First Regular Session
Seventy-first General Assembly
STATE OF COLORADO

PREAMENDED

LLS NO. R17-0714.01 Thomas Morris x4218 **SJR17-013**

SENATE SPONSORSHIP

Coram,

HOUSE SPONSORSHIP

(None),

Senate Committees
Agriculture, Natural Resources, & Energy

House Committees

SENATE JOINT RESOLUTION 17-013

CONCERNING THE ENCOURAGEMENT OF STAKEHOLDER INPUT WITH SUBSEQUENT LEGISLATIVE REVIEW PRIOR TO THE IMPLEMENTATION OF ADDITIONAL NUTRIENT DISCHARGE CONTROLS.

WHEREAS, While phosphorus and nitrogen (collectively, "nutrients") are not toxic when discharged into surface waters and some levels of phosphorus and nitrogen are beneficial to the environment, there can be negative impacts on aquatic life and recreational uses from excessive concentrations of nutrients in a particular stream segment, depending on many site-specific factors; and

WHEREAS, In 2012, the Water Quality Control Commission (Commission) adopted a two-pronged approach to address concentrations of nutrients in Colorado surface waters by adopting: Regulation #85, a

new statewide nutrients control regulation, which requires the largest municipal and industrial dischargers of nutrients to adopt technology-based treatment requirements; and Regulation #31, which establishes longer-term water quality goals ("interim numeric values") for nutrients; and

WHEREAS, The Commission reasoned that because comprehensive nutrient reductions could potentially be a decades-long process, a stepwise approach through implementation of technology-based nutrient controls under Regulation #85 and associated water quality monitoring was appropriate and would result in more expeditious control of nutrients in the immediate future; and

WHEREAS, This approach is consistent with the federal Environmental Protection Agency's proposed "Framework for State Nutrient Reductions" as outlined in Acting Assistant Administrator Nancy Stoner's March 16, 2011, memorandum to the regional administrators; and

WHEREAS, The Commission stated that its purpose in adopting interim numeric values for nutrients in Regulation #31 was "to emphasize its intent to undertake further review of the evolving science regarding nutrients before applying numerical nutrient standards broadly to surface waters throughout Colorado"; and

WHEREAS, The results of the Water Quality Control Division's (Division) 2011 study show that the domestic and industrial facility treatment costs to achieve the interim numeric values are significantly higher than the costs to achieve the effluent limits in Regulation #85 and the benefits are challenging to quantify; and

WHEREAS, Approximately 45 of the state's largest domestic and industrial dischargers are beginning to install nutrient treatment technology to meet Regulation #85 requirements; and

WHEREAS, Upgrades required under Regulation #85 will result in domestic and industrial treatment facilities discharging improved effluent, but because these improvements have not yet been fully implemented, additional time is required to fully document and evaluate water quality improvements in receiving and downstream water bodies; and

WHEREAS, Agricultural sectors have been aggressively implementing best management practices that conserve nutrients and minimize costs, and municipal and industrial facilities of all sizes are monitoring effluent and surface water quality for these nutrients and reporting those data to the Division; and

WHEREAS, The Division is evaluating the data to determine nutrient baseline conditions; and

WHEREAS, The treatment of phosphorus at domestic wastewater treatment facilities to reduce loadings to surface waters can increase phosphorus concentrations in biosolids that may pose challenges to the viability of biosolids land application programs due to phosphorus indexing restrictions, necessitating additional time to develop alternative phosphorus recovery methods; and

WHEREAS, Treatment to achieve the interim numeric values for phosphorus and nitrogen is beyond the limits of technology, and reaching the limits of technology would require the addition of chemicals as well as significant energy consumption that can cause ancillary environmental impacts, including the production of greenhouse gases and consumption of water resources; and

WHEREAS, Long-term, effective nutrient controls will require active participation and solicitation of input from interested stakeholders representing municipal water and wastewater treatment facilities, nonpoint sources, agriculture, regulated storm water entities, industrial facilities, the conservation community, and the general public; and

WHEREAS, The 2015 Water Environment Research Foundation-funded research on Boulder Creek identified site-specific conditions that affected the impact of nutrients on the classified uses such that alternative levels of nutrients could be protective; and

WHEREAS, Development of holistic regulatory and nutrient reduction tools and strategies is needed to better predict site-specific nutrient concentrations that are necessary to protect aquatic life and recreational uses; and

WHEREAS, A delayed implementation date for Regulation #31 interim values beyond 2022 would allow for data collected under Regulation #85 and other studies to be used for scientific

decision-making to develop a long-term, holistic, innovative, sustainable, optimized, and cost-effective approach to nutrient management; and

WHEREAS, stakeholders have been participating in an established Water Quality Forum workgroup process to evaluate regulatory alternatives prior to the Commission's scheduled rule-making hearing regarding Regulation #85 and Regulation #31 in October 2017; and

WHEREAS, Statewide nutrient management strategies should be consistent with Colorado's State Water Plan; now, therefore,

Be It Resolved by the Senate of the Seventy-first General Assembly of the State of Colorado, the House of Representatives concurring herein:

That we, the members of the General Assembly:

(1) Encourage interested stakeholders, including the Division, members of the regulated community, drinking water providers, the agricultural community, the conservation community, and the general public to continue to participate through the established Water Quality Forum workgroup process to evaluate holistic regulatory alternatives and cooperative strategies to ensure that additional statewide nutrient reduction approaches:

(a) Focus spending where it will have the most environmental benefit;

(b) Take into consideration the technical and economic feasibility of treatment;

(c) Are environmentally sustainable;

(d) Do not unnecessarily burden small, rural, or disadvantaged communities;

(e) Are consistent with the goals of Colorado's State Water Plan;

(f) Include strategies for measuring nutrient reductions achieved over time; and

(g) Reflect input from participating stakeholders; and

(2) Encourage the Division and other participating stakeholders, prior to the Commission's October 2017 scheduled rule-making hearing regarding Regulation #85, to present strategies identified during the Water Quality Forum workgroup process to a joint meeting of the Senate Agriculture, Natural Resources, and Energy Committee and the House Agriculture, Livestock, and Natural Resources Committee no later than May 1, 2017.

Be It Further Resolved, That copies of this Joint Resolution be sent to Governor John Hickenlooper, each member of Colorado's congressional delegation, and Dr. Larry Wolk, the executive director of the department of public health and environment.