

**BEFORE THE COLORADO WATER QUALITY CONTROL COMMISSION
STATE OF COLORADO**

**PREHEARING STATEMENT FOR CONSIDERATION OF CHANGES TO WATER QUALITY
CLASSIFICATIONS AND STANDARDS FOR SAN JUAN RIVER BASIN, REGULATION
#34 (5 CCR 1002-34) PERTAINING TO THE ANIMAS RIVER WATERSHED,**

THE ANIMAS RIVER STAKEHOLDERS GROUP

Background

The Animas River Stakeholders Group (ARSG) was initiated in 1994 by the Water Quality Control Division (WQCD) to try to resolve water quality issues involving metal loading in the Upper Animas River Basin (defined here as the watershed upstream of Bakers Bridge). Participants in ARSG have included federal land management and federal regulatory agencies, state regulatory agencies, local governments, mining companies, environmental groups, and interested citizens. The group does not assign blame, does not get involved in permitted mining sites, and operates by informal consensus. Participants in ARSG have characterized approximately 175 draining mines and 160 mine waste piles, determined initial feasibility of remediation for many of those sites, proposed water quality standards (adopted by the Commission in 2001) and conducted approximately 60 mine remediation projects.

While many improvements in water quality have been seen in parts of the Upper Animas Basin, overall water quality in the Animas River below the Town of Silverton has declined because of increases in metal loading from upper Cement Creek, a tributary of the Animas River, and location of some previously permitted mines. Because of the decline in water quality, 46 mining sites and two study sites were included in the formation of the Bonita Peak Mining District Superfund Site in 2016 under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA, 42 U.S.C. §1906 et seq.).

Proposal

ARSG respectfully requests the Water Quality Control Commission (Commission) change the acute and chronic aquatic life cadmium standards from the current Table Value Standards (TVS) to the equations used in EPA's new cadmium criteria for certain stream segments which have aquatic life classifications. Those segments include:

- the Animas River above the confluence with Cement Creek, segment 3a (COSJAF03A);
- Arrastra Gulch, segment 3c (COSJAF03C);
- the Animas River below the confluence with Mineral Creek, segment 4a (COSJAF04A);
- the Animas River below the confluence with Deer Park Creek, segment 4b (COSJAF04B);
- a number of tributaries of the Animas River above Elk Park, segment 6 (COSJAF06);
- the lower portion of Mineral Creek, segment 9 (COSJAF09) .

None of these segments currently meet TVS for cadmium year round. Segments 4b, 6, and 9 will meet the new EPA criteria for cadmium. Current cadmium concentrations for segments 3a, 3c, and 4a will not always meet the new EPA criteria.

ARSG is also proposing a slight change in the description of segment 6 to improve the clarity of what tributaries are included in the segment. The specifics of the ARSG proposal are attached as Exhibit 1 and have not changed from the noticed proposal except for striking one phrase at the end of the proposed Statement of Basis and Purpose.

Discussion

At some point the Commission will probably adopt a new TVS for cadmium that is equivalent to the new EPA criteria. ARSG would like to see changes made in the cadmium standard for certain segments during this hearing for several reasons.

First, the change may keep several segments from being listed on the 303(d) list of impaired waters. Listing those segments would use resources from the Division and possibly other parties to develop plans specifically to further improve water quality in those segments.

Second, all these segments may be impacted by the ongoing CERCLA process. While the CERCLA process does not have to meet standards promulgated by the Commission, the CERCLA process will look to those standards in helping to define water quality goals. For example, EPA's Baseline Ecological Risk Assessment for the Upper Animas River (see Exhibit 2) used the Commission's standards for defining surface water benchmarks for toxicological risks to aquatic life. Having the appropriate standards in place now is important as EPA works through its goal setting process.

ARSG hopes the Commission will adopt its proposal. Thank you for your consideration.

Respectfully submitted:



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