

**Boulder County Gross Reservoir Community Impact Mitigation Fund (The Fund)  
Community Advisory Working Group (Working Group)  
June 1, 2023, 5:30 pm to 8:30 pm  
Zoom Meeting  
Meeting Summary – FINAL**

**ATTENDANCE**

*Working Group members:* Sunday Antley, Brian Campbell, Paul Ewald, Don Ferguson, John Gleason, Mary Hainstock, Katrina Harms, Jennifer Macoskey, Anna McDermott, Chris Passarelli, John Stevens, and Ed Wiegand

*Boulder County Staff:* Barb Halpin

*Facilitation:* Samuel Wallace and Izzy Sofio

*Working Group meetings are open to the public for observation and written comment. Several members of the public attended the meeting.*

**ACTION ITEMS**

<b>Working Group members</b>	<ul style="list-style-type: none"> <li>• Review the draft Working Group report and provide Peak with feedback on the report.</li> <li>• Review the Pinyon data spreadsheet with decimal numbers for anomalies post-decimal data and provide Peak with the information about any consistent or new anomalies.</li> </ul>
<b>Anna McDermott, Chris Passarelli, and Peak</b>	Develop presentation materials for the June 29 presentation to the Board of County Commissioners.
<b>Peak</b>	<ul style="list-style-type: none"> <li>• Distribute the draft Working Group report for Working Group member’s review.</li> <li>• Distribute the Pinyon data spreadsheet with decimal numbers to Working Group members.</li> </ul>

**DISSENTING PERSPECTIVE ON IMPACT WEIGHTING**

During the May 16 Working Group meeting, Working Group members reached consensus on a recommendation to move forward with Pinyon Environmental, Inc.’s (Pinyon) weighting. However, one Working Group member provided a dissenting perspective on the decision. Below are key points from the dissenting perspective.

- Two Working Group members supported using a weighting system that evenly distributed weighting across all three impact areas (33.3% to air quality, visual, and noise) rather than the Pinyon ranking (the dissenting perspective presenter and one additional Working Group member).
- The minority perspective is that adding an unequal weight to one or more of the impact types (air, noise, light) introduces inequity in fund distribution. Due to the way air quality noise, and visual impacts affect different communities, the approach of a weighting system of 35% for noise, 35% for visual, and 30% for air quality reduces the payout for households receiving less than \$5,000 by 4%, reduces the payout for households receiving between \$5,000 and \$10,000 by 0.8%, and increases the payout for those receiving greater than \$15,000 by 0.8%.
- The minority perspective will be documented in the Working Group’s final report.

## **ANOMALIES DISCUSSION AND RECOMMENDATION**

Working Group members discussed the anomalies that several Working Group members identified before the June 1 meeting and identified how to move forward with a recommendation about anomalies. [This link](#) shows the air quality, noise, and visual maps with the identified anomaly areas for reference. Below are key points from the discussion.

### ***Air Quality Anomalies***

Working Group members identified the air quality anomalies throughout the impacted area for the following reasons and provided the following perspectives on the air quality rankings:

- In the Lakeshore/North Shore area, there are three residences that are clear dots, representing a 0-impact ranking. There is a proposal to increase these rankings to 1 because the residences are adjacent to residences that received a 1. The difference between 0 and 1, based on Pinyon's methodology, has a threshold of 10%, meaning residences with an impact of 10% or lower have a ranking of 0. The reason for setting the threshold between a 0-impact ranking and a 1-impact ranking is unclear.
- In the Lichen Lane and Tunnel 19 area, there is a residence on Gross Dam Road that received a 1. This residence is experiencing air quality impacts from increased truck traffic. There is a proposal to increase this ranking to a 2. In this area, there is also a residence that was left out of the assessment. Boulder County has this information and has provided the information to Pinyon for incorporation into the model.
- One Working Group that identified anomalies expressed that using Pinyon's data for air quality is a more objective approach as air different people experience air quality impacts differently, regardless of the assigned ranking.

### ***Noise Anomalies***

Working Group members identified the noise anomalies throughout the impacted area for the following reasons and provided the following perspectives on the noise rankings:

- In the Miramonte area, there are two residences that received a 3. Using residents' knowledge of the area and experience with noise at the residences, there is a proposal to increase the residence rankings to a 4, similar to the other nearby residences.
- In the north of State Highway 72 (SH 72) in the area with a view of the construction, there are two residences that received 2s, whereas nearby neighbors received 3s. The residences in this area sit near the quarry and overlook the construction. There is a proposal to increase the two residences that received 2s to 3s.
- In the Lakeshore/ North Shore area, there is one residence that received a 0; however, the residence is on a ridge, and nearby residences received 4s. There is a proposal to increase this residence's ranking to a 3.
- In the Lakeshore/ North Shore area, there is a residence that received a 4; however, the residence's direct neighbor received a 5. There is a proposal to increase the residence from a 4 ranking to a 5.
- In the Lakeshore/ North Shore area, there are four residences that received 4s; however, there is a nearby residence that received a 5. There is a proposal to increase these residences from a 4 ranking to a 5.
- There are several residences in the Flagstaff, Pika, and Bison areas (e.g., almost 80 residences). Several of the residences have varying impact rankings. There is a proposal to re-evaluate these residences due to the variety of rankings in the area.

### ***Visual Anomalies***

Working Group members identified the visual anomalies throughout the impacted area for the following reasons and provided the following perspectives on the visual rankings:

- In the Lakeshore/North Shore area, there is a residence that received a 3; however, this residence has a direct line of sight to the construction. There is a proposal to increase the residence's ranking to a 4, like the nearby residences that also have views of the construction.
- In the Lakeshore/ North Shore area, there is another residence that received a 4; however, the residence's direct neighbor received a 5. There is a proposal to increase the residence's ranking to a 5 so that it is equal to the neighbor's rating, as the two residences are so close to each other.
- In the Gross Dam Road area, there are five residences that received a 0 ranking. However, these residences have a direct line of sight to the construction. There is a proposal to consider increasing the rankings of these residences due to their direct line of sight.
- Boulder County is distributing a survey to gather information about homes that have line-of-sight impacts that were not rated appropriately.

### ***Anomalies Discussion***

- Several Working Group members are curious about the algorithms that Pinyon used to generate the impact rankings, particularly for air quality impact rankings. Having a clearer understanding of the algorithms could be helpful for Boulder County.
- Barb Halpin, Boulder County, has had several discussions with Pinyon about the accuracy of the rankings. Pinyon has confidence in the findings generated through the predictive models. However, Pinyon acknowledges that the model is not perfect but that the results are as accurate as a model will be.
- As Working Group members identified anomalies throughout this process, Barb has brought the anomalies to Pinyon for further consideration. There are several residences that Pinyon is evaluating to consider if impact ranking(s) should be adjusted. If there are more anomalies, Barb will bring those to Pinyon.
- Working Group members considered how identifying anomalies, aside from visual anomalies which are being reviewed, could open the door for residences to contest rankings. Throughout the course of the Working Group process, Working Group members have considered and discussed the value of objective rather than subjective data.
- If the Working Group can access decimal data for the air quality and noise impact rankings, the more accurate data might address some or all of the identified anomalies. In previous meetings, the Working Group agreed to calculate total impact rankings using decimal places to generate more precise rankings. However, when Working Group members developed this distribution methodology, the air quality, visual, and noise impact rankings were expressed as a whole number between 0 and 5. Calculating the noise and air quality impact rankings to the nearest tenth-decimal place will generate more precise ranking results and may lessen the differences among some of the anomalies.
- Due to the nature of the modeling calculations, the visual ranking data cannot be calculated to a decimal point value. Therefore, the data with decimals is only available for air quality and noise rankings.
- If using the air quality and noise rankings to the nearest tenth-decimal place does not resolve the anomalies, Working Group members could include a table of the identified anomalies, proposed adjustments, and the reasoning for the proposed adjustment in the recommendation for the Board of County Commissioner's consideration.

### ***Anomalies Recommendation***

- Working Group members were polled on using air quality and noise impact rankings to the nearest-tenth decimal to calculate the total impact ranking to address anomalies.

- With consensus support, the Working Group recommends using air quality and noise impact rankings to the nearest tenth-decimal place in order to calculate the total impact ranking.
- If the air quality and noise impact rankings to the nearest-tenth decimal do not address the previously identified anomalies, Working Group members agreed that Working Group members could identify and provide additional anomalies for the Board of County Commissioners to consider.

## **APPEALS PROCESS DISCUSSION AND RECOMMENDATION**

Working Group members discussed whether to establish a separate appeals process for residences to contest their impact ranking(s). Below are key points from the Working Group's discussion and the resulting recommendation from the Working Group.

### ***Appeals Discussion***

- The Working Group could recommend establishing an appeals process for residences to contest their impact ranking(s).
- In a pre-meeting survey, two Working Group members supported the idea of the Working Group establishing an appeals process for residences to contest their impact ranking(s), eight Working Group members did not support the idea, and one Working Group member was unsure.
- The reasons for supporting the idea included:
  - It is equitable to provide residents with an opportunity to explain why an impact ranking(s) is inaccurate.
  - It would be simple to send a printed survey to residents to gather information about their understanding of their impact ranking(s).
  - Without an appeals process, it is possible that residents could direct concerns and dissatisfaction to Working Group members.
- The reasons for not supporting the idea included:
  - With the more-detailed data from Pinyon, there is information to support impact rankings.
  - An appeals process could increase the time it takes to distribute payments.
  - Dissatisfied residences could be addressed through Phase II of the funding distribution.
  - Several residents would take the opportunity to appeal because there was an opportunity to do so.
  - There are avenues for residences to provide feedback about their impact rankings through Boulder County's typical community feedback processes without the Working Group recommending a specific appeals process, which would require a body for review and decision-making.

### ***Clarifying Questions***

Working Group members asked clarifying questions about Boulder County's appeals processes. Questions are below in italics, and corresponding answers are in plain text.

*Does Boulder County have a policy that allows members of the public to disagree with the Board of County Commissioners' decision?*

Boulder County does not have a policy for appeals specific to this process.

*If the Board of County Commissioners accepts the Working Group's recommendation, is there a policy or code that allows disputes?*

There is nothing set in place governing this process, as there is no precedent for this process.

### ***Appeals Recommendation***

- Working Group members were polled on whether to recommend establishing a separate appeals process for homeowners to contest their ranking.
- With consensus support, the Working Group did not support advancing a recommendation to establish a separate appeals process for homeowners to contest their ranking. However, the Working Group did support homeowners having the ability to follow pre-established Boulder County processes for Boulder County to provide feedback on their rankings.

### **STATE HIGHWAY 72 AND GROSS DAM ROAD INTERSECTION CONSTRUCTION DISCUSSION AND RECOMMENDATION**

At the request of the Boulder County Commissioners, one Working Group member was directed to bring a request for mitigation funding to the Working Group for consideration. Below are key points from the request and the Working Group's discussion and resulting recommendation. After the presentation about the request, the presenting Working Group member recused themselves from the discussion and development of the recommendation.

#### ***Individual Anomaly Request***

- The residence is located at the intersection of SH 72 and Gross Dam Road. Denver Water paid the residents for a portion of their land for the off-ramp construction at the intersection.
- Originally, Denver Water approached United Power and CenturyLink, two properties near the intersection, for portions of their property for the off-ramp. Both utilities denied the request. Ultimately, Denver Water reached an agreement with the residents for a portion of their land.
- After using the land, Denver Water removed several trees from the residence's yard, which has led to increased noise and visual impacts on the residence. The construction project also required the resident to relocate a shed on the property. Additionally, when the residence requested that Denver Water install a retaining wall between the property and the newly constructed road, Denver Water refused to provide funding for a retaining wall despite installing retaining walls along the United Power and CenturyLink properties.
- The request is for funding to build a fence around the property to mitigate the permanent noise and visual impacts from the intersection construction and future intersection use.
- Due to the larger financial request that would come from the Fund, the Board of County Commissioners wanted the residents to bring the request to the Working Group for transparency purposes.

#### ***Clarifying Questions***

Working Group members asked clarifying questions about the individual anomaly request. Questions are below in italics, and corresponding answers are in plain text.

*Did Denver Water use eminent domain or an easement?*

The resident's attorney advised the residents to take a settlement because it would be challenging to enter legal proceedings with a large utility. The settlement funded mini splits for the residence.

*Did Denver Water need to go to court for this process?*

No.

*What are the impact rankings for this residence?*

A 5, 2, and 4.

*Did the Pinyon assessment include the impacts of the intersection construction?*

Pinyon's assessment includes trucks driving on Gross Dam Road from the first year to the last year (year seven) of construction. The intersection construction was not included in the assessment.

*Could Pinyon include the intersection construction impacts in the model?*

It is possible that Pinyon could include the intersection construction impacts in the model; however, there is most likely not enough time for Pinyon to include the intersection construction impacts in the model.

### ***Individual Anomaly Discussion***

- The request appears to be outside of the roles and responsibilities of the Working Group.
- There could be a way to address the impacts on the local church and the community center in addition to this individual anomaly request.
- Some Working Group members proposed that the residence's impact rankings could be elevated to all fives by submitting a formal anomaly report, similar to what the Working Group was intending to do with the other anomalies.
- If the Working Group recommends addressing the anomalies this residence experiences, it is possible that that could open the doors for other individual requests.
- Some funding could be designated for individual anomaly instances like this one. However, establishing a fund for anomalies or unique impacts does not appear to be within the roles and responsibilities of the Working Group and would likely require separate management.

### ***Individual Anomaly Recommendation***

- The Working Group was polled on whether to elevate the residence's rankings to all 5s.
- With majority support, the Working Group recommends submitting an anomaly report to the Boulder County Commissioners for consideration of adjusting the rankings upwards for this residence to calculate funding for the residence.
- Two of the eleven Working Group members abstained from this decision with the perspective that this request was outside of the scope of the Working Group. Additionally, one Working Group member recused themselves entirely due to a conflict of interest.

## **HOMEOWNER ELIGIBILITY DISCUSSION AND RECOMMENDATION**

Working Group members discussed and developed recommendations for homeowner eligibility, including the topics of renters, agriculturally zoned lots without homes, and people in the process of building homes. Several of these topics were raised during the April 29 public meeting. Below are key points from the discussion and the Working Group's recommendation.

### ***Homeowner Eligibility Discussion: Renters***

- The construction project impacts renters; however, it is complicated to establish a process that requires landlords to consider compensating renters with the funding they receive as eligible homeowners. Ultimately, it would be extremely difficult for Boulder County to track and identify renters to distribute funding.
- Throughout the Working Group process, Working Group members considered including a section in the final report that would encourage landlords to share compensation. However, Working Group members did not feel confident that that was within the purview of the Working Group's roles and responsibilities as landlords are business owners.

### ***Homeowner Eligibility Discussion: Agriculturally Zoned Lots***

Working Group members concurred that agriculturally zoned lots without residences on the lots should not be eligible to receive funding.

### ***Homeowner Eligibility Discussion: People in the Process of Building Homes***

- People in the process of building homes now would not have lived through all the years of the project. Because of this, Working Group members considered the utility of a pro-rated amount.
- If home builders have a certification of occupancy and lived in the homes for the first six months of 2024, or if people in the process of building homes have a certification of occupancy by the time Boulder County approves and begins to issue payments, that would justify eligibility for receiving the funds.

### ***Homeowner Eligibility Recommendations***

- Working Group members were polled on whether to recommend including renters as direct recipients of the funds, recommending the inclusion of lots zoned as agricultural without residential homes as eligible for funds, and recommending including people in the process of building homes as eligible recipients of the funds.
- With consensus support, the Working Group recommends to not include renters as direct recipients of the funds.
- With consensus support, the Working Group recommends to not include lots zoned as agriculture without a residential home as eligible recipients for funds.
- With consensus support, the Working Group recommends including people in the process of building homes as eligible recipients of the Fund if they have a certification of occupancy two weeks before the date that Boulder County approves and begins to issue payments.

## **PHASE I AND PHASE II FUNDING ALLOCATION**

Working Group members discussed how to allocate funding to Phase I and Phase II, which focuses predominantly on tree removal from the Lazy Z and Magnolia neighborhoods. Below are key points from the discussion and the Working Group's recommendation for Phase I and Phase II funding allocation.

### ***Funding Allocation Discussion***

- There are many unknowns associated with what Working Group members consider as Phase II of the construction project, which focuses predominantly on tree removal from the Lazy Z and Magnolia neighborhoods. However, the component of the construction project will likely also require construction in addition to logging.
- There will not be additional information available about this component of the project until up to a year from now. What is known is that Denver Water does not intend to cut and remove trees until 2025. Most of the trees will be removed via Lazy Z, and the remaining removal efforts will use Gross Dam Road.
- The tree removal work will include additional trucks and the use of helicopters. However, there are no final proposals for the number of trucks or helicopters that Denver Water will use.
- Phase II will also impact some of the residences impacted in Phase I of the construction project.
- The tree removal work is limited to certain times of the year due to legal constraints, like the Migratory Bird Treaty Act and the harshness of the winter months, for example. This likely means that residents impacted by this component of the construction project will not experience constant impacts.

- If an environmental assessment is conducted similar to the one Pinyon Environmental, Inc. developed for Phase I of the construction project, there could be another working group to determine how to distribute the funds to residences impacted in Phase II.

### ***Clarifying Questions***

Working Group members asked clarifying questions about Phase II of the construction project. Questions are below in italics, and corresponding answers are in plain text.

*Will there be an environmental assessment for the Phase II components of the construction project?*

If the community values an environmental assessment, Boulder County would contract with a third party to provide the assessment.

*Which roads will the trucks removing the trees use, and where will they go?*

The trucks will drive down Lazy Z Road, take a left off Magnolia Road onto State Highway 119 (SH 119) to Interstate-70 (70). Denver Water is looking at locations in Rifle or in eastern Colorado. Denver Water will not use the US Forest Service (USFS) roads to Magnolia Road, and the trucks will not go to Boulder.

### ***Funding Allocation Recommendation***

- Working Group members were polled on whether to recommend dedicating 75% (\$3,750,000) of the Fund to Phase I and 25% (\$1,250,000) for Phase II. Three Working Group members supported this allocation.
- Working Group members were polled on whether to recommend dedicating 80% (\$4,000,000) of the Fund to Phase I and 20% (\$1,000,000) for Phase II. Eight Working Group members supported this allocation.
- The three Working Group members who initially supported the 75% and 25% allocation indicated that they could live with a recommendation of 80% for Phase I and 20% for Phase II.
- With consensus support, the Working Group recommends dedicating 80% of the Fund for distribution to the impacted residences of Phase I and 20% for the impacted residences of Phase II of the Project.

### **ALLOCATING INTEREST EARNINGS TO THE FUND DISCUSSION AND RECOMMENDATION**

Working Group members discussed whether to recommend allocating interest earnings to the Fund for distribution. Below are key points from the Working Group's discussion and the Working Group's recommendation on allocating interest earnings to the Fund.

### ***Allocating Interest Discussion***

- If the Board of County Commissioners accepts a recommendation to allocate interest earnings to the fund, then the additional funding should be for future distribution.
- Any money reallocated back into the funds should be used for future funding distribution and considerations. For example, the earnings of the accrued interest could be split between Phase I and Phase II recipients 80%/20%.
- There was a concern about the additional workload that allocating interest could create for Boulder County staff and appreciated that Boulder County used funding separate from the Fund to provide professional support for the impact assessment and facilitation services.
- It could be more reasonable for Boulder County staff to use an average of the interest considering the potential additional workload allocating interest could create.



### ***Allocating Interest Recommendation***

- Working Group members were polled on whether to recommend that Boulder County allocate the interest generated by the Fund using an average interest-earning rate back into the Fund for future distribution to impacted residents.
- With consensus support, the Working Group recommends that Boulder County allocate the interest generated by the Fund using an average interest-earning rate back into the Fund for future distribution to impacted residents. One Working Group member supported the recommendation but also wanted to acknowledge that Boulder County paid for consultants and staff time without using the Fund and that they appreciate it.

### **NEXT STEPS**

- Working Group members selected Anna McDermott and Chris Passarelli to present the recommendations to the Board of County Commissioners on June 29, from 3:00 pm to 4:30 pm at the Boulder County Downtown Courthouse. The presentation will occur during a public meeting, so all Working Group members and members of the public are welcome to attend.
- Peak will assist with the development of the presentation materials.
- Peak will distribute the Pinyon data with decimal points to the Working Group for review and collect additional observations about anomalies to include in the Working Group's report and recommendation if there are still anomalies.