

# Gross Reservoir Community Impact Mitigation Fund Community Advisory Working Group Report



Prepared for:

Board of Boulder County  
Commissioners

June 22, 2023

14123 Roaring Fork Circle  
Broomfield, CO 80023

TO THE POINT



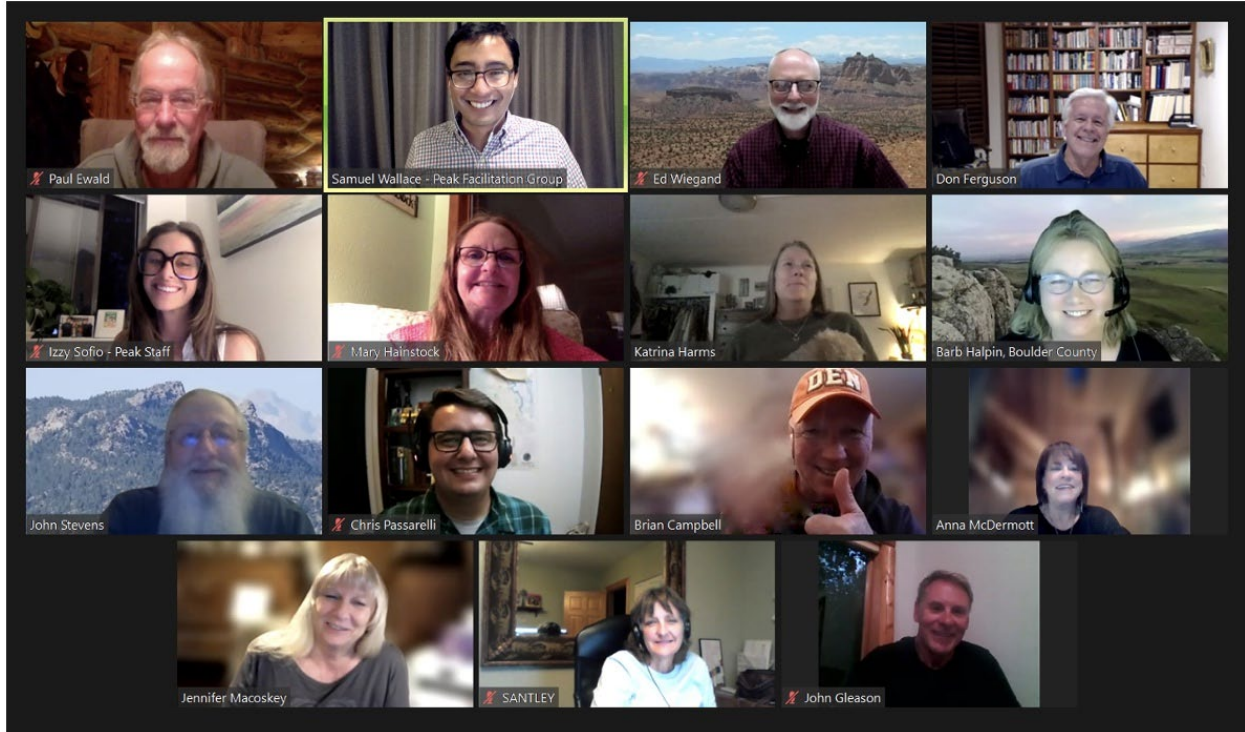
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FACILITATION GROUP



**Boulder County Gross Reservoir Community Impact Mitigation Fund  
Community Advisory Working Group**

**Report to the Boulder County Board of County Commissioners: Recommendations from the  
Working Group to Distribute Phase 1 of The Fund**

**June 2023 - FINAL**



*Members of the Boulder County Community Advisory Working Group. Top row from left to right: Paul Ewald, Samuel Wallace (facilitation team), Ed Wiegand, Don Ferguson. Second row from the top from left to right: Izzy Sofio (facilitation team), Mary Hainstock, Katrina Harms, Barb Halpin (Boulder County). Second row from the bottom left to right: John Stevens, Chris Passarelli, Brian Campbell, Anna McDermott. Bottom row from left to right: Jennifer Macoskey, Sunday Antley, John Gleason.*

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## EXECUTIVE SUMMARY

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The *Denver Water v. Boulder County* Settlement Agreement established a \$5 million Gross Reservoir Community Impact Mitigation Fund ("the Fund"). The Fund is designed to provide direct payments to eligible property owners who are or are expected to be adversely impacted by Denver Water's Gross Reservoir Expansion Project ("the Project"). In November 2021, Boulder County and Denver Water signed the Settlement Agreement, requiring Boulder County to develop formulas or a standard for fair distribution of the \$5 million among the adversely impacted households in the Project area. Where possible, the distribution formulas or standards should consider both the type and severity of noise, light, and air quality impacts on eligible households throughout the duration of the Project.

From April 2023 to June 2023, Boulder County convened the Boulder County Gross Reservoir Mitigation Impact Fund Community Advisory Working Group ("the Working Group") to work collaboratively to recommend a methodology for assigning the first round of distributions from the Fund. The Fund is the first of its kind, providing Boulder County and the Working Group with the unique opportunity to develop formulas or standards that are tailored to the unique situation in which the adversely impacted residents find themselves.

The purpose of the Working Group was to consider and weigh different scenarios, interests, collective impacts, and anomalies from both a scientific and a subjective, experience-based standpoint to make recommendations to the Board of County Commissioners about a fair distribution process. During Working Group meetings, members represented the community as a whole rather than focusing on individual circumstances.

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## BACKGROUND AND PROCESS

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### MEMBERSHIP AND SELECTION PROCESS

The Working Group was comprised of twelve members from distinct geographic locations representing, overall, the community impacted by Denver Water's Gross Reservoir Expansion Project.

On March 17, 2023, Boulder County distributed an application through the Gross Reservoir Community Impact Mitigation Fund newsletter and contact list. Applications for the Working Group closed on March 27, 2023. In total, 21 community members submitted applications. Boulder County, with the support of the facilitation team, conducted a blind evaluation of each application and selected 12 Working Group members. The selection criteria for the Working Group were based on the applicant's experience, alignment with the purpose of the Working Group, availability to attend pre-scheduled meetings, and whether the applicant read the Structures and Protocols document (available in Appendix A).

Working Group members were also selected to provide a diversity of perspectives from the communities surrounding Gross Reservoir. The Working Group members and their associated geographic locations are available in Table 1.

<b>WORKING GROUP MEMBERS</b>	
<b>Name</b>	<b>Geographic Location</b>
Sunday Antley	Chute Road/ Juniper Heights
Brian Campbell	State Highway 72 and Gross Dam Road intersection
Paul Ewald	South of State Highway 72
Don Ferguson	Miramonte
John Gleason	Tunnel Road 19/ Lichen Lane
Mary Hainstock	Flagstaff Road/Pika
Katrina Harms	Lazy Z/ Bonnie Road
Jennifer Macoskey	North of State Highway 72/View of Gross Dam Expansion Project
Anna McDermott	Lakeshore/ North Shore
Chris Passarelli	Coal Creek Canyon Drive/ State Highway 72
John Stevens	Gross Dam Road
Ed Wiegand	Lakeshore/ North Shore

*Table 1: Working Group Members and Associated Geographic Location*

### WORKING GROUP PURPOSE AND SCOPE OF WORK

The Working Group operated under a Structures and Protocols document provided during the application process. The Structures and Protocols document is available in Appendix A. The objective of the Working Group was to work collaboratively to recommend distribution criteria, methodology, and process that ensure adversely impacted households in the Project area receive fair compensation from the Fund.

The Working Group's purpose was to:

- 1) Weigh different scenarios, interests, collective impacts, and anomalies from a scientific and subjective standpoint, and

- 2) Make a recommendation to the Boulder County Board of Commissioners about what the community feels is the most equitable and fair way to distribute Phase 1 of the Fund<sup>1</sup>.

The Working Group's scope was:

- 1) Focus on the first round of compensation to mitigate construction impacts other than tree removal activities, and
- 2) Focus on discussions and analyses related to the distribution of the Fund rather than the merits or demerits of the Project.

In addition to the 12-person Working Group, one Boulder County employee and a third-party, neutral facilitation team supported the Working Group throughout the process. Additionally, Boulder County contracted an environmental services consulting group, Pinyon Environmental, Inc., to conduct a predictive assessment of the noise, visual, and air quality impacts.

The assessment used operational plans (submitted as part of the Federal Energy Regulatory Commission approval process) from Denver Water to model noise, visual, and air quality impacts over the 7-year Project. The modeling outcomes resulted in assigned air quality, visual, and noise impact rankings on a scale of one to five for each impacted household. The results of the analysis are documented fully in the Pinyon Environmental Analysis (available in Appendix A). Two employees from Pinyon Environmental provided information on the predictive assessment of the noise, visual, and air quality impacts as needed during Working Group meetings.

Working Group members used the results of the Pinyon Environmental Analysis as the basis for their discussion. They also used the results of a community survey to inform their recommendations. The results of the community survey are available in Appendix A.

The Working Group met five times from April 2023 to June 2023. All meetings were open to the public to attend and observe. All the materials from the meetings (agendas, summaries, presentation slide decks, and supporting resources) are available in Appendix A of this report.

## **WORKING GROUP PROCESS**

### ***Setting the Stage***

The Working Group met for the first time on April 6, 2023. During that meeting, Working Group members spent time getting to know one another, reviewing Working Group expectations and duties, and receiving preliminary information about the predictive assessment and community survey results. The purpose of the first meeting was to familiarize Working Group members with the task at hand and the reference materials (the predictive assessment and community survey results).

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<sup>1</sup> Because Denver Water had not finalized its tree removal plan at the time of the Working Group's discussions, the Boulder County Commissioners decided that tree removal impacts will not be considered in the first phase of funding (i.e., money from the full \$5 million mitigation fund will be held back for a future round of funding once the tree removal impacts are better known.). As a result, there will be two phases of funding. Phase 1 will distribute funding based on ongoing impacts from the full 7-year Gross Dam Expansion Project. Phase 2 will distribute based on impacts from the 2-year tree removal operations, specifically. The Working Group focused on developing recommendations on the methodology to distribute Phase 1 funding. They also developed recommendations on how much funding to retain for Phase 2 of funding distributions.

Prior to the second Working Group meeting, Working Group members received the completed predictive Pinyon Analysis Report ("the Report"). During the second meeting, Working Group members discussed the Report findings, including how to utilize the information presented in the report to develop a methodology to distribute the Fund and the accuracy of a predictive assessment. Working Group members also discussed the characteristics of a "good" proposal as a way to evaluate any future proposals for funding distribution. The Working Group's discussion led to the development of the proposal characteristics, which Working Group members referenced throughout the process thereafter. The list of proposal characteristics is available in Table 2.

<b>PROPOSAL CHARACTERISTICS</b>
<ul style="list-style-type: none"> <li>• It follows the Settlement Agreement.</li> <li>• It is easy to communicate, uses an understandable methodology, and is defensible.</li> <li>• It considers the weight of the impacts proportionally against each other.</li> <li>• It accounts for the lived experience of residents (e.g., accounts for stressors like mental health, well-being, etc.).</li> <li>• It is based on quantitative information.</li> <li>• It includes a methodology that is "data-agnostic," meaning the method will hold true even if the underlying rankings change.</li> <li>• It preserves funding for Phase 2 and additional future observed experiences of residents.</li> </ul>

*Table 2: Identified Characteristics of a "Good" Proposal*

***Developing Distribution Methodologies and Tools***

During the time between the second and third Working Group meetings, several Working Group members worked offline to develop distribution methodologies and tools for the Working Group to consider. The Working Group had an ad-hoc, one-hour meeting on May 8, 2023, to learn about the methodologies and tools developed by the Working Group members and ask clarifying questions. During this meeting, Working Group members received three presentations about different methodologies and tools that the Working Group could consider recommending to the Board of County Commissioners to determine how to distribute the Fund.

Working Group members developed these tools to provide a defensible methodology on how to utilize the Report findings, which assigned impact rankings to each household. The report assigned impact rankings for noise, visual, and air quality impacts, as well as a total impact ranking score. All of the methodologies and tools developed by Working Group members included functions that allowed for the utilization of the Report rankings to provide more equitable and fair rankings to households using Working Group members' knowledge of the area's topography, community layout, and through consultation with neighboring residents.

***Focus on Air Quality, Noise, and Visual Impacts and Community Effects***

Working Group members determined that the Working Group's recommendation should utilize the Settlement Agreement language as its foundation. Per the Settlement Agreement, which states that "Denver Water will provide \$5 million for a fund to mitigate noise, light, and air impacts to householders near the Project," the Working Group decided to focus on developing a methodology for funding distribution based on the air quality, noise, and visual impacts associated with the construction.

The Working Group also acknowledged that there are many significant effects from the construction that are correlated to an individual's exposure to air quality, noise, and visual impacts.

Below are some of the effects associated with air quality, noise, and visual impacts identified in the community survey.

Air quality impacts can also lead to:

- Reduced/degraded access to fresh air through open windows
- Reduced/degraded access to outdoor recreation (e.g., hiking, running, biking, snowshoeing, etc.)
- Reduced/degraded access to hobbies (e.g., astronomy, bird watching, botany, gardening, etc.)
- Reduced/degraded access to socializing outdoors
- Damages to homes from air quality (e.g., dust)

Noise impacts can also lead to:

- Sleep deprivation
- Reduced/degraded access to fresh air through open windows
- Reduced/degraded ability to meditate
- Reduced/degraded access to outdoor recreation (e.g., hiking, running, biking, snowshoeing, etc.)
- Reduced/degraded access to hobbies (e.g., astronomy, bird watching, botany, gardening, etc.)
- Reduced/degraded access to socializing outdoors
- Lack of privacy
- Disruptions to work-from-home environments
- Damages to homes from vibrations
- Emotional and mental trauma to pets

Visual impacts can also lead to:

- Sleep deprivation
- Reduced/degraded access to fresh air through open windows
- Reduced/degraded access to hobbies (e.g., astronomy, bird watching, botany, gardening, etc.)
- Reduced/degraded access to scenic views
- Lack of privacy

In addition to the sub-impacts associated with air quality, noise, and visual impacts. Community members have expressed the following concerns:

- Increased fire risks from construction activities
- Increased recreational traffic and trespassing from the changes in reservoir access
- Decreased road safety from trucking activity
- Impacts on road conditions from trucking activity
- Poor and inaccurate communication/alerts from Denver Water about dangerous or disruptive activities
- Non-enforcement of Denver Water's agreement with Boulder County
- Lack of met commitments from Denver Water's agreement with Boulder County

### ***Developing a Recommendation***

After the Working Group set the stage, considered potential methodologies for distributing the Fund, and determined options for utilizing the Report findings, the fourth and fifth Working Group meetings focused on developing a recommendation.

Working Group members focused their discussions on developing a recommendation on four main topics:

- How to use the Pinyon Environmental Analysis impact rankings to develop a methodology for distributing funding
- How to determine eligibility for funding
- How much funding to distribute in Phase, and how much to retain for Phase 2
- Any other unique recommendations for Boulder County Commissioners to consider

As outlined in the Working Group's Structure and Protocols document, Working Group members engaged in consensus-based decision-making. Consensus was defined as "all members can live with the proposal" for this process. Consensus required that Working Group members honestly engage and actively propose alternative solutions to meet the interests of the Working Group. In the absence of consensus, it was agreed that the minority perspective of any dissenting Working Group member(s) would be captured in the final report for Boulder County Commissioner consideration.

During the third and fourth Working Group meetings, Working Group members discussed the four main topics of their recommendation, which came from brainstorming and conversations during the first, second, and third Working Group meetings, as well as offline work from several Working Group members. At the end of their discussion, Working Group members were polled on whether they supported moving forward with a recommendation. In the absence of consensus, the minority perspective of the Working Group member(s) is documented in this report.

### ***Public Participation***

Throughout the process, members of the public had the opportunity to listen to and observe Working Group meetings and provide written comments for the Working Group's consideration. The facilitation team transcribed the written comments into a spreadsheet accessible to Working Group members, which can be found in Appendix A of this report.

In addition to these participation opportunities, members of the public were encouraged to participate in a community meeting with the Board of County Commissioners on the afternoon of Saturday, April 29, 2023. Working Group members were not required to attend this meeting; however, there were several Working Group members in attendance, providing members of the public the opportunity to converse with Working Group members.

In addition to these opportunities, the facilitation team organized an exercise to solicit feedback from members of the public about which impacts they would assign the most weight between noise, visual, and air quality impacts during the community meeting.

Lastly, Boulder County launched a community survey to gather feedback about the impacts of construction that residents experience. The Working Group referenced the community survey results throughout the Working Group's discussions.



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## WORKING GROUP DISCUSSION AND RECOMMENDATIONS

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### OVERVIEW

The Working Group's recommendations address four high-level topics:

- How to use the Pinyon Environmental Analysis impact rankings to develop a methodology for distributing funding
- How to determine eligibility for funding
- How much funding to distribute in Phase 1, and how much to retain for Phase 2
- Any other unique recommendations for Boulder County Commissioners to consider

The Working Group recommendations are outlined in the following section. In this section, it is noted whether a specific recommendation received consensus support. In cases where a recommendation did not receive consensus, the minority perspective is included. A full list of recommendations is available in Appendix B.

### RECOMMENDATIONS ON THE DISTRIBUTION METHODOLOGY (I.E., HOW TO USE THE PINYON IMPACT RANKINGS TO ASSIGN FUNDING AMOUNTS)

#### *Methodology for Calculating Total Impact Rankings*

##### *Discussion and Considerations*

Several Working Group members developed methodologies that use the Pinyon Environmental Analysis impact rankings to assign funding values to each household. Working Group members reviewed and discussed three potential distribution methodologies, all of which provided useful approaches to distributing the Fund. Each of the three methodologies took a different approach in using the rankings developed through the Pinyon Environmental Analysis to create an equitable and fair method to distribute the Fund.

One of the key points that the Working Group discussed is that the Pinyon Environmental Analysis calculated the total impact ranking by averaging individual impact rankings (air quality, noise, and visual) using a weighting system and then rounding the value upwards to the nearest whole number.<sup>2</sup> This methodology, identified in the Pinyon Environmental Analysis, rounded up the total impact ranking regardless of the decimal point value. For example, if after averaging the air quality, noise, and visual impact rankings, the total impact ranking was a 1.1, that value was rounded up to a 2. Similarly, if a total impact ranking was calculated to be a 1.9, that value was also rounded up to a 2. Working Group members discussed whether to use the rounded total impact ranking values or use the average value to the nearest tenth decimal place.

##### *Recommendation*

With consensus support, the Working Group recommends calculating the total impact ranking using decimals rather than the rounded value identified in the Pinyon Environmental Analysis. The reasoning behind this decision is that the total impact ranking to a decimal place is more precise

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<sup>2</sup> The formula to calculate the total ranking is described below:

$$\text{Total Impact Ranking} = (\text{Air Quality Impact Ranking}) * (\text{Weighted Value}) + (\text{Noise Impact Ranking}) * (\text{Weighted Value}) + (\text{Visual Impact Ranking}) * (\text{Weighted Value})$$

than using the rounded average. Additionally, under the rounding methodology, an average value of 1.9 would be rounded to a 2, while an average value of 2.1 would be rounded to a 3, despite only being 0.2 away. Using the average value to the tenth-decimal place results in a more accurate and fair result for those impacted.

### ***Weighing Individual Impact Results in the Funding Methodology***

#### *Discussion and Considerations*

As part of the Working Group discussions, Working Group members discussed how to weigh the air quality, noise, and visual impact rankings against each other. In the original Pinyon Environmental Analysis, the total impact ranking was calculated using a weighting system that assigned air quality as 30% of the total impact, noise as 35% of the total impact, and visual as 35% of the total impact. Under this weighting system, the formula below would be used to calculate the total impact rankings:

$$\text{Total Impact Ranking} = (\text{Air Quality Impact Ranking}) \times (30\%) + (\text{Noise Impact Ranking}) \times (35\%) + (\text{Visual Impact Ranking}) \times (35\%)$$

The Working Group considered whether they wanted to recommend using the weighting system identified in the Pinyon Environmental Analysis or an alternative weighting system. They discussed several options for weighting the rankings based on varying perspectives about which impacts – noise, air quality, or visual – have more of an impact relative to each other. Considering community survey results, insight from community members, and known information about adverse health impacts, the Working Group considered the following weighting options:

- Using the Environmental Analysis's weighting system of 35% for noise, 35% for visual, and 30% for air quality,
- Using a weighting system of 50% for noise, 23% for visual, and 27% for air quality based on results from the community survey,
- Splitting the weighting evenly, using 33.3% for each impact, and
- Using 40% for noise, 40% for visual, and 20% for air quality based on anecdotal evidence provided by community members.

Selecting a weighting that was both defensible, objective, and equitable was critical to the Working Group. Working Group members considered the information they heard from neighbors and community members over the last several months, as well as the insights gathered through the survey distributed by Boulder County.

The fact that the year of maximum construction impacts (2024) is yet to come was another key consideration<sup>3</sup>, as was the concept that air quality impacts may be more intense for community members with pre-existing conditions like asthma and allergies. Working Group members noted that all impacts are awful and impact residences differently. Ultimately, using the weightings applied in the assessment developed by professional practitioners appeared to be the most defensible, objective, and equitable approach to the majority of the Working Group.

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<sup>3</sup> The Pinyon Report identified the year 2024 as the year with the greatest impacts to the community overall, so the predictive model used 2024 as the basis for calculating the forecasted air, noise, and lighting impacts.

### *Recommendation*

With majority support, the Working Group recommends keeping the weighting system of 35% for noise, 35% for visual, and 30% for air quality. Ten out of 12 Working Group members supported this recommendation for weightings.

*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). 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%.*

### **Geographic Groupings**

#### *Discussion and Considerations*

During the process, Working Group members discussed and considered the idea of applying different weighting systems to geographies in the impacted area, offering residences of a specific community the opportunity to adjust the weighting system so that they more accurately reflect the lived experience of the residences in a given area.

One disadvantage of delineating geographic groupings and assigning different weighting systems across communities is that it would require Working Group members to review the impact rankings for their representative area and solicit feedback from their fellow community members on the appropriate weighting system. This concept increases the complexity of the distribution methodology and could introduce a subjective interpretation of otherwise objective data.

### *Recommendation*

With consensus support, the Working Group recommends applying the same weighting system across all communities in the impacted area rather than addressing specific geographies differently.

## ***How to Address Anomalies***

### *Discussion and Considerations*

Although the Working Group members used the Pinyon Environmental Analysis as a key resource to inform their recommendation, throughout the process, Working Group members noted impact rankings in their respective communities that did not align with their lived experience of the impacts. They also noted that in some cases, an impact ranking for a certain household would deviate from the impact ranking for the other households in the nearby vicinity. For example, there would be a household ranked as a three, while all of the houses in the nearby area would be ranked as four. As part of an out-of-meeting (individual/outside of the formal meetings) exercise, Working Group members identified anomalies observed in their communities based on places where an individual household's ranking deviated from the nearby rankings. Working Group members discussed how to address these individual ranking anomalies.<sup>4</sup>

The Working Group considered that these anomalies might not be reflective of the on-the-ground conditions for those households. Working Group members broadly acknowledged that the Pinyon Environmental Analysis, while useful, is not perfect. Working Group members also discussed that addressing anomalies may lead to decreased rankings for some residences and Working Group members were cautious about making recommendations that lowered an individual household's ranking.

One approach that Working Group members discussed to address anomalies is to use more precise data for the air quality and noise impact rankings to calculate total impact rankings.<sup>5</sup> The noise and air quality rankings in the Pinyon Environmental Analysis, similar to the total rankings, are rounded to the nearest whole number on a scale of one to five. Working Group members discussed that using the air quality and noise impact rankings to the nearest tenth-decimal place might mitigate some of the anomalies observed in the Pinyon Environmental Analysis by providing more precise results. In cases where more precise air quality and noise impact rankings did not address observed anomalies, Working Group members had the option to submit proposed adjustments to rankings for Boulder County Commissioners to consider.

Additionally, at the request of the Boulder County Board of Commissioners, the Working Group reviewed a specific request for funding as a result of impacts due to the construction and realignment of the Gross Dam Road (GDR) and State Highway 72 (SH 72) intersection. Boulder County asked this residence impacted by the construction to bring the request to the Working Group for consideration. This individual was a member of the Working Group and recused themselves from the discussion and poll for the recommendation.

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<sup>4</sup> Pinyon Environmental and Boulder County are working separately to refine the visual ranking results. The visual rankings are based on whether a household has a visual component (defined as a line-of-sight view of --or direct lighting impacts from--Denver Water's construction sites) and the distance between a home and the site or lighting source. Additionally, headlights from Denver Water's or contractors' trucks that shine into households will be considered as a visual impact. In some cases, households that have a visual component were not included in Pinyon Environmental Analysis due to a lack of available information. Boulder County is working on verifying all visual impacts listed as a "0" in the Analysis but where a resident reports a visual component. If community members have a visual impact that is not accounted for in the Analysis, they are encouraged to submit a request for a visual review using a form available at [www.boco.org/grossreservoir](http://www.boco.org/grossreservoir).

<sup>5</sup> Due to the nature of the modeling calculations, the visual ranking data cannot be calculated to a decimal point value. Therefore, data with decimals is only available for the air quality and noise data.



There were multiple perspectives on whether and how to address the GDR/SH 72 anomaly brought forth by the individual. Some Working Group members stated that this request was outside of the purview of the Working Group. Other Working Group members considered the circumstances of this anomaly to be different than other proposed anomalies because this request focused on mitigating current, lived experiences rather than being focused on the Pinyon Environmental Analysis rankings. Other Working Group members stated that treating this individual anomaly, while significant, unique, and highly unfortunate, could not be considered in isolation because other residents may feel that their individual circumstances also deserve special consideration. Lastly, some Working Group members proposed that the residence's impact rankings could be elevated to all fives by submitting an anomaly request to Boulder County Commissioners, similar to what the Working Group intended to do for other anomalies, as the Pinyon Environmental Analysis did not analyze the construction operations for the GDR/SH 72 realignment and thus did not predict the significant temporary or long-term impacts of that project on that particular residence.

The Working Group considered and discussed the individual anomaly request at GDR/SH 72 intersection as a group, while other anomalies were presented by individuals without Working Group consideration and discussion. The reason that the Working Group discussed this specific anomaly was due to a request from Boulder County Commissioners. Working Group members did not consider and discuss other proposed anomalies, as Working Group members understood the fellow Working Group members' perspectives and knowledge of their representative areas to be accurate.

#### *Recommendation*

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.

In addition to the recommendation, Working Group members agreed to allow the submission of anomaly requests by the representatives of that area for the Boulder County Commissioner's office to approve or reject. Working Group members provided additional anomalies for the Boulder County Commissioners' consideration. The table of additional anomalies identified by Working Group members is available in Appendix C.

With majority support, the Working Group recommends submitting the anomaly at the GDR/SH 72 intersection to the Boulder County Commissioners to consider adjusting the rankings of the property to all fives. The recommendation is included in the anomaly table in Appendix C.

- One 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.
- One of the eleven Working Group members did not agree with the approach because the request was based on mitigating current lived experiences rather than the other anomalies, which are based on Pinyon Environmental Analysis rankings. Ultimately, this Working Group member could live with the majority support for the recommendation.
- One Working Group member recused themselves entirely due to a conflict of interest.

## ***Distribution Methodology Full Recommendation***

Ultimately, the Working Group members' recommendation on the methodology to distribute funding can be summarized in the following steps:

- Calculate the air quality and noise impact rankings to the nearest tenth-decimal place (*consensus decision*)
- Use the weighting system of 30% air quality, 35% noise, and 35% visual to calculate total impact ranking (*majority decision*)<sup>6</sup>
- Apply the same methodology and weighting system consistently across impacted households (*consensus decision*)
- Calculate the total impact ranking using decimals (*consensus decision*)
- Assign funding amounts based on the total impact ranking using decimals (*consensus decision*)

## **RECOMMENDATIONS ON HOMEOWNER ELIGIBILITY**

### *Discussion and Considerations*

The Working Group considered the Settlement Agreement language to provide sufficient guidance for how to address who was eligible to receive funding. The Settlement Agreement language states that the funds will be distributed to "households near the Project." The Working Group decided to move forward with this definition of eligibility, which considers only residential households as eligible entities for funding.

During the community meeting on Saturday, April 29, several community members in attendance asked questions and raised concerns about eligibility for renters, owners of agricultural lots without residential homes, and property owners in the process of building a home. The Working Group discussed these concerns.

When discussing renters as potentially eligible recipients of the funds, Working Group members considered that it would be extremely difficult for Boulder County to track and identify renters in order to distribute funding. Additionally, it would be difficult to distinguish between short-term and long-term renters.

When discussing people in the process of building homes as eligible recipients of the funds, Working Group members considered that those building homes now would not have lived through all the years of the Project and whether that would call for a pro-rated amount. A few potential approaches to this were to consider people in the process of building homes as eligible 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.

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<sup>6</sup> The formula to calculate the total impact ranking is described below:

$$\text{Total Impact Ranking} = (\text{Air Quality Impact Ranking}) \times (30\%) + (\text{Noise Impact Ranking}) \times (35\%) + (\text{Visual Impact Ranking}) \times (35\%)$$

### *Recommendation*

- With consensus support, the Working Group recommends not to include renters as direct recipients of the funds.
- With consensus support, the Working Group recommends not to 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.<sup>7</sup>

## **RECOMMENDATION RELATED TO PHASE 1 AND 2 ALLOCATION**

### *Discussion and Considerations*

Working Group members discussed how much money from the Fund to allocate to Phase 1 distributions and how much to reserve for Phase 2 distributions. Denver Water has indicated it will release a request for proposals for its tree removal operations in late 2023 or early 2024 and then rely on the selected contractor to devise an operations schedule and work plan to remove trees in years 2025 and 2026. It is likely that the details about Denver Water's tree removal operations will not be available until mid-year 2024. The Working Group valued objective data and information and preferred not to be subjective, so the lack of data on operational plans made determining the amount of money to reserve for Phase 2 of the Fund distribution a challenge.

It is anticipated that the tree removal operations will be less impactful because the impacts will be experienced for two years rather than the full seven years of Denver Water's Project; however, the Working Group discussed that all impacts felt by the residences now and in the future are valid. The impacts addressed in Phase 2 of the Fund distribution will be shorter in duration than Phase 1, and activity may not be year-round or 24/7 due to legal requirements to not cut down trees during specific periods set forth by legislation like the Migratory Bird Treaty Act.

The Working Group also discussed that if the number of impacted residences is less than anticipated for Phase 2 of the funding distribution and there is additional funding needed for mitigation by the residences impacted by Phase 1 of the Project, it would be possible to distribute any remaining funding later.

### *Recommendation*

With consensus support, the Working Group recommends dedicating 80% of the Fund (\$4,000,000) for distribution to the impacted residences of Phase 1 and 20% (\$1,000,000) for the impacted residences of Phase 2 of the Project.

## **RECOMMENDATIONS RELATED TO OTHER UNIQUE IDEAS**

### ***Appeals Process***

#### *Discussion and Considerations*

Working Group members discussed whether they wanted to recommend that Boulder County develop a formal appeals process for homeowners to contest their impact rankings. There were

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<sup>7</sup> No homes currently under construction were analyzed in the Pinyon Environmental Analysis Report. Any homes currently under construction would need to be analyzed using the modeling methodology prior to being assigned any rankings, and thus, being assigned a payment value.

multiple perspectives on whether to advance this recommendation. One perspective was that putting in place an appeals process would give homeowners the opportunity to contest their impact rankings and may ultimately be a method to address anomalies and give residents a chance to rebut impact rankings that they do not think reflect their lived experiences.

Another perspective was that developing a fair and effective process for reviewing a homeowner's appeal would be time-consuming and challenging to make fair for everyone, considering that there are no established processes or review panels that would be able to review each appeal and make a decision on whether to accept it. Throughout the process, Working Group members considered the importance of balancing objective data and the subjective, lived experience of impacted residents. While developing an appeals process specific to this process could provide an opportunity for subjectivity that could be beneficial to some, there is a lack of infrastructure to review and decide on appeals, which would likely result in a delay in the distribution of funds to Boulder County residents. Additionally, Boulder County has processes for Boulder County residents to provide feedback, which could be an avenue for these instances.

#### *Recommendation*

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.

### ***Allocating Interest Earnings to the Fund***

#### *Discussion and Considerations*

Early in the process, Working Group members discussed an idea to allocate interest earnings generated by the Fund back into the Fund. This idea would be a diversion from Boulder County's practice of designating all interest earned from all funds invested by Boulder County into a separate fund. Working Group members considered the potential additional workload to Boulder County staff that a recommendation to allocate interest earnings could generate. The Working Group discussed the idea of applying an average interest earnings rate of 2.5% to the Fund to reduce the potential workload on Boulder County staff.

#### *Recommendation*

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 are appreciative of that.



## APPENDIX A – Meeting Materials

- **Materials for the April 6, 2023, Working Group Meeting:**
  - [Agenda](#)
  - [Meeting Process Chart](#)
  - [Working Group Structure and Protocols Document](#)
  - [Meeting Summary](#)
  - [Community Comment Spreadsheet](#)
  - [Boulder County Presentation Slide Deck](#) (Halpin)
  - [Pinyon Environmental, Inc. Presentation Slide Deck](#) (Collins and Meszaros)
  - [Peak Facilitation Group Presentation Slide Deck](#) (Wallace)
- **Materials for the April 25, 2023, Working Group Meeting:**
  - [Agenda](#)
  - [Environmental Evaluation of Noise, Air Quality, and Visual Report](#) (Collins and Meszaros)
  - [Community Comment Spreadsheet](#)
  - [Community Questions and Answers](#)
  - [Meeting Summary](#)
- **Materials for the April 29, 2023, Public Meeting:**
  - [Community Comment Spreadsheet](#)
- **Materials for the May 8, 2023, Working Group Meeting:**
  - [Agenda](#)
  - [Meeting Summary](#)
  - [Community Comment Spreadsheet](#)
- **Materials for the May 16, 2023, Working Group Meeting:**
  - [Agenda](#)
  - [Community Comment Spreadsheet](#)
  - [Meeting Summary](#)
- **Materials for the June 1, 2023, Working Group Meeting:**
  - [Agenda](#)
  - [Community Comment Spreadsheet](#)
  - [Compiled Anomalies Map](#)
  - [Pre-Meeting Working Group Summary to Inform Meeting Discussions](#)
  - Meeting Summary (*forthcoming*)

## APPENDIX B – Recommendations

Below is a complete list of the Working Group's recommendations in the order the recommendations appear in this report.

1. With consensus support, the Working Group recommends calculating the total impact ranking using decimals rather than the rounded value identified in the Pinyon Environmental Analysis.
2. With majority support, the Working Group recommends keeping the weighting system of 35% for noise, 35% for visual, and 30% for air quality. Ten out of 12 Working Group members supported this recommendation for weightings.
  - 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).
3. With consensus support, the Working Group recommends applying the same weighting system across all communities in the impacted area.
4. 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.
5. With majority support, the Working Group recommends submitting the anomaly at the Gross Dam Road/State Highway 72 intersection to the Boulder County Commissioners to consider adjusting the rankings of the property to all fives.
  - One 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.
  - One of the eleven Working Group members did not agree with the approach because the request was based on mitigating current lived experiences rather than the other anomalies, which are based on Pinyon Environmental Analysis rankings. Ultimately, this Working Group member could live with the majority support for the recommendation.
  - One Working Group member recused themselves entirely due to a conflict of interest.
6. With consensus support, the Working Group recommends not to include renters as direct recipients of the funds.
7. With consensus support, the Working Group recommends not to include lots zoned as agriculture without a residential home as eligible recipients for funds.
8. 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.
9. With consensus support, the Working Group recommends dedicating 80% of the Fund (\$4,000,000) for distribution to the impacted residences of Phase 1 and 20% (\$1,000,000) for the impacted residences of Phase 2 of the Project.
10. With consensus support, the Working Group did not support advancing a recommendation to establish a separate appeal 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.
11. 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 this process without using the Fund and that they are appreciative of that.

**APPENDIX C – Additional Anomalies Identified by Working Group Members**

Address	Proposed Adjustment	Reasoning for Adjustment
87 Gross Dam Road	Adjust the residence's air quality, noise, and visual impact rankings to all 5s	This household lies at the intersection of Gross Dam Road and State Highway 72. Denver Water legally obtained the residential property for the construction project, which required alterations of the road to accommodate a new highway turnoff that would allow trucks to travel safely in both directions. Denver Water's construction activities resulted in significant grading and a slope change to the southwest corner of the impacted resident's property, the removal of several trees, and the rearrangement of the residence's shed and other yard items. While Denver Water reimbursed the residence for the land it took for the intersection construction, the reimbursed amount was not adequate for the residence's impacts.
8566 Flagstaff Rd	Adjust the visual ranking from a 4 to a 5	The neighbor to the east has a visual ranking of 5; they have the same exposure to the site.
1046 Lakeshore Dr	Adjust the air quality ranking from a 0 to 0.8	This property should have the same result for air quality rankings as the three households to the east of the road (1101, 1239, 1245) due to geographic factors and historical experience with previous pollution sources.
1290 Lakeshore Dr	Adjust the air quality ranking from a 0 to 0.8	This property should have the same result for air quality rankings as the three households to the east of the road (1101, 1239, 1245) due to geographic factors and historical experience with previous pollution sources.
1406 Lakeshore Dr	Adjust the air quality ranking from a 0.4 to 0.8	This property should have the same result for air quality rankings as the three households to the east of the road (1101, 1239, 1245) due to geographic factors and historical experience with previous pollution sources.
1503 Lakeshore Dr	Adjust the noise ranking from a 0 to 4.0	This property has a line of sight exposure and is 1.55 miles from the construction site. The neighboring property, 1406 Lakeshore Drive, is 1.48 miles away with a ranking of 4.3, and the other neighboring property, 8585 Flagstaff Road, is 1.30 miles away with a ranking of 4.6. The noise ranking should be adjusted to a 4.0 as it sits higher on the ridge than 8585 but is a further distance.
31581 Coal Creek Canyon Dr	Adjust the air quality ranking from 1.8 to a 2.3	This property sits directly above and slightly east of the gravel pit, carrying noise and particulate matter toward the residence. The air quality ranking should be adjusted to 2.3 to align with the air quality impact ranking of the neighboring property at 32101 Coal Creek Canyon Drive.

Address	Proposed Adjustment	Reasoning for Adjustment
62 Lichen Lane	Adjust the air quality ranking from 1.0 to 2.0	Lichen Lane is approximately 500 feet off Gross Dam Road and runs parallel to it. It is also located on the east side of Gross Dam Road. Throughout the year, the prevailing winds come out of the west with average winds of 10mph, with wind gusts well exceeding 70mph and higher. Even with the small amount of traffic that used to occur on Gross Dam Road, dust has always impacted this area. The air quality ranking should be adjusted to 2.0 to align with the air quality ranking of 320 Tunnel 19 Road and other nearby properties.
125 Lichen Lane	Change air quality ranking from 1.3 to 3.5	125 Lichen Lane is about 400 feet from Gross Dam Road. This area is also located very near the entrance off State Highway 72 and is uphill, where diesel trucks are fully loaded and climbing to speed. This is when the maximum exhaust will be expelled, along with increased noise. The air quality ranking should be adjusted to 3.5 to align with the air quality ranking of 1743 Gross Dam Road and other nearby properties.
126 Lichen Lane	Adjust the air quality ranking from 1.0 to 2.0	Lichen Lane is approximately 500 feet off Gross Dam Road and runs parallel to it. It is also located on the east side of Gross Dam Road. Throughout the year, the prevailing winds come out of the west with average winds of 10mph, with wind gusts well exceeding 70mph and higher. Even with the small amount of traffic that used to occur on Gross Dam Road, dust has always impacted this area. The air quality ranking should be adjusted to 2.0 to align with the air quality ranking of 320 Tunnel 19 Road and other nearby properties.
128 Lichen Lane	Adjust the air quality ranking from 1.5 to 3.5	128 Lichen Lane is about 400 feet from Gross Dam Road. This area is also located very near the entrance off State Highway 72 and is uphill, where diesel trucks are fully loaded and climbing to speed. This is when the maximum exhaust will be expelled, along with increased noise. The air quality ranking should be adjusted to 3.5 to align with the air quality ranking of 1743 Gross Dam Road and other nearby properties.
130 Lichen Lane	Adjust the air quality ranking from 1.0 to 2.0	Lichen Lane is approximately 500 feet off Gross Dam Road and runs parallel to it. It is also located on the east side of Gross Dam Road. Throughout the year, the prevailing winds come out of the west with average winds of 10mph, with wind gusts well exceeding 70mph and higher. Even with the small amount of traffic that used to occur on Gross Dam Road, dust has always impacted this area. The air quality ranking should be adjusted to 2.0 to align with the air quality ranking of 320 Tunnel 19 Road and other nearby properties.



Address	Proposed Adjustment	Reasoning for Adjustment
32179 Miramonte	Adjust the noise ranking from 3.4 to 4.8	32179 Miramonte has a much lower noise ranking than the other households in Miramonte. 32179 Miramonte is no less subjected to the noise impacts from the quarry/crushing area and dam construction than the more obvious ones that received much higher noise scores. These anomalies likely stem from Miramonte's unique and complex geography and terrain. 32179 is lower down and much closer to the quarry/crushing operation than most of the other homes in the community. This may explain its higher air quality ranking than the rest of Miramonte, but the noise ranking should also follow. 32179 Miramonte's noise ranking should be adjusted to 4.8 to better align with the other nearby Miramonte households.
32161 Miramonte	Adjust the noise ranking from 3.2 to 4.4	32161 Miramonte has a much lower noise ranking than the other households in Miramonte. 32161 Miramonte is no less subjected to the noise impacts from the quarry/crushing area and dam construction than the more obvious ones that received much higher noise scores. 32161 is a little farther away from the quarry and the dam but up so high that there is less ground interference with the noise carried there. 32161 Miramonte noise ranking should be adjusted to 4.4 to better align with the other nearby Miramonte households.