



Board of County Commissioners

August 18, 2023

MEMO

To: Boulder County Board of County Commissioners

From: Barb Halpin, Specials Projects Coordinator, Commissioners' Office

RE: Gross Reservoir Community Impact Mitigation Fund Phase I Distribution

PURPOSE:

Provide background information for the 2023 Budget Amendment (dated 8/18/2023) for payments to eligible households impacted by the Denver Water Gross Dam Expansion Project and summarize the decisions made by the Board of County Commissioners ("Board") at a public meeting on June 29, 2023. No action or decision by the Board is requested in this memorandum.

BACKGROUND/SUMMARY:

At a public meeting on June 29, 2023, the Board of County Commissioners considered recommendations from county staff and the 12-member Gross Reservoir Community Advisory Working Group to determine the amount and distribution method for Phase 1* funding from Section 2.1 of the [Denver Water vs. Boulder County Settlement Agreement](#) ("Agreement") (signed in November 2021).

The Agreement provides \$5 million for direct payments to households near the Gross Dam Expansion Project ("Project") to reduce (and/or mitigate) the noise, light, and air impacts on residents over the Project's 5- to 7-year construction period. The Agreement stipulates that Boulder County must develop a payment methodology (calculation) to ensure a fair and equitable distribution of the \$5 million fund based on the expected type and severity of the noise, light, and air impacts on eligible households.

To determine household eligibility and adopt a methodology for calculating payments from the fund, staff presented an [Environmental Analysis report](#) prepared by Pinyon Environmental, Inc. and made recommendations to the Board based on the data in the report and detailed accounts of lived experiences shared by Gross Reservoir residents over the course of nearly a year. Additionally, two members of the Gross Reservoir Community Advisory Working Group shared the group's recommendations on the most equitable and fair way to distribute the money to the community.

The Board's approval and vote on June 29, 2023, authorized staff to finalize the list of eligible households, calculate individual payment amounts, and work with the Office of Financial Management to collect required household tax information and process payments according to established county policies and practices.

Claire Levy County Commissioner **Marta Loachamin** County Commissioner **Ashley Stolzmann** County Commissioner

Boulder County Courthouse • 1325 Pearl Street • Boulder, Colorado 80302 • Tel: 303.441.3500 • Fax: 303.441.4525
Mailing Address: P.O. Box 471 • Boulder, CO 80306 • www.BoulderCounty.gov • commissioners@bouldercounty.gov

DECISIONS BY THE BOARD:

On June 29, 2023, the Board of County Commissioners:

Approved the following **Gross Reservoir Community Advisory Working Group Recommendations:**

- 1) Use Pinyon's environmental analysis and ranking system to determine the methodology for distributing funds;
- 2) Expand Pinyon's ranking calculations to decimal places to the tenth rather than rounded to the whole numbers to make total impact ranking results more precise and granular;
- 3) Keep Pinyon's weighting system of 35% for noise, 35% for visual, and 30% for air quality to calculate total impact ranking;
- 4) Adopt a set of anomalies to the Pinyon results to address on-the-ground comparisons with similar households;
- 5) Use the following criteria for household payment eligibility:
 - a. Current residential property owner(s) qualify if they have a total Pinyon ranking above "0" (Note: The subject of renters was discussed at length. Renters, while recognized as equally impacted members of the community, are not eligible to receive direct payments due to limits with available public records, risk/liability assumed by owners, and greater flexibility/turnover rate of leasing vs. ownership);
 - b. Undeveloped lots and agricultural properties without a residential home are not eligible;
 - c. Owners in the process of building homes are eligible *only if* they have a certificate of occupancy (C.O.) two weeks before Boulder County begins to issue payments;
- 6) Approve 80% of the Fund (\$4,000,000) for distribution to impacted residences for Phase 1 and reserve 20% (\$1,000,000) for impacted residences for Phase 2 (tree removal) of the Project;
- 7) Do not establish a separate appeals process for homeowners to contest their rankings, but follow pre-established Boulder County processes for residents to provide feedback on their rankings.

Approved the following **Staff Recommendations:**

- 1) Authorize staff to identify eligible households to receive a payment;
- 2) Property owner(s) of record at the time of payment disbursement will receive a one-time payout per property address. No additional payments will be made to future owners;
- 3) Direct higher payments to households with significant, direct, mitigatable impacts;
- 4) Groups clusters of houses that: A) have lower rankings, B) are situated away from direct daily reservoir construction operations, or C) experience few or infrequent impacts from the Project;
- 5) Award equal, tiered payments to homes in the lower impact categories;
- 6) Work with Pinyon Environmental and community surveys to finalize Air, Noise, and Visual/Lighting rankings and adopt anomalies presented by Staff and the Working Group;
- 7) Put \$50,000 into an escrow account and subtract that amount from the \$4,000,000 Phase 1 amount for any properties that are determined to be eligible after calculating the Phase 1 payment amounts;

- 8) Calculate individual eligible household payment amounts and work with the Office of Financial Management to collect required household tax information to generate payments according to the methodology shown in the chart below;
- 9) Set a date of April 30, 2024, as the deadline for when households can claim their eligible Phase 1 payment amount;
- 10) Allocate any unclaimed proceeds from Phase 1 to Phase 2 of the Fund distribution;

Chart: Approved Calculations for Determining Household Payment Amounts (Rankings determined by final Pinyon Environmental Analysis)
Tier 1: 0.1 to 2.0 (total ranking) one factor,* no view = \$2,000; with view** = \$6,000
Tier 2: 0.1 to 2.0 (total ranking) two factors,* no view = \$3500; with view** = \$6,000
Tier 3: 2.1 to 2.5 (total ranking) = \$10,000
Tier 4: 2.6 and above (total ranking) = Calculation based on equation $=(\text{NOISE} \times 0.35 + \text{AIR} \times 0.3 + \text{VISUAL} \times 0.35) \times \text{Multiplier}$ (i.e., point value determined by the \$3,950,000 total amount (\$4 million minus \$50K escrow) minus payouts for Tiers 1-3)
*Factor = Air or Noise ranking above "0"
**Note: For households with direct, but more distant, views of Denver Water's construction areas, additional money is provided to mitigate lighting and view impacts with blackout curtains or blinds. No change between 1st and 2nd tiers for visual/lighting amounts (i.e., \$6,000 T1 & T2).
Funds will be distributed as 1099-G payments, per IRS regulations.

A video recording of the June 29, 2023, meeting is available on the [Boulder County Open Meeting Portal](#).

* Because Denver Water's operational plan for tree removal around Gross Reservoir will not be available until 2024, tree removal impacts were not considered in the first phase of funding. A sum of \$1 million was held back for a future round of funding once the tree removal impacts are better known.