



*Supporting Colorado's Water Quality and Treatment Needs*

**Meeting Minutes**

Wednesday, April 12, 2017 at 1:00 PM  
at Littleton/Englewood WWTP  
2900 S. Platte River Drive, Englewood

**In Attendance:**

Dan Delaughter	L/E WWTP
Dennis Stowe	L/E WWTP
Julie Tinetti	Centennial
Jim Dorsch	MWRD
Jessica DiToro	LRE for BHCCSD
Chris Carson	PCWRA
Andra Ahrens	Pueblo WWTP
Robert Fleck	Saint Vrain SD
Weston Martin	PCWRA
Gabe Racz	V & R
Blair Corning	SACWSD
Nicole Rowan	CDPHE
Pat Pfaltzgraff	CDPHE
Ann-Marie Doerhoff	Engineer
Paul Ferraro	CWWUC

**Phone Attendance:**

Jennifer Robinett	Metro WRD
Jason Kruckeberg	Silverthorne / Dillon JSA
John Gage	City of Longmont
Lisa Hollander	Metro WRD

**Agenda**

- 1. CWQCD Activities and Partnership, Pat Pfaltzgraff, Director CWQCD**
- 2. Report of Strategic Planning Meeting, March 8th, Committee**
- 3. Gabe's Comments**
- 4. Interactive Dennis Stowe Survey: Blair Corning**
- 5. Appreciation Time for Dennis Stowe on his Retirement**

- 1. CWQCD Activities and Partnership, Pat Pfaltzgraff, Director CWQCD**

Pat gave the following highlights:

- a. Budget items are mostly Drinking Water Program
  - EPA cuts 30%
  - 319 NPS Program – zeroed out
  - 106 Program – 30% reduction
- b. Fee Bills in House moving thru the Legislature
  - 22% increase in fees
  - Commence & individual permits 66% increase
  - Cash / General Funds for 5 years
- c. Next three meetings on Regulation 85 – Nutrients
  - May 8<sup>th</sup>, WQC
- d. Staff
  - Permit Position – Ellen Kutzer, Permit Manager
  - Standards Position – Advertising
  - 20 Positions Vacant: Working on filling 7 positions

Fund Balance

Permits Backlog – 40% of 1,000 to 2,000 individual permits

Tour after Ellen K. gets grounded. Check with Debbie.

## **2. Report of Strategic Planning Meeting, March 8th, 2017**

Julie reported on the March 8<sup>th</sup> Strategic Planning Meeting  
May meeting reports from subgroups  
**Attached** are the meeting notes.

## **3. Gabe's Comments on Regulation 34 / 35**

See comments **attached**.

## **4. Interactive Dennis Stowe Survey: Blair Corning**

Blair conducted an Interactive Survey of Dennis Stowe's experiences.

## **5. Appreciation Time for Dennis Stowe on his Retirement**

Appreciation time for Dennis Stowe was conducted for Dennis' retirement on May 31, 2017, with a cake and gifts.

Meeting adjourned @ 2:45 p.m.

Next meeting: Wednesday, May 10, 2017, 1:00 PM at L/E WWTP

## **CWWUC Group Notes from March 8, 2017, Strategic Planning Session**

The members in attendance were divided into four groups and presented four aspects of the Council using the word **SOAR**.

**S – Strength**

**O – Opportunities**

**A – Aspirations**

**R – Results**

### Group Notes:

- **Strengths**
  - Professional expertise
  - Relationships (internal and external)
  - Small utility assistance
  - Diverse membership
  - Mentoring (past strength)
    - Educational outreach/facility tours
  - Experience sharing
  - Unified voice
  - Longevity=credibility?
  - Funding resources to provide science based input
  - Workgroup involvement
  - Ratepayer benefit
- **Opportunities**
  - NPDES permit renewal coordination
  - Early awareness of federal regulations
  - Improve functionality and awareness of CWWUC website
  - Informal peer review opportunities
  - Support science and knowledge for technical advisory committees
  - Outreach (mentoring)
  - Broaden our membership
  - Outreach to utilities (external and internal)
  - Representation for workgroups, hearings etc.
    - Designate a representative for CWWUC
  - Communications to members of CWWUC/Division
  - Information sharing and research collaboration
- **Aspirations**
  - Advocacy/unified voice/one stop shop for all things wastewater
    - Focus/follow through
  - \*Communications

- Website
    - Technical library
  - Education (“two way street”)
    - Mentoring
    - Peer review
    - Information sharing
  - \*Organization
    - Active external participation
    - Improved internal communication (reporting back from other groups etc.)
- **Action items**
  - Communication
    - Identify existing organizations/workgroups/memberships and key point of contacts
      - Point of contact responsible for communicating updates (verbal and written to CWWUC and vice versa)
        - Lisa Hollander and Nancy Keller volunteered to help with this effort
    - Website
      - Develop subgroup
      - Content? (technical library)
      - Webmaster: Sheryl Tongue: [scotland@kellin.net](mailto:scotland@kellin.net)
      - Bylaws on website
  - Organization
    - Communication with current membership
    - Strategies to identify and increase membership (long term goal)
    - Review organizational structure
      - Subgroup needed
        - Timely review of minutes
    - Review bylaws
      - Subgroup needed
      - Wes Martin, Bobby Anastasov, Richie Ledger, and Dan DeLaughter volunteered to help with review organizational structure and bylaws.

**WATER QUALITY CONTROL COMMISSION  
STATE OF COLORADO**

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**RESPONSIVE PREHEARING STATEMENT OF COLORADO WASTEWATER UTILITY COUNCIL**

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**REVISIONS TO THE CLASSIFICATIONS AND NUMERIC STANDARDS FOR THE SAN JUAN AND DOLORES RIVER BASINS (REGULATION NO. 34) AND THE GUNNISON AND LOWER DOLORES RIVER BASINS (REGULATION NO. 35)**

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The Colorado Wastewater Utility Council (“CWWUC”) is submitting the following Responsive Prehearing Statement (“RPHS”). CWWUC appreciates the opportunity to comment on proposed revisions to Regulations 34 and 35.

1. Executive Summary.

CWWUC supports incremental progress in refining Colorado’s temperature standards. In this hearing, the Water Quality Control Division (“Division”) has proposed numerous refinements to site-specific temperature standards. The Division’s proposal represents a step forward in refining the temperature standards, so that the regulatory structure can be more flexible and better suited to the natural variability of water temperature in the environment. Although many difficult issues related to temperature standards remain, especially for the fall and spring “shoulder seasons,” incremental progress is welcome.

CWWUC has concerns about the Division’s proposals to add new chloride and sulfate standards for aquatic life protection on specific segments (Reg. 34: Animas and Florida Segment 13c, Piedra Segment 6; Reg. 35: North Fork Gunnison Segment 4c, Uncompahgre Segment 10b, San Miguel Segment 12c). Regulation 31 does not contain any chloride or sulfate standards for aquatic life protection, but instead includes standards based on protecting drinking water from secondary (taste and odor) effects. CWWUC questions the wisdom of adding aquatic life-based standards in a site-specific hearing. More importantly, the Division has not provided any scientific basis for the proposed standards. All interested stakeholders should have an opportunity to review new standards proposals, including an opportunity to review the scientific basis for standards proposals. If standards for chloride and sulfate are necessary, CWWUC believes that the Commission should direct the Division to begin a stakeholder process toward statewide standards development.

## 2. Background.

CWWUC is a nonprofit organization. Its mission is to professionally and responsibly promote environmental protection by supporting legislation and regulations which achieve well-defined environmental benefits while maintaining local flexibility. CWWUC puts a high priority on building strong relationships with regulatory agencies, including the Division. Membership is open to any municipal or quasi-municipal agency in Colorado engaged in the operation of any collection, treatment or disposal of wastewater. CWWUC's current members are listed on **Exhibit 1**.

## 3. Discussion.

### *a. Temperature.*

CWWUC was a party to the 2016 Basic Standards Rulemaking hearing. In that hearing, CWWUC strongly supported the Division's temperature standards proposals, particularly a proposal to implement a narrative temperature standard for the spring and fall "shoulder seasons." Several of CWWUC's members anticipate compliance difficulties related to the current implementation of an abrupt transition between summer and winter temperature standards, which does not reflect normal temperature patterns in the natural environment.

In the 2016 Basic Standards hearing, the Commission did not adopt the Division's proposal. Instead, the Commission stated that it would consider temperature issues on a site-specific basis in the Basin Hearings. After the 2016 Basic Standards hearing, the Water Quality Forum formed a Technical Advisory Committee ("TAC") to continue efforts to refine the temperature standards. CWWUC has provided funding to support the work of the TAC, and hopes that this support will encourage a collaborative solution to resolve temperature standards concerns.

Overall the CWWUC supports reasonable iterations of the temperature standards based on the larger amount of temperature and fishery data available now than was available when temperature standards were first adopted. However, the Division's proposal appears unlikely to resolve all of the temperature issues, particularly the most difficult issues. In particular, it does not appear that anything in the Division's proposals addresses shoulder-season compliance problems of dischargers, particularly those of the front range domestic waste water treatment plants ("WWTPs"). This may be because the San Juan and Gunnison basins are less likely to experience these issues, probably because of the smaller population and size of the WWTPs located in the basin. Significant questions will continue about the duration of winter temperatures necessary to protect the aquatic life uses, and the appropriate way to account for the normal slope of temperature between the summer and winter seasons, particularly for warm-water streams.

In this hearing, the Division has proposed “upgrading” some segments from warm classification to cold classification, in order to refine the temperature standards in transition zones. These classifications are accompanied by ambient-based temperature standards, since the segments cannot attain the cold-water temperature standards. This change in use classification does not require a Use Attainability Analysis, although the Division included some information about these segments in the temperature UAAs (WQCD Exhibits 34-4 and 35-10). This limited information was not enough to understand basis for the proposed standards. Therefore, the basis for the Division’s proposed changes is not as clear as it might be. CWWUC encourages the Division to provide more information in rebuttal about a) the basis for changes from warm classifications to cold classifications; and b) the basis for the proposed ambient-based standards.

*b. Chloride and sulfate standards.*

CWWUC has a strong interest in making sure that any standards for chloride and sulfate have an adequate scientific basis. As the Commission knows, the state’s largest wastewater treatment facilities are subject to the Regulation 85 nutrient control regulation. In addition, facilities are planning for the future implementation of nutrient water quality standards. The nutrient workgroup has been engaged in detailed discussion of the schedule for developing nutrient standards, in relation to the state’s development of other water quality standards. CWWUC and its members are preparing to address the challenge of nutrient reduction over the next several years.

Currently, the available tertiary treatment technologies to reduce phosphorus to levels at or near those that will be required by the Regulation 31 nutrient interim values include flocculation using metal salts. These metal salts are often in the form of ferric chlorides, aluminum chlorides, and alum (metal sulfates, frequently aluminum sulfates). As a result, the choice of phosphorus treatment technology could result in an increase of discharge of chlorides and sulfates to state waters. CWWUC’s members are concerned about being trapped in a vise, between meeting nutrient standards on the one hand and meeting chloride and sulfate standards on the other. Chloride and sulfate can also be present in wastewater as a result of source water quality, water treatment residuals, or other sources. At some point, the Commission may have to choose which is more important: reducing nutrients, or preventing the discharge of chlorides and sulfates. The CWWUC therefore disagrees with the Division’s assertion that sulfate is generally not a compliance problem for domestic dischargers. (See WQCD Ex. 34-2, pg. 11, Ex. 35-2, pg. 13).

The Division’s Water Supply UAAs (WQCD Exhibits 34-2 and 35-2) say that the Division proposes to “retain the existing sulfate and chloride standards to protect existing aquatic life uses until the [Commission] adopts aquatic life criteria for sulfate and chloride.” However, the Division in fact proposes a *new* standard for sulfate,

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because it is proposing to change the standard from “WS” to 250 mg/L. *See* Hearing Notice, Exs. 1 & 2; WQCD Ex. 34-2, pg. 10; WQCD Ex. 35-2, pp. 11–12. For streams without an actual water supply use (as demonstrated in the Division’s UAAs), the “WS” abbreviation means that there is no numeric standard for sulfate. Reg. 34.6(2)(b); Reg. 35.6(2)(b). Therefore, the Division’s proposal actually creates a new standard of 250 mg/L for sulfate where no standard exists now.

**i. The record is inadequate to support the Division’s proposed chloride and sulfate standards.**

CWWUC’s primary concern is that the Division’s proposed standards for chloride of 250 mg/L and sulfate of 250 mg/L lack any scientific support on the record. In particular, for sulfate, this represents the *addition* of a *new* standard without any technical basis. When it sets standards, the Commission must consider the factors in C.R.S. § 25-8-204, which are:

- (a) The need for standards which regulate specified pollutants;
- (b) Such information as may be available to the commission as to the degree to which any particular type of pollutant is subject to treatment; the availability, practicality, and technical and economic feasibility of treatment techniques; the impact of treatment requirements upon water quantity; and the extent to which the discharge to be controlled is significant;
- (c) The continuous, intermittent, or seasonal nature of the pollutant to be controlled;
- (d) The existing extent of pollution or the maximum extent of pollution to be tolerated as a goal;
- (e) Whether the pollutant arises from natural sources;
- (f) Beneficial uses of water; and
- (g) Such information as may be available to the commission regarding the risk associated with the pollutants including its persistence, degradability, the usual or potential presence of the affected organism in any waters, the importance of the affected organisms, and the nature and extent of the effect of the pollutant on such organisms.

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The Division has not submitted evidence supporting *any* of the required statutory factors. At most, the Division has attempted to explain the need for standards based on *concerns* expressed by the Environmental Protection Agency (“EPA”) and Colorado Parks & Wildlife (“CPW”). (WQCD Ex. D, pg. 9). This is not evidence and at any rate is insufficient for the CWWUC or the Commission to evaluate.

**ii. New aquatic life standards require more stakeholder input.**

The CWWUC’s other concern is that the process for proposing the aquatic life sulfate and chloride standards in this hearing has been opaque. There has been no opportunity for stakeholder involvement in this process. This is particularly surprising since the water supply standards for sulfate and chloride were discussed at length before last year’s Regulation 31 hearing, but there was no proposal at that time by the Division, CPW, or EPA to develop aquatic life standards for these parameters.

There are several reasons why CWWUC believes that stakeholder discussion about chloride and sulfate standards is critical:

- Standards for sulfate and chloride have important implications for chemical flocculation of phosphorus as a treatment technology. Therefore, the relationship among chloride, sulfate, and phosphorus standards must be discussed.
- Discussion is necessary about whether it is more important to reduce phosphorus or to prevent the discharge of chloride and sulfate. Facilities are planning now for the implementation of tertiary treatment, and it would be a waste of resources to surprise facilities later with standards that would restrict the use of tertiary treatment.
- CWWUC believes that the statutory considerations included in C.R.S. § 25-8-204(4), especially § 204(4)(b), must be discussed with stakeholders before standards are proposed to the Commission.
- The Division’s written materials imply that the chloride and sulfate standards proposed in this hearing are temporary placeholders (WQCD Ex. D, pg. 9), but the Division has not described any process for developing standards to replace them. CWWUC is concerned that these temporary placeholders will become permanent and will be used as precedent for subsequent basin hearings.
- In the nutrients workgroup, stakeholders have discussed a framework for the timing for considering future standards development. The Division has not proposed to include chloride and sulfate standards development in that framework.

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- Developing standards in the basin hearings for these parameters threatens to divert resources from nutrient standards development to successive basin hearing standards proposals.
- CWWUC believes that treatment to reduce chloride and sulfate from domestic wastewater is either unavailable or prohibitively expensive. Stakeholders need to discuss the feasibility of chloride and sulfate treatment.
- The EPA has not published Section 304(a) criteria for sulfate for aquatic life. In the absence of EPA criteria recommendations, does Colorado need to develop a sulfate standard? Why?
- Have other states adopted aquatic life standards for sulfate or chloride? If so, how many, and what were the standards based upon?

### iii. Removal of the water supply use.

The CWWUC supports the review of the water supply use to resolve domestic wastewater facilities' compliance problems arising from the revision of the nitrate standard, effective December 31, 2022. However, the Commission should not treat the Division's Exhibit D as creating precedent for later consideration of water supply use removal proposals. There are several questions that could use further discussion, including:

- The Division asserts that diffusion and dispersion can overcome advection to move contaminants in a direction different from groundwater flow (WQCD Ex. D, pg. 6). Although this is true in theory, how common is this phenomenon? At what groundwater flow rates and contaminant concentration differentials can this occur?
- The Division asserts that the question of whether water quality in a well can be impacted by surface water is more complicated than the "standard water quantity question of 'is there enough drawdown from pumping the well to pull water directly from the stream?'" In fact, the standard for determining whether a well is diverting water that is tributary to the stream is not whether it pulls water *directly* from the stream, but whether the withdrawal of the water, within one hundred years of continuous withdrawal, will deplete the flow of a natural stream at an annual rate greater than one-tenth of one percent of the annual rate of withdrawal. C.R.S. § 37-90-103(10.5). Groundwater engineers have developed modeling tools to answer these questions. It is not that the water quality question is more complicated. What are the actual distinctions between the tools for

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considering water quantity, versus the tools for considering water quality in this context?

- The Division raises concerns about future, individual wells for houses. This is a valid concern when considering whether to remove the water supply use. However, most streams in Colorado are overappropriated, which has the practical effect of limiting new domestic wells to a withdrawal rate of 15gpm to be exempt from water rights administration. C.R.S. § 37-92-602. Has the Division considered the likelihood that wells with such low pump rates would withdraw contaminants from surface waters?
- Frequently, groundwater withdrawn from a well and released to a stream requires a discharge permit. If wells are “hydrologically connected” to the surface water, does that mean that water withdrawn from those wells would not require a discharge permit? How can the relationship between surface and groundwater quality be made consistent across the Division’s programs?

4. Conclusion.

The CWWUC supports the Division’s proposed revisions to temperature standards in this hearing, with the questions noted above. However, the CWWUC opposes the Division’s proposed aquatic life-based standards for chloride and sulfate. The CWWUC believes that stakeholder discussion is needed if the Division intends to move forward with aquatic life standards for these parameters, and to discuss the methods for determining whether groundwater is hydrologically connected to surface water.

DATED this 12th day of April, 2017.

By: \_\_\_\_\_