



FRUITA

COLORADO

AGENDA ITEM COVER SHEET

TO: Fruita City Council and Mayor

FROM: Kimberly Bullen, Public Works Director

DATE: July 5, 2022

RE: Memorandum of Understanding (MOU) between the City of Fruita and Mesa County regarding legal services for the appeal of the total maximum daily loads (TMDL) by the Colorado Department of Public Health and Environment (CDPHE)

BACKGROUND

Mesa County provides a consolidated Colorado Discharge Permit System, Municipal Separate Stormwater System (MS4) and related stormwater permitting services to entities within its jurisdictional boundaries that are necessary for compliance with regulations.

The Colorado Department of Public Health and Environment (CDPHE) has proposed a Grand Valley Total Maximum Daily Load (TMDL) for 11 Colorado River Tributaries and believes these stream segments are impaired. The City of Fruita and Mesa County have great concern about the accuracy of the allocation of pollution loads between point sources and nonpoint sources in the 11 tributaries and will appeal the decision by CDPHE to implement measures regarding the TMDL. The appeal process will require legal services and the Common Interest entities have agreed to have a joint effort to establish a common legal strategy and share in these costs.

FISCAL IMPACT

The fiscal impact of this MOU is to split the costs of legal services to appeal the TMDL established by CDPHE on a percentage basis with the City of Fruita contributing 10% of the total cost of services provided by the legal team.

APPLICABILITY TO CITY GOALS AND OBJECTIVES

This process is applicable to the City's goals of Quality of Place and Economic Health. The city values our geographic natural resources and landscapes, and we collaborate to provide quality essential infrastructure and services. The TMDL Regulation will be incorporated into a revised discharge permit which is anticipated in 2022. Once incorporated into the permit the Regulation must be enforced.

OPTIONS AVAILABLE TO THE COUNCIL:

The options for Council are the following:

1. Approve the MOU between the City of Fruita and Mesa County regarding legal services for the appeal of the total maximum daily loads (TMDL) by the Colorado Department of Public Health and Environment (CDPHE).
2. Take no action which will remove us from the appeal process.

RECOMMENDATION:

It is the recommendation of staff that the Council by motion:

APPROVE THE MOU WITH MESA COUNTY TO SHARE IN THE COST OF LEGAL SERVICES FOR THE APPEAL OF THE TOTAL MAXIMUM DAILY LOADS (TMDL) BY THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT (CDPHE).