

MESA COUNTY ATTORNEY'S OFFICE

P. O. Box 3626

Grand Junction, CO 81502

(303) 244-1612

June 6, 1984

Mr. James E. Patterson, Jr.
Utilities Director
City of Grand Junction
250 North Fifth Street
Grand Junction, CO 81501

Re: NPDES Discharge Permits CO-0026417
and CO-0040053; Industrial Pretreat-
ment Program

Dear Jim:

On behalf of the Mesa County Attorney's Office I have the following review comments concerning the proposed Memorandum of Agreement between the City of Grand Junction, the EPA and the Colorado Department of Health that you have provided us a copy of.

First, I am unable to locate any legal requirement or authority for the EPA to force the City to enter into this Agreement. EPA still administers the Pretreatment Program under the Clean Water Act, and is required to approve or disapprove of the City's Program submittal as described in Mr. Dodson's letter. Further agreement by the City is not a requirement of the waste-water grant, discharge permit, nor is it mandated by EPA's regulatory regime.

The Memorandum of Agreement appears to add to existing obligations of the City in the area of enforcement, but not in other substantive areas. See, e.g., paragraph 2d which obligates the City to "obtain appropriate remedies for non-compliance..." I suggest that if the Memorandum of Agreement is entered into, that the City modify that paragraph by substituting "seek" or "pursue" for "obtain," so that efforts and not results are guaranteed. In this regard, the City should consider adding a subparagraph to paragraph 6 stating that "nothing in this Agreement shall be construed to add, expand or alter any obligation of the City to adopt, administer, or enforce the City's Industrial Pretreatment Program that currently exists by virtue of Section 307(b) and (c) of the Clean Water Act and under 40 CFR 403.

In paragraph 2b, reference to development of compliance schedules only for "significant" industrial users, or permittees should be considered. Regular industrial users are not subject to compliance schedule requirements outside of the industrial user permit process of the City.

Finally, the City may wish to add "permitting activities" to the descriptive summary which is annually required, so as to more accurately describe program activity in the initial years of development.

orig. to J. Patterson

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I have enclosed a red-lined copy of the Memorandum of Agreement for your convenience. I have also enclosed a copy of the executed Resolution of the Board of County Commissioners of Mesa County adopting the City's Industrial Pretreatment Program, and delegating County program authority to the City. Please provide me with a copy of the final pretreatment program document as submitted to the EPA on May 8, 1984. Also, please plan to provide me on behalf of Mesa County with a copy of future annual pretreatment reports to the EPA or the Colorado Department of Health.

Very truly yours,

MESA COUNTY ATTORNEY'S OFFICE

By Steve
Stephen B. Johnson

cc: Mark Eckert, Deputy Administrator
Lyle Dechant, County Attorney