DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

Water Quality Control Commission

REGULATION NO. 35 - CLASSIFICATIONS AND NUMERIC STANDARDS FOR GUNNISON AND LOWER DOLORES RIVER BASINS

5 CCR 1002-35

[Editor's Notes follow the text of the rules at the end of this CCR Document.]

35.1 AUTHORITY

These regulations are promulgated pursuant to section 25-8-101 et seq. C.R.S., as amended, and in particular, 25-8-203 and 25-8-204.

35.2 PURPOSE

These regulations establish classifications and numeric standards for the Gunnison River/Lower Dolores River Basins, including all tributaries and standing bodies of water. This includes all or parts of Gunnison, Delta, Montrose, Ouray, Mesa, Saguache and Hinsdale Counties. This also includes the lower Dolores River and its tributaries in Dolores, Montrose, Mesa and San Miguel Counties. The classifications identify the actual beneficial uses of the water. The numeric standards are assigned to determine the allowable concentrations of various parameters. Discharge permits will be issued by the Water Quality Control Division to comply with basic, narrative, and numeric standards and control regulations so that all discharges to waters of the state protect the classified uses. It is intended that these and all other stream classifications and numeric standards be used in conjunction with and be an integral part of Regulation No. 31 Basic Standards and Methodologies for Surface Water.

35.3 INTRODUCTION

These regulations and tables present the classifications and numeric standards assigned to stream segments listed in the attached tables (See Appendix 35-1). As additional stream segments are classified and numeric standards for designated parameters are assigned for this drainage system, they will be added to or replace the numeric standards in the tables in Appendix 35-1. Any additions or revisions of classifications or numeric standards can be accomplished only after public hearing by the Commission and proper consideration of evidence and testimony as specified by the statute and the "basic regulations".

35.4 DEFINITIONS

See the Colorado Water Quality Control Act and the codified water quality regulations for definitions.

35.5 BASIC STANDARDS

(1) Temperature

All waters of the Gunnison/Lower Dolores River Basins are subject to the following standard for temperature. (Discharges regulated by permits, which are within the permit limitations, shall not be subject to enforcement proceedings under this standard). Temperature shall maintain a normal pattern of diurnal and seasonal fluctuations with no abrupt changes and shall have no increase in temperature of a magnitude, rate, and duration deemed deleterious to the resident aquatic life. This standard shall not be interpreted or applied in a manner inconsistent with section 25-8-104, C.R.S.

(2) Qualifiers

See Basic Standards and Methodologies for Surface Water for a listing of organic standards at 31.11 Table B and metal standards found at 31.16 Table III. The column in the tables headed "Water + Fish" are presumptively applied to all aquatic life class 1 streams which also have a water supply classification, and are applied to aquatic life class 2 streams which also have a water supply classification, on a case-by-case basis as shown in Appendix 35-1. The column in the tables at 31.11 and 31.16 Table III headed "Fish Ingestion" is presumptively applied to all aquatic life class 1 streams which do not have a water supply classification, and are applied to aquatic life class 2 streams which do not have a water supply classification, on a case-by-case basis as shown in Appendix 35-1.

(3) Uranium

(a) All waters of the Gunnison/Lower Dolores River Basin, are subject to the following basic standard for uranium, unless otherwise specified by a water quality standard applicable to a particular segment. However, discharges of uranium regulated by permits which are within these permit limitations shall not be a basis for enforcement proceedings under this basic standard.

(b) Uranium level in surface waters shall be maintained at the lowest practicable level.

(c) In no case shall uranium levels in waters assigned a water supply classification be increased by any cause attributable to municipal, industrial, or agricultural discharges so as to exceed 16.8-30 µg/L or naturally-occurring concentrations (as determined by the State of Colorado), whichever is greater.

(i) The first number in the 16.8-30 µg/L range is a strictly health-based value, based on the Commission's established methodology for human health-based standards. The second number in the range is a maximum contaminant level, established under the federal Safe Drinking Water Act that has been determined to be an acceptable level of this chemical in public water supplies, taking treatability and laboratory detection limits into account. Control requirements, such as discharge permit effluent limitations, shall be established using the first number in the range as the ambient water quality target, provided that no effluent limitation shall require an "end-of-pipe" discharge level more restrictive than the second number in the range. Water bodies will be considered in attainment of this standard, and not included on the Section 303(d) List, so long as the existing ambient quality does not exceed the second number in the range.

(4) Nutrients

Prior to May 31, 2022, interim nutrient values will be considered for adoption only in the limited circumstances defined at 31.17(e). These circumstances include headwaters, Direct Use Water Supply (DUWS) Lakes and Reservoirs, and other special circumstances determined by the Commission. Additionally, prior to May 31, 2017, only total phosphorus and chlorophyll a will be considered for adoption. After May 31, 2017, total nitrogen will be considered for adoption per the circumstances outlined in 31.17(e).

Prior to May 31, 2022, nutrient criteria will be adopted for headwaters on a segment by segment basis for the Gunnison/Lower Dolores River Basin. Moreover, pursuant to 31.17(e) nutrient standards will only be adopted for waters upstream of all permitted domestic wastewater treatment facilities discharging prior to May 31, 2012 or with preliminary effluent limits requested prior to May 31, 2012, and any non-domestic facilities subject to Regulation 85 effluent limits and discharging prior to May 31, 2012. The following is a list of all permitted domestic wastewater treatment facilities discharging prior to May 31, 2012 or with preliminary effluent limits requested prior to May 31, 2012, and any non-domestic facilities subject to Regulation 85 effluent limits and discharging prior to May 31, 2012 in the Gunnison/Lower Dolores River Basin:

Segment	Permittee Name	Facility Name	Permit No.
COGUUG04	Almont Sewage Hereafter In Transit Plant	Almont WWTF	COG588012
COGUUG05a	East River Regional Sanitation District	East River Regional SD WWTF	COG588079
COGUUG05b	Crested Butte South Metro District	Crested Butte South Metro Dist WWTF	COG588045
COGUUG08	Crested Butte Town of	Crested Butte Town of WWTF	CO0020443
COGUUG13	Mt Crested Butte WSD	Mt Crested Butte WSD	CO0027171
COGUUG14	Camp Gunnison Inc	Camp Gunnison Church Camp	COG588112
COGUUG14	Gunnison City of	Gunnison City of	CO0041530
COGUUG29a	L and N Inc	L & N Inc	COG588052
COGUUG29a	Lake City Town of	Lake City WWTF	CO0040673
COGUUG29a	Ute Trail Ranch Foundation	Sky Ranch at Ute Trail	COG588109
COGUNF03	Hotchkiss Town of	Hotchkiss Town of	CO0044903
COGUNF03	Paonia Town of	Paonia WWTF	CO0047431
COGUNF04a,c	Scarp Ridge Lodge	Irwin Mountain Lodge	CO0045217
COGUNF06b	Crawford Town of	Crawford WWTF	CO0037729
COGUUN03b~~a~~	Ouray City of	Ouray City of	CO0043397
COGUUN03c~~a~~	Ridgway Town of	Ridgway, Town of	COG588047
COGUUN04b	Montrose City of	Montrose WWTP	CO0039624
COGUUN04b	Olathe Town of	Olathe Town of	CO0020907
COGUUN04b	West Montrose Sanitation District	West Montrose Sanitation Dist WWTF	CO0030449
COGUUN10b	Elk Meadows Estates	Elk Meadows WWTF	COG589091
COGULG02	Delta City of	Delta WWTF	CO0039641
COGULG06b	Delta Correctional Center	Delta Correctional Center	COG588032
COGULG07b	Volunteers of America Care Fac	Horizon Health Care & Retirement Community	CO0042617
COGULG07b~~9~~	Cedaredge Town of	Cedaredge WWTF	CO0031984
COGUSM03b	Last Dollar PUD Improvements Assn	Last Dollar WWTF	COG588005
COGUSM03b	Telluride Town of	Regional WWTF	CO0041840
COGUSM04a~~3~~ ~~b~~	Ilium Park Owners Association	Lawson Hull PUD Ilium Valley WWTF	COG588021
COGUSM04a	Wick Hospitality Group LLC	Blue Jay Restaurant and Lodge	COG588113
COGUSM04a	Fall Creek HOA	Fall Creek	COG588119

Segment	Permittee Name	Facility Name	Permit No.
COGUSM05a	Naturita Town of	Naturita WWTF	CO0024007
COGUSM08	Stemz LLC	Ilium Power Station Church Camp	COG588033
COGUSM12c	Nucla Town of	Nucla WWTF	COG589067
COGULD02	SW Mesa County Rural Public Improvement District	SW Mesa Co Rural Pub Imp Dist WWTF	COG588086

Prior to May 31, 2022:

- For segments located entirely above these facilities, nutrient standards apply to the entire segment.
- For segments with portions downstream of these facilities, *nutrient standards only apply above these facilities*. A note was added to the total phosphorus and chlorophyll *a* standards in these segments. The note references the table of qualified facilities at 35.5(4).
- For segments located entirely below these facilities, nutrient standards do not apply.

A note was added to the total phosphorus and chlorophyll a standards in lakes segments as nutrients standards apply only to lakes and reservoirs larger than 25 acres surface area.

35.6 TABLES

(1) Introduction

The numeric standards for various parameters in this regulation and in the tables in Appendix 35 1 were assigned by the Commission after a careful analysis of the data presented on actual stream conditions and on actual and potential water uses. For each parameter listed in the tables in Appendix 35-1, only the most stringent standard is shown. Additional, less stringent standards may apply to protect additional uses and can be found in the tables in Regulation No. 31.

Numeric standards are not assigned for all parameters listed in the tables in Regulation No. 31. If additional numeric standards are found to be needed during future periodic reviews, they can be assigned by following the proper hearing procedures.

(2) Abbreviations:

(a) The following abbreviations are used in this regulation and the tables in Appendix 35-1:

ac	=	acute (1-day)
AEL	=	alternative effluent limit
°C	=	degrees Celsius
ch	=	chronic (30-day)
CL	=	cold lake temperature tier
CLL	=	cold large lake temperature tier
CS-I	=	cold stream temperature tier one
CS-II	=	cold stream temperature tier two
DM	=	daily maximum temperature
D.O.	=	dissolved oxygen
DUWS	=	direct use water supply
E. coli	=	*Escherichia coli*
mg/L	=	milligrams per liter
MWAT	=	maximum weekly average temperature
OW	=	outstanding waters

sc	=	sculpin
sp	=	spawning
SSE	=	site-specific equation
T	=	total recoverable
t	=	total
tr	=	trout
TVS	=	table value standard
µg/L	=	micrograms per liter
UP	=	use-protected
WL	=	warm lake temperature tier
WS	=	water supply
WS-II	=	warm stream temperature tier two
WS-III	=	warm stream temperature tier three

(b) In addition, the following abbreviations are used:

Iron (chronic)	=	WS
Manganese (chronic)	=	WS
Sulfate (chronic)	=	WS

These abbreviations mean: For all surface waters with an actual water supply use, the less restrictive of the following two options shall apply as numerical standards, as specified in the Basic Standards and Methodologies at 31.16 Table II and III:

(i) existing quality as of January 1, 2000; or

(ii)

Iron	=	300 µg/L (dissolved)
Manganese	=	50 µg/L (dissolved)
Sulfate	=	250 mg/L (dissolved)

For all surface waters with a “water supply” classification that are not in actual use as a water supply, no water supply standards are applied for iron, manganese or sulfate, unless the Commission determines as the result of a site-specific rulemaking hearing that such standards are appropriate.

(c) Temporary Modification for Water + Fish Chronic Arsenic Standard

(i) The temporary modification for chronic arsenic standards applied to segments with an arsenic standard of 0.02 µg/L that has been set to protect the Water + Fish qualifier is listed in the Other column in Appendix 35-1 tables as As(ch)=hybrid.

(ii) For discharges existing on or before 6/1/2013, the temporary modification is: As(ch)=current condition, expiring on 12/31/2024. Where a permit for an existing discharge is reissued or modified while the temporary modification is in effect, the division will include additional permit Terms and Conditions, which may include requirements for additional monitoring, source identification, and characterization of source control and treatment options for reducing arsenic concentrations in effluent.

(iii) For new or increased discharges commencing on or after 6/1/2013, the temporary modification is: As(ch)=0.02-3.0 µg/L (total recoverable), expiring on 12/31/2024.

(a) The first number in the range is the health-based water quality standard previously adopted by the Commission for the segment.

(b) The second number in the range is a technology-based value established by the Commission for the purpose of this temporary modification.

(c) Control requirements, such as discharge permit effluent limitations, shall be established using the first number in the range as the ambient water quality target, provided that no effluent limitation shall require an "end-of-pipe" discharge level more restrictive than the second number in the range.

(3) Table Value Standards

In certain instances in the tables in Appendix 35-1, the designation "TVS" is used to indicate that for a particular parameter a "table value standard" has been adopted. This designation refers to numerical criteria set forth in the Basic Standards and Methodologies for Surface Water. The criteria for which the TVS are applicable are on the following table.

TABLE VALUE STANDARDS
(Concentrations in µg/L unless noted)

PARAMETER(1)	**TABLE VALUE STANDARDS (2)(3)**
Aluminum(T)	Acute = $e^{(1.3695*\ln(\text{hardness})+1.8308)}$ pH equal to or greater than 7.0 Chronic=$e^{(1.3695*\ln(\text{hardness})-0.1158)}$ pH less than 7.0 Chronic= $e^{(1.3695*\ln(\text{hardness})-0.1158)}$ or 87, whichever is less
Ammonia(4)	Cold Water = (mg/L as N) Total $acute = \frac{0.275}{1+10^{7.204-pH}} + \frac{39.0}{1+10^{pH-7.204}}$ $chronic = \left(\frac{0.0577}{1+10^{7.688-pH}} + \frac{2.487}{1+10^{pH-7.688}}\right) * MIN\left(2.85, 1.45*10^{0.028(25-T)}\right)$
	Warm Water = (mg/L as N) Total $acute = \frac{0.411}{1+10^{7.204-pH}} + \frac{58.4}{1+10^{pH-7.204}}$ $chronic\ (Apr1-Aug31) = \left(\frac{0.0577}{1+10^{7.688-pH}} + \frac{2.487}{1+10^{pH-7.688}}\right) * MIN\left(2.85, 1.45*10^{0.028(25-T)}\right)$ $chronic\ (Sep1-Mar31) = \left(\frac{0.0577}{1+10^{7.688-pH}} + \frac{2.487}{1+10^{pH-7.688}}\right) * 1.45*10^{0.028*(25-MAX(T,\ 7))}$
Cadmium	Acute(warm)(5) = $(1.136672-(\ln(\text{hardness})*0.041838))*e^{(0.9789*\ln(\text{hardness})-3.443)}$ Acute(cold)(5) = $(1.136672-(\ln(\text{hardness})*0.041838))*e^{(0.9789*\ln(\text{hardness})-3.866)}$ Chronic = $(1.101672-(\ln(\text{hardness})*0.041838))*e^{(0.7977*\ln(\text{hardness})-3.909)}$
Chromium III(6)	Acute = $e^{(0.819*\ln(\text{hardness})+2.5736)}$ Chronic = $e^{(0.819*\ln(\text{hardness})+0.5340)}$
Chromium VI(6)	Acute = 16 Chronic = 11

<table>
<tr><td>Copper</td><td colspan="5">Acute = $e^{(0.9422*\ln(hardness)-1.7408)}$
Chronic = $e^{(0.8545*\ln(hardness)-1.7428)}$</td></tr>
<tr><td>Lead</td><td colspan="5">Acute = $(1.46203-(\ln(hardness)*0.145712))*e^{(1.273*\ln(hardness)-1.46)}$
Chronic = $(1.46203-(\ln(hardness)*0.145712))*e^{(1.273*\ln(hardness)-4.705)}$</td></tr>
<tr><td>Manganese</td><td colspan="5">Acute = $e^{(0.3331*\ln(hardness)+6.4676)}$
Chronic = $e^{(0.3331*\ln(hardness)+5.8743)}$</td></tr>
<tr><td>Nickel</td><td colspan="5">Acute = $e^{(0.846*\ln(hardness)+2.253)}$
Chronic = $e^{(0.846*\ln(hardness)+0.0554)}$</td></tr>
<tr><td>Selenium[7]</td><td colspan="5">Acute = 18.4
Chronic = 4.6</td></tr>
<tr><td>Silver</td><td colspan="5">Acute = $0.5*e^{(1.72*\ln(hardness)-6.52)}$
Chronic = $e^{(1.72*\ln(hardness)-9.06)}$
Chronic(Trout) = $e^{(1.72*\ln(hardness)-10.51)}$</td></tr>
<tr><td>Temperature</td><td colspan="5"><table>
<tr><th rowspan="2">TEMPERATURE TIER</th><th rowspan="2">TIER CODE</th><th rowspan="2">SPECIES EXPECTED TO BE PRESENT</th><th rowspan="2">APPLICABLE MONTHS</th><th colspan="2">TEMPERATURE STANDARD (°C)</th></tr>
<tr><th>MWAT</th><th>DM</th></tr>
<tr><td rowspan="2">Cold Stream Tier I</td><td rowspan="2">CS-I</td><td rowspan="2">brook trout, cutthroat trout</td><td>June – Sept.</td><td>17.0</td><td>21.7</td></tr>
<tr><td>Oct. – May</td><td>9.0</td><td>13.0</td></tr>
<tr><td rowspan="2">Cold Stream Tier II</td><td rowspan="2">CS-II</td><td rowspan="2">all other cold-water species</td><td>April – Oct.</td><td>18.3</td><td>24.3</td></tr>
<tr><td>Nov. – March</td><td>9.0</td><td>13.0</td></tr>
<tr><td rowspan="2">Cold Lakes[8]</td><td rowspan="2">CL</td><td rowspan="2">brook trout, brown trout, cutthroat trout, lake trout, rainbow trout, Arctic grayling, sockeye salmon</td><td>April – Dec.</td><td>17.0</td><td>21.2</td></tr>
<tr><td>Jan. – March</td><td>9.0</td><td>13.0</td></tr>
<tr><td rowspan="2">Cold Large Lakes (>100 acres surface area)[8]</td><td rowspan="2">CLL</td><td rowspan="2">rainbow trout, brown trout, lake trout</td><td>April – Dec.</td><td>18.3</td><td>24.2</td></tr>
<tr><td>Jan. – March</td><td>9.0</td><td>13.0</td></tr>
<tr><td rowspan="2">Warm Stream Tier II</td><td rowspan="2">WS-II</td><td rowspan="2">brook stickleback, central stoneroller, creek chub, longnose dace, northern redbelly dace, finescale dace, razorback sucker, white sucker, mountain sucker</td><td>March – Nov.</td><td>27.5</td><td>28.6</td></tr>
<tr><td>Dec. – Feb.</td><td>13.8</td><td>25.2</td></tr>
<tr><td rowspan="2">Warm Stream Tier III</td><td rowspan="2">WS-III</td><td rowspan="2">all other warm-water species</td><td>March – Nov.</td><td>28.7</td><td>31.8</td></tr>
<tr><td>Dec. – Feb.</td><td>14.3</td><td>24.9</td></tr>
<tr><td rowspan="2">Warm Lakes</td><td rowspan="2">WL</td><td rowspan="2">black crappie, bluegill, common carp, gizzard shad, golden shiner, largemouth bass, northern pike, pumpkinseed, sauger, smallmouth bass, spottail shiner, stonecat, striped bass, tiger muskellunge, walleye, wiper, white bass, white crappie, yellow perch</td><td>April – Dec.</td><td>26.2</td><td>29.3</td></tr>
<tr><td>Jan. – March</td><td>13.1</td><td>24.1</td></tr>
</table></td></tr>
<tr><td>Uranium</td><td colspan="5">Acute = $e^{(1.1021*\ln(hardness)+2.7088)}$
Chronic = $e^{(1.1021*\ln(hardness)+2.2382)}$</td></tr>
</table>

Zinc	Acute = $0.978*e^{(0.9094*\ln(\text{hardness})+0.9095)}$ Chronic = $0.986*e^{(0.9094*\ln(\text{hardness})+0.6235)}$ Where hardness is less than 102 mg/L $CaCO^3$ and mottled sculpin are expected to be present: Chronic (sculpin) = $e^{(2.140*\ln(\text{hardness})-5.084)}$

TABLE VALUE STANDARDS - FOOTNOTES

(1) Metals are stated as dissolved unless otherwise specified.

(2) Hardness values to be used in equations are in mg/L as calcium carbonate and shall be no greater than 400 mg/L, except for aluminum for which hardness shall be no greater than 220 mg/L. The hardness values used in calculating the appropriate metal standard should be based on the lower 95 per cent confidence limit of the mean hardness value at the periodic low flow criteria as determined from a regression analysis of site-specific data. Where insufficient site-specific data exists to define the mean hardness value at the periodic low flow criteria, representative regional data shall be used to perform the regression analysis. Where a regression analysis is not appropriate, a site-specific method should be used. In calculating a hardness value, regression analyses should not be extrapolated past the point that data exist.

(3) Both acute and chronic numbers adopted as stream standards are levels not to be exceeded more than once every three years on the average.

(4) For acute conditions the default assumption is that salmonids could be present in cold water segments and should be protected, and that salmonids do not need to be protected in warm water segments. For chronic conditions, the default assumptions are that early life stages could be present all year in cold water segments and should be protected. In warm water segments the default assumption is that early life stages are present and should be protected only from April 1 through August 31. These assumptions can be modified by the commission on a site-specific basis where appropriate evidence is submitted. The “T” in the chronic equations stands for temperature.

(5) The acute(warm) cadmium equation applies to segments classified as Aquatic Life Warm Class 1 or 2. The acute(cold) cadmium equation applies to segments classified as Aquatic Life Cold Class 1 or 2.

(6) Unless the stable forms of chromium in a waterbody have been characterized and shown not to be predominantly chromium VI, data reported as the measurement of all valence states of chromium combined should be treated as chromium VI. In addition, in no case can the sum of the concentrations of chromium III and chromium VI or data reported as the measurement of all valence states of chromium combined exceed the water supply standards of 50 µg/L chromium in those waters classified for domestic water use.

(7) Selenium is a bioaccumulative metal and subject to a range of toxicity values depending upon numerous site-specific variables.

(8) Lake trout-based summer temperature criteria [16.6 (ch), 22.4 (ac)] apply where appropriate and necessary to protect lake trout from thermal impacts.

(4) Discharger-~~ S~~specific Variances

(a) San Miguel Segment 12c (COGUSM12c):

Discharger-s~~S~~pecific Variance, Town of Nucla (COG589067), Adopted 10/11/2016.

Ammonia (acute): ~~=~~ ~~TVS:~~AEL=no limit;
Ammonia (chronic): ~~=~~ ~~TVS:~~AEL=13.8 mg/L (11/1-4/30);
Ammonia (chronic): ~~=~~ ~~TVS:~~AEL=8.3 mg/L (5/1-10/31).
Expiration date: 12/31/2026.

(5) Stream Classifications and Water Quality Standards Tables

The stream classifications and water quality standards tables in Appendix 35-1 are incorporated herein by reference.

The following is information regarding duration and measured form of standards in Appendix 35-1:

(a) *E. coli* criteria and resulting standards for individual water segments, are established as indicators of the potential presence of pathogenic organisms. Standards for *E. coli* are expressed as a two-month geometric mean. Site-specific or seasonal standards are also two-month geometric means unless otherwise specified.

(b) All phosphorus standards are based upon the concentration of total phosphorus. For total phosphorus, stream standards are expressed as an annual median and for lakes standards as a summer (July 1 - September 30) average in the mixed layer. For chlorophyll a, stream standards are expressed as a maximum of attached algae and lakes standards as a summer (July 1 - September 30) average in the mixed layer. For additional assessment details, see tables at Regulation 31.17(b) and (d).

(c) The pH standards of 6.5 (or 5.0) and 9.0 are an instantaneous minimum and maximum, respectively to be applied as effluent limits. In determining instream attainment of water quality standards for pH, appropriate averaging periods may be applied, provided that beneficial uses will be fully protected.

(d) All mercury standards apply to the total recoverable fraction of all forms, both organic and inorganic, of mercury in water.

(e) All ammonia, nitrate, and nitrite standards are based upon the concentration reported as nitrogen.

(6) Site-specific Standards, Assessment Locations, and Assessment Criteria

The following criteria and/or locations shall be used when assessing whether a specified waterbody is in attainment of the specified standard.

(a) Upper Gunnison Segment 18b: Temperature Assessment Locations (4/1 – 10/31)

- Tomichi Creek at Doyleville: 38.456592, -106.626869
- Tomichi Creek at Gunnison: 38.521111, -106.940958

(b) North Fork Gunnison Segment 3: Temperature Assessment Location (3/16 – 11/15)

- North Fork Gunnison River above mouth near Lazear: 38.785167, -107.833417

35.7 - 35.10 RESERVED

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35.51 STATEMENT OF BASIS, SPECIFIC STATUTORY AUTHORITY AND PURPOSE; JUNE 13-14, 2022 RULEMAKING; FINAL ACTION AUGUST 8, 2022; EFFECTIVE DATE SEPTEMBER 30, 2022

The provisions of C.R.S. 25-8-202(1)(a), (b) and (2); 25-8-203; 25-8-204; and 25-8-402; provide the specific statutory authority for adoption of these regulatory amendments. The commission also adopted in compliance with 24-4-103(4) C.R.S. the following statement of basis and purpose.

BASIS AND PURPOSE

A. Waterbody Segmentation

Some segments were renumbered, combined, or new segments were created to facilitate appropriate organization of water bodies in this regulation. Renumbering and/or creation of new segments was made based on information that showed: a) the original reason for segmentation no longer applied; b) significant differences in uses, water quality and/or physical characteristics warrant a change in standards on only a portion of the existing segment; and/or c) certain segments could be merged into one segment because they had similar water quality and uses. The following changes were made:

Upper Gunnison segments 2 and 26 (COGUUG02 and COGUUG26): Segment 2 is designated as Outstanding Waters, has a Recreation E use, and includes several waterbodies in the vicinity of Soap Creek. This segment previously excluded Soap Creek and its tributaries and wetlands, which were included in Segment 26. To facilitate changing the antidegradation designation from Reviewable to Outstanding Waters and adopting a Recreation E use classification on Soap Creek, the exception for this stream was removed from the Segment 2 description, resulting in Soap Creek, including its tributaries and wetlands, being included in Segment 2.

Upper Gunnison segments 3 and 4 (COGUUG03 and COGUUG04): The Taylor River, including its tributaries and wetlands, from the source to a point immediately below the confluence with Illinois Creek, was moved from Segment 4 to Segment 3. The move facilitated changing the antidegradation designation from Reviewable to Outstanding Waters for the portion of the Taylor River included in Segment 3. As part of this change, Segment 4 was revised to only include the portion of the Taylor River, including its tributaries and wetlands, below Illinois Creek.

Lower Gunnison segments 3a, 3b, 4a, 5b, 5c (COGULG03a, COGULG03b, COGULG04a, COGULG05b, COGULG05c): To facilitate changing the antidegradation designation from Reviewable or Use Protected to Outstanding Waters on several waterbodies previously included in segments 3, 4a, and 5b, multiple segment descriptions were modified, Segment 3 was divided into 3a and 3b, and a new Segment 5c was created, as discussed in more detail below.

Segment 3 previously included several tributaries to the Gunnison River within national forest boundaries. To facilitate adopting an Outstanding Waters designation on a subset of these tributaries, new Segment 3b was created to include the mainstems of Big Dominguez Creek, Little Dominguez Creek, Escalante Creek, Potter Creek, and Roubideau Creek, including tributaries and wetlands, within the Uncompahgre National Forest.

Segment 5b was modified to clarify that it includes the portion of the mainstem of Roubideau Creek from the national forest boundary to above Potter Creek and the portion of Potter Creek from below Monitor Creek to the confluence with Roubideau Creek.

Segment 5c was created to encompass several waterbodies previously included in Segment 4a, including all tributaries and wetlands to Roubideau Creek from the national forest boundary to below Potter Creek (except for the portions of Potter Creek and Monitor Creek in Segment 5b); all tributaries and wetlands to Escalante Creek from the national forest boundary to the

Delta/Montrose County line (except for listings in Segment 5a); all tributaries and wetlands to Little Dominguez Creek from the national forest boundary to Big Dominguez Creek; and all tributaries and wetlands to Big Dominguez Creek from the national forest boundary to the Gunnison River.

As part of this change, exceptions for segments 3a, 3b, and 5c were added to the segment description of Segment 4a, and an exception for Segment 3b was added to the description of Segment 3a.

San Miguel segments 2, 7a, and 7b (COGUSM02, COGUSM07a, COGUSM07b): To facilitate changing the antidegradation designation from Reviewable to Outstanding Waters on Waterfall Creek and its tributaries, Segment 7 was split into segments 7a and 7b. Waterfall Creek, including its tributaries and wetlands, from the source to Howard Fork, was moved from Segment 7 to new Segment 7b. Segment 7a retained a Reviewable designation and includes Howard Fork and its tributaries and wetlands, except for waterbodies in new Segment 7b. In addition, the exception of Segment 7 in the description of Segment 2 was changed to 7a and 7b.

San Miguel segments 9a, 9b, 10b, 10c, 12a, 12b, 12d (COGUSM09a, COGUSM09b, COGUSM10b, COGUSM10c, COGUSM12a, COGUSM12b, COGUSM12d): To facilitate changing the antidegradation designation from Use Protected or Reviewable to Outstanding Waters on Tabeguache Creek and its tributaries, segments 9, 10b, 12a, and 12b were modified and new segments 9a, 9b, 10c, and 12d were created.

Segment 9 was split into segments 9a and 9b. Tributaries and wetlands to Tabeguache Creek within the Uncompahgre National Forest were moved from Segment 9 to new Segment 9b to facilitate adoption of an Outstanding Waters designation on these waterbodies. As part of this change, an exception for Segment 9b was added to the description of Segment 9a. In addition, an exception for Segment 9a was added to the description of Segment 12a, and the exception of Segment 9 in the description of Segment 12b was changed to 9a and 9b.

The portion of the mainstem of Tabeguache Creek from the Uncompaghre National Forest to the San Miguel River was moved from Segment 10b to new Segment 10c to facilitate changing the antidegradation designation from Reviewable to Outstanding Waters on this waterbody. Tabeguache Creek was removed from the description of Segment 10b. As part of these changes, exceptions for segments 10a, 10b, and 10c were added to the segment description of Segment 12b, for clarity.

Tributaries and wetlands to Tabeguache Creek from the Uncompaghre National Forest to the San Miguel River were moved from Segment 12b to new Segment 12d to facilitate changing the antidegradation designation from Reviewable to Outstanding Waters on these waterbodies. As part of this change, an exception for Segment 12d was added to the description of Segment 12b.

B. Temporary Modifications

Pursuant to the requirements in the Basic Standards (at 31.7(3)), all existing temporary modifications were examined to determine whether they should be deleted, modified, extended, or left unchanged.

1. Temporary Modifications for Standards Other than Arsenic

The commission allowed to expire on 12/31/2022 temporary modifications on the following segments:

Upper Gunnison River: 12 (COGUUG12; copper, zinc)

The commission extended the following temporary modifications:

Upper Gunnison River: 12 (COGUUG12; cadmium), 21 (COGUUG21; uranium)

Upper Gunnison River Segment 12 (COGUUG12): Mt. Emmons Mining Company (MEMC) provided an update to the commission on progress being made in implementing its adaptive management plan to resolve uncertainty for the acute and chronic cadmium, acute copper, and chronic zinc temporary modifications, which apply from April to June on Coal Creek in Upper Gunnison River Segment 12 (expire 12/31/2022). The commission deleted the acute copper temporary modification based on evidence provided by MEMC that showed the acute copper table value standard is attained instream. The commission also deleted the chronic zinc temporary modification based on evidence provided by MEMC that showed a lack of a water quality-based effluent limit (WQBEL) compliance issue.

For acute and chronic cadmium, the commission extended the temporary modifications by five years. MEMC demonstrated continued instream nonattainment, predicted WQBEL compliance issues, the need for additional time to resolve the remaining uncertainty regarding the extent to which instream conditions are reversible, and maintenance of status quo. MEMC also provided a new adaptive management plan to resolve uncertainty (MEMC Rebuttal Exhibit 12) that included details regarding the scheduled investigations and reporting required to resolve the uncertainty by 12/31/2027.

MEMC continues to make progress on resolving the uncertainty underlying the temporary modifications and determining the extent to which existing quality is the result of natural or irreversible human induced conditions, including the extent to which water quality improvements are feasible. Under the temporary modifications framework, MEMC and interested stakeholders have collaborated on an adaptive approach to improving water quality. Studies completed since the 2017 Regulation No. 35 hearing include: investigations of the mine tailings; evaluation of the tailings dam and decant line; assessment of sources and potential for loading reductions; studies of the North Interceptor Ditch; evaluation of alternatives including diversion opportunities; and water quality data collection and analysis. In addition, MEMC, in collaboration with other stakeholders, has planned and completed actions to improve water quality including reclamation of waste rock piles; ditch, road, and slope improvements; stormwater conveyance improvements and regrading of tailings covers; and diversion of runoff away from fault zones. These efforts, when fully implemented, are expected to result in measurable improvements in water quality; however, more data and information are needed to quantify the resulting concentrations.

Although significant progress has been made in resolving uncertainty, there remains significant uncertainty about the attainable water quality and attainable underlying standards. Specifically, the expected water quality outcome of the recent, ongoing, and future remediation and diversion actions at the Keystone Mine are driving uncertainty as to the attainable water quality in Coal Creek. Additionally, although EPA has completed phase 1 source controls and begun an operation and maintenance program for the installed components at the Standard Mine Superfund Site (located in Segment 11, upstream from Segment 12), there remains uncertainty about the expected water quality in upstream Segment 11 and thus in Segment 12. More time is needed to allow MEMC and the stakeholders to continue remediation efforts and other improvements at the site, and to evaluate the long-term effects on water quality from these actions.

The existing operative values of 3.5 µg/L and 2.79 µg/L for acute and chronic cadmium, respectively, were retained. The temporary modifications will continue to apply from April to June on Coal Creek, and will expire 12/31/2027.

Upper Gunnison River Segment 21 (COGUUG21): Homestake Mining Company (HMC) provided an update to the commission on progress being made in implementing its plan to resolve uncertainty for the chronic uranium temporary modification, which has an operative value of “current condition” and applies to Marshall Creek from Indian Creek to Tomichi Creek in Upper Gunnison River Segment 21 (expires 12/31/2022). The commission extended the temporary modification by three years based on information presented by HMC that demonstrated continued instream nonattainment, predicted WQBEL compliance issues, the need for additional time to resolve the remaining uncertainty regarding the extent to which instream conditions are reversible, and maintenance of status quo. HMC also provided a new plan to resolve uncertainty (Homestake Exhibit 9) that included details

regarding the scheduled investigations and reporting required to resolve the uncertainty by 12/31/2025.

HMC's Pitch Reclamation Site (Site) is the main source of uranium loading to Indian Creek (Segment 20) and Marshall Creek (Segment 21). In 2012, Indian Creek (Segment 20) was assigned a narrative "LPL" (lowest practical level) standard for uranium. HMC has been evaluating methodologies to control uranium loading to Indian Creek from the Site to define the LPL standard. Ultimately, the controls are expected to reduce uranium loading to Indian Creek, which in turn will reduce uranium concentrations in Marshall Creek. The temporary modification on Segment 21 was adopted during the 2017 Regulation No. 35 hearing (35.45(N)) to provide time for HMC to define the LPL for Indian Creek and determine the effects of Site controls/improvements on Marshall Creek water quality.

HMC continues to make progress on resolving the uncertainty underlying the temporary modification and determining the extent to which existing quality is the result of natural or irreversible human-induced conditions, including the extent to which water quality improvements are feasible. Projects undertaken since the 2017 Regulation No. 35 hearing include, but are not limited to, the following: continued investigations into the effects of phosphorus injections into the underground mine workings and rock dumps to immobilize uranium; use of engineered treatment cells with various media to reduce uranium concentrations; application of ion exchange technology as a semi-passive means to treat surface waters in select areas; evaluation of potential "hot spots" in the rock dumps; construction of diversions to minimize infiltration into mineralized zones and rock dumps; evaluation of Marshall Creek hydrology; continued sampling of wells in the Town of Sargents; investigations into the potential to redrill deeper wells for Sargents residents; continued instream water quality sampling; working with the Saguache County Commissioners to restrict drilling of new alluvial wells along Marshall Creek; and, working with private property owners along Marshall Creek to establish conservation easements.

Although HMC has made significant progress to resolve uncertainty, there remains significant uncertainty regarding the LPL of uranium that is feasible to achieve in Marshall Creek and Indian Creek. More time is needed to identify feasible treatment alternatives and best management practices to achieve the lowest practical level of uranium in segments 20 and 21. HMC's new plan to resolve uncertainty includes activities to develop a discharger-specific variance proposal; continued monitoring to quantify any potential improvements to water quality; and regular updates to the division, EPA, Upper Gunnison Parties and the commission.

The existing narrative operative value of "current condition" was retained. In future reviews of this temporary modification, the commission will use the previously established instream and effluent values recorded at 35.49 to compare to the most recent five years of representative data to determine if effluent and waterbody quality is maintained and ensure that the existing uses are protected. The temporary modification will continue to apply to Marshall Creek from Indian Creek to Tomichi Creek, and will expire 12/31/2025.

2. Temporary Modifications for Arsenic

To remain consistent with the commission's decisions regarding arsenic in section 35.47, all existing temporary modifications for arsenic of "As(ch)=hybrid" (expiration date of 12/31/24), with the exception of those listed below, were retained.

The division submitted a plan to resolve uncertainty in the 2019 Temporary Modifications rulemaking. The division plans to propose revised standards for arsenic as soon as possible following updated toxicological information from EPA's Integrated Risk Information System (IRIS) and completion of ongoing studies to better understand arsenic conditions in Colorado. Furthermore, per the conditions of the revised and extended temporary modification at 35.6(2)(c) (effective 6/30/2020 and expires 12/31/2024), and based on the widespread need to make progress to understand sources of arsenic and set forth processes for lowering arsenic in discharges, additional permit Terms and Conditions (T&Cs) are being implemented for facilities benefitting from the "current condition" temporary

modification. These T&Cs may include requirements for additional monitoring, source identification, and characterization of source control and treatment options for reducing arsenic concentrations in effluent. The commission recognizes the need to resolve the uncertainty in the arsenic standards and ensure that human health is adequately protected.

Where evidence indicated the requirements to qualify for a temporary modification were not met, temporary modifications were deleted. The temporary modification for arsenic was deleted from the following segment because the segment is designated as Outstanding Waters and has no CDPS permitted dischargers with WQBELs for arsenic:

Upper Gunnison River: 1 (COGUUG01)

C. Site-specific Standards

Site-specific criteria-based standards are adopted where alternate criteria are shown to be protective of the classified uses. Site-specific ambient-based standards are adopted where natural or irreversible human-induced conditions result in pollutant concentrations that exceed table value standards. Feasibility-based ambient standards are adopted where water quality can be improved, but not to the level required by the current numeric standard. Information is currently being gathered to better understand the basis of all existing site-specific standards and determine what information is needed to review each standard in future basin reviews. The commission made no revisions to any site-specific standards at this time.

D. Discharger-Specific Variances

The commission reviewed the basis, available information, and progress toward achieving the alternative effluent limits and implementing the Pollutant Minimization Program (PMP) for the one discharger-specific variance (DSV) in Regulation No. 35.

San Miguel River Segment 12c (COGUSM12c): There is currently a DSV for acute and chronic ammonia, which applies to the Town of Nucla (expires 12/31/2026). The commission reviewed the Town of Nucla's progress toward achieving the alternative effluent limits (AELs) for ammonia and determined that the AELs adopted in 2016 continue to represent the highest attainable water quality that is feasible for the Town of Nucla to achieve. However, the commission revised the PMP to include additional milestones and a revised timeline to continue to improve water quality in the receiving segments. The revised PMP is included in the division's Prehearing Statement (pages 13-14).

As part of its DSV requirements, the Town of Nucla was required to remove biosolids in its lagoon system, reline the lagoon, add baffle curtains, upgrade the aeration system, and install an insulated lagoon cover. The Town of Nucla has completed biosolids removal, relining of the lagoon, and addition of baffle curtains. Upgrades to the aeration system are in progress and currently 70% complete. Due to COVID-19 pandemic-related supply chain problems, the blowers needed to complete the aeration system upgrades have not been delivered yet; therefore, this phase of the project is estimated to be completed by August 2022. The final phase of the project, installation of an insulated modular floating cover system, is currently incomplete. Due to the significant rise in construction material costs in the recent years, insufficient funds remain to install the lagoon cover at this time. However, the Town of Nucla's effluent ammonia concentrations since the spring of 2020 show the ammonia AELs are being achieved. Therefore, the commission determined the Town of Nucla can continue to operate the treatment system without a lagoon cover until the end of 2024 and monitor whether ammonia concentrations continue to stay below AELs. If ammonia concentrations continue to achieve the AELs, the need for a lagoon cover can be reevaluated during the next review of this DSV. Therefore, the commission determined that this DSV is still appropriate with the revisions to the PMP. The commission expects that the Town of Nucla will submit annual reports to the division describing the progress made on PMP implementation until the end of the DSV.

The commission adopted non-substantive revisions to the format of this DSV in Section 35.6(4)(a) and the Appendix 35-1 table to provide clarity and consistency. In addition, the acronym "AEL" was defined at 35.6(2)(a).

E. Recreation Use Classifications and Standards

The commission reviewed information regarding the current Recreation use classification and evidence pertaining to actual or potential primary contact recreation in Soap Creek (COGUUG02). The Recreation use on this waterbody was evaluated as part of a resegmentation proposal to facilitate adoption of an Outstanding Waters designation on Soap Creek. Soap Creek was previously part of Upper Gunnison Segment 26 (COGUUG26), which has a Recreation U use. However, based upon evidence that multiple portions of Soap Creek are publicly accessible via public campgrounds adjacent to the stream, the stream is used for swimming and fishing, and flow is present year-round, it was determined that primary contact recreation is expected to occur, including water play by children. Therefore, the Recreation use classification on Soap Creek was upgraded from Recreation U to Recreation E; this change was facilitated by moving Soap Creek into Segment COGUUG02, which as a Recreation E use classification. The *E. coli* table value standard is 126 per 100 ml for both Recreation U and Recreation E, so no change to the applicable standard was necessary; however, data demonstrate Soap Creek attains the standard of 126 per 100 ml to protect the use.

F. Standards to Protect the Aquatic Life, Recreation, Water Supply, and Agriculture Uses

The commission reviewed the standards applied to each segment to determine if the standards are consistent with the uses. Some segments assigned an Aquatic Life, Recreation, Water Supply, and/or Agriculture use classification were missing one or more standards to protect that use. The commission adopted the missing standards for the following segments:

Uncompahgre River: 17 (COGUUN17; chronic zinc table value standard for Aquatic Life), 21 (COGUUN21; chronic arsenic standard of 7.6 µg/L for Fish Ingestion)

G. Other Standards to Protect Aquatic Life and Recreation Uses

The commission declined to adopt EPA's revised 304(a) Aquatic Life criteria for selenium, ammonia, and aluminum at this time; however, the division is committed to evaluating these new criteria. Studies are currently underway for each parameter to improve understanding of these criteria in the context of water quality conditions in Colorado and how these criteria may be adopted and implemented in Colorado in the future.

EPA has also released updated criteria or guidance for several other parameters, including copper (Aquatic Life), *E. coli* (Recreation), cyanotoxins (Recreation), and the human health risk exposure assumptions. However, the division does not recommend adopting EPA's recommendations for these parameters at this time, as these items are not included on the division's 10-year water quality roadmap.

H. Antidegradation Designations: Outstanding Waters

The commission designated several segments or waterbodies as Outstanding Waters based on evidence provided by the Southwest Colorado Outstanding Waters Coalition (SCOWC) that satisfied the criteria for Outstanding Waters designation set forth in Section 31.8(2)(a). The SCOWC is a diverse coalition comprising American Rivers, American Whitewater, Conservation Colorado, High Country Conservation Advocates, San Juan Citizens Alliance, The Pew Charitable Trusts, Trout Unlimited/Colorado Trout Unlimited/Dolores River Anglers, and Western Resource Advocates, which have a common goal of safeguarding clean water in Colorado.

Specifically, evidence demonstrated the following conditions were met: 1. existing water quality for the 12 parameters specified at 31.8(2)(a)(i) is equal to or better than necessary to protect uses; 2. the waterbody is considered an outstanding natural resource (i.e. State Gold Medal Trout Fishery, a National Park,

National Monument, National Wildlife Refuge, or a designated Wilderness Area, or is part of a designated wild river under the Federal Wild and Scenic Rivers Act, or has exceptional recreational or ecological significance and has not been substantially impacted by human activities) (31.8(2)(a)(ii)); and, 3. the waterbody needs protection in addition to the protections provided by uses, standards, and a Reviewable designation (31.8(2)(a)(iii)).

To further support the proposal, the SCOWC and stakeholders also provided information that demonstrates these waterbodies have important short- and long-term recreational and ecological value for the local communities. In addition, through the widespread outreach effort to interested and/or potentially impacted stakeholders conducted by the SCOWC, the commission determined that stakeholders supported the Outstanding Waters designations or, at a minimum, did not oppose the Outstanding Waters designations.

The Use Protected or Reviewable designation was upgraded to Outstanding Waters on the following segments or waterbodies:

- Soap Creek, including its tributaries and wetlands, below the West Elk Wilderness
- Taylor River, including its tributaries and wetlands, below the Collegiate Peaks Wilderness, to Illinois Creek
- Big Dominguez Creek, including its tributaries and wetlands
- Little Dominguez Creek, including its tributaries and wetlands
- Escalante Creek, including its tributaries and wetlands, from the source to the Delta/Montrose County line; excludes the portion of North Fork Escalante Creek from the Uncompahgre National Forest boundary to Escalante Creek
- Potter Creek, including its tributaries and wetlands
- Roubideau Creek, including its tributaries and wetlands, from the source to Potter Creek
- Waterfall Creek, including its tributaries and wetlands
- Tabeguache Creek, including its tributaries and wetlands

To meet the first requirement at 31.8(2)(a)(i), the SCOWC provided data (SCOWC Rebuttal Appendix 6) demonstrating that water quality in all of these waterbodies is equal to or better than the standards necessary to protect the uses for the 12 parameters specified at 31.8(2)(a)(i).

To meet the second requirement at 31.8(2)(a)(ii), the SCOWC provided evidence that each of these waterbodies is considered an outstanding natural resource. Where waterbodies were determined to be outstanding natural resources because they have exceptional recreational or ecological significance, per 31.8(2)(a)(ii)(B), the waters were shown to not be substantially impacted by human activities.

Several types of evidence were used to demonstrate that a waterbody is an outstanding natural resource because it has exceptional ecological significance, including information about fish populations, aquatic-dependent wildlife, the macroinvertebrate community, and/or the aquatic-dependent plant community.

- Fish: In addition to the evidence provided by the SCOWC, the commission relied on the expertise of Colorado Parks and Wildlife (CPW) staff for determining which waterbodies had fish populations with exceptional ecological significance. In general, CPW found a fish population to be exceptional if it supported a conservation population of cutthroat trout. Cutthroat trout are the only native trout to Colorado and conservation populations of this species are critical to reestablishing pure cutthroat populations in the state. Conservation populations of cutthroat trout are: 1. genetically unaltered and 2. not likely to be extirpated by collocated populations of brook, rainbow, and/or brown trout.

  Additionally, waterbodies supporting populations of bluehead sucker, flannelmouth sucker, and roundtail chub, and/or their spawning grounds, are ecologically exceptional. These three native warm water species depend on warm water habitat that is diminishing on the western slope of

Colorado. Though none of these species are listed as threatened or endangered, all three are a high priority for protection for CPW. In addition, the roundtail chub is a species of State Special Concern and the bluehead sucker is designated as a Tier 1 State Species of Greatest Conservation Need. The United States Forest Service and the Bureau of Land Management have listed the bluehead sucker as a sensitive species.

- Aquatic-dependent wildlife: Waterbodies supporting federally- or state-listed threatened or endangered species, such boreal toads, were found to have exceptional ecological significance.
- Macroinvertebrates: Waterbodies supporting benthic macroinvertebrate communities that were "high-scoring" per WQCC Policy 10-1 were found to have exceptional ecological significance.
- Aquatic-dependent plants: Waterbodies that support aquatic-dependent/riparian plant communities identified as "high", "very high", or "extremely high" biodiversity by the Colorado Natural Heritage Program were found to have exceptional ecological significance.

Additionally, as discussed below, some waterbodies supported some combination of exceptional fish, macroinvertebrates, and plants and/or exhibited exceptional recreational significance. The evidence used to meet the requirement at 31.8(2)(a)(ii) for each waterbody is summarized below.

Upper Gunnison Segment 2 (COGUUG02): This segment was already designated Outstanding Waters, but Soap Creek and its tributaries and wetlands were added to this segment to facilitate changing the antidegradation designation from Reviewable to Outstanding Waters on this waterbody. The SCOWC demonstrated that Soap Creek is an outstanding natural resource because its headwaters originate in the West Elk Wilderness and it flows through the Curecanti National Recreation Area. Soap Creek also has exceptional ecological value because it supports trout spawning and a high-scoring benthic macroinvertebrate community, and contributes flow to Blue Mesa and Morrow Point reservoirs.

Upper Gunnison Segment 3 (COGUUG03): The SCOWC demonstrated that the portion of the Taylor River, including its tributaries and wetlands, from the source to Illinois Creek has exceptional recreational value for unique and scenic paddling and fly-fishing opportunities and exceptional ecological value because it supports boreal toads, Colorado River cutthroat trout, and a high-scoring benthic macroinvertebrate community. This segment also contributes flows to Taylor Park Reservoir.

Lower Gunnison segments 3b, 5b, 5c, 6a (COGULG03b, COGULG05b, COGULG05c, COGULG06a): The SCOWC demonstrated that Big Dominguez Creek, Little Dominguez Creek, and Potter Creek, including their tributaries and wetlands, and portions of Escalante Creek and Roubideau Creek, and their tributaries and wetlands, are an outstanding natural resource and have exceptional recreational and/or ecological significance.

Big Dominguez Creek and Little Dominguez Creek are outstanding natural resources that flow through the Dominguez Canyon Wilderness and are part of the Dominguez-Escalante National Conservation Area. The Big Dominguez Creek and Little Dominguez Creek watersheds also have ecological significance, as they support a unique wildlife population of Canyon Tree Frogs, and the Bureau of Land Management's 2009 Wild and Scenic Eligibility report noted that Big Dominguez Creek and Little Dominguez Creek possess outstanding wildlife, scenic, geological, and cultural values.

Escalante Creek has exceptional ecological value, as it supports bluehead sucker, flannelmouth sucker, and roundtail chub, viable green lineage cutthroat trout habitat, as well as a high-scoring benthic macroinvertebrate community. Escalante Creek also shares the same unique vegetation as the adjacent Big Dominquez and Little Dominguez creeks.

Potter Creek has exceptional ecological value due its unique wildlife habitat and riparian vegetation, including the globally-imperiled skunkbrush. Potter Creek also supports bluehead sucker, flannelmouth sucker, and roundtail chub. Additionally, Potter Creek is included in the

Roubideau Creek Potential Conservation Area designated by the Colorado Natural Heritage Program.

Roubideau Creek has exceptional ecological value, as it is included in the Roubideau Creek Potential Conservation Area (designated by the Colorado Natural Heritage Program) and supports bluehead sucker, flannelmouth sucker, and roundtail chub.

San Miguel Segment 7b (COGUSM07b): The SCOWC demonstrated that Waterfall Creek, including its tributaries and wetlands, from the source to Howard Fork, has exceptional ecological value due its high-scoring benthic macroinvertebrate community, high altitude wetlands, and robust riparian zones important for wildlife. Additionally, Waterfall Creek provides high quality water that is crucial for diluting metal contamination associated with legacy mining in downstream receiving streams (Howard Fork of the San Miguel River and South Fork San Miguel River). While not directly relevant for an Outstanding Waters designation, this segment is also the primary drinking water source for the Town of Ophir.

San Miguel Segments 9b, 10a, 10c, 12d (COGUSM09b, COGUSM10a, COGUSM10c, COGUSM12d): The SCOWC demonstrated that Tabeguache Creek, including its tributaries and wetlands, has exceptional ecological value because it supports spawning of bluehead and flannelmouth sucker, as well as unique/rare, high-quality, globally-vulnerable riparian communities.

For all of these waterbodies, the SCOWC demonstrated that additional protection is needed due to preserve critical aquatic habitat, support downstream resiliency and ecosystem services, and provide recreational value. Potential threats to these waterbodies include climate change, drought, wildfire, and anthropogenic impacts from development and recreation.

The commission understands that there are existing land uses, including grazing permits, in place in many of these watersheds. The evidence demonstrates that these existing land uses are compatible with the Outstanding Waters designation, because the current high level of water quality has been attained with these uses in place. It is the commission's intent that these Outstanding Waters designations should not be the basis upon which federal, state or local agencies place more onerous or costly conditions upon permits or approvals existing at the time of the designation, or upon any renewals thereof.

I. Clarifications and Correction of Segmentation, Typographical, and Other Errors

The following edits were made to the regulation and Appendix 35-1 to improve clarity and correct typographical errors:

- The qualified discharger table at 35.5(4) was updated to accurately reflect the segment location of Cedaredge WWTF, City of Ouray, Town of Ridgway, Naturita WWTF, and Lawson Hill Ilium Valley WWTF. In addition, the table was re-ordered by segment number (rather than alphabetically by discharger).
- The segment descriptions in Appendix 35-1 were reviewed, and minor revisions were made to several segments to correct grammar, punctuation, and typos, and improve sentence structure. The purpose of these changes was to improve clarity and consistency of the segment descriptions.

  Upper Gunnison River: 1, 6a, 6b, 12, 16a, 21
  North Fork of the Gunnison River: 4a, 6b
  Uncompahgre River: 9, 11, 17
  Lower Gunnison River: 6b, 6c
  San Miguel River: 2, 6a, 7
  Lower Dolores River: 3c, 4

- The segment description of Upper Gunnison River Segment 10b (COGUUG10b) was clarified to explicitly include the mainstem of Redwell Creek, which was the intention when this segment was created in 2012.
- To be consistent with other segment descriptions, wetlands were added to the descriptions of the following segments:

  Upper Gunnison River: 6a, 16a, 20, 31
  North Fork of the Gunnison River: 4a, 4c, 6b
  Uncompahgre River: 6b, 9, 11
  Lower Gunnison River: 4b, 8a, 8b
  Lower Dolores River: 4

- Existing site-specific temperature standards were reformatted in the Appendix 35-1 tables to provide clarity and consistency for the following segments:

  Upper Gunnison River: 18b, 38
  North Fork of the Gunnison River: 3
  Uncompahgre River: 3b
  San Miguel River: 3b, 4b
  Lower Dolores River: 1a, 1b

- The manganese standards for Lower Gunnison River segments 8a and 8b (COGULG08a and COGULG08b) were corrected. The chronic manganese standard was erroneously shown as a combination of WS, TVS, and 1,000 µg/L; however, the value of 1,000 µg/L was an error, as it was proposed for deletion but inadvertently retained in 2001 (35.71(B)). Therefore, the chronic manganese standard was corrected to “TVS/WS”, consistent with other segments with Aquatic Life and Water Supply uses.