



To: Scott Fitzwilliams, Forest Supervisor  
Leanne Veldhuis, District Ranger  
Marcia Gilles, Deputy District Ranger  
White River National Forest, US Forest Service

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From: Torie Jarvis, QQ Director and Staff Attorney  
Barbara Green, QQ Counsel  
Ashley Bembenek, QQ Water Quality Specialist

Date: June 30, 2020

**RE: Invitation for public comment on proposal to consider issuing a special use permit (SUP) for the Whitney Creek Geotechnical Investigation project**

Dear Mr. Fitzwilliams, Ms. Veldhuis, and Ms. Gilles,

Northwest Colorado Council of Governments, by and through its Water Quality/Quantity Committee (“QQ”) submits these comments on the request by the Homestake Partners (City of Aurora and Colorado Springs Utilities) to conduct a geotechnical investigation within the Homestake Valley in southeastern Eagle County (“Whitney Creek Geotechnical Investigation” or “Investigation”).

QQ’s purpose is to protect or improve regional water quality conditions and interests in the headwaters of the Colorado, Yampa, and Gunnison basins, while also providing assistance to member entities impacted by such actions. NWCCOG is the designated regional water quality management agency for the region and implements the region’s water quality management plan (“208 Plan”), in compliance with Section 208 of the Clean Water Act. QQ is interested in ensuring any special permit issuance or conditions imposed therein are protective of water quality.

These comments do not reflect any position on the proposed Whitney Creek Reservoir itself; and although a member of QQ, the Board of Eagle County Commissioners is not joining in the comments on the Investigation because of its role as the local permit authority. The list of members of QQ is attached to this letter.

**COMMENTS**

**1. Background.** Appendix 1- Technical Report Whitney Creek Reservoir Siting Study (“Appendix 1”) references the parties to the 1998 Eagle River Memorandum of Understanding (“MOU”). Such references are confusing and misleading. As far as QQ knows, only the City of Aurora and the Colorado Springs Utility currently are partners in the proposed Whitney Creek Reservoir for which the Investigation is being conducted. Moreover, the MOU provides that no partner can object to that new

reservoir plan if it meets the MOU's agreement to "minimize environmental impacts, is technically feasible, [and] **can be permitted by local, state and federal agencies**" (emphasis added). Note that Eagle County is the local permit authority and is not joining in these comments herein.

**2. Impact to Wetlands and Fens.** The proposed Investigation is adjacent to the Holy Cross Wilderness Area, an area prized for invaluable wetlands. Appendix 1 describes potential impacts to wetlands without providing a complete delineation of the wetlands that might be affected. WRNF notes this deficiency in the Addendum to Appendix 1. Although the applicants provide more information in their response to WRNF comments 3 and 4 pertaining to wetlands, the impact to wetlands has not been fully disclosed. For example, p. 17 and p. 21 of Appendix 1 state that the Investigation will have unavoidable temporary impacts to wetlands, yet the wetlands that could be affected are not identified.

The Investigation concludes that there are no fens in the project area, while noting that some areas were impassable and aerially delineated. How aerial delineation was used to identify fens is not discussed. The Addendum to Appendix 1 indicates that five soil samples met the criteria to be designated as a fen. Presumably, these samples were collected within the project area, but the sample locations are not documented. Thus, it is not possible to accurately evaluate the potential effects to wetlands and fens within or downgradient of the project area. The USFS must require additional analysis and/or condition any permit on further evaluation of the potential effects to wetlands and fens.

**Proposed conditions:**

- Provide more information on the wetlands in the project area. Require an independent wetlands biological monitor as proposed in Appendix 1, p. 22 who coordinates with WRNF oversight of the project.
- Provide documentation to support the conclusion that there are no fens in the project area.
- Prohibit water pumping from water bodies other than perennial waters to avoid impacts to wetlands, fens, seeps, springs, intermittent streams, etc. Limit or prohibit pumping during low-flow stream conditions.

**3. Fire Risk and Mitigation.** Potential fire risk and fire mitigation practices have not been analyzed. During the geophysical survey, small charges would be detonated one to two feet above the ground surface with the potential to cause fires. Measures that could be used to mitigate potential fire risks must be described. A fire caused by the geophysical study or other elements of the proposed Investigation would endanger all forest resources and overall water quality in the region.

**Proposed condition:**

- Require additional information on the potential for wildfire from proposed project and require best practices to prevent wildfire.

**4. Miscellaneous Proposed Conditions.**

- Stockpile topsoil to backfill the upper two feet of boreholes.
- Inspect all vehicles for weeds (as currently written, it appears they only intend to inspect some vehicles). Inspect vehicles and equipment for weeds to prevent transport between sites within the project area.

- Generally, comments from WRNF have been invaluable to a more complete disclosure of impacts to resources in the project area. WRNF must be consulted before conditions of approval are imposed and closely engaged throughout the Investigation.

QQ reserves the right to provide further comments on the possible special use permit and applicability of a categorical exclusion for the proposed project if additional information is introduced regarding wetlands, fens, and wildfire risks from detonations.

We appreciate the WRNF's consideration of these comments. Please do not hesitate to reach out with questions.

Sincerely,



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**Northwest Colorado Council of Governments**  
**Water Quality/ Quantity Committee Membership**  
06/29/2020

**Counties**

Eagle County <i>(not participating in these comments)</i>	Pitkin County
Grand County	Summit County
Gunnison County	

**Municipalities**

Aspen	Gypsum
Basalt	Hot Sulphur Springs
Breckenridge	Kremmling
Carbondale	Minturn
Crested Butte	Silverthorne
Dillon	Steamboat Springs
Eagle	Vail
Fraser	Winter Park
Granby	Yampa
Grand Lake	

**Water and Sanitation Districts**

Basalt Sanitation District	Hamilton Creek Metro District
Bellyache Ridge Metro District	Kremmling Sanitation District
Copper Mountain Metro Consolidated District	Mid-Valley Metro District
Dillon Valley Metro District	Silverthorne Dillon Joint Sewer Authority
Eagle River Water and Sanitation District	Silver Creek Water District
East Dillon Water District	Snowmass Water and Sanitation
Fraser Sanitation District	White Horse Springs Water & Sanitation
Granby Sanitation District	Winter Park West Water & Sanitation
Grand County Water and Sanitation District	