



WESTERN RESOURCE
ADVOCATES

*Biodiversity Conservation Alliance
Colorado Environmental Coalition
National Wildlife Federation
Save the Poudre: Poudre Waterkeeper
Sierra Club, Rocky Mountain Chapter
Wyoming Outdoor Council*

February 19, 2010

Tim Carey, Chief
U.S. Army Corps of Engineers, Omaha District
Denver Regulatory Office
9307 S. Wadsworth Blvd.
Littleton, CO 80128-6901

Re: “Letters of interest” submitted in by Million Conservation Resource Group regarding its proposed Regional Watershed Supply Project

Dear Mr. Carey:

We are writing to note the inadequacy of the information that the Million Conservation Resource Group (“Million”) submitted on January 20, 2010, related to its proposed Regional Watershed Supply Project (“RWSP”).

We commend the Corps for requesting from Million more information on whether there is a purpose and need for the RWSP and for recognizing that Million had not provided critical information necessary to provide adequate public notice of the RWSP application.¹ The January 20 cover letter accurately portrays the Corps’ “desire for a showing of commitment from water users in order to verify that demand for the project is sufficient to warrant devoting the COE’s resources to a significant review effort.”

The documents provided by Million—comprised mostly of non-binding form letters—fail to establish a “commitment from water users”, fall short of establishing a need for this project, and are otherwise not responsive to the Corps’ request or Corps regulations.²

Million’s January 20 submission does not establish a need for the proposed project’s extremely costly water. It is doubtful in the extreme that municipalities—let alone irrigation interests—would be able to pay the RWSP’s multi-billion dollar cost.

¹ News Release, U.S. Army Corps of Engineers, Corps Requests Information from Proponent of Regional Watershed Supply Project (July 31, 2009).

² Corps regulations require applicants to provide a sufficient description of purpose and need before preparation of an EIS. 33 C.F.R. §§ 325.1(d)(10), 325.2(a)(2).

According to the Colorado Water Conservation Board (“CWCB”), the capital costs of the “Flaming Gorge Concept” at 250,000 AF/yr—which is essentially identical to the proposed RWSP—would be **\$7,011,800,000** with annual operation and maintenance costs of **\$123,600,000/yr.**³

Using CWCB’s cost estimate and assuming a 30-year payment period and 4.46% interest rate⁴, the annualized cost of water, including capital, operation and maintenance costs of the “Flaming Gorge Concept” would be, at a minimum, **\$2,208/AF/yr.**⁵ By contrast, between 2004 and 2008, farmers in Colorado purchased water through transfers (e.g., Colorado-Big Thompson water or other supplies) at an annualized price of approximately \$800/AF/yr.⁶ Thus, CWCB’s cost estimates of the Flaming Gorge Concept are close to triple the recent market price for water in the basin.

In light of these noncompetitive cost estimates, the proffered statements of interest do not appear to be credible estimates of what these entities would, in fact, be willing or able to pay to purchase water from Million. For example, one rural and primarily agricultural entity, the Central Colorado Water Conservancy District (“Central”) and two of its sub-districts, claim that they are interested in up to a sum total of 150,000 AF/yr of RWSP water. At CWCB’s cost estimate, full subscription at this volume of water would require Central to spend at least **\$331,200,000 per year** on RWSP water. By comparison, Colorado’s largest municipal water supplier, Denver Water, which serves over 1.3 million people, budgeted only \$310,803,000 in total annual expenditures in 2009.⁷ Even the Imperial Irrigation District of southern California, the nation’s largest irrigation district, expended just \$247,029,722 on its Water Department in 2008.⁸ For the Million project to provide water for any irrigated agriculture would require an enormous subsidy; in 2001, the total value of crop sales from 462,175 irrigated acres in five eastern Colorado Counties (Adams, Arapahoe, Elbert, Morgan and Weld) was just \$210,550,000.⁹

³ COLORADO WATER CONSERVATION BOARD, STRATEGIES FOR COLORADO’S WATER SUPPLY FUTURE (June 2009) (Draft Report), available at http://cwcb.state.co.us/NR/rdonlyres/2D1658E4-F305-41B2-A528-080DF58A0131/0/CWCBStrategiesTechnicalReport_71009Full.pdf.

⁴ This represents the current rate for 30 year municipal bonds, which presumably, cities would rely on to fund their participation in the project. Source: Bloomberg.com Government Bonds, February 4, 2010, available at <http://www.bloomberg.com/markets/rates/index.html>.

⁵ This figure does not include treatment costs (capital or operating). Including treatment costs would raise the price of Flaming Gorge Concept water to **\$2,411/AF/yr.** Using CWCB estimates for a smaller, 100,000 AF/yr configuration of a Flaming Gorge pipeline results in even higher costs to water users, at an estimated **\$2,563/AF/yr.** excluding treatment costs.

⁶ Donohew, Z. and G. Libecap, *Water Transfer Level Dataset*, accessed November 20, 2008. http://www.bren.ucsb.edu/news/water_transfers.htm

⁷ Denver Water, *2009 Budget D3*, available at <http://www.denverwater.org/AboutUs/FinancialInformation/>.

⁸ Imperial Irrigation District, *2009-2010 Budget Plan C-4* (Rev. Aug. 18, 2009), available at <http://www.iid.com/Media/2009-2010-Budget-%28Revised-August-18-2009%29.pdf>.

⁹ Jenny Thorvaldson & James Pritchett, *Profile of the South Platte River Basin*, ECONOMIC DEVELOPMENT REPORT 05-03 at 2-3 (Colo. State U., Dec. 2005).

Even the combined economic activity generated by irrigated crop sales in the South Platte and Arkansas River basins does not remotely justify the cost of Flaming Gorge water, as estimated by CWCB. Economists at Colorado State University recently calculated that the average combined direct, indirect, and induced economic activity attributable to irrigated agriculture is just \$690 per acre in the eastern South Platte Basin and \$428 per acre in the Arkansas Basin.¹⁰ The value of irrigation water as an input factor is much less than this, most likely below \$100/acre-foot.¹¹ Put bluntly, any suggestion that irrigated agriculture in eastern Colorado could support roughly 60% or more of the cost of a 250,000 AF/yr pipeline from Flaming Gorge Reservoir flies in the face of relevant analyses conducted by the State of Colorado and Colorado State University. It falls far short of establishing a “purpose and need” and deserves no deference from the Corps.

The RWSP would fare no better in the municipal water market. The estimated costs of other potential municipal supplies serving the Front Range (e.g., Windy Gap Firming Project, Northern Integrated Supply Project, and Moffat) are between \$482/AF/yr and \$744/AF/yr.¹² Even assuming that municipal water suppliers would pay costs consistent with the CWCB’s estimate, the primarily municipal entities expressed interest in only up to 101,100 AF/yr; or approximately 40% of the total capacity of the proposed RWSP. Furthermore, if Million makes municipal users pay a disproportionately high share of the project’s cost to subsidize irrigators, the RWSP likely will be even less competitive with other potential municipal supplies.

Further, the level of “interest” expressed from all parties was decidedly tepid. The letters’ boilerplate made no commitment to purchase and stated a need to understand price and terms. Based on the letters’ language, there is no reason to believe cost/price was discussed in any way. There is no evidence of firm contractual commitments or agency relationships between Million and the entities writing the letters.¹³

Million’s proffered letters also do nothing to address recent statements by officials at the Bureau of Reclamation (“Bureau”) that cast significant doubt on the availability of water for the RWSP. In 2007, Reclamation conducted a preliminary study that suggested that, at most, 165,000 AF could be withdrawn each year from Flaming Gorge Reservoir.¹⁴

¹⁰ Jenny Thorvaldson & James Pritchett, *Economic Impact Analysis of Reduced Irrigated Acreage in Four River Basins in Colorado*, ECONOMIC DEVELOPMENT REPORT 07-14 at 3 (Colo. State U., June 2007).

¹¹ See, for example, Robert A. Young, "Direct and Regional Economic Impacts of Competition for Irrigation Water," in E.A. Englebert and A.F. Scheuring (eds.), *Water Scarcity: Impacts on Western Agriculture*, University of California Press, Berkeley, California, 1984.

¹² Capital and operating cost estimates from Environmental Impact Statement documents; capital costs were annualized at a 4.46% interest rate over a 30 year period.

¹³ The “letters of interest” fall far short of the commitment that Million would be required to obtain from end users to qualify for a water right in Colorado. It is well-established that where a private entity seeks a water right that is not for its own use, the applicant needs firm contractual commitments or an agency relationship with end-users. *Colorado River Water Conservation Dist. v. Vidler Tunnel Water Co.*, 594 P.2d 566, 568 (Colo. 1979); see also C.R.S. § 37-92-103(3)(a).

¹⁴ *Feds: Not Enough Green River Water for Line*, BILLINGS GAZETTE (Sept. 20, 2009), available at <http://billingsgazette.com>.

This figure could be reduced dramatically by development in Wyoming, climate change, or a new assessment of current conditions being carried out by the Bureau.¹⁵

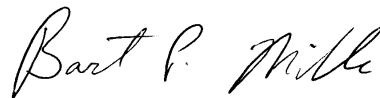
In addition to specific new issues concerning cost and economic feasibility noted above, many other significant issues of concern raised by conservation groups and other parties create enormous doubts that the proposed concept can ever get off the ground. As the scoping comment summary report released this week suggests, it is critical that the Corps verify actual need for this project in light of likely costs and ability to pay.

Preparation of an EIS for a project without plausible end-users would waste Corps resources and taxpayer dollars, particularly in the face of potentially severe budget cuts at the Army Corps.¹⁶ The Corps should defer any further action on Million's incomplete application until Million – at minimum – demonstrates cost-competitiveness, letters of intent that are tied to economically feasible uses of Flaming Gorge water, and evidence that it will qualify for water rights in Colorado and Wyoming.

We would appreciate the opportunity to meet in person to discuss these and other issues, and look forward to finding a time to meet that is mutually agreeable.

Thank you for your attention to our concerns.

Sincerely,



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Cc:

Honorable Mark Udall
Honorable Michael Bennett
Colonel Robert Ruch, Commander COE, Omaha District
Carol Campbell, Acting Deputy Regional Administrator, EPA Region 8
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Rena Brand, Regulatory Specialist, COE, Omaha, Nebraska
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¹⁵ *See id.*

¹⁶ President Obama's proposed FY 2011 Budget currently includes a 10%, or approximately \$500 million, budget cut for the Corps. Taryn Luntz, *White House Proposes 10% Funding Cut*, E&E GREENWIRE (Feb. 1, 2010).