

**Moffat Collection System Project Final EIS
Proposed Enlargement of Gross Reservoir Programmatic Agreement**

Programmatic Agreement

Among the

U.S. Army Corps of Engineers, Omaha District;

Colorado State Historic Preservation Officer;

U.S. Forest Service; and Denver Water

**Regarding Compliance with the National Historic Preservation Act for
Construction and Operation of the Proposed Enlargement of Gross Reservoir,
Boulder County, Colorado**

WHEREAS, the City and County of Denver, acting by and through its Board of Water Commissioners (Denver Water), has submitted a Section 404 Clean Water Act Permit application to the U.S. Army Corps of Engineers (Corps) for the proposed enlargement of Gross Reservoir (Project or the undertaking); and

WHEREAS, the Corps considers the authorization for the Project an undertaking subject to review in accordance with Section 106 of the National Historic Preservation Act (NHPA), 54 United States Code (USC) 306108, and its implementing regulations, 36 Code of Federal Regulations (CFR) Part 800; and

WHEREAS, the Corps has determined that the undertaking may have direct, indirect, and cumulative effects on cultural resources included in, or eligible for inclusion in, the National Register of Historic Places (NRHP), hereafter called historic properties [36 CFR 800.16(l)(1)]; and

WHEREAS, the Corps, in consultation with the Colorado State Historic Preservation Officer (SHPO), has defined the area of potential effects (APE) to include all staging areas, borrow areas, access roads, inundation, and other infrastructure associated with the undertaking, to account for direct, indirect and cumulative effects to historic properties (see attached map); and

WHEREAS, public involvement was implemented by the Corps through the Draft and Final Moffat Collection System Project Environmental Impact Statement (EIS) process that included scoping meetings, newsletters, website announcements, public hearings, cooperating agency meetings, news releases, and publication of Federal Register (FR) notices. Historic property impacts were evaluated for all alternatives in the Draft EIS (October 2009) and the Final EIS (April 2014). A draft version of this Programmatic Agreement (Agreement) was included as Appendix L in the Draft and Final EISs; and

WHEREAS, the Corps has notified the Advisory Council on Historic Preservation (ACHP), pursuant to 36 CFR 800.6(a)(1), and the ACHP responded to the Corps' December 18, 2014 letter on January 14, 2015, that they do not wish to participate unless requested to do so in the future; and

WHEREAS, the Corps has consulted with Native Americans pursuant to 36 CFR 800.14(b)(2)(i) and 36 CFR 800.2(c)(2) including the Northern Arapaho Tribe, Northern Cheyenne Tribe, Cheyenne-Arapaho Tribes of Oklahoma, the Southern Ute Indian Tribe, Ute Mountain Ute Tribe, and their associated Tribal Historic Preservation Officers (THPOs) are invited to be Concurring parties to this Agreement; and

**Moffat Collection System Project Final EIS
Proposed Enlargement of Gross Reservoir Programmatic Agreement**

WHEREAS, the Corps has consulted with the Boulder County Historic Preservation Advisory Board and has invited it to be a Concurring Party to this Agreement; and

WHEREAS, the Corps has consulted with the U.S. Department of Agriculture Forest Service, Arapaho & Roosevelt National Forests (USFS), which has management jurisdiction over all lands reserved as National Forest System Land, and therefore has the responsibility for cultural resources management within the Project boundary, and has invited it to be a Signatory to this Agreement; and

WHEREAS, the Corps has consulted with the Federal Energy Regulatory Commission (FERC), which is responsible for a hydropower license amendment process, inviting them to participate, and the FERC declined in an e-mail/conversation on December 6, 2012; and

WHEREAS Denver Water, which has participated in this consultation and is a Signatory to this Agreement, will be financially responsible for carrying out the terms of this Agreement;

NOW THEREFORE, the Signatories to this Agreement agree that the proposed undertaking, if permitted, shall be administered in accordance with the following stipulations to ensure compliance with Section 106 of NHPA.

STIPULATIONS

The Corps shall ensure that the following measures are carried out:

1. Area of Potential Effects
 - a. The Corps, in consultation with the SHPO, has defined and documented the APE based on direct, indirect, and cumulative effects of the undertaking. The APE applies to federal, tribal, state, and private lands that may be affected by construction of the Project, to include staging areas, access roads, borrow areas, inundated areas, and other related infrastructure for this undertaking. The Corps may modify the APE in accordance with Stipulation 1. e. of this Agreement. The APE is defined as the geographic area or areas within which an undertaking may directly or indirectly cause alterations in the character or use of historic properties, if any such properties exist. The APE is influenced by the scale and nature of an undertaking and may be different for different kinds of effects caused by the undertaking [36 CFR 800.16(d)].
 - b. Direct Effects – The Moffat Collection System Project (Moffat Project) Final EIS evaluated direct effects for all alternatives. The APE for the undertaking is the area of potential ground disturbance around Gross Dam and Gross Reservoir (see attached map), to include staging areas, borrow areas, access roads, inundation, and other infrastructure within the construction easement associated with the dam raise (Moffat Project Final EIS p. 3-555). In summary, direct effects were found to be major and permanent (for example, the proposed expansion of the dam itself, and changes to portions of the Resumption Flume would be permanent) (Moffat Project Final EIS p. 5-480). Appropriate mitigation of these effects would be required before construction begins.
 - c. Indirect Effects – The Moffat Project Final EIS evaluated indirect effects for all alternatives and considered visual, atmospheric, and audible elements as well as vibration during construction that could diminish the integrity of the human and built environment (Moffat Project Final EIS p. 5-480). The indirect effects of the undertaking were found to be

**Moffat Collection System Project Final EIS
Proposed Enlargement of Gross Reservoir Programmatic Agreement**

temporary and minor. However, if construction is found to have more severe indirect effects on NRHP-eligible properties, the Corps will notify Signatory and Concurring parties and will consult on appropriate mitigation. For purposes of this Agreement, the APE for indirect effects is the same as that for direct effects.

- d. Cumulative Effects – The Moffat Project Final EIS evaluated cumulative effects, to include reasonably foreseeable future effects caused by the undertaking, that may occur later in time, be farther removed in distance, or be cumulative [36 CFR 800.5(a)(1)]. The Moffat Project Final EIS evaluated cumulative effects for the undertaking, and impacts to cultural resources were found to be minor (Moffat Project Final EIS p. 4-575). For purposes of this Agreement, the APE for cumulative effects is the same as that for direct and indirect effects.
 - e. Modifying the APE – The APE, as currently defined, encompasses an area sufficient to accommodate all of the undertaking components under consideration as of the date of the execution of this Agreement. The APE may be modified by the Corps in consultation with the SHPO, and the USFS (if effects occur on National Forest System Land), when additional field research or literature review, consultation with Signatories or Concurring parties, or other factors indicate that the qualities and values of historic properties that lie outside the boundary of the currently defined APE may be affected directly, indirectly, or cumulatively. Agreement to modify the APE will not require an amendment to the Agreement; however, Signatory and Concurring parties and affected land-management agencies will be notified. Updated maps or figures with the accepted date of modification will be appended to this Agreement following consultation as described above (see Attachment A).
2. Notification and Coordination
 - a. As the lead federal agency, the Corps (as opposed to Denver Water, the permit applicant) will notify and coordinate with the Signatory and Concurring parties to this Agreement.
 3. Historic Property Identification
 - a. The Corps, in coordination with Denver Water, shall ensure that intensive-level (or Class III) cultural resource inventories, as outlined within SHPO's *Colorado Cultural Resource Survey Manual Guidelines for Identification: History and Archaeology* (2007), are conducted within the APE (see attached map). These inventories will be conducted by the Corps or any contractor authorized by the Corps prior to any ground-disturbing activities. The inventories will be conducted in a manner consistent with the Secretary of the Interior's *Standards and Guidelines for Identification* (48 FR) 44720-23) and is consistent with ACHP's guidance on archaeology and all applicable National Park Service guidance for evaluating cultural resources for listing in the NRHP.
 - b. The Corps shall ensure that the inventories are conducted in consultation with the Signatory and Concurring parties. Inventory reports and site forms will conform to SHPO's survey manual guidelines. Identification on lands managed by the USFS will follow Forest Service Manual (FSM) 2360. Site forms will only be prepared when cultural resources are found within the APE. Draft inventory report and site forms will be submitted by the Corps to the Signatory and Concurring parties for a 30 calendar day review and comment period.
-

**Moffat Collection System Project Final EIS
Proposed Enlargement of Gross Reservoir Programmatic Agreement**

As appropriate, comments received by the Corps will be resolved. If the Signatory and Concurring parties do not respond to the Corps within 30 calendar days from receipt of the submittal, the Corps shall assume no comment on the Corps' findings and recommendations as detailed in the submittal, in accordance with 36 CFR 800.3(c)(4) and 36 CFR 800.4(d)(1)(i). A Final Inventory Report, including site forms, will be distributed by the Corps to the Signatory and Concurring parties.

- c. Information gathered during inventory shall be adequate to allow assessment of cultural resources' eligibility for the NRHP. The Corps shall evaluate all cultural resources identified within the APE in accordance with 36 CFR 800.4(c). The Corps will consult with the SHPO to determine the eligibility of identified cultural resources pursuant to 36 CFR 800.4(c) and National Register Criteria for Evaluation, 36 CFR 60.4. If the inventory results in the identification of properties that are eligible for the NRHP, the Corps shall apply the criteria of adverse effect within the APE (36 CFR 800.5).
- d. The Corps will ensure that any subsurface evaluative testing is limited to defining the nature, density, and distribution of materials in potential historic properties, and provides adequate data to make evaluations of NRHP eligibility.

4. Treatment Plan to Resolve Adverse Effects

- a. The Corps shall apply the criteria of adverse effects to historic properties identified in the APE, in accordance with 36 CFR 800.5, and require appropriate mitigation wherever adverse effects are found. The Corps shall work with Denver Water to avoid or minimize adverse effects to historic properties, to the extent practicable, through design of Project facilities, relocation of Project facilities, or by other means. If effects occur on National Forest Service Land, the Corps will involve the USFS in avoidance and minimization efforts.
- b. Where the Corps determines that avoidance or minimization is not feasible or prudent, the Corps shall ensure that Denver Water develops a treatment plan designed to mitigate adverse effects to the historic properties. Denver Water will prepare a treatment plan, in consultation with the Corps, SHPO, and the USFS (if effects occur on National Forest System Land), which considers effects to eligible cultural resources where avoidance is not feasible. The plan shall consider the full range of cultural resource types (i.e., historic and prehistoric site types) and the kind of information that each type could be expected to produce. The plan shall consider the Project context (i.e., reservoir basin, reservoir shoreline, facilities, etc.) and the type of effects that could occur within these contexts (i.e., inundation, wave action, blading, etc.). Appropriate data recovery methods and/or *in situ* conservation practices will be proposed accordingly. Provisions for unanticipated discoveries and for a pre-work meeting with the Project contractor in order to provide information on the identification of buried cultural resources shall be included within the treatment plan. Denver Water shall submit the draft treatment plan to the Corps. The Corps will distribute the draft treatment plan to the Signatory and Concurring parties for their comments. As appropriate, comments received by the Corps will be resolved. If no comments are received within 30 calendar days, the Corps shall assume concurrence with the draft treatment plan. For properties eligible under Criterion D (36 CFR 60.4), alternative forms of mitigation may be negotiated with the appropriate parties to this Agreement in lieu of, or in addition to, data recovery (e.g., monitoring, *in situ* protection,

**Moffat Collection System Project Final EIS
Proposed Enlargement of Gross Reservoir Programmatic Agreement**

archival research, etc.). The final treatment plan will be appended to this Agreement as Attachment B.

- c. When archaeological data recovery is the preferred option for a historic property, the Corps shall ensure that Denver Water develops a plan for the recovery of significant archaeological data based on an appropriate research design. The research design shall be developed after all appropriate cultural resource inventory and evaluation work is completed. Data recovery plans shall be consistent with the Secretary of the Interior's *Standards and Guidelines for Archaeology and Historic Preservation* (48 FR 44716-37) and shall be implemented prior to any ground disturbance in the vicinity of the historic property. The Corps shall reach agreement with private landowners and will document the final disposition of artifacts prior to commencing work on private land. After reviewing Denver Water's data recovery plan for adequacy, the Corps shall submit the data recovery plan to the Signatory and Concurring parties for review and comments. As appropriate, comments received by the Corps will be resolved. If the Signatory and Concurring parties do not respond to the Corps within 30 calendar days of receipt of the submittal, the Corps shall assume concurrence with the Corps' findings and recommendations as detailed in the submittal. The final data recovery plan(s) will be appended to this Agreement as Attachment C.
- d. If any of the Signatory or Concurring parties object to all or part of the proposed treatment or data recovery plan, the Corps shall attempt to resolve the objection pursuant to Stipulation 10 and shall make the final decision regarding such dispute. Upon completion of the dispute resolution process, the Corps shall ensure that the treatment or data recovery plan and any modifications to it resulting from the resolution effort are implemented.

5. Unanticipated Discoveries

- a. When cultural resources not previously identified are discovered during the conduct of ground-disturbing activities, or when a previously identified historic property is affected in an unanticipated (accidental) manner, all activities within 100 feet of the discovery shall cease immediately, the site will be secured, and Denver Water shall notify either the Corps' Denver Regulatory Office or the Corps' Omaha District Office. The Corps will ensure that the discovery is evaluated and recorded by a qualified archaeologist, as defined in Stipulation 8.
- b. The Corps will notify the Signatory and Concurring parties within 48 hours of the discovery. The Corps shall consult with the parties to seek initial comments regarding the discovery and determine whether testing is needed to evaluate significance.
- c. If the Corps determines, in consultation with the Signatory and Concurring parties, that testing is needed to determine significance, the Corps shall notify the ACHP and will provide the proposed mitigation measures to the Signatory and Concurring parties, and request comments regarding the adequacy of the proposed effort to be provided within a timely fashion. As appropriate, comments received by the Corps will be resolved. If the Signatory and Concurring parties do not respond to the Corps within 7 calendar days of receipt of the submittal, the Corps shall assume concurrence with the Corps' findings and recommendations as detailed in the submittal. Upon receipt of and in consideration of their comments, the Corps shall notify the Signatory and Concurring parties of action necessary prior to resumption of construction.

Moffat Collection System Project Final EIS
Proposed Enlargement of Gross Reservoir Programmatic Agreement

- d. In the event that the Signatory and Concurring parties object to the actions proposed for treating a discovery, the Corps shall work to resolve the objection in accordance with Stipulation 10.
 - e. Construction activities in the vicinity of the discovery shall not resume until Denver Water has been notified by the Corps that discovery mitigation is complete and activities can resume.
6. Inadvertent Discovery of Human Remains
- a. Protocols for human remains discovered on federal lands differ from the protocols for human remains discovered on state or private lands. For discoveries on federal land, protocols outlined in FSM 2361.3 and 2364.1 will be followed. Colorado Revised Statute (CRS) 24-80-1301-1305, Unmarked Human Graves, provides procedures regarding the discovery of human remains on any state or private land.
 - b. Should such a discovery take place, Denver Water will contact the county coroner, sheriff, or land managing agency official (see below for contact information), who will determine whether the remains are of forensic value. If the coroner determines that the remains are not of forensic value, the State Archaeologist will be notified and will take the appropriate steps to determine whether the remains are over 100 years old and if they are Native American. If found to be Native American, the State Archaeologist will contact the Colorado Commission of Indian Affairs, who in turn will contact interested Tribes in the region before removal. The State Archaeologist shall submit a notice in the FR as soon as possible. The Corps will approach the landowner(s) with a letter of consent, allowing for the respectful and dignified treatment of any Native American skeletal materials in consultation with any interested Tribes. The letter will also request that any such remains be briefly examined by a qualified archaeologist and physical anthropologist. Should any remains be determined through available evidence to not include Native American skeletal elements, the remains shall be treated in accordance with Colorado State Law.
 - c. In the case of an inadvertent discovery of human remains, all activities within 100 feet of the discovery shall cease immediately, the site will be secured, and Denver Water shall notify either the Corps' Denver Regulatory Office or the Corps' Omaha District Office. Should the remains be determined by a qualified archaeologist to include Native American skeletal materials and any associated funerary objects, the Corps and the USFS if appropriate, will comply with the Native American Graves Protection and Repatriation Act (NAGPRA), Colorado State law, and Section 106 of the NHPA. The Corps and the USFS, if appropriate, will notify the appropriate Tribes and offer opportunities to visit the discovery site. Those Tribes who express an interest in the remains will be consulted. Appropriate treatment and/or repatriation options will be discussed. All potential claims and disputes with regard to the remains will be considered in accordance with NAGPRA and Colorado State law.
 - d. Ground-disturbing activities at the scene will not recommence without express written permission of the Corps' Denver Regulatory Office or the Corps' Omaha District Office. This permission will not be issued until the completion of site-specific consultation with the SHPO and appropriate Tribes.

**Moffat Collection System Project Final EIS
Proposed Enlargement of Gross Reservoir Programmatic Agreement**

BOULDER COUNTY	
Coroner	Sheriff
Coroner Emma R. Hall (or current Coroner) Justice Center 1777 6 th Street, P.O. Box 471 Boulder, CO 80306 303-441-3535 or 303-441-4444 (24 hours) bouldercountycoroner@bouldercounty.org	Sheriff Joe Pelle (or current Sheriff) 5600 Flatiron Parkway Boulder, CO 80301 303-441-3600 or 303-441-4444 jpelle@bouldercounty.org
STATE ARCHAEOLOGIST	
Main Contact	Alternate Contact
Dr. Holly Norton (or current State Archaeologist) State Archaeologist/Deputy SHPO-Archaeology History Colorado 1200 Broadway Denver, CO 80203 303-866-2736 holly.norton@state.co.us	Thomas Carr (or current Staff Archaeologist) Senior Staff Archaeologist History Colorado 1200 Broadway Denver, CO 80203 303-866-3498 thomas.carr@state.co.us
ARAPAHO AND ROOSEVELT NATIONAL FORESTS	
Ron J. Archuleta (or current Forest Supervisor) Forest Supervisor Forest Supervisor's Office 2150 Centre Avenue, Building E Fort Collins, CO 80526 970-295-6600 rarchuleta@fs.fed.us	

- e. The Corps shall ensure that any human remains are treated under the following terms, pursuant to CRS 24-80-1302:
- i. The appropriate Corps' Denver Regulatory Project Manager or Omaha District Archeologist will be notified by Denver Water or the designated field archeologist of the location of the suspected human remains. This will be done within 24 hours of discovery. Appropriate notification may include voice mail or electronic mail for those instances when the Corps' offices are closed.
 - ii. Should there be ground-disturbing activities in progress in the general area, all work must cease immediately within 100 feet of the discovery location. Protective measures, such as covering the area with a tarp and fencing around the area, will be implemented as necessary to prevent deterioration of, or further damage to, the remains and the area associated with those remains.
 - iii. The Corps will notify law enforcement agencies, as appropriate, the State Archaeologist, Tribes, and the USFS. Law enforcement must be offered an opportunity to visit the scene and determine if they wish to conduct an investigation. Until law enforcement formally releases the scene, the discovery location shall be considered a crime scene under the direct supervision of said law enforcement personnel. The

**Moffat Collection System Project Final EIS
Proposed Enlargement of Gross Reservoir Programmatic Agreement**

Corps' Omaha District Archeologist or designated field archeologist can advise law enforcement personnel regarding protective measures and information collection techniques. Upon notification that law enforcement has no interest in the matter, the following procedures will be implemented:

1. The Corps will notify the State Archaeologist and, if appropriate, the USFS, of the release of the scene as a potential crime scene. The Corps shall request advice as to measures to protect the remains and proceed to do so, and will collect sufficient information to complete consultations.
2. The Corps will first assess whether human remains are indeed present. If law enforcement has been involved in the Project as per the above steps, it is likely that the remains have been identified as human. The Corps will consult with the State Archaeologist and Tribes to determine the appropriate steps, as necessary, to retrieve basic information with minimum disturbance to the remains, with particular focus on evidence of cultural affiliation or cultural patrimony. The intent will be to gain the necessary information in a non-destructive fashion.

7. Curation

- a. The Corps shall ensure that all records and materials resulting from identification and treatment efforts on public lands are curated consistent with 36 CFR 79 and the provisions of NAGPRA, if appropriate. Documentation of compliance with 36 CFR 79 or NAGPRA shall be provided by Denver Water to the Signatory and Concurring parties.
- b. The Corps will encourage private landowners through written communication to curate any collections from their lands associated with treatment and discovery in an appropriate facility prior to the commencement of any work. If any such collections are to be returned to the landowner(s), said collections will be maintained as per 36 CFR 79 or according to Colorado State standards until analyses are completed.
- c. The Corps shall ensure that all final reports resulting from actions pursuant to this Agreement are provided to the Signatory and Concurring parties, and submitted to the National Technical Information Service (<http://www.ntis.gov/>). The Corps shall ensure that all such reports are responsive to contemporary professional standards and to the Department of the Interior's *Formal Standards for Final Reports of Data Recovery Program* (48 FR 44716-40). Historic property information as outlined by 36 CFR 800.11(c) will not be made available to the general public.

8. Qualifications

- a. The Corps shall ensure that all historic, architectural, ethnographic, and archaeological work conducted pursuant to this Agreement is carried out by or under the direct supervision of persons meeting qualifications set forth in the Secretary of the Interior's *Professional Qualifications Standards* (36 CFR 61).
- b. The Corps shall ensure that if archaeological work happens on National Forest System Land, Denver Water obtains a USFS Rocky Mountain Region (Region 2) Special Use Permit for Archaeological Investigations prior to any field work.

**Moffat Collection System Project Final EIS
Proposed Enlargement of Gross Reservoir Programmatic Agreement**

- c. Denver Water, in cooperation with the Corps, shall ensure that all of its personnel and all the personnel of its Project contractors are directed not to engage in collection of historic and prehistoric materials (e.g., old bottles and cans, projectile points, pottery, etc.) and to exercise caution to prevent inadvertent damage to cultural resources. All environmental inspectors will receive training by qualified cultural resources professionals prior to initiation of construction regarding cultural resources that could be discovered during the course of construction. All personnel involved in Project construction, construction zone rehabilitation, operation, and maintenance of the Project facilities will be instructed prior to initiation of construction on site avoidance and protection measures, including information on the statutes protecting cultural resources.
9. Annual Monitoring Reports and Final Report
- a. The Signatory and Concurring parties may monitor actions carried out pursuant to this Agreement, and the ACHP shall review such actions when so requested. Denver Water shall submit an Annual Monitoring Report to Signatory and Concurring parties on or before December 31st of each calendar year once the Project has been authorized by the Corps, and a Special Use Permit has been issued to Denver Water by the USFS, if needed. This report will be designed to inform the parties to this Agreement of action taken during the previous year pursuant to this Agreement, and shall provide the basis for any amendments or other actions the parties may deem necessary for purposes of compliance with Section 106. The Monitoring Report will be submitted annually until Project construction is complete or upon expiration of the Agreement. The Final Monitoring Report will state that all Project construction has been completed. A meeting of the Signatories shall occur upon request of a Signatory to evaluate the implementation of the stipulations of this Agreement. Failure to submit the Annual Monitoring Report to the Signatory and Concurring parties each calendar year will result in the termination of this Agreement
- b. A Final Summary Report of all inventories, treatment, discovery situations or other mitigative activities will be submitted by Denver Water to the Corps. The Corps will distribute this Final Summary Report to the Signatory and Concurring parties within 12 months after completion of the Project, unless otherwise agreed to among the parties to this Agreement.
10. Dispute Resolution
- a. Should any Signatory or Concurring Party to this Agreement object in writing to the Corps regarding any action carried out or proposed with respect to the Project or implementation of this Agreement, the Corps shall consult with the objecting party to resolve the objection. If, after initiating such consultation, either party determines that the objection cannot be resolved through consultation, the Corps shall submit all relevant documentation to the ACHP, including the Corps' proposed response to the objection. Within 30 calendar days after receipt of all pertinent documentation, the ACHP shall exercise one of the following options:
- i. Advise the Corps that the ACHP concurs with the Corps' proposed response to the objection, whereupon the Corps will respond to the objection accordingly;
- ii. Provide the Corps with recommendations, which the Corps shall take into account in reaching a final decision regarding its response to the objection; or

**Moffat Collection System Project Final EIS
Proposed Enlargement of Gross Reservoir Programmatic Agreement**

- iii. Notify the Corps that the objection will be referred for comment pursuant to 36 CFR 800.7(c) and proceed to refer the objection and comment. The resulting comment shall be taken into account by the Corps in accordance with 36 CFR 800.7(c)(4) and 110(1) of the NHPA.
- b. Should the ACHP not exercise one of the above options within 30 calendar days after receipt of all pertinent documentation, the Corps may assume the ACHP's concurrence in its proposed response to the objection.
- c. The Corps shall take into account any ACHP recommendation or comment provided in accordance with this stipulation with reference only to the subject of the objection; the Corps' responsibility to carry out all actions under this Agreement that are not the subject of the objection shall remain unchanged.

11. Amendment

- a. Any Signatory to this Agreement may request that this Agreement be amended, whereupon the parties to this Agreement will consult in accordance with 36 CFR 800.14 to consider such amendment. Amendments to this Agreement will be in writing and signed by the parties.

12. Termination

- a. Any Signatory to this Agreement may terminate this Agreement by providing 30-calendar-days' notice to the Concurring parties to this Agreement, provided that the parties will consult during the period prior to termination to seek agreement on amendments or other actions that would avoid termination. In the event of termination, the Corps will comply with 36 CFR 800.3 through 800.7 with regard to individual actions covered by this Agreement.

13. Execution

- a. Execution and implementation of this Agreement evidences that the Corps has afforded the ACHP a reasonable opportunity to comment on the proposed Project and its effects on historic properties, and that the Corps has satisfied its Section 106 responsibilities for all individual actions associated with the proposed Project.
- b. In the event that the Corps does not carry out the requirements of this Agreement, the Corps shall comply with 36 CFR 800.3 through 800.7 with regard to individual actions covered by this Agreement.
- c. This Agreement shall become effective when the Signatories have all signed below, on the date of the last signature of those parties.

14. Sovereign Immunity

- a. The Signatory parties do not waive their immunity by entering into this Agreement, and each fully retains all immunities and defenses provided by law with respect to any action based on or occurring as a result of this Agreement.

**Moffat Collection System Project Final EIS
Proposed Enlargement of Gross Reservoir Programmatic Agreement**

15. Expiration of Agreement

- a. This Agreement shall expire 10 years after execution of this document or upon completion of the proposed Project, whichever occurs first. If any Signatory wishes to extend this Agreement, a letter requesting that extension must be transmitted through the Corps to the other Signatories at least 90 calendar days prior to the expiration date. The Corps will then consult with the other Signatories to determine the outcome of such a request.

16. Antideficiency Act

- a. All Corps obligations under this Programmatic Agreement are subject to the availability of funds.

**Moffat Collection System Project Final EIS
Proposed Enlargement of Gross Reservoir Programmatic Agreement**

This page intentionally left blank

Moffat Collection System Project Final EIS
Proposed Enlargement of Gross Reservoir Programmatic Agreement

SIGNATORIES



John W. Henderson
Colonel, Corps of Engineers
District Commander

26 OCT 15

Date

**Moffat Collection System Project Final EIS
Proposed Enlargement of Gross Reservoir Programmatic Agreement**

This page intentionally left blank

Moffat Collection System Project Final EIS
Proposed Enlargement of Gross Reservoir Programmatic Agreement

SIGNATORIES



Edward C. Nichols
Colorado State Historic Preservation Officer
HISTORY COLORADO

10/1/15
Date

**Moffat Collection System Project Final EIS
Proposed Enlargement of Gross Reservoir Programmatic Agreement**

This page intentionally left blank

Moffat Collection System Project Final EIS
Proposed Enlargement of Gross Reservoir Programmatic Agreement

SIGNATORIES



10/11/15

Ron J. Archuleta

Date

Acting Forest Supervisor, Arapaho & Roosevelt National Forests

U.S. DEPARTMENT OF AGRICULTURE, FOREST SERVICE (USFS)

**Moffat Collection System Project Final EIS
Proposed Enlargement of Gross Reservoir Programmatic Agreement**

This page intentionally left blank

Moffat Collection System Project Final EIS
Proposed Enlargement of Gross Reservoir Programmatic Agreement


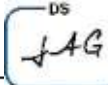
SIGNATORIES


Date 10/1/15
Date
Jim Lochhead
CEO and Manager
BOARD OF WATER COMMISSIONERS (DENVER WATER)

APPROVED AS TO FORM


LEGAL DIVISION

REGISTERED AND COUNTERSIGNED:
CITY AND COUNTY OF DENVER

By:  
D8CB7E81F4174C0...)'Brien, CPA
Auditor

**Moffat Collection System Project Final EIS
Proposed Enlargement of Gross Reservoir Programmatic Agreement**

This page intentionally left blank

Moffat Collection System Project Final EIS
Proposed Enlargement of Gross Reservoir Programmatic Agreement

CONCURRING PARTIES

Designated Representative
NORTHERN ARAPAHO TRIBE

Date

**Moffat Collection System Project Final EIS
Proposed Enlargement of Gross Reservoir Programmatic Agreement**

This page intentionally left blank

Moffat Collection System Project Final EIS
Proposed Enlargement of Gross Reservoir Programmatic Agreement

CONCURRING PARTIES

Designated Representative
NORTHERN CHEYENNE TRIBE

Date

**Moffat Collection System Project Final EIS
Proposed Enlargement of Gross Reservoir Programmatic Agreement**

This page intentionally left blank

**Moffat Collection System Project Final EIS
Proposed Enlargement of Gross Reservoir Programmatic Agreement**

CONCURRING PARTIES

Designated Representative

CHEYENNE-ARAPAHO TRIBES OF OKLAHOMA

Date

**Moffat Collection System Project Final EIS
Proposed Enlargement of Gross Reservoir Programmatic Agreement**

This page intentionally left blank

**Moffat Collection System Project Final EIS
Proposed Enlargement of Gross Reservoir Programmatic Agreement**

CONCURRING PARTIES

Designated Representative
SOUTHERN UTE INDIAN TRIBE

Date

**Moffat Collection System Project Final EIS
Proposed Enlargement of Gross Reservoir Programmatic Agreement**

This page intentionally left blank

Moffat Collection System Project Final EIS
Proposed Enlargement of Gross Reservoir Programmatic Agreement

CONCURRING PARTIES

Designated Representative
UTE MOUNTAIN UTE TRIBE

Date

**Moffat Collection System Project Final EIS
Proposed Enlargement of Gross Reservoir Programmatic Agreement**

This page intentionally left blank

**Moffat Collection System Project Final EIS
Proposed Enlargement of Gross Reservoir Programmatic Agreement**

CONCURRING PARTIES

Karen Hagler

Date

Chair

BOULDER COUNTY HISTORIC PRESERVATION ADVISORY BOARD

**Moffat Collection System Project Final EIS
Proposed Enlargement of Gross Reservoir Programmatic Agreement**

This page intentionally left blank

