SP CURE Board Meeting

Tuesday, June 21, 2022 – 9:00 am

Meeting Location:
Virtual Meeting

June Meeting Summary

High Level Take-Aways

- The Regulation 38 hearing is taking place on September 12, 2022. Metro will not be a party but Molson Coors will be very active in the hearing, putting forward both legal and technical arguments. SP CURE's RPHS will help support anyone's technical arguments.
- EPA's new health advisory levels announced for 4 PFAS compounds will make addressing PFAS in biosolids efforts more difficult and will likely reopen Policy 20-1.

Action Items

- Sarah, Jim D, and Christine J to draft SP CURE's RPHS for the Regulation 38 hearing.
- BC to send the coordinator contract out for review and approval.

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

   Julie Tinetti made a motion to approve the May meeting minutes. Dan DeLaughter seconded the motion, which passed unanimously.

2. **Regulation 38 Antidegradation Hearing**

   The upcoming Regulation 38 Hearing is scheduled for September 12, 2022. The hearing is to determine if South Platte Segments 15 and 1a and Clear Creek should remain use protected. Proponents feel that the antidegradation decisions made in 2020 were not legally sound. Water Resource Advocates, the proponent in this hearing, is not really focusing on the science.

   Metro hired James McCutchan, Ph.D. from CU to review Snyder Water Consultants' work. Dr. McCutchan had a number of concerns with the report, including:
   - They did not use the available data. Snyder did not use Metro or Molson-Coors data that were uploaded and available on the Data Sharing Network. In fact, Metro has the largest dataset on the segments of concern in the hearing.
   - They picked the data they wanted to use. Although they claim they looked at 16 sites, they truly only included 6 sites.
   - The review was only based on the 12-parameter test and does not include any other impairments that would appropriately portray the conditions on the South Platte (including temperature, which is not met in the winter season).

   Metro will not be testifying at the hearing or submitting testimony. Metro will send a letter with an updated water quality report that indicates the current condition of the stream. They will

address the outcome of the hearing through permits. Metro is trying to do more outreach to the public to create a positive image as an environmental organization vs a discharger.

It might be helpful to get a better sense of how other states implement antidegradation so that we might be able to inform future updates to the state's approach. We might consider looking into this after the hearing to consider what can be done.

Molson Coors was hoping Metro would be a party in the hearing. Molson Coors is trying to be reasonable but are seriously concerned that WRA is trying to undo 2020 hearing retroactively. Molson Coors will be submitting all legal and scientific arguments.

Reviewing the history of the antidegradation provision in Colorado, the attendees recalled that during the last Reg 31 hearing where this came up, EPA argued that just because you are effluent dominated, you are not necessarily unable to be better than required to protect uses. At the time, the Division didn't want to make any changes to the test because they didn't want EPA to step in and mess with the antidegradation provision so they didn't fight the effluent dominated definition or change the 12-parameter test.

SP CURE will submit a Responsive Prehearing Statement, including Dr. McCutcheon's report. Jim and Christine will work with Sarah to help formulate the comments for SP CURE to review prior to submittal to the Commission.

3. EPA PFAS Announcement

EPA released revised Health Advisory Levels for PFOS (0.02 ng/L) and PFOA (0.004 ng/L) that are much lower than previous advisories. Along with this announcement, they also added two new health advisories for GenX and PFBS. The state made a press release on the same day in support of these new lower numbers and compounded the issue by indicating that the public might consider adding in-home water filtration or drinking bottled water if they are concerned about PFAS.

The sentiment across the industry is that these lower levels, with very confusing/complicated risk bases, will create confusion and that Colorado's message to the public continues to weaken trust in our industry and the utilities that provide a public and environmental service.

SP CURE will continue to monitor the status of PFAS efforts in Colorado and will work through the CMF to address the new biosolids measures and any Policy 20-1 changes in the near term.

4. Permit Updates

- Suncor's draft permit was issued in November. The last round of three public comment periods finished in May and now is in permitting's court. Added to the mix is the antidegradation hearing, lower advisory levels for PFOA and PFOS. At this point, Suncor is not sure if these actions will push the Division to reopen Suncor's permit to include more stringent numbers or will just move forward with the draft that has been under review for so long.
- South Platte Renew has chemical approval requests – notifications for new chemicals – into the Division for alum and ferric chloride. They have not yet received a decision from the Division. Their CDPS permit is under review and they expect it to be issued by the end of June. One of their concerns in the permit were the chloride and aluminum limits that were based on antidegradation and were very low. SPR requested time to comply with the chloride limits because they were new and asked for aluminum to be removed from their permit because there is no standard for aluminum. It might be helpful to compile a list of everyone going through chemical approvals and what has

happened. It would be helpful to know what has been approved and what kind of WET testing was done to get it approved, etc. Reach out to Dan DeLaughter if you want to be part of this effort.

5. **Confluence at the Confluence – Stakeholders to invite**

Attendees listed stakeholders that we might want to invite so that we get good public and environmental partner engagement at the Confluence at the Confluence. Following is what was discussed:

- All the groups that the Western Resource Advocates is representing in the Regulation 38 hearing
- Those who participated in the Suncor public meetings (get list from Eric M)
- Conservation Colorado (Dan D has contact)
- Green Latinos (Dan D has contact)
- Greenway Foundation
- Sand Creek Greenway
- Denver City Council members (or aides) (Jon N has contacts)
- CASR, Mayor Hancock's climate and sustainability group (Jon N has contacts)

6. **SP CURE Coordinator Contract**

Sarah reviewed the Coordinator scope for the next year. There were no changes from the current year and there were no concerns or comments identified in the meeting. BC will send the contract out for review and a vote via email.

7. **Discuss Project Updates**
   a. **Colorado Monitoring Framework** – PFAS Task Force is addressing the state's biosolids approach. EPA's new health advisories will impact the state's approach and should be considered as we approach the topic as an industry.
   b. **CWQMC/CDSN –** no update
   c. **BMW TMDL** – The Regulation 31 nutrients hearing on lakes is occurring later this year and BMW will likely want to have some involvement. Steve Lundt has requested to have Division staff at a future BMW meeting to better understand how these new standards could impact BMW's TMDLs. There is a stakeholder meeting at Milton Reservoir next Tuesday.
   d. **Monitoring Committee** – no update

8. **Budget Update**

Budget is on track and there are no unplanned expenses.

9. **Other Topics and Announcements**

<u>Metro has pulled funding of Water Quality Forum</u> – Metro will no longer be part of the executive committee of the WQF and will not provide funding. The decision was based on Metro's priorities and financial commitments. The WQF no longer works as was intended and Metro does not feel it benefits Metro. They will continue to participate as a non-paying member and provide expertise as they see fit.

10. Next Meeting Dates

July 19, 2022 – Virtual
August 16, 2022 – Virtual
September 20, 2022 – Virtual

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Attendance Record

Present	Name	Organization
	Juliana Archuleta	Adams County
	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
X*	Dan DeLaughter	South Platte Renew
X*	Eric Marler	Suncor Energy (U.S.A.)
	Ben Wise	South Platte Renew
	Caleb Owen	Thornton
	Shay Shih	Thornton
	Steve Materkowski	UDFCD
X*	Christine Johnston	Xcel Energy
X*	Sarah Reeves	Coordinator, Brown and Caldwell
	Beth Albrecht	Brown and Caldwell
	Erin Donnelly	Brown and Caldwell
	Jake Kunugi	Brown and Caldwell

*Joined virtually/by phone