



Meeting Minutes

Wednesday, June 8th, 2022

Attendees:

Blair Corning – South Platte Renew

Julie Tinetti – Centennial

Katie Koplitz – Metro

Gabe Racz – Vranesh and Raisch

Bonnie Pierce – Fort Collins

Mark Thomas - NFRWQPA

Hunter Greeno -C. Springs

Mary Paterniti - Longmont

Diana Trejo Calzada– LRE Water for BHCCSD

Meg Parish – CDPHE

Nathan Moore - CDPHE

Jim Kendrick – Tri Lakes

Jim Dorsch – Metro

Brandon Bernard - Security

Cole Sigmon – Boulder

Mike Morgan – Widefield

Brandon Bernard – Security

Annie Berleman – Colorado Springs

Nick Harmon – Aurora

Robert Fleck – St. Vrain

Bethany Green – Aurora

Tyler Eldridge – Greeley

Meghan Wilson – Boulder

Eli Jennings – Clifton

Caroline Byus – Pinyon

Lesa Julian-Broomfield

Jesse Schlam – Fort Collins

Andra Ahrens – Pueblo

Wally Eaves – Woodmen Hills

John Handzo – Aurora

Toby Ormandy – Fremont

John Gage – Longmont

Tara Wilson – Westminster

Annie Noble – Longmont

Gary Smith – SACWSD

Jessica DiToro - LRE Water for BHCCSD

Robert Fleck – St. Vrain

Amy Conklin – CWWUC Coordinator

Amy got the virtual meeting started and Blair welcomed everyone. Amy asked that everyone help her with the impossible task of keeping track of everyone at the meeting. Here is a link to the meeting recording:

<https://www.dropbox.com/s/s8xf1r66we4h22/video1498753240.mp4?dl=0>

Blair reviewed the agenda.

Nathan Moore (CDPHE) – State updates – Nathan Moore began the meeting with his report after people commented on his good looking background. Nathan reported on staffing updates at the Water Quality Control Division (WQCD). Meg Parish will be leaving at the end of the month. Her position will be announced in the next few months. Kelly Morgan is the new compliance and enforcement section manager. Spending permission from the legislature was granted so they're beginning to fill the staff positions with those funds. Construction inspection was one of the staff positions filled. There's a bigger gap in staffing for utility permitting and inspection and there will be some relief with the new positions being filled. They hope to coach some of the facilities that may qualify for federal recovery dollars. The new staff should be coming onboard in the second half of

the calendar year. They're also bringing on some staff to handle the distribution of recovery funds that will target utilities and their permits. They'll try to be flexible with staffing to best handle the workload. They're hoping to facilitate upgrades needed in water and wastewater.

Nathan reported on the Water Quality Control Commission (WQCC) activities. There's a hearing in June on the San Juan and Gunnison basins and new Water Quality Control Commissioners. The WQCC will take a break in July and August, coming back in September with a hearing regarding anti degradation. October's hearing will focus on increasing penalties to reflect inflation. To meet statutory timelines, the issue is being heard in October and won't go into effect until January 2023. They requested input on the proposed penalty revisions and will be responding to everyone who submitted comments. The proposed numbers should be published in the next WQCD Bulletin. The November hearing will be about specific lake nutrients, Regulation 85 and Policy 17-1. There shouldn't be any big changes to Regulation 85 or Policy 17-1 which is the Voluntary Treatment Incentive Program (VIP). There will be a Town Hall meeting on Lakes Nutrient standard June 21st 9- 10:30

Meg reported that the draft revisions to Water Quality policy 23, regarding temperature standards, will be noticed next week. It may take longer to finalize changes to the policy due, in part, to her leaving. She hopes the draft going to notice should be what the stakeholders expect.

The Non Impact Limits (anti-degradation, NILs) was noticed and below is a link. https://drive.google.com/file/d/1AXVk03QnqruALIEZ_LgE7B5vGGTM7gcj/view?usp=sharing Blair thanked Meg for her service and the clear communications.

Nathan reported that they will be skipping the July permits webinar and will try to revive them in October. PFAs and biosolids stakeholders work group had its first meeting. There is still a lot of work to do. The next meeting will be July 19th. In general, they're looking at getting some monitoring and source reduction.

EPA has been working on permits that are non-compliant to get the national number of non-compliant permits down. There will be ongoing scrutiny by EPA moving forward. The infrastructure money may help reduce non-compliant facilities. The vast majority of inspections are being driven by the desire to reduce noncompliance. Some inspections will be for MS4s because CDPHE isn't doing them.

The data call for developing the updated 303 d list of impaired stream segments has started. They need the data by September 1, 2022. Skip Feeney is the contact. skip.feeney@state.co.us They are requesting proposals for wildfire

mitigation projects. It should be on the website.

cdphe_wqcd_nonpointsource+managers@state.co.us

Nathan asked for feedback on the scope and topics he's presenting to the group. The feedback was that his reporting was just about right.

Board Action Items

Approval of invoices for payment – **Motion to approve** – Cole moved and Julie seconded a motion to approve payment of the invoices. The motion was unanimously approved.

Checks for Approval in June			
2320 - May Coordinating	\$ 831.25	May Coordinating	
2321 - Vranesh and Raisch	\$3,257.00	Invoice 42671	

Approval of May 11th 2022 minutes – The membership requested that **Amy** draft minutes from the recording for approval next month.

Discussion Items

Gabe Racz –

Antidegradation - The NILs memo from the WQCD didn't include any of the council's recommended changes. NILs are important because they lead to permit limits that can be impossible to meet. Anti-degradation policy should be grandfathering existing loads but that isn't happening. **He'll** have **Amy** distribute a memo about the recommendations for next steps. The WQCD memo recognizes that NILs policy doesn't carry the weight of a rulemaking.

Next steps include –

- Request a Judicial appeal. The deadline is June 30th. The argument would be that they conducted a *de facto* rulemaking hearing without following proper protocols.
- Request a WQCC review of the policy under Section 102. This is a statutory procedure that hasn't been done before. The argument would be identifying what triggers an antidegradation hearing.
- Do nothing and let each member who is impacted argue their own cases. Some members have had success arguing their cases.

The membership transitioned into a discussion about chemical evaluation forms because they can trigger antidegradation policies. Specifically, the issue revolves around completing forms for compounds containing Chloride (Cl). Neither Iron (Fe) or Sulfate (SO₄) have aquatic life standards, but Cl does. So, if a facility starts using FeCl or SO₄Cl, the addition of Cl may trigger antidegradation reviews. Both compounds, along with other metal salts, are commonly used to remove Phosphorus (P). Facilities often have some flexibility in what chemicals they can use in their treatment streams and may have the option of not including certain compounds in order to avoid an antidegradation review. But, they don't know if the addition of the chemicals will trigger the review until the draft permit is issued. If

addition of the chemical does trigger an antidegradation review, it isn't clear if they can then request removal of the chemical from the application. It becomes a question of which is more important; controlling nutrients or avoiding chemicals that may trigger an antidegradation review.

Under Regulation 22 which addresses processes, there's a sneak peak at effluent limits that should allow for chemical removal before the permit becomes final. Drafting Preliminary Effluent Limits (PELs) would inform facilities about the impacts of their choices to include chemicals, or not. The concern is the delay that can be caused by processing a modification request. The Chemical Evaluations Forms have issues and there are deadlines associated with them.

All the issues seem to resolve around good communication with the permits section. The permittees would like clarity in advance, antidegradation review changes and chemical evaluation forms that work for anyone. There are vacancies in key positions at the WQCD. There are other uses for FeCl in reduction of Sulfide in digesters. Cl concentrations at S. Platte Renew are increasing because of the use of road salts.

Longmont, John Gage, in particular is struggling with the issues in the permitting process. He'll keep the membership informed and may request support. Currently, with Meg leaving, the Permits Section is without a manager, so the logical staff member to talk to is Nathan. Colorado Monitoring Framework (CMF) has requested that facilities submit testimonials about their issues with Chemical Evaluation Forms by June 10th. **Blair and Gabe** will discuss the best way to move forward with the WQCD.

John reported on Monday, June 13, that he had a call with Michelle DeLaria, CDPHE, and she confirmed that they could use the withdrawal form after the draft permit went to public notice to remove one of the five chemicals requested on the chemical evaluation form (i.e., pull ferric chloride without jeopardizing the permit modification timeline).

The petition for review of antidegradation review on three (3) specific streams will have a hearing in September before the WQCC. The deadline for Party status is next week. It's specific to the water bodies but also could impact the approach to antidegradation review more broadly. Andra moved and Cole seconded a motion to approve **Gabe** filing for Party status for the council for the Regulation 38 hearing. It passed unanimously.

Regulation 21 – The WQCC has recently begun a stakeholder process for proposed changes to Regulation 21 which are the procedural rules for both rulemaking and adjudicatory hearing. **Gabe** sent out a memo on the proposed changes. He thinks it's important to keep a close eye on the proposed changes and recommends participation by the council. Nathan added that the stakeholder process should start in the fall. Julie asked about the upcoming Water Quality

Forum retreat. Nathan responded that the dates are August 4th and 5th but the venue and format for the retreat have not yet been decided.

Regulation 22 - Regulation 22 is the site application regulation. It has a work group that Gabe has been participating with for the council. They're discussing the construction flexibility issue. The current structure is that a facility has to design so that it can meet the standards at design capacity and then construct. The design capacity of some facilities is much higher than their flows. Some of the facilities may age out before they have achieved the design flows. They are unable to down grade. Others are much closer to their design capacity but are reluctant to build for their ultimate build out and would like more flexibility. The proposed changes could use some input from council members. He's requesting that members who are interested work with Gabe to coordinate comments. **Cole** volunteered. Flow tier permitting is important for Boulder. He doesn't understand the conversation between the engineering and permitting section. Gabe responded that flow tiers are covered in Reg. 16, but the permit practices have changed. There's a reluctance to include flow tiers. They are based on EPA guidelines that weren't finalized. They would have allowed design around flows rather than design capacity. The concern is protecting water quality and it's unclear about how the tiered limits would fit. It's not focused on any pending rule making so the scope is more vague. The critical condition for a facility may not be their highest flows.

Bonnie requested information about joining the group and was instructed to email Bruce Icenogle. He has taken on the administration of the group himself: bret.icenogle@dphe.state.co.us A link to the site where people can sign up is: <https://cdphe.colorado.gov/design-review-stakeholders> . Blair volunteered **Dan DeLaughter**. **Katie Koplitz and Rene** volunteered from metro.

Lake Nutrients Criteria – The formal process for the November hearing is beginning. **Gabe** will have a short written summary for **Amy** to distribute. The hearing is for lake and reservoir nutrient criteria as part of Regulation 31. While the type of lakes impacted is limited to those with swim beaches, used as drinking water, and a few other criteria, the expectation is that the standards adopted as part of this hearing will be the same as those adopted in the 2027 hearing for all Colorado lakes. The Colorado Water Quality Road Map specified that ideally there would be a year between the release of the proposed standards and the hearing. That timeline has not been met with the release of the proposed standards in May for a hearing in November. It will be challenging for stakeholders to thoroughly review the technical analyses that the standards are based on in the compressed timeline.

The Technical Advisory Committee used in establishing the criteria was open to the stakeholders but doesn't replace a stakeholder process. There are advanced

statistics used in developing the criteria. The proposed standards are much lower than previous standards. The proposed standard for P, for example, has been reduced from 83 ug/L to 36 ug/L. Gabe can't provide a technical review of the standards. He suggests the council pool resources and hire someone who could help them make comments at the hearing. Jessica DiToro recommended hiring someone with a better chemical/biologic background. Jim Dorsch reported that Steve Lundt participated in the TAC. The council concluded that **Gabe** should approach Jimmy McGutchen about providing technical expertise.

Regulation 85/Policy 17-1 – Amiee Konowal said they're open to comments until the end of the month. Some have requested an extension for participating in the VIP. Some want to participate in the next phase. Jimmy McGutchen's review should help council decide how to participate. Barb Biggs reported that she had attended a National Water Quality Assessment program (NAWQA) meeting. EPA has released a nutrient memo. Barb will send to **Amy** to distribute. It's favorable for the industry.

Stormwater Permit Comments – **Katie Koplitz** – Katie shared Meto's comments that are due next Monday. She focused on a few that may be of interest to CWWUC. **Katie** will work with CWWUC Board Officers to finalize language for comments to be submitted. Julie expressed support. Gabe has some additional items. John Handzo, Aurora, reported they're making similar comments. Many thanked her for her efforts.

John Handzo moved and Cole approved a motion to approve Katie and Gabe's comments for submission. The vote was unanimous.

PFAs legislation update – **Amy** – Al Garcia, EPA, is coming to the July meeting to present to the council and requested a list of topics so he could tailor his comments. The council developed the following list:

- Make sure Al is aware of Colorado's specific situation.
- Pre-treatment issues – what are other states doing when they think the bulk of the PFAs load is domestic and not from wastewater treatment facilities?
- At what levels are PFAs in effluent a concern? The levels are very low for facilities in Colorado.
- The risk assessment model being developed for PFAs includes a precipitation estimate. Precipitation in Colorado is significantly different than eastern states. Is the groundwater leaching component of the risk assessment reflecting the differences in precipitation?
- Are the levels of PFAs being proposed in Michigan consistent with levels found in Colorado?
- Should Colorado be conducting its own risk assessment to address Colorado-specific conditions?

Colorado Monitoring Framework – **Julie** reported on the topics covered. Temperature issues were discussed by South Platte Renew and Metro. Metro presented on their pilot of cooling towers and complications at the National Western. There was an update on Water Quality Policy 23. Eric Marler talked about the Suncor permit which should be final at some point. Chemical Evaluation forms were discussed by Katerine Marko who will present to the council in July. Andra presented about PFAs and EPA’s strategic roadmap and aquatic life criteria.

Andra asked the council if others have clarifiers located in a flood plain. Pueblo had to obtain a groundwater discharge permit because they use dewatering wells when they drain their clarifiers. They have to treat for Manganese and Selenium before discharging to the river. Has any other facility wrestled with this issue? If someone thinks of something, contact Andra. **Amy** can send a message to the membership to ask for input. **Andra** will send a message to Amy.

Next Meeting: Wednesday, July 13th, 2022 at 1:00 pm