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SEP 16 2013

Ref: 8EPR-EP

Peter Butler, Chair
Water Quality Control Commission
4300 Cherry Creek Drive South
Denver, CO 80222-1530

Subject: EPA Action on Four Sets of WQS Revisions

Dear Mr. Butler:

The U.S. Environmental Protection Agency (EPA) Region 8 has completed its review of four sets of water quality standards revisions adopted by Colorado's Water Quality Control Commission (Commission). The submission letters included an Opinion of the Attorney General certifying that the standards were duly adopted pursuant to State law. Receipt of the revised standards initiated the EPA's review pursuant to Clean Water Act § 303(c). The EPA has completed its review, and this letter is to notify you of our action.

The CWA § 303(c)(2) requires States and authorized Indian Tribes to submit new and revised water quality standards to the EPA for review. The EPA is required to review and approve or disapprove the revised standards pursuant to CWA § 303(c)(3). The Region's goal has been, and will continue to be, to work closely and collaboratively with States and authorized Tribes throughout the standards revision process so that submitted revisions can be approved.

The EPA's review addressed the following sets of WQS revisions:

- Revisions to certain temporary modifications (Regulation 31, 32, 33, 34, 35, 36, 37, and 38), the effective date of the discharger-specific variance policy at 31.7(4), and the sunset date of 31.7(3)(a)(ii)(C). Adopted June 13, 2011.
- Revisions to segments in the San Juan and Gunnison basins as a result of the State's triennial review of those basins (Regulation 34 and 35). Adopted November 5, 2012.

- Revisions adopted pursuant to the annual rulemaking to review temporary modifications scheduled to expire within 2 years (Regulation 32, 33, 35, 36, and 37). Adopted January 1, 2013.
- Revisions to correct the zinc standards listed in 34.6 and the temperature standards listed in 34.6 and 35.6 (Regulation 34 and 35). Adopted May 13, 2013.

We are pleased to inform you that today the Region is approving all of the WQS revisions identified above, except that the EPA is taking no action on the revisions adopted June 13, 2011 to extend (by 9 months) the effective date of the discharger-specific variance policy at 31.7(4) and the sunset date of 31.7(3)(a)(ii)(C). The adopted revisions and the basis for the EPA's action are summarized in the enclosures.

The water quality standards approvals in today's letter apply only to water bodies in the State of Colorado, and do not apply to waters that are within Indian country, as defined in 18 U.S.C. Section 1151. "Indian country" also includes any land held in trust by the United States for an Indian tribe and any other areas defined as "Indian country" within the meaning of 18 U.S.C. 1151. Today's letter is not intended as an action to approve or disapprove water quality standards applying to waters within Indian Country. The EPA, or authorized Indian Tribes, as appropriate, will retain responsibilities for water quality standards for waters within Indian country.

It is important to note that the EPA's approval of water quality standards is considered a federal action which may be subject to the Section 7(a)(2) consultation requirements of the Endangered Species Act (ESA). Section 7(a)(2) of the ESA states that "each federal agency…shall…insure that any action authorized, funded or carried out by such agency is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of habitat of such species which is determined to be critical…"

The EPA has initiated consultation under ESA Section 7(a)(2) with the U.S. Fish and Wildlife Service regarding our approval of certain new or revised water quality standards. The EPA also has a Clean Water Act obligation, as a separate matter, to complete its water quality standards approval action. Therefore, in approving these water quality standards revisions today, the EPA is completing its CWA § 303(c) responsibilities. However, because ESA consultation is ongoing, the EPA's approval is made subject to the outcome of the ESA consultation process. Should the consultation process with the U.S. Fish and Wildlife Service identify information regarding impacts on listed species or designated critical habitat that supports amending the EPA's approval, the EPA will, as appropriate, revisit and amend its approval decision for those new or revised water quality standards.

The Region commends both the Commission and the Water Quality Control Division for their efforts to consider site-specific data and circumstances as a basis for reviewing and revising water quality standards for Colorado waters. We are pleased to be approving certain WQS revisions addressed by today's action letter. If you have any questions concerning this letter, the most knowledgeable person on my staff is David Moon and he can be reached at 303-312-6833.

Sincerely,

Martin Hestmark

Martin Hestmark
Assistant Regional Administrator
Office of Ecosystems Protection
and Remediation

Enclosures (4)

ENCLOSURE 1
REVISIONS TO COLORADO WATER QUALITY STANDARDS ADOPTED JUNE 13, 2011

This enclosure presents a summary of the water quality standards revisions adopted by the Water Quality Control Commission (Commission) and the rationale for the EPA's action. The following regulations were amended:

- Basic Standards and Methodologies for Surface Waters (Regulation #31)
- Classifications and Numeric Standards for Arkansas River Basin (Regulation #32)
- Classifications and Numeric Standards for Upper Colorado River Basin and North Platte River (Regulation #33)
- Classifications and Numeric Standards for San Juan River and Dolores River Basins (Regulation #34)
- Classifications and Numeric Standards for Gunnison and Lower Dolores River Basins (Regulation #35)
- Classifications and Numeric Standards for Rio Grande River Basin (Regulation #36)
- Classifications and Numeric Standards for Lower Colorado River Basin (Regulation #37)
- Classifications and Numeric Standards for South Platte River Basin, Laramie River Basin, Republican River Basin, Smoky Hill River Basin (Regulation #38)

Revisions were adopted to various temporary modifications that were scheduled to expire on or before December 31, 2012. In addition, the Basic Standards and Methodologies for Surface Waters (Regulation #31) was revised by extending (by 9 months) the effective date of the discharger-specific variance policy at 31.7(4), and the sunset date of 31.7(3)(a)(ii)(C).

The revisions were adopted on June 13, 2011 with an effective date of January 1, 2012. The submission letter included an Opinion of the Colorado Attorney General certifying that the standards were duly adopted pursuant to State law. Receipt of the revised standards on July 1, 2011 initiated the EPA's review pursuant to § 303(c) of the Clean Water Act (CWA or the Act).

REVISIONS TO TEMPORARY MODIFICATIONS

The revisions to temporary modifications are summarized in Table 1. Generally, temporary modifications scheduled to expire on or before December 31, 2012 were either deleted or extended.

Table 1
Revisions to Temporary Modifications Adopted June 13, 2011

Reg	Deleted	Extended
32	Middle Arkansas segment 3 (NH3)	Fountain segment 2a (NH3, Cu)
	Fountain segment 1b (NH3)	Fountain segment 4 (NH3)
	Lower Arkansas segments 1b, 7 (NH3)	Fountain segment 6 (Cu)
33		Yampa segment 13e (Fe)
34		San Juan segment 11a (Fe)
		Animas segment 2, 3a, 7, 8 (all metals)
		Animas segment 3a (Cd, Mn, Zn)
		Animas segment 3c (Cu, Zn)
		Animas segment 4a (Al, Fe, Zn, Cu, Cd, pH)
		Animas segment 4b (Zn)
		Animas segment 9 (Al, Cu, Fe, Zn)
		La Plata segment 7a (NH3)
		La Plata segment 8a (Fe)
35	Lower Gunnison segment 4a (NH3)	Upper Gunnison segment 8 (Cd)
	San Miguel segment 5 (NH3)	Upper Gunnison segment 12 (Cd, Zn)
		Upper Gunnison segment 16 (Zn)
		North Fork Gunnison segment 3, 5 (Se)
		North Fork Gunnison segment 6b (Fe, Se)
		Uncompahgre segment 4b, 12 (Se)
		Lower Gunnison segment 2, 4a (Se)
		Lower Gunnison segment 7 (Fe, Se)
		San Miguel segment 2 (Cd)
		San Miguel segment 3b (Cd, Zn)
36	Closed Basin segment 3 (NH3)	
37	Lower Colorado segment 2b, 13b (NH3)	Lower Colorado segment 4e (Cu, Fe)
	Lower Colorado segment 13d (Se)	Lower Colorado segment 13b (temperature)
38	Upper So Platte 5c, 10a, 11b, 16a (NH3)	
	Cherry Creek segment 4 (NH3)	
	Big Dry Creek segment 5 (NO3, NO2, Organics)	
	Boulder Creek segments 7b, 9, 10 (NH3)	
	St Vrain segments 3, 6 (NH3)	
	Middle South Platte segment 3a (NH3)	
	Big Thompson segments 5 and 9 (NH3)	
	Cache La Poudre 12, 13a, 22 (NH3)	
	Lower South Platte segments 1, 2b (NH3)	

The revisions to temporary modifications are consistent with the temporary modifications general policy in *Basic Standards and Methodologies for Surface Waters* (Regulation #31, Section 31.7(3)).[1] The EPA's regulation at 40 CFR § 131.13 provides that such general policies may be adopted at State discretion, while also specifying that they are subject to the EPA's review and approval. The Colorado general policy has been approved by the EPA on multiple occasions, and most recently on August 4, 2011. Because they are consistent with the general policy, the revisions to temporary modifications are approved, subject to ESA consultation.

REVISIONS WHERE THE EPA IS TAKING NO ACTION

The EPA is not acting on the revisions to the Basic Standards and Methodologies for Surface Waters (Regulation #31) that extended (by 9 months) the effective date of the discharger-specific variance policy at 31.7(4) and the sunset date of 31.7(3)(a)(ii)(C).

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[1] Section 31.7(3) authorizes temporary modifications if an existing permitted discharge has a demonstrated or predicted water quality-based effluent limit compliance problem, and one of two situations is shown to exist: (1) significant uncertainty regarding the water quality standard necessary to protect current and/or future uses, or (2) significant uncertainty regarding the extent to which existing quality is the result of natural or irreversible human induced conditions. Section 31.7(3) requires that adequate supporting information must be submitted, including a justification for the interim narrative or numeric value, any data describing effluent and ambient quality, a plan for eliminating the need for the temporary modification, and a justification for the proposed expiration date. Temporary modification expiration dates are determined by the Commission based on relevant factors, including how soon resolving the issues that necessitated adoption of the temporary modification is deemed feasible. Pursuant to 31.7(3)(e), the Commission must hold an annual rulemaking hearing to review temporary modifications that will expire within approximately two years. Pursuant to such hearings, the Commission may delete, modify, or make no changes to each temporary modification. Compliance schedules requiring actions intended to eliminate the uncertainty regarding the appropriate underlying standard may be included in the permit pursuant to 31.14(15)(b).

ENCLOSURE 2
REVISIONS TO COLORADO WATER QUALITY STANDARDS ADOPTED NOVEMBER 5, 2012

This enclosure presents a summary of the water quality standards revisions adopted by the Water Quality Control Commission (Commission) and the rationale for the EPA's action. The following regulations were amended:

- Classifications and Numeric Standards for San Juan River and Dolores River Basins (Regulation #34)
- Classifications and Numeric Standards for Gunnison and Lower Dolores River Basins (Regulation #35)

Revisions were adopted as a result of basinwide triennial reviews (i.e., all segments in both basins) and include a large number of segment-specific revisions. For example, the Commission adopted revisions to:

- antidegradation designations,
- recreation classifications and standards,
- water supply classifications and health-based standards,
- agriculture classifications and standards,
- aquatic life classifications,
- aquatic life-based numeric standards,
- temporary modifications, and
- other revisions, including resegmentation, renaming, and consolidation of segments.

The revisions were adopted on November 5, 2012 with an effective date of March 30, 2013. The submission letter included an Opinion of the Colorado Attorney General certifying that the standards were duly adopted pursuant to State law. Receipt of the revised standards on November 21, 2012 initiated the EPA's review pursuant to § 303(c) of the Clean Water Act (CWA or the Act).

STANDARDS APPROVED WITHOUT CONDITION

All water quality standards revisions in this category are approved without condition. The basis for the EPA's approval action is that the revisions are consistent with the requirements of the Clean Water Act and the EPA's implementing regulation.

Revisions to Antidegradation Designations

Revisions included the application of an Outstanding Waters designation to Rio Lado, Little Taylor Creek, and Spring Creek (Dolores River segment 5b), and to the waters in Upper Gunnison segment 2. In addition, for various segments, Use Protected designations were removed, thereby increasing Colorado's universe of reviewable waters. The revisions are consistent with Colorado's antidegradation rule at 31.8 of the *Basic Standards and Methodologies for Surface Waters* (previously approved by the EPA) and the EPA's water quality standards regulation at 40 CFR § 131.12.

Revisions to Recreation Classifications and Standards

Various changes to recreation classifications and standards were adopted, including the application of an (upgraded) Recreation E use classification to Piedra River segment 11a, La Plata River segments 1, 3c, 12, and 14 and Uncompahgre River segment 17, and the application of an (upgraded) Recreation P use classification to La Plata segment 13, North Fork of the Gunnison segment 3, Uncompahgre River segments 2, 4b, 7, 8, 10, 11, 12, and 15a, and Lower Gunnison River segments 4a and 9. The revisions are consistent with the EPA's water quality standards regulation at 40 CFR §§ 131.10 and 131.11.

Revisions to Water Supply Use Classifications and Health-Based Standards

Various changes to water supply use classifications were adopted, including the application of a new water supply use classification to San Juan River segments 10 and 11a, Animas and Florida segments 9 and 13a, La Plata segments 2a, 2b, 3b, 4c, 5a, and 8a, Upper Dolores River segment 3, Upper Gunnison River segment 12, North Fork of the Gunnison segments 3 and 11, Uncompahgre River segments 4a and 4b, Lower Gunnison River segments 7b, 10, and 12, San Miguel River segments 3b and 7a, and Lower Dolores River segments 2, 3a, and 4. The water supply use classification was removed from Animas and Florida segment 13d based on a use attainability analysis. In addition, various changes were made to human health-based numeric standards, including changes in the application of water + fish and fish consumption standards (for Class 2 aquatic life segments), and application of the updated Regulation 31 uranium table value standard that was adopted in 2010 and approved by the EPA. The revisions are consistent with the EPA's water quality standards regulation at 40 CFR §§ 131.10 and 131.11.

Revisions to Agriculture Use Classifications and Standards

Various changes were adopted, including the application of agriculture-based chromium (III), molybdenum, and nitrate numeric standards to various segments. The revisions are consistent with the EPA's water quality standards regulation at 40 CFR §§ 131.10 and 131.11.

STANDARDS APPROVED SUBJECT TO ESA CONSULTATION

All water quality standards revisions in this category are approved, subject to ESA consultation. The basis for the EPA's approval action is that the revisions are consistent with the requirements of the Clean Water Act and the EPA's implementing regulation.

Revisions to Aquatic Life Classifications

Various changes to aquatic life use classifications were adopted, including upgrades to (cold or warm) Class 1 aquatic life uses for La Plata segments 2a, 2b, 3c, 5a, and 5b, San Juan River segment 11b, Animas and Florida segments 12a and 12d, Uncompahgre River segments 4a, 4c, 10, 12, and 15a, Lower Gunnison River segments 7b and 16, and Lower Dolores River segments 4 and 7. A use attainability analysis supported either use removal or less-stringent aquatic life use classifications for San Juan River segment 8 (Cold 1 to Warm 1), Animas and Florida segment 13d (Cold 2 Removal), Lower Gunnison River segment 13 (Cold 1 to Warm 1), and Lower Dolores River segment 1 (Cold 1 to Warm 1 for a portion of the segment). The revisions are consistent with the EPA's water quality standards regulation at 40 CFR § 131.10.

Revisions to Numeric Standards for the Protection of Aquatic Life Classifications

Various changes to aquatic life-based numeric standards were adopted. One reason for these changes was to achieve consistency with revisions to the Regulation 31 table values that were adopted in 2010 (e.g., aluminum, zinc, and zinc-sculpin) and approved by the EPA (August 4, 2011 action letter). The revisions included changes to existing ambient-based standards, addition of a chromium (III) chronic numeric standard to several segments, and application, for the first time, of numeric standards for temperature to most individual segments. Site-specific temperature standards were adopted for the Lower Dolores segments 1a and 1b, Upper Gunnison segment 16b, San Miguel segment 3b and Uncompahgre segment 3b. Temperature standards were not applied to segments which do not have an aquatic life use classification. The revisions are consistent with the EPA's water quality standards regulation at 40 CFR § 131.11.

Revisions to Temporary Modifications

The revisions to temporary modifications are summarized in Table 2. The revisions are consistent with the temporary modification general policy in *Basic Standards and Methodologies for Surface Waters* (Regulation #31, Section 31.7(3)). The EPA's regulation at 40 CFR § 131.13 provides that such general policies may be adopted at State discretion, while also specifying that they are subject to the EPA's review and approval. The Colorado general policy has been approved by the EPA on multiple occasions, and most recently on August 4, 2011. Because they are consistent with the general policy, the revisions to temporary modifications are approved, subject to ESA consultation.

Table 2
Revisions to Temporary Modifications Adopted November 5, 2012

Reg	Deleted	New/Extended
34	San Juan River segment 11a (Fe)	Animas and Florida segment 13a (NH3)
	Animas and Florida segments 2 (metals), 3a (Cd, Mn, Zn), 3b (metals), 3c (Cu, Zn), 4a (Al, Fe, Zn, Cu, Cd, pH), 4b (Zn), 7 (metals), 8 (metals), 9 (Al, Cu, Fe, Zn)	La Plata segments 7a (NH3), 8c (NH3)
	La Plata segment 8a (Fe)	Animas and Florida segment 3b (Cu, Cd, Zn)
35	Upper Gunnison segments 8 (Cd), 16 (Zn)	Upper Gunnison segment 12 (As, Cd, Cu, Zn)
	North Fork of the Gunnison 3 (Se), 5a (Se), and 6b (Fe, Se)	Upper Gunnison segment 20 (U)
	Uncompahgre River segments 3a (Cd, Fe) and 12 (Se)	North Fork of the Gunnison segment 2 (As)
	Lower Gunnison River segments 4a (Se) and 7b (Se, Fe)	Uncompahgre River segment 4b (Se)
	San Miguel River segments 2 (Cd) and 3b (Cd, Zn)	Lower Gunnison segment 2 (Se)

ENCLOSURE 3
REVISIONS TO COLORADO WATER QUALITY STANDARDS ADOPTED JANUARY 1, 2013

This enclosure presents a summary of the water quality standards revisions adopted by the Water Quality Control Commission (Commission) and a rationale for the EPA's approval action. The following regulations were amended:

- Classifications and Numeric Standards for Arkansas River Basin (Regulation #32)
- Classifications and Numeric Standards for Upper Colorado River Basin and North Platte River (Regulation #33)
- Classifications and Numeric Standards for Gunnison and Lower Dolores River Basins (Regulation #35)
- Classifications and Numeric Standards for Rio Grande River Basin (Regulation #36)
- Classifications and Numeric Standards for Lower Colorado River Basin (Regulation #37)
- Classifications and Numeric Standards for South Platte River Basin, Laramie River Basin, Republican River Basin, Smoky Hill River Basin (Regulation #38)

Revisions to various temporary modifications were adopted following the annual review process and public hearing for temporary modifications that expire within two years, as required by Section 31.7(3)(e) of the *Basic Standards and Methodologies for Surface Waters* (Regulation #31).

The revisions were adopted on January 1, 2013 with an effective date of June 30, 2013. The submission letter included an Opinion of the Colorado Attorney General certifying that the standards were duly adopted pursuant to State law. Receipt of the revised standards on February 5, 2013 initiated the EPA's review pursuant to § 303(c) of the Clean Water Act (CWA or the Act).

REVISIONS TO TEMPORARY MODIFICATIONS

The segment-by-segment changes for each regulation are listed in Table 3. Generally, temporary modifications were either deleted or extended. The revisions to temporary modifications are consistent with the temporary modification general policy in *Basic Standards and Methodologies for Surface Waters* (Regulation #31, Section 31.7(3)). The EPA's regulation at 40 CFR § 131.13 provides that such general policies may be adopted at State discretion, while also specifying that they are subject to the EPA's review and approval. The Colorado general policy has been approved by the EPA on multiple occasions, and most recently on August 4, 2011. Because they

are consistent with the general policy, the revisions to temporary modifications are approved, subject to ESA consultation.

Table 3
Revisions to Temporary Modifications Adopted January 1, 2013

Reg	Deleted	Extended
32	Upper Arkansas segment 2c (Cd, Zn)	Lower Arkansas segment 1a (Se, SO4)
	Middle Arkansas segments 4b (Se), 5 (Se), 10 (Se), 12 (Se), 14 (Se), and 18a (Se)	
	Lower Arkansas segments 4 (Se), 9a (Se), 9b (Se), 9c (Se), and 11 (Se)	
33		Yampa River segment 13e (Fe)
35		Upper Gunnison River segment 12 (Cd, Cu, Zn)
36	Alamosa River segment 3b (Se)	
37		Lower Colorado River segment 4e (Cu, Fe)

ENCLOSURE 4
REVISIONS TO COLORADO WATER QUALITY STANDARDS
ADOPTED MAY 13, 2013

This enclosure presents a summary of the water quality standards revisions adopted by the Water Quality Control Commission (Commission) and the rationale for the EPA's action. The following regulations were amended:

- Classifications and Numeric Standards for San Juan River and Dolores River Basins (Regulation #34)
- Classifications and Numeric Standards for Gunnison and Lower Dolores River Basins (Regulation #35)

Revisions were adopted to correct the zinc table values listed in 34.6 and the temperature table values listed in 34.6 and 35.6.

The revisions were adopted on May 13, 2013 with an effective date of September 30, 2013. The submission letter included an Opinion of the Colorado Attorney General certifying that the standards were duly adopted pursuant to State law. Receipt of the revised standards on May 31, 2013 initiated the EPA's review pursuant to § 303(c) of the Clean Water Act (CWA or the Act).

Corrections to 34.6

The Commission adopted corrections to the zinc table value standard equations and temperature table values (warm stream tier 2) in 34.6, so that the table values in Regulation 34 are consistent with the table values in Regulation 31.

Corrections to 35.6

The Commission adopted corrections to the temperature table value standards (warm stream tier 2) in 35.6, so that the table values in Regulation 35 are consistent with the table values in Regulation 31.

The EPA's Action

The changes resulted in aquatic life-based numeric standards that are protective of designated uses and are thus consistent with the EPA's water quality standards regulation at 40 CFR § 131.11. Accordingly, the revised aquatic life-based standards are approved, subject to ESA consultation.