



**Minutes of
August 11 2010 Meeting
at Littleton/Englewood WWTP**

In Attendance:

Kevin Greer	Arbor Assoc. via telephone
Colleen Young	Greeley via telephone
Dave Meyer	Westminster
Bob Anastasov	City of Aurora
Ginny Johnson	Colorado Springs via telephone
Eileen List	Grand Junction via telephone
Martha Hahn	PCWA
Tim Moore	Risk Sciences via telephone
Tim Grotheer	Centennial Water & San. Dst.
Charlie Stevens	Rifle via telephone
Jim Kendrick	Monument Sanitation Dst.
Nancy Keller	Pueblo
Bret Linenfelser	Boulder
Brenda Stansbury	BHCC Water & Sanitation District
Mary Gardner	L/E WWTP
Bill Burks	Tri-Lakes WWTP
Roy Heald	Security Water & Sanitation
Blair Corning	SACWSD
Richard Leger	City of Aurora
Mark McCormack	Widefield Water and Sanitation Dst.
Jill Piatt-Kemper	Aurora
Jim Dorsch	MWRD
Tad Foster	Law Office of Tad Foster
Paul Ferraro	CWWUC

I. WET Policies and MMI - Tim Moore (via telephone)

Tim Moore gave the following comments:

A. Texas Case - WET. The EPA vetoed a State Permit and attempted to issue an EPA permit to San Jacinto, TX POTW to require WET limits for sublethal effects. San Jacinto POTW challenged the EPA sublethal WET limit and won because of the lack of reasonable potential. This was an interesting ruling by the

Environmental Appeals Board on EPA, including WET limits in an NPDES permit where the State has regulations that request a different process. EPA was told they did not do their job well enough and to do it over. The ruling did state the NOEC and IC25 were not both required. This is a Region 6 ruling, but will make it harder for Colorado to get approved.

B. EPA's comments submitted after the Administrative Action Hearing on WET

- EPA sent a letter on August 9, 2010 to Steve Gunderson regarding the State's proposed Policy WQP-28, "Implementation of the Narrative Standard for Toxicity in discharge Permits Using Whole Effluent Toxicity (WET) Testing." The 11-page letter and comments is on the Colorado W.Q Forum, Workgroups, WET website: <http://www.cwqf.org/Workgroups/Workgroup.htm>
- Tim Moore summarized the letter. EPA WET comments:
 - Stated that the 99% confidence limit is not allowed. Previously had stated it was not recommended. This is contrary to EPA headquarters guidance.
 - Stated that the state is reading EPA guidance out of context "IC25 and/or NOEC" doesn't really mean both must be failed before the test is considered a failure.
 - Stated that the 80% test acceptability criterion will result in higher cost for dischargers. They want to protect the discharger but actually the state allows it an option that the discharger can request. It is possible that the 80% criteria will require a WET test to be repeated more often but will increase the chance that the test results will be valid.
 - Stated that EPA does not like Colorado's 10:1 dilution and would prefer 100:1 for chronic limits.
 - Stated that any test failure is a violation subject to enforcement. The Colorado policy would not consider it a violation unless the TIE failed 3 of 5 or two consecutive tests.
 - Stated that WET testing should be done monthly not quarterly.
 - EPA quoted the Region 8-9-10 toxicity tool like it is an official guidance but it is in direct conflict with the EPA headquarter guidance.

Additional comments by Tim Moore and Council members:

- Good news - State to hire a WET Coordinator.
- We have made progress with the State.
- State made the changes that CWWUC wanted, but not EPA.
- Tad - do we write a response to EPA's letter? Tim Moore said, yes. Letter to go to Region 8 and Martha Rudolph.
- State is asking for help from CWWUC.

- Wait for the State to see if they make any changes. We are comfortable if they (State) do not make any changes.
- Check with the State - Andrew - if they plan on making any changes?
- Steve G. is not in agreement with EPA.
- Tad and Nancy to work with Tim Moore on preparing a response to EPA's letter.

It was moved by Jim Kendrick, seconded by Tim Grotheer, to fund a response by Tim Moore to EPA's letter. The motion passed unanimously.

C. MMI - Tim Moore gave the following comments:

- He wrote a response to the Divisions first draft proposal.
- Formal comments on the final proposal are due by September 8, 2010 for the Administrative Action Hearing on October 12th.
- State did not comment on CWWUC's questions.
- To prepare a site specific modification will cost \$2 million.

How do we respond to MMI issues by September 8, 2010?

- If MMI moves as it is, it will impact Tad and John's work on nutrients.
- One sample per sample station was used, which is not enough.
- MMI needs to be scientific.
- Should we suggest a hearing delay of the issues regarding MMI?
- State won't delay hearing until next year.
- What should WWTP do? Man-made changes to a stream is a problem with the MMI process. It is designed to detect urban impact.
- Minimum data? 2-4 data sets needed in a stream segment.
- Tim G - does someone need to sit down with the State to discuss the issues?
- Jim D - Metro has said it all before. Metro is glad to see others bringing the issue to the front. August 17 meeting - John Hall, Tad, Tim G. and Nancy with Dave Akers, Steve Gunderson and Paul Frohardt on nutrient issues.
- Tim G - Paul Frohardt said we do not have the money to do what you want us to do. Cost of meeting the proposed standards is around \$35 million for Centennial.
- Wisconsin's approach - need peer review.
- The process may require some legislative efforts.

- Charlie S - Cost/benefit analysis. Cautious of how we approach MMI. Need more than one data point? Working together.
- Tim G - work together or go the legal process. Division wants to win - make them win if possible.
- Jim D - back up issues with scientific papers / recommendations.
- Bret L. - Address data gathering. Implementation very important. How are they going to implement. We are better served dealing with implementation issues. CWWUC has raised the issues.
- Nutrient Rulemaking Hearing will be June 13, 2011.
- Approach
 - How will we do MMI, what does it mean?
 - Define MMI as a trigger, not a standard; limit its use.
 - Tim M. to provide the language.
 - Comments - August 16th the Division's proposed document will be available.
 - Comments due September 8, 2010.
 - Charlie - let the legislators know the costs to implement nutrient standards.
 - Tad mentioned that it costs around 75 cents/gallon for nitrogen removal.

It was moved by Richard Leger and seconded by Jim Kendrick to have Tim Moore prepare comments regarding the State document to be issued on August 16, 2010. Motion approved unanimously.

II. Nomination of Officers

Position	Name	Utility
Chair	Dennis Stowe	Littleton/Englewood WWTP
Vice Chair	Amy Woodis	Metro Wastewater Reclamation District
Treasurer	Tim Grotheer	Centennial Water & Sanitation District
Secretary	Bob Anastasov	City of Aurora
Director	Nancy Keller	City of Pueblo
Director	Ginny Johnson	Colorado Springs Utilities

III. Preparation for Annual Meeting

Paul and Jeannie will prepare the reports for the Annual Meeting. Nancy will help with the Special Projects Report. Martha H., Bret L., Bob A., Blair C., Tim G. and Dennis S. will be attending the Keystone Conference.

IV. Laboratory Test Method Sensitivity

- The Council Board will keep members informed. Jeannie to send out the proposal from the EPA.

V. EPA Six Point Listening Session, August 24 & 26

Jeannie to send out an email with information regarding these sessions. Nancy will provide the information.

VI. Updates.

- Water Utility Council - No report.
- Stormwater - Nothing new.
- Nutrient Coalition – No additional discussion. EPA to have a nutrient workshop next February in Salt Lake City.

VII. Open Discussion

- The Council should participate with the Colorado Water Congress' Legislative Breakfast in January 2011. Paul F. to contact the CWC.

Meeting adjourned at 3:25 pm.

Next meeting: September 14, 2010 at 7 AM at the Keystone Resort.