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Gross Dam's $600 million expansion is largely done. Will Denver Water ever get to fill its expanded reservoir?

Facing environmental challenge, state's largest water utility is still under order not to use extra capacity

By Elise Schmelzer <eschmelzer@denverpost.com> June 14, 2026

BOULDER COUNTY — Jeff Martin couldn't sleep the night Gross Dam was scheduled for completion.

In the wee hours of June 3, he got up every hour to check the livestream of workers laying the final layer of roller-compacted concrete on the dam, a major milestone more than two decades in the making. At 3 a.m., workers placed the last foot of concrete — completing the main structure of what is now Colorado's tallest dam and finishing a long-held plan by Denver Water to expand Gross Reservoir.

Photo caption: Denver Water nears completion of the new Gross Dam project on June 3, 2026, in Boulder County, Colorado. The future of the $531 million expansion, and whether the utility can fill the reservoir to the new capacity, remains tied up in legal challenges. (Photo by RJ Sangosti/The Denver Post)

Martin, the program manager for the dam project, had worked for 12 years on the $600 million effort to replace the old Gross Dam with one that is 131 feet taller, tripling the reservoir's storage. Crews still have some finishing work remaining, he said, but the major work to raise the dam is now complete.

"Denver Water was not intent on building the tallest dam in Colorado," Martin said later that morning, standing atop the now-470-foot dam that towers above South Boulder Creek. "This was about water security."

But it remains unclear whether Denver Water will ever be able to fill the reservoir to its new full capacity as a yearslong court battle lumbers on between the utility and environmentalists.

Months of mediation between the parties have failed. Denver Water is now asking a federal appeals court to reverse a lower court judge's 2025 order barring the utility from filling the expanded reservoir and ordering the yearslong federal permitting process to be redone. A panel of three judges for the 10th U.S. Circuit Court of Appeals is scheduled to hear arguments in the case on July 31 in Santa Fe.

U.S. District Court Judge Christine Arguello in 2024 found that federal regulators violated environmental protection laws when they failed to properly analyze the environmental impact of the project or consider reasonable alternatives to the dam expansion that would be less harmful. She later issued the order against filling the reservoir.

Photo caption: Gross Reservoir on June 3, 2026, in Boulder County, Colorado. (Photo by RJ Sangosti/The Denver Post)

Environmental groups argued in court, and in their filings, that regulators failed to evaluate how siphoning more water from the drought-stricken Colorado River would impact the basin as a whole. And the groups charged that they failed to weigh other project options that wouldn't require the clear-cutting of a half-million trees or risk damage to wetlands.

The case has drawn the attention of other Front Range water providers, lawyers from across the county and the U.S. Chamber of Commerce — all of which have filed briefs in the appeals case.

"This case has reverberated across the country and the Colorado River Basin," said Gary Wockner, the executive director of Save the Colorado, one of the environmental groups pursuing the case. "Everyone's watching to see what the outcome is here."

In their legal filings, Denver Water leaders argued that Arguello erred in her decision, which put "decades of work and this critical water supply project in jeopardy," the utility's attorneys wrote in their brief to the appeals court. The attorneys urged the appeals court to intercede and "prevent yet another public infrastructure project from being held hostage by litigation."

Martin, fresh off a breakfast burrito party celebrating the dam's completion, remained adamant that the reservoir would eventually be filled.

"We will put more water in it," he said.

Considering climate change

While the dam structure itself is complete, at least a year of work remains to fully finish the project, Martin said. Construction crews must finish the spillway and place the final topper foot of concrete on the completed dam structure. Divers will place a gate between the reservoir's water and the dam's intake tubes.

But the crews on site will diminish in the coming months, from up to 500 workers a day to closer to 100. On the morning of June 3, crane operators already worked to remove from the dam crest the heavy machinery that was necessary to build the main structure.

"It has been 20 long, hard years to move through, but Denver Water has been committed to providing more resilient water supplies to our community," Martin said.

Denver Water began the permitting process for the Gross Reservoir expansion in 2002 and started construction in 2022. The planned expansion of the reservoir outside Nederland will increase the reservoir's capacity from 42,000 acre-feet to 120,000 acre-feet — enough additional water for about 156,000 households' annual use.

The expansion will also provide more storage in the utility's northern fork of its supply network, which Denver Water leaders have said is critical if the larger southern supply system is impacted by fire, mudslides or drought.

Federal litigation over the project had already begun when construction crews started their work. In 2024, when Arguello ruled the project permitting did not comply with federal law, the dam was half finished and hundreds of millions of dollars had been spent.

The panel of appeals court judges will evaluate soon whether the U.S. Army Corps of Engineers followed federal environmental protection laws when issuing permits for the dam expansion and whether Arguello's order blocking the filling of the reservoir was reasonable.

Photo caption: Work continues on the Denver Water Gross Dam project, on June 3, 2026, in Boulder County, Colorado. (Photo by RJ Sangosti/The Denver Post)

One of the key tensions in the legal arguments is whether the Corps of Engineers should have evaluated how climate change will impact the Colorado River, from which the reservoir draws most of its water. The water is transported through the Moffat Tunnel from Grand County, under the Continental Divide and into the South Boulder Creek drainage near Rollinsville.

Opponents of the dam — and the lower court judge — argued that the federal agency should have analyzed whether there would be sufficient water for Denver Water to bring across the Continental Divide to warrant the expansion of the reservoir. And if so, they argued that the agency should have weighed how taking that water would impact the rest of the basin downstream of the diversion.

Denver Water's attorneys, in their filings to the appeals court, have argued that federal law requires an analysis of how a project impacts the environment, not how climate change could impact a project.

They also wrote that forcing the Corps of Engineers to now consider alternatives to raising the dam height is a moot point, since the dam is already complete and there are no other feasible alternatives at this point.

Allowing a project to stand because construction continued while its legality was being questioned would set a dangerous precedent, Wockner said. The environmental groups suing over the project are simply asking Denver Water to follow the law, he said.

Photo caption: Denver Water's project crews near completion on the expansion of Gross Dam on June 3, 2026, in Boulder County, Colorado. (Photo by RJ Sangosti/The Denver Post)

“This is just plain ol’ law enforcement,” he said.

Outside interest

The yearslong case has drawn the interest of other Colorado local governments and water suppliers.

A slew of Front Range water providers — Aurora Water, the South Metro Water Supply Authority and Pueblo’s water board — weighed in, supporting Denver Water. The organizations, which provide water to more than 800,000 people, said the district court judge erred in her decision and that her error “introduces uncertainty and legally-unjustified burdens into the federal permitting process” for the groups’ water infrastructure projects.

The cities of Boulder and Lafayette also filed a brief urging the court to allow the reservoir to be filled. They inked a deal with Denver Water that would allow them to store water in the reservoir that can be released to support the ecosystem of South Boulder Creek.

Denver Water leaders for years have said that, along with the plan for creek releases, they mitigated the environmental damage from the dam project with stream restoration on the headwaters of the Colorado River. They also transferred 500 acres of land near the Indian

Peaks Wilderness to the U.S. Forest Service to compensate for the acres that would be drowned by the expanded body of water.

Others urged the appeals court to uphold Arguello's ruling.

A brief filed by 26 former employees of the Environmental Protection Agency — many of whom worked for the federal agency for decades under both Republican and Democratic administrations — supported Arguello's decision, stating that the Corps of Engineers failed to consider other less-damaging alternatives to the reservoir expansion.

"This process matters because it could be exploited by applicants in future cases unrelated to Denver Water's proposal," the former employees wrote in their brief.
Another filing by 10 natural resources law professors — including several from the University of Denver and the University of Colorado — supported environmentalists' argument that the federal permitting process ignored how drawing more water for the reservoir would impact the Colorado River Basin.

"The Colorado River cannot support additional withdrawals of this magnitude," especially where the diversion takes the water over the Continental Divide and out of the river basin, their brief states.

Both Denver Water and Wockner point to this year's historic drought as evidence for their arguments.

This year's drought is exactly when the expanded reservoir is needed most, Martin said. The extra water that could be stored in the reservoir would bolster the utility's supplies for its 1.5 million customers across metro Denver. If it's allowed to fill up, the expanded Gross Reservoir will increase Denver Water's total storage by 11% and storage in the north system by 146%. "In the future when this happens, we're going to have more flexibility and more resilience," Martin said.

But that drought has also pushed the larger Colorado River system close to a crash, Wockner said. Federal water managers have sent water down from one reservoir in an emergency action to keep the level of one of the basin's largest reservoirs, Lake Powell, from falling so low it cannot pass water through its hydropower system.

Diverting more water from the basin to the Front Range will only worsen that crisis, Wockner said.

"It is the worst time in history to be overturning a climate case on the Colorado River," he said.

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