

May 22, 2020

Ronda L. Sandquist
Attorney at Law
303.223.1191 tel
303.223.1111 fax
rsandquist@bhfs.com

Dear Cherry Creek Basin Water Quality Authority Board:

At the May 21st Board meeting there was discussion about the Cherry Creek Basin Water Quality Authority's (CCBWQA) positions in their Responsive Prehearing Statement for Regulation 38; we wanted to provide information about this issue. We are concerned that the Regulation 38 Interim Committee requested that stringent nutrient standards be adopted for Rueter-Hess Reservoir ("RHR") despite a clear direction from you, the CCBWQA Board. Your direction was to support deferring nutrient standards for RHR to allow for the development of site specific standards based on science and data that protect the waters of Cherry Creek and allows RHR to operate without compliance challenges.

RHR provides essential water storage for municipalities and special districts that serve customers in the Cherry Creek watershed. Water supplies in the region, and the State, can encounter seasonal or climatic changes that create water shortfalls. At the same time, the Front Range has experienced significant growth in the last two decades, and additional growth and water demand is projected to occur. Constructed by Parker Water & Sanitation District, RHR was designed to serve these growing demands by shifting from reliance on unsustainable groundwater supplies to dependable, renewable water supplies. RHR now includes several partners who store water in the Reservoir – Castle Rock, Castle Pines North Metro District, and Stonegate Water & Sanitation District – who are all part of CCBWQA.

At its March 19, 2020 Meeting, the Interim Committee recommended to the Board that CCBWQA support the following: resegmentation of RHR, assigning the Direct Use Water Supply, making RHR reviewable for purposes of antidegradation, and "deferring the phosphorous and chlorophyll a standard until 2022" to allow development of a site-specific standard and to allow "RHR to operate without having numeric criteria compliance challenges." CCBWQA, March 19, 2020 Meeting Minutes, at 3. In turn, the CCBWQA Board directed the Interim Committee to take those limited, and specific, actions in the Regulation 38 rulemaking related to RHR:

"Following discussion, Director McCarty moved, and Director Bergan seconded a motion that CCBWQA:

- 1) Support RHR's re-segmentation
- 2) Support assignment of RHR as a Direct Use Water Supply
- 3) Support RHR's "reviewable" designation for antidegradation considerations
- 4) Support science and data-based standards that protect water in Cherry Creek and the Cherry Creek Reservoir and to the extent possible, support working together with Member Entity(ies) in this Rulemaking Hearing to arrive at standards that would allow RHR to operate without having numeric criteria compliance challenges.

The motion passed."

CCBWQA, March 19, 2020 Meeting Minutes, at 4.

410 Seventeenth Street, Suite 2200
Denver, CO 80202-4432
main 303.223.1100

However, on April 15, 2020, the Interim Committee, on behalf of CCBWQA, filed a Responsive Prehearing Statement stating:

“2. **COSPCH05 and proposed new segment COSPCH07**: CCBWQA asks the Commission to support:

Setting the phosphorus standard at 0.083 mg/L **as a placeholder, to allow Parker Water and Sanitation District, RHR participants¹, and CCBWQA to develop a site-specific phosphorus standard for consideration by the WQCC and

Setting the chlorophyll *a* standard at 20 µg/L **as an placeholder, to allow Parker Water and Sanitation District, RHR participants, and CCBWQA to develop a site specific direct-use water supply chlorophyll *a* standard for consideration by the WQCC.

CCBWQA takes no exception to the Division’s other proposed classifications, numeric criteria and standards for Rueter-Hess Reservoir.

Details about this issue are on pages 4 to 6.”

Clearly, the Interim Committee made a significant change in the Responsive Prehearing Statement filed with the State from the type of Responsive Prehearing Statement the Board had endorsed at the March 19, 2020, board meeting. The Interim Committee’s changed approach was not revisited with the Board prior to the filing of the Responsive Prehearing Statement. As a result, Board members were not given the chance to review this change in approach and provide input. We would have advised the Board not to have the CCBWQA endorse setting phosphorus and chlorophyll *a* standards of 0.083 mg/L and 20 ug/L, respectively.

Further as the Interim Committee knew prior to filing its Responsive Prehearing Statement, the Water Quality Control Division had already withdrawn its RHR nutrients proposal. The Rueter-Hess Partners determined and advised CCBWQA staff that the proposed nutrient standards would create compliance challenges. In the Rebuttal Prehearing Statement, the CCBWQA did not ask the Division to impose interim nutrient standards. Both Parker Water and Castle Rock appreciate this decision.

There will be numeric nutrient standards for RHR, but they will be determined using a reservoir model (based on RHR data) that is now being developed by Hydros Consulting, Inc. It is important that water quality standards be based on sound data and science. CCBWQA certainly knows that from their experiences.

We are working on the model and reservoir operations plans that will provide the data for defining site-specific standards. CCBWQA has offered to collaborate on those efforts. We welcome your ideas and thoughts, but collaboration is only beneficial and successful if the parties are open, honest, and committed to working within the defined process, not formulating independent positions and working to justify them. We look to the CCBWQA Board for a conversation on how to engage in effective and transparent communication on RHR.

We appreciate the comments from Board Chairman, Joshua Rivera, and the support by other Board members to develop a process for better communications and participation with Parker Water & Sanitation District, and its partners on Rueter Hess Reservoir. We look forward to working more closely with CCBWQA as we move forward.

Parker Water & Sanitation District

By: _____
Ron Redd, District Manager

Town of Castle Rock

By: _____
Mark Marlowe, Director of Castle Rock Water

cc: Chuck Reid, Manager (chuck.reid@ccbwwa.org)

RLS:rlj

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