SP CURE Board Meeting

Tuesday, August 16, 2022 – 9:00 am

Meeting Location:
Virtual Meeting

August Meeting Summary

High Level Take-Aways

- The Commission has a new requirement for rulemaking hearings that includes pre-meetings in disadvantaged areas to provide opportunities for diverse community members to engage.
- There is significant concern about the data and analysis associated with the upcoming Regulation 31 hearing that will consider nutrient standards for lakes and rivers and chlorophyll *a* standards. The WWUC will be asking for a hearing delay to address the issue.
- This year's Confluence at the Confluence will celebrate 10 years of progress in nutrient management. It will be held on October 6th at the Englewood Civic Center.

Action Items

- Confluence planning members will continue speaker outreach.
- Brown and Caldwell will follow up with Board members on Confluence at the Confluence sponsorship opportunities.

1. **Discussion and Approval of June Meeting Summary**

   The June meeting summary will be reviewed and approved at the September meeting.

2. **Regulation 38 Antidegradation Hearing**

   The hearing is scheduled for September 12-13, 2022.

   There is a new requirement for Commission meetings that JoJo La presented at the Water Quality Forum. The new legislation requires the Commission to hold at least 3 public meetings before each rulemaking hearing that occur in the evening, at noon, and on Saturday. They are required to hold in-person meetings in rural and disadvantaged areas. The intent is to inform the public, including intentionally engaging with disadvantaged communities, and to get input from them. The same presentations are given at each meeting.

   Jim suggested that folks might want to volunteer spaces for the Commission to hold such meetings. For instance, Metro is thinking the Northern Treatment Plant would be a good place to reach disadvantaged and rural communities.

3. **Regulation 31 Hearing**

   The data used to support the Regulation 31 nutrient hearing was released later than intended - the Division promised to provide data for review in January, but it was not provided until July.

In addition, the Technical Advisory Committee (TAC) was not able to see the data before July, which limited the group's ability to review and comment on data and information that supported the Division's proposal for the hearing.

Dr. McCutchan did a review on behalf of the Wastewater Utility Council (WWUC). The review identified some errors in the data and the way it was used. WWUC is planning to ask for a delay in the hearing to try to address this issue. The Division has been clear that they have no intention of delaying the hearing. Following are some of the concerns identified:

- The concept that a single sample is representative was flagged as a concern. The TAC talked about the use of sampling locations in data analysis that only had one sample vs multiple samples that would better represent the range of conditions at that sampling location. The concern was that a lot of sampling locations/lakes would be removed from the analysis if only sites with multiple sampling events were used. Tetra Tech did the regression lines with and without the single sample lakes, and the results looked similar and they ended up keeping the single sample lakes in the analysis. The TAC warned Amanda Jensen that this would be criticized. Saunders' analysis used only data from lakes with a minimum of three sampling events per year.
- They also considered throwing out data from lakes such as Barr Lake, Milton, Cherry Creek Reservoir, Dillon Reservoir, and others that have 20+ years of data that were skewing the results. The TAC ended up keeping all the data from these lakes in the analysis.
- The ratio of TP to TN in the 2012 interim standards was 11 while the new ratio is 17. The idea of regulating TP or TN but not both has come up, which is counter to EPAs approach and nutrient criteria that have been developed for the past 30 years.
- Interpretation of the USGS total nitrogen data was erroneous and biased the values lower. This affects a significant portion of the data and several different lakes and reservoirs.
- The data set was intended to look at surface data only but, for some lakes, Tetra Tech used values that were averaged between bottom and surface data. It is possible that we could argue that the bottom samples need to be removed but that would not appreciably change the TP and TN numbers.
- Detection limits for total nitrogen data tended to be high and, therefore, the data may not be adequate for the purpose of developing standards.
- Additional screening for outliers and obvious errors is needed.
- Nitrogen and total phosphorus were not evaluated with chl-a together and should have been.
- The TAC was a closed process and the Division's consultant (Tetra Tech) only communicated with Division staff.
- Not enough time to review the comments before it went through CDPHE because data were not provided in a timely way.

This concerns with data and data analysis for this hearing are also being discussed at the CMF Nutrient Task Force and BMW Board meeting. The CMF Task force believes calculations should be re-done and incorporate comments from stakeholders. Northern Water Conservancy District is also concerned and in agreement in requesting pausing or rescheduling the hearing to allow time to confirm the validity of the data and subsequent analysis results. This could take up to one year to review.

There is some concern that water rights administration and transfers would be affected because of these limits. These would be unintended impacts, and it seems that a number of utilities have this concern. Erin shared Water Quality Control Act 25-8-104, which has language stating that no treatment will be required if it affects water rights administration.

There is concern with Direct Use Water Supply application to all the water supply reservoirs. It used to be that the reservoir owners could ask for a Direct Use Water Supply designation, but now the state has just designated their own list.

SP CURE will start thinking about what to include in their responsive prehearing statement. Traditionally, the group comments on the science and data.

4. PFAS Update

The group reviewed the current state of the PFAS focus in Colorado. Regarding the new PFAS health advisory levels announced by EPA, the Division is not clear about whether these will be incorporated into Policy 20-1. The Division may be waiting for the EPA to publish MCLs before they make changes to the narrative numbers. The MCLs are expected in fall of 2022. Members envision that there will be parties on either side that will take action regardless of whether the Division acts or not.

There is pressure by some members of the public and some groups to push dischargers to non-detect or zero PFAS. The public is concerned that PFAS is prevalent in our waters. However, PFAS is omnipresent and impossible to completely to remove.

SP CURE approved $5,000 in funding for the CMF PFAS Task Force, per Sarah's July 28th email.

5. Confluence at the Confluence

Confluence at the Confluence is an annual event hosted by SP CURE to bring together stakeholders in the community on a water quality topic. This year, we are celebrating 10 years of nutrient management. We will talk about what groups are doing and advancements. This year will take place in person, which has not happened for the past few years. The event details are summarized below:

- *Nutrients then and Now: 2012 to 2022*
- Date: Thursday, October 6th
- Time: 9:00am – 3:00pm MDT
- Location: Englewood Civic Center Community Room
- 1000 Englewood Parkway, Englewood, CO 80110

Erin walked through the draft agenda and identified areas for SP CURE input. There will be a panel, series of stories, and discussion. Board members made the following suggestions:

- Western Resource Advocates or Trout Unlimited may have a good story about nutrients
- Include proponents from Regulation 38 hearing on invitation list
- Consider a speaker from an environmental group that has been involved in the nutrients process, such as The Blue River Watershed Group or Upper Colorado Watershed Group
- Include ways to integrate the audience, such as a white board exercise or word cloud development
- How does this relate to the general public and influence their day-to-day lives? The Greenway Foundation has done a lot on the urban South Platte on creating recreational activities.
- There is interest in hearing about the Army Corps project on the South Platte River
- It would be interesting to hear from El Laboratorio or invite them to the event
- Offer TU credits, if possible

Brown and Caldwell will follow up with the board regarding sponsorship opportunities.

6. Discuss Project Updates

a. **Colorado Monitoring Framework** – The Temperature Task Force has been involved with updating Policy 23, and that was released for public notice.
b. **CWQMC/CDSN –** CDSN received small grants from Division to do outreach and provide trainings. They are processing Colorado River data right now.
c. **BMW TMDL** – At the last BMW meeting, the Division attended to discuss the impact of the new nutrient standards on the existing TMDLs.
d. **Monitoring Committee** – The committee is continuing the arsenic evaluation and is looking at tributary loading to the mainstem. They are also looking at how we are reporting data around non-detects and J flags. The committee brainstormed about success stories of SP CURE data and updating the SP CURE white paper. The round robin will be held in October this year.

7. Budget Update

Budget is on track and there are no unplanned expenses.

8. Other Topics and Announcements

Updates from Water Quality Forum Retreat. Permits Issues Forum was proposed this year. It used to exist and was denied. Nathan Moore from the Division agreed to explore the topic and will work with a smaller group, including Lisa to moderate, to determine what topics to cover. Event attendance was slightly lower this year, but there were a lot of new faces. Overall, it was a good turnout with good conversation and discussion.

9. Next Meeting Dates

September 20, 2022 – Virtual
October 6, 2022 – Confluence at the Confluence
November 15, 2022 – Virtual

SP CURE Board Meeting: August 16, 2022
Attendance Record

Present	Name	Organization
	Juliana Archuleta	Adams County
X*	Sherry Scaggiari	Aurora Water
	Zachary Trabold	Aurora Water
X*	Julie Tinetti	Centennial W&S
	Alan Polonsky	City and County of Denver
X*	Jon Novick	City and County of Denver
X*	Michael Probasco	East Cherry Creek Valley W&S
X*	Curt Bauers	FRICO
X*	Brian Tracy	City of Golden
X*	Jim Dorsch	Metro District
	Jordan Parman	Metro District
X*	Mark Koch	Molson/Coors
	Mark Cubbon	South Adams County W&S
	Dan DeLaughter	South Platte Renew
X*	Eric Marler	Suncor Energy (U.S.A.)
X*	Caleb Owen	Thornton
	Shay Shih	Thornton
	Steve Materkowski	UDFCD
X*	Christine Johnston	Xcel Energy
X*	Sarah Reeves	Coordinator, Brown and Caldwell
X*	Beth Albrecht	Brown and Caldwell
X*	Erin Donnelly	Brown and Caldwell
	Jake Kunugi	Brown and Caldwell

*Joined virtually/by phone