

**Water Quality Control Commission**  
**4300 Cherry Creek Drive South**  
**Denver, Colorado 80246**

**Regulation 38**  
**Issues Scoping**  
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The Farmers Reservoir and Irrigation Company (FRICO) submits the following Status Report and Identification of potential issues regarding the periodic review of Regulation 38, South Platte River Basin. The focus of this submission is Barr Lake, Adams County, Colorado and Milton Reservoir, Weld County, Colorado.

**Status Report**

Since the last triennial review of Regulation 38 several developments have occurred that relate to Barr Lake and Milton Reservoir. As these developments do address water quality issues that are within the scope of the periodic review of Regulation 38, they will be noted as they will affect the issues that may be raised by FRICO at the next Regulation 38 review.

At the last review, the Commission stated its desire that parties, if possible, consider methods through which consensus on water quality issues may be reached. Parties interested in and potentially affected by water quality issues at Barr Lake and Milton Reservoir have undertaken this approach, the activities of which will continue as the periodic review of Regulation 38 approaches. The issues that FRICO may raise in the review of Regulation 38 will depend in substantial part on the status and activities involving the ongoing water quality activities. The actions most directly involving Barr and Milton reservoirs are the following:

1. Listing of Barr and Milton reservoirs as “impaired water bodies” under Section 303(d) of the Clean Water Act. In 2002 both Barr and Milton reservoirs have been listed as “impaired” water bodies. The specific criteria for which the lakes have been listed is pH exceeding 9.0. In turn, it is submitted that the pH is driven by high algal growth in response to very high nutrient loading. FRICO submits that narrative standards additionally require that Barr and Milton be listed as impaired. Notwithstanding, addressing the specific numeric criteria may also address the narrative standard issue.

Inclusion on the 303(d) list requires that the State initiate a TMDL process for these water bodies to address the impairment. It is anticipated that the TMDL process will in large part parallel review of water quality standards and may result in site specific standards.

FRICO will be a participant in the TMDL process for Barr and Milton reservoirs. Progress in the TMDL process will not need to be duplicated in the Regulation 38 review.

2. Barr Lake and Milton Reservoir 319 project. With the guidance and direction of the Division, Barr and Milton reservoirs are the focus of a project that has received matching funding through the 319 process. In addition to FRICO principal funding and contributors in kind include: Colorado Department of Public Health – Water Quality Control Division – Watershed Section will serve as the primary project sponsor. FRICO, Metro Wastewater, SP CURE, Littleton-Englewood, Thornton, Bromley Park Metropolitan District and Brighton.

The project goals are: 1) establish a permanent stakeholders group for evaluation of water quality problems in these reservoirs and the sources of pollutants in the watershed, 2) develop a credible and defensible water quality database and monitoring program, and 3) evaluate tools that can be used to project the effects of potential changes on the water quality in the reservoirs.

This project is underway. In addition to the 319 project itself, the monitoring and data gathering at both Barr Lake and Milton reservoir continue on an expanded basis. In 2002 FRICO and the Metro District have engaged in an expanded and co-ordinated data gathering

project. Through this program, and as will yet be further addressed as one result of the 319 project, it is anticipated that a more complete and accepted data base will be available to the Division and the Commission for future consideration.

3. Nutrient Criteria. In addition to the above activities the Division is developing direct Nutrient Criteria standards that will ultimately be applicable to streams and lakes throughout Colorado. This is a long and complex action to undertake. Barr Lake is a priority reservoir for the Division to ultimately implement direct nutrient criteria standards. FRICO, and numerous other parties, are participants in the Nutrient Criteria committee process. FRICO expects that the Nutrient Criteria process may consider both interim and permanent nutrient criteria that will address the eutrophication issues at Barr and Milton reservoirs.

### **Issues Scoping Advisory**

With the above Status Report addressing issues that would otherwise be raised at the Regulation 38 review, the following issues may be presented for the Regulation 38 review:

1. Use Classification. Water right applications are presently pending in the Water Court for Water Division No. 1 requesting conditional water rights in both the Barr and Milton systems for direct municipal domestic use. This would affect the use classification for Barr Lake, as its own designated segment and also the use classification for Segment 15 of the upper South Platte River, not presently classified for municipal domestic use.

In addition, application for changes of water rights decreed to both Barr Lake and Milton Reservoir for municipal domestic uses are pending in the Water Court for Water Division No. 1.

Also pending are applications for augmentation, infiltration and alluvial storage rights in both the Barr Lake and Milton Reservoir systems. These uses may also change the use classification and resultant water quality standards for Barr and Milton reservoirs and the water sheds tributary to these systems.

2. Review of water quality criteria that is required to meet domestic municipal water supply requirements, recreational and agricultural uses. These water quality criteria and standards include:
  - A. eutrophication issues (nutrient loading), inclusive of dissolved oxygen requirements and pH ;
  - B. Sodium Absorption Ratios and its impact on agricultural lands within the Barr and Milton systems;
  - C. Pathogen standards, inclusive of toxicity arising from blue-green algal (or bacterial) activity.
  - D. Viral and organic carbon pollutants relating to aquatic life, agricultural, recreational and domestic uses.

Respectfully submitted this 15<sup>th</sup> day of October, 2002.

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