



MEMORANDUM

July 6, 2017

TO: BOARD OF DIRECTORS
ERIC KUHN, GENERAL MANAGER
PETER FLEMING, GENERAL COUNSEL

FROM: MIKE EYTEL, SENIOR WATER RESOURCE SPECIALIST

SUBJECT: WATER QUALITY CONTROL COMMISSION - REVISIONS TO THE CLASSIFICATIONS AND NUMERIC STANDARDS FOR THE GUNNISON AND LOWER DOLORES RIVER BASINS REGULATION #35 (5 CCR 1002-35) AND LONG RANGE PLAN UPDATE

This memo is provided as an update on the Water Quality Control Commission Rulemaking Hearing from June 2017. No Board action is requested at this time.

We have been in a bit of a break on our 5-year Triennial Review process. Yes, I said 5 years. Colorado uses a modified triennial review process in order to accommodate our 7 major river basins. The actual hearing process once initiated for an individual basin takes 3 years. Starting with (1) Issues Scoping Hearing, early identification of expected issues; (2) Issues Formulation Hearing, formulate specific issues; and (3) final Rulemaking Hearing. The following is a brief update on the recent WQCC Rulemaking and upcoming hearings.

The WQCC conducted a Rulemaking Hearing for Regulation #35, Classifications and Numeric Standards for the Gunnison and Lower Dolores River Basins on June 12, 2017. The River District did not request Party Status for this Rulemaking Hearing as there were no real outstanding issues with the direction of the Division proposal. Twenty-one Parties participated in the hearing, which interestingly drew some out of basin participants.

Regulation #35 Classifications and Numeric Standards for the Gunnison and Lower Dolores River Basins establishes the water quality standard for the Gunnison River/Lower Dolores River Basins. Numeric standards are assigned to determine the allowable concentrations of various constituents. Discharge permits issued by the Water Quality Control Division generally must comply with established standards within individual regulations. The WQCC preliminarily adopted a number of minor changes to Regulation #35. Nutrients and temperature were the two most significant changes to Regulation #35¹:

- **Nutrients:** Consistent with the 2012 Nutrient Rulemaking Hearing, interim nutrient values for phosphorous and chlorophyll were adopted for all waters upstream of the 33 permitted domestic wastewater treatment facilities discharging prior to May 31, 2012, and any facility

¹ 35.3 Statement of Basis, Specific Statutory Authority and Purpose; June 12, 2017 Rulemaking Hearing.

subject to Regulation #85 effluent limits, as well as Direct Use Water Supply Lakes and Reservoirs larger than 25 surface acres.

- **Temperature:** The WQCC in 2016 amended the current Basic Standards Regulation #31. These modifications are intended to conform Regulation #35 with the 2016 changes which favors a basin-by-basin approach.² The Water Quality Control Division worked extensively developing 8 Temperature Use Attainability Analyses (UAA) resulting in 8 segments being reclassified, or ambient temperature standards being adopted in the Gunnison and Lower Dolores River Basins.

The following are upcoming WQCC hearings:

- August 7, 2017 – Administrative Action Hearing - **Temperature Criteria Methodology Policy, Commission Policy 06-1.**
- August 7, 2017- Administrative Action Hearing - **Aquatic Life Use Attainment Policy, Commission Policy 10-1.**
- October 10, 2017 – Rulemaking Hearing - **Regulations #31 Basic Standards and Methodologies for Surface Water and Regulation # 85 Nutrients Management Control Regulation.**
- October 10, 2017- Issues Scoping Hearing – **Regulation #33 & #37 The Upper and Lower Colorado River Basins**, includes the Yampa and White River Basins.

Updating and revising regulations while designed to protect water quality does have an impact on the River District and our constituents through increased water quality monitoring costs and staff support. River District staff, consistent with its policy, will continue to be active parties in the water quality hearings to assure any new water quality regulations are based on sound science, promote ecological health, and local economies, while protecting the ability to put water to beneficial use. If you desire more information regarding any of the items above, feel free to contact me.

² WQCD Temperature Standards Implementation. WQCD Exhibit A. June 2017.