because these public comments do not raise issues to which Denver Water has not already responded, Denver Water is not repeating its previous responses herein, but rather incorporates them by reference.

Community Planning and Permitting's letter transmitting the re-referral comments also reasserts the County's position that Denver Water must supply new information that would allow the County to undertake a new purpose and need analysis and review other alternatives to the GRE Project as part of the 1041 process. The County's position disregards that the federal agencies with authority over the GRE Project already have completed the same analyses and directed Denver Water to proceed with the selected alternative. While Denver Water acknowledges that the 1041 process is distinct from the federal permitting process, it is not a means to override or reconsider FERC's and the Corps' findings and decisions. Boulder County participated as a party to the Corps' and FERC's process and had the opportunity to appeal FERC's determinations under the Federal Power Act, but the County chose not to pursue its appeal rights. It cannot now use its own local permitting process as a collateral attack on FERC's order directing Denver Water to construct the GRE Project.

Even if there were time for Denver Water to undertake these analyses anew and still comply with the construction deadlines in FERC's order (and there is not sufficient time to do so), such an exercise would be entirely futile because it would not and could not change the alternative selected by FERC and the Corps. The process the County is demanding would serve only to increase costs and delay the GRE Project beyond the construction deadlines set in FERC's order. To be clear, at this stage of the process, there is no new alternative that Denver Water or the County can consider. Nor can Denver Water disregard the plan submission and construction deadlines imposed by FERC's order; the schedule is not merely Denver Water's "preferred timeline," but the timeline dictated by the federal authorization for the GRE Project. Denver Water therefore must again decline to revisit as part of this 1041 process the water demand and other analyses underlying the purpose and need for, and alternatives to, the GRE Project, which are integral to the final federal approvals and no longer subject to challenge.

Accordingly, these issues do not warrant any further delay to the 1041 process. With the additional re-referral comment responses attached hereto and our previously scheduled draft-plan submissions on May 3, 2021, we ask you to deem our application complete. Although we believe that our application already meets the criteria for approval, we remain open to discussing with you any specific additional measures you

Mr. Dale Case  
April 28, 2021  
Page 3

believe would be necessary to align the GRE Project with your approval standards.

In addition, we request that our 1041 permit application be placed on the agenda for the June 2021 meeting of the Boulder County Land Use Planning Commission and be scheduled for a hearing before the Boulder County Board of County Commissioners no later than August 2021. As previously explained, Boulder County's refusal to approve Denver Water's 1041 permit application by August 2021 would obstruct Denver Water's ability to meet the mandatory construction deadlines in FERC's order.

If you have any questions or comments on this letter, please contact me directly at 303-628-6508 or [jeff.martin@denverwater.org](mailto:jeff.martin@denverwater.org). Thank you again for the time and consideration that you and other staff members have devoted to this application.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jeff Martin".

Jeff Martin, P.E.  
Gross Reservoir Expansion Program Manager

cc: File

Enclosures