

RESOLUTION NO. 2011 - 3

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE BATTLEMENT MESA METROPOLITAN DISTRICT, BATTLEMENT MESA, COLORADO, REQUESTING THAT THE COLORADO WATER QUALITY CONTROL COMMISSION THOROUGHLY ASCERTAIN THE COSTS OF NUTRIENT REGULATION PRIOR TO ADOPTION, AND REQUESTING THE GOVERNOR AND STATE LEGISLATURE ADDITIONALLY ASCERTAIN THE COSTS TO IMPLEMENT NUTRIENT REGULATIONS.

WHEREAS, The Water Quality Control Division (the Division) of the Colorado Department of Public Health and Environment (CDPHE) is moving forward to adopt regulations regarding nutrient discharges from wastewater plants (WWTPs); and

WHEREAS, studies prepared by the United States Environmental Protection Agency (EPA) and others have failed to establish levels of cause and effect between nutrients in WWTP discharges in Colorado and benefits for the aquatic life or downstream water users; and

WHEREAS, the Board of Directors of the Battlement Mesa Metropolitan District (BMMD) believes that the cost of the various nutrient regulations being considered by the Division may ultimately threaten the very existence of some smaller communities in Colorado; and

WHEREAS, The Board of Directors of the BMMD believes that the adoption of regulations without first determining the cost of such regulation is “bad public policy-making” and is irresponsible; and

WHEREAS, the Colorado Water Resources and Power Development Authority (Authority) has proposed funding a study to objectively determine Colorado specific costs related to proposed nutrient discharge regulations; and

WHEREAS, the Division and the Water Quality Control Commission have the responsibility to objectively evaluate the costs of their draft regulations, but have failed to do so; and

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE BATTLEMENT MESA METROPOLITAN DISTRICT, BATTLEMENT MESA, COLORADO:

Section 1. The Board of Directors of the BMMD respectfully requests that the Water Quality Control Commission, the State Legislature, and the Governor utilize their financial and regulatory authority, as well as good commonsense, to prevent the imposition of nutrient regulations where little or no benefit will occur or are unknown, but potentially, at great costs.

Section 2. The Board of Directors of the BMMD further requests that the Colorado Attorney General review the legal status of nutrient regulations in other states, in particular, Florida, and take such judicial actions as are in the best interests of the citizens of Colorado.

Section 3. The Board of Directors of the BMMD requests that the Colorado Municipal League and the Colorado Special District Association and wastewater treatment entities having circumstances similar to those of the BMMD, consider taking action similar to those outlined in this Resolution.

Section 4. The Board of Directors of the BMMD expresses its support and gratitude to the Colorado Water Resources and Power Development Authority for its leadership as well as its financial support in developing a cost/benefit analysis of the nutrient regulations being proposed by the Division and EPA.

Section 5. The Board of Directors of the BMMD further requests the assistance of the Colorado Congressional Delegation in providing relief from federally imposed regulations which lack benefits but result in unknown costs.

INTRODUCED, READ, PASSED, AND ADOPTED at a regular meeting of the Board of Directors of the BMMD, Battlement Mesa, Colorado, held on March 24, 2011.

Battlement Mesa Metropolitan District

By: _____



Its: _____

President

ATTEST:

Sara B. McCord



Battlement Mesa Metropolitan District

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March 25, 2011

The Honorable John Hickenlooper, Governor
State of Colorado
136 State Capitol
Denver, CO 80203-1792

Re: Proposed Nutrient Regulations

Dear Governor Hickenlooper:

On behalf of the Battlement Mesa Metropolitan District's Board of Directors, we wanted to thank you for your recognition of issues that local communities face when forced to comply with federal mandates as outlined in your recently enacted Executive Order 2011-005, reiterating and strengthening the prohibition against unfunded mandates.

There is currently an ongoing issue that fits this exact situation that is being contemplated by the Water Quality Control Division (Division) of the Colorado Department of Public Health and Environment (CDPHE) regarding nutrient (nutrient and phosphorus) removal in sanitary wastewater and storm water systems. This proposal is of particular concern to the District as an onerous unfunded mandate, and its potential impacts to the operation of our wastewater treatment facility that serves the Battlement mesa area and Town of Parachute in Western Colorado.

The Division has ascertained that the regulation of nitrogen and phosphorus is being mandated by the EPA. That does not seem to be the case. In fact, the Science Advisory Board to EPA has itself produced scientific studies questioning whether there is any demonstrable benefit of reducing nutrient discharges to any particular level.

In any case, the enactment of such regulations which are certain to carry a significant cost to local municipalities and special districts in terms of both capital and increased operational costs in the absence of known benefits, is irresponsible. On March 24, 2011 the Board of Directors of the Battlement Mesa Metropolitan District unanimously approved resolution 2011-3 (copy attached). The Board of Directors appeals to you, the state legislature, and our Congressional representatives to investigate the matter of nutrient regulations to ensure that our scarce available funding sources are not wasted on a federal mandate based on questionable science that will have little to no benefit as it relates to the State's rivers and streams (in particular the Colorado River where the district treatment plant discharges).

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From our perspective, it appears that the Division, as well as the EPA, should be evaluating costs and benefits in literally everything it does, and certainly should be following the spirit of EO 2011-005 in drafting new regulations. I hope your administration will consider these thoughts that I suspect are shared by both large and small communities across Colorado.

Sincerely,



Lynn Shore, President
Battlement Mesa Metropolitan District

cc: BMMD Board of Directors
Sam Mamet, Colorado Municipal League
Randy Baumgardner, State Representative
Jean White, State Senator
US Representative Scott Tipton
US Senator Michael Bennett
US Senator Mark Udall
Anne Terry, Colorado Special District Association