

MEMORANDUM



TO: UGRWCD Board Members
FROM: Sonja Chavez, General Manager
DATE: November 22, 2021
SUBJECT: General Manager's Report – November (Supplemental)

- I. Homestake Mine Reclamation of Pitch Mine Site (DRMS permit #M77-004HR) (Saguache County):** Homestake proposed a temporary modification for uranium in Marshall Creek to the Water Quality Control Commission (WQCC) related to domestic water supply uses applied to Marshall Creek (COGUUG21). Domestic water supply standards for uranium are 16.8 and 30 ug/L. It was adopted by WQCC June of 2017. Temporary modifications are subject to review in the Gunnison Basin under Regulation #35 Rulemaking Hearing in June of 2022. As background, current uranium concentrations in Marshall Creek are 20 to 65 ug/L and exceed human-health based criteria for uranium (16.8 ug/L). See attached summary memorandum from Ashley Bembenek, Consultant to Northwest Colorado Council of Governments, Water Quality and Quantity Committee (also know as QQ).

There was an Administrative Action Hearing held on November 8, 2021 to identify the issues that will be evaluated and at which time Homestake submitted a document claiming no surface water supply diversions and evidence that local wells were intermittently monitored and are below water quality standards for uranium and "...may not be hydrologically influenced by Marshall Creek. No evidence of data was provided at the November 8 hearing.

Homestake intends to propose that water supply uses be removed from Marshall Creek and that they will redrill wells in Sargents into bedrock beneath the alluvial aquifer of Marshall Creek and will work with local landowners to apply conservation easements that prohibit new water supplies and working with Saguache County to ensure that new alluvial wells won't be drilled.

The General Manager agrees with the position of QQ that this proposal would set a precedent of *allowing entities to restrict or limit future water uses to avoid treating pollutants they are currently obligated to treat* and she asks that the Board take the following action:

Action: Direct staff to continue to monitor the situation, reach out to Saguache County and the Colorado River District in collaboration with Director Hazard and Kathleen Curry (CRWCD Gunnison County Director and Tomichi Creek resident) on issues around this proposal and report back to the Board prior to June 2022.

- II. Proposal to Bring Wet Meadows Coordinator Position into UGRWCD as Staff**

Background: The District chose to assume leadership of the Wet Meadows Restoration and Resiliency Program from the Nature Conservancy (TNC) in 2017. Prior to 2017, the program was run by Betsy Nealy. From 2017-2019 the District contributed \$30,000 to support the

program coordinator position and has hired a consultant to coordinate the program. In late 2019 that contribution went up to \$50,000 per year and has included approximately \$2,000 - \$4,000 in funding support from the District as well.

After meeting with partners and discussing the recent growing pains and challenges the program has been experiencing, the General Manager is proposing that the Wet Meadows Program be brought into the District as staff at an estimated hiring rate of \$50,000. It is estimated that the Wet Meadows Position will consume about 60% of the position's time while the remaining 40% could be dedicated to other activities within the District. That could include grant project final inspections, research support (e.g., vegetation monitoring on private lands under CCCA's; drought tolerant grass seed research), WMP planning, fund raising, education and outreach, Gunnison River Festival planning and implementation support, etc.

Federal and state partners have committed to ensuring that they can provide financial support for the position in the amount of \$15,000 - \$20,000 per year (dependent on federal budgets), therefore, adding this position to staff would add no to little fiscal impact to the District's current budget and we'd be getting the benefit of the other 40% of the position for the same annual contribution (i.e., \$55,000).

Wet Meadows Program Coordinator			
Position: Full time (40 hours week)			100%
Suggested hourly pay			24.04
Hours per week			40
Salary Cost per week			\$ 961.60
Salary Cost per year			\$ 50,003.20
Annual Payroll Taxes	7.77%		\$ 3,885.25
Annual Workers Comp.	300		\$ 300.00
TOTAL ANNUAL COST WITHOUT BENEFITS			\$ 54,188.45
BENEFITS			
Monthly Paid Time Off hours (14 for F/T)	14		14
Annual Potential Paid Time Off liability			\$ 4,038.72
Monthly Medical Insurance Premiums (individual only)	950.83		\$ 950.83
Annual Medical Insurance Premiums			\$ 11,409.96
TOTAL ANNUAL COST WITH PRORATED BENEFITS			\$ 69,637.13
Plus: Colorado Retirement Association 7% after one year			\$ 3,500.22
TOTAL ANNUAL COST WITH PRORATED BENEFITS AFTER ONE YEAR (INCLUDES PTO LIABILITY)			\$ 73,137.35

Fiscal Impact (2022 & 2023)

2022	COST (\$)
2022 Position (Medical; No Pension - Ineligible Yr 1)	\$ 69,637
Other Expenses: Reimb Mileage, Meals, Lodging	\$ 4,500
TOTAL:	\$ 74,137
Off-sets to Cost of Position in 2022	
Estimated Annual 10% Indirect Cost Recovery on Grants (Based on estimated expenditures of \$150,000)	\$ 15,000
Coordination Time written into Outside Grants	\$ 10,000
2022 Estimated Cost of Position	\$ 49,137
2022 Existing Wet Meadows Budget	\$ 55,000
Overall Fiscal Impact in 2022:	\$ (5,863)

2023	COST (\$)
2023 Position with Full Benefits	\$ 75,137
Other Expenses: Reimb Mileage, Meals, Lodging	\$ 4,500
TOTAL:	\$ 79,637
Off-sets to Cost of Position in 2023	
Estimated Annual 10% Indirect Cost Recovery from Grants (Based on estimated expenditures of \$175,000)	\$ 17,500
Coordination time written into Outside Grants	\$ 18,784
2023 Estimated Cost of Position	\$ 43,353
2023 Wet Meadows Annual Contribution	\$ 55,000
Overall Fiscal Impact in 2023:	\$ (11,647)

ACTION: Authorize the General Manager to add a full-time position to the District in support of Wet Meadows Program Coordination and other activities of the District.



DATE: November 16, 2021

FROM: Ashley Bembenek, Alpine Environmental Consultants
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TO: Gunnison County and Upper Gunnison River Water Conservancy District

Background on Marshall Creek Temporary Modifications

Homestake Mining Company is obligated to close and reclaim the Pitch Mine Site (DRMS permit #M77-004HR) which is a former uranium mine located near Sargents in the Marshall Creek watershed in Saguache county.

Homestake developed a proposal for temporary modifications of the uranium standard used to protect domestic water supply uses applied to Marshall Creek (COGUUG21). The domestic water supply standards for uranium are 16.8 and 30 ug/L¹. The Water Quality Control Division (WQCC) adopted the proposal in June of 2017.

The temporary modifications are subject to review in the Gunnison Basin (Regulation 35) rulemaking hearing in June of 2022. The WQCC hosted an administrative action hearing on November 8, 2021 to identify the issues that will be evaluated during the June 2022 rulemaking hearing. Homestake Mining Company submitted a four-page document as part of the November 8 hearing (attached).

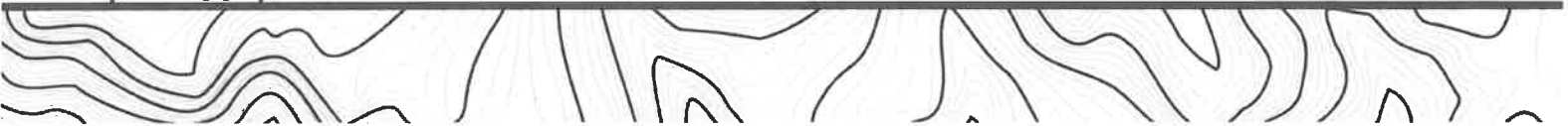
Total recoverable uranium concentrations in Marshall Creek at Sargents range from 20 to 65 ug/L. The uranium concentrations measured in Marshall Creek exceed the human-health based criteria for uranium (i.e. 16.8 ug/L). If Marshall Creek or a hydrologically-connected well is used as a drinking water supply, there is potential human-health risk.


Homestake reported that “there are no surface water supply diversions” and have “provided evidence that uranium concentrations in these wells are below the water quality standard for uranium and that the wells may not be hydrologically influenced by Marshall Creek.” Homestake has “intermittently monitored” water supply wells in the Sargents. Total recoverable uranium concentrations ranged from <0.3 to 7/1 ug/L in the wells that were sampled. These materials were not provided in the November 8 hearing².

In the upcoming Regulation 35 Rulemaking Hearing, Homestake intends to propose that the water supply use be removed from Marshall Creek. To support this proposal Homestake plans to redrill wells in Sargents

¹The domestic water supply standard is a two-part standard. The lower value, 16.8 ug/L, is a human health-based value. The second value is a maximum contaminant level established under the federal Safe Drinking Water Act.

² The evidence is likely documented in the proceedings for the 2017 regulation 35 rulemaking hearing, 2018 or 2020 temporary modifications rulemaking hearings.





into the bedrock beneath the alluvial aquifer of Marshall Creek, collaborate with local landowners to apply a conservation easement that prohibits new water supplies, and working with Saguache County to “ensure that new alluvial wells cannot be drilled” in areas adjacent to Marshall Creek from the confluence with Indian Creek to the confluence with Tomichi Creek.

Potential Concerns and Discussion

Marshall Creek is in Saguache County. However, there is potential for Marshall Creek to influence water quality in Tomichi Creek. There are several wells used for domestic drinking water adjacent to Tomichi Creek in Gunnison County. These wells may be drilled in the alluvium of Tomichi Creek or hydrologically-connected to the creek (e.g., irrigation return flows). USGS monitors Tomichi Creek downstream of Marshall Creek (USGS 09115500); however, uranium is not measured at this location. There may be a need to consider potential impacts to Tomichi Creek and domestic water supplies. I have reached out to Water Quality Control Division staff to discuss this further.

If Homestake is successful in their attempt to remove the water supply use from Marshall Creek, it may set a precedent that permitted entities can restrict or limit future water uses to avoid treating pollutants that they are currently obligated to treat. This issue should be explored by local parties and QQ members.

I recommend that local parties review Homestake’s proposal in the June 2022 rulemaking hearing to assess the potential implications. It may also be useful to contact our colleagues in Saguache county to understand their current position and potential concerns related to Homestake’s proposal.

Thank you!

**WATER QUALITY CONTROL COMMISSION
STATE OF COLORADO**

**UPDATE TO THE WATER QUALITY CONTROL COMMISSION FROM THE HOMESTAKE
MINING COMPANY REGARDING THE UPCOMING JUNE 2022 TEMPORARY MODIFICATION
AND REGULATION 35 RULEMAKING HEARING.**

ISSUES FORMULATION HEARING.

Homestake Mining Company (HMC) submits this update to the Water Quality Control Commission (Commission) for the June 2022 Regulation 35 and Temporary Modification Rulemaking Hearing. This statement is regarding the status of activities and investigations for eliminating the uncertainty regarding the uranium standard and temporary modification on Marshall Creek, Segment COGUUG21, and HMC's intention for a proposal at the aforementioned hearing.

1. Background – June 2017 Regulation 35 Rulemaking Hearing

At the Regulation 35 Rulemaking Hearing (RMH) in June 2017, the Commission adopted a temporary modification to the uranium standard on Marshall Creek, Segment 21 of the Upper Gunnison subbasin, Gunnison River Basin. The temporary modification was set to the current condition and expires in December 31, 2022. As a condition of the approval of the temporary modification, HMC provided updates to the Commission at the December 2018 and December 2020 Temporary Modification Hearings.

HMC is currently conducting closure and reclamation activities at the Pitch Reclamation Site (Site), a former uranium mine in Saguache County, pursuant to Colorado Division of Reclamation, Mining and Safety (DRMS) permit #M77-004HR. The Site is situated at approximately 10,500 feet above sea level, and is drained by Indian Creek, a tributary of Marshall Creek in the Upper Gunnison River Basin.

The concentrations of uranium on Marshall Creek are connected to the concentrations in Indian Creek, although significantly lower. The uranium standard on Indian Creek is "lowest practical level" (LPL) and HMC has continued to investigate and refine the investigations into sustainable activities that can lower the amount of uranium leaving the Site and to determine the definition of LPL for Indian Creek. As the concentrations

in Marshall Creek are tied to those in Indian Creek, the activities that will take place to lower uranium concentrations leaving the Site will result in reducing uranium concentrations on Marshall Creek. The appropriate actions must function within the given constraints including high elevation, lack of electricity, and seasonal access. As these actions are implemented for the LPL on Indian Creek, the resulting lower concentrations in Indian Creek will directly result in improvements to Marshall Creek concentrations.

Marshall Creek has a water supply designated use, and although there are no surface water supply diversions, there are groundwater wells in the Town of Sargents (Sargents) that are used for water supply. HMC has provided evidence that uranium concentrations in these wells are below the water quality standard for uranium and that the wells may not be hydrologically influenced by Marshall Creek.

Uranium concentrations at Outfall 001 to Indian Creek range from 600 µg/L to 1400 µg/L and vary seasonally with the higher concentrations occurring at higher flows. Marshall Creek at Sargents (SW-13) has concentrations that range from 20 µg/L to 65 µg/L seasonally. Due to dilution from other sources during periods of higher flows, the higher concentrations on Marshall Creek occur at lower flows, as Indian Creek contributes a greater percentage of the flow during low flow conditions.

The water supply wells in Sargents have been monitored intermittently as they are located on private property, and sampling can only occur when property owners are present and grant access. Data for the wells have ranged from < 0.3 µg/L to 7.1 µg/L with an average of 2.3 µg/L. The well closest to Marshall Creek does not appear to be influenced by Marshall Creek water quality based on uranium concentrations of 1.7 µg/L and 1.9 µg/L.

2. June 2022 Rulemaking Hearing

HMC has been evaluating the potential to redrill the wells in Sargents down into the bedrock at a depth below the potential alluvial aquifer, to eliminate the consideration of these wells as alluvial wells. HMC has also been working with Saguache County Commissioners to ensure that new alluvial wells cannot be drilled along the stretch of Marshall Creek that runs from the confluence with Indian Creek to the confluence with Tomichi Creek. Additionally, as an added measure, HMC has been working with a landowner to place their property under a Conservation Easement that would also ensure that the property would not be able to be developed and that no new water supplies would be added.

HMC has been working closely with the WQCD and the U.S. Environmental Protection Agency (EPA) to share information regarding ongoing activities, the progress on defining the Indian Creek LPL and the potential for resolving the temporary modification on Marshall Creek. Data and information on the investigations into sustainable activities to lower uranium concentrations on Indian Creek (and therefore on Marshall Creek) is continually shared and discussions on resolution of the temporary modification continue to take place.

~~At the June 2022 Rulemaking Hearings for Temporary Modifications and for Regulation 65, it is HMC's intention to bring forth a proposal to remove the water supply use on Marshall Creek, assuming that the activities proposed above can be completed in a timely manner. Alternately, HMC intends to propose an extension to the temporary modification on Marshall Creek to allow additional time for these activities to occur, or to finalize the activities that will define LPL on Indian Creek and to monitor the resulting concentration changes and water quality improvements on Marshall Creek.~~

Both of these proposals are ripe for consideration by the Commission as the agencies are aware of these options, data and information has been shared and discussions have been ongoing. Although a proposal has not been agreed upon, HMC is committed to continue working with the agencies prior to, and after, the proposal deadline in January of 2022.

3. Witnesses.

- Andrew Neuhart, Brown and Caldwell
- Hank Ipsen, Bryan Cave Leighton Paisner
- David Wykoff, HMC
- Clark Burton, HMC

Respectfully submitted this 27th day of October, 2021.

By: 

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Brown and Caldwell
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FOR HOMESTAKE MINING
COMPANY