



# FRUITA

## COLORADO

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## AGENDA ITEM COVER SHEET

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**TO: FRUITA CITY COUNCIL AND MAYOR**

**FROM: KIMBERLY BULLEN, PUBLIC WORKS DIRECTOR**

**DATE: SEPTEMBER 7, 2021**

**RE: TOTAL MAXIMUM DAILY LOAD (TMDL) APPEAL**

### **BACKGROUND**

On August 3, 2021 the Fruita City Council received a presentation from Mesa County and SGM Engineering on the Total Maximum Daily Load (TMDL) Assessment for the Colorado River tributaries in the Grand Valley. At the time of the presentation, a request had been made to the Colorado Water Quality Control Division (WQCD) to delay the determination of the Final TMDL for three years to allow the following:

- Continue ongoing Grand Valley Watershed Plan and stakeholder process
- Initiate the Colorado Mesa University's E. coli research to inform better characterization of the source loadings
- United States Geological Survey's (USGS's) post-fire water quality monitoring plan to be developed and implemented. Specifically, initiate a monitoring study that will increase the number of streamflow and water quality gages to: collect paired water quality and streamflow measurements at the 9 "high" priority and 6 "medium" priority monitoring locations to aid analysis, specifically, strengthen the linkage between the pollutant sources and impairments and the contribution of stormwater loadings and baseload loadings during the distinct irrigation and non-irrigation seasons; update data to "current conditions" in areas and evaluate loadings across wet, dry, and average years and shifting land uses to understand the influence of climactic variations; and integrate the Orchard Mesa and Walter Walker Wildlife Areas as well as other backwater habitats that support the threatened and endangered fish in the Grand Valley.
- Provide annual reports and periodic updates to WQCD and EPA to document progress across these projects

Mesa County, on behalf of the City of Fruita and City of Grand Junction is working with the GVVUA on an appeal of the Regulation. The appeal will, among other things, assert that the Regulation did not address the concerns noted above as well as some procedural matters.

City Attorney Paul Wisor will present to City Council and cover the appeal process and take any questions City Council may have.

### **FISCAL IMPACT**

Mesa County is supporting \$25,000 of the cost of the Appeal. The County is requesting any

additional financial expenditures for the appeal be shared amongst the supporting partners. The County has an engagement letter with the Attorney for \$30,000 to \$50,000.

### **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. Accordingly, staff is anticipating developing a plan with our partners for the watershed.

### **OPTIONS AVAILABLE TO THE COUNCIL:**

The options for Council are the following:

1. Join Mesa County and GVVUA as a petitioner in the Notice of Appeal and Request for Adjudicatory hearing to be filed before September 9<sup>th</sup>. Pursuant to Regulation 21.4.B., if a party is named as a Petitioner, the organization will be listed in the header of the Notice and will be identified as one of the entities requesting the hearing.
2. File an application for party status no less than 15 days prior to the hearing which requires the City to provide a brief and plain statement of the reasons for which we are seeking party status, provide the facts which entitle them to be admitted as a party to the hearing, and provide the nature of information and evidence to be presented during the proceedings.
3. Don't participate in the appeal process.

### **RECOMMENDATION:**

It is Staff's recommendation that the City of Fruita join as Petitioners in the Notice of Appeal Request for Adjudicatory hearing (Appeal). The Notice of Appeal is due by September 8, 2021.