

MINUTES
NFRWQPA Meeting - January 5, 2012

1. Roll Call

The meeting was called to order by Eric Doering at the Southwest Weld County Building. Roll was called and the following members were in attendance:

Boxelder Sanitation District – Fred Walker

Brighton – Ed Burke

Erie – Jon Mays

Estes Park S.D. – James Duell

Evans – Earl Smith

Ft. Collins – Carol Webb

Ft. Collins – Ray Kemp

Ft. Lupton – Thom Vinson

Greeley – Dennis Schump

Greeley – Colleen Young

Also present were Connie O’Neill, Manager for NFRWQPA; Ed Schemm, Larimer County; and Boyd Hanzon, RMWS.

Lochbuie – Thomas Satchell

Metro Wastewater Rec. Dist. – Amy Woodis

Platteville – David Brand

South Ft. Collins S.D. – Val Leiker

St. Vrain S.D. – Eric Doering

St. Vrain S.D. – Rob Fleck

St. Vrain S.D. – David Cross

Upper Thompson S. D. – Chris Beiker

Weld County – Doug Rademacher

Weld County - Mark Thomas

2. Approval of Agenda

Mr. Mays made a motion to approve the agenda as presented. Mr. Rademacher seconded the motion and it was approved.

3. Update

Ms. O’Neill stated that Attachment #2 includes an update of nutrient regulation activities since the last NFRWQPA meeting and includes information from the Colorado Nutrient Coalition (CNC). Ms. O’Neill stated that several CNC members are making political efforts to get total nitrogen requirements removed. These have been discussed at CNC but they are separate individual efforts not a joint CNC effort. Ms. O’Neill also provided some information that she received from the Colorado Municipal League. There was also discussion regarding a survey that the Water Quality Control Division (WQCD) has sent out. Mr. Burke asked who all had received the survey. Mr. Mays will forward some information that he has received regarding the survey. This will be distributed to all the members.

4. Decision Item

Ms. O’Neill stated that Attachment #3 is a list of potential issues associated with the proposed nutrient regulations divided into four categories. Recommendations for the NFRWQPA response to each of these issues are provided. The group then discussed of each of the issues.

NFRWQPA Identified Responsive Prehearing Statement Issues:

1. Significant Discharger (Reg 31)

Ms. O’Neill stated that section 31.7 (e)(i) states that “interim phosphorus and chlorophyll a values can be applied to waters located upstream of permitted point source discharges with significant nutrient discharges.” The WQCD has defined this as those whose discharge would cause or contribute to an exceedance of the interim values. The Conversation Groups propose to change this to only those requiring Reg. 85 permit limits. Ms. O’Neill stated that this could be an issue for small facilities in our region and suggested that NFRWQPA follow up on the determination made at the December 8th meeting and address this issue in a Responsive Prehearing Statement (RPHS). It was agreed that this issue would be addressed in the Association’s RPHS and that Ms. O’Neill will coordinate with Ms. Woodis on this issue.

2. MDLs (Reg 85)

Ms. O’Neill stated that this was an issue previously raised by the City of Ft. Collins. The CNC asked for the method detection limits (MDLs) to be removed from the regulation but that has not happened. Ms. O’Neill’s suggested that NFRWQPA follow up on the determination made at the December 8th meeting and address this issue in a RPHS. Ms. Webb agreed with the suggestion and offered to work with Ms. O’Neill. It was agreed that this issue would be addressed in the RPHS.

WQCD Options for Variations on Current Proposal

3. Variation #1 -10 yr. Delay in Reg. #85 Requirements for Domestic WWTF's < 2.0 MGD
Ms. O'Neill stated that WQCD included this possible variation in their Proponents Prehearing Statement (PPHS). A summary of this proposal along with the pros and cons are included as Attachment #4. In addition, a spreadsheet showing the facilities in our region that would qualify for the exceptions and delay is included as Attachment #5. Ms. O'Neill's recommended that NFRWQPA support this proposal in our RPHS. The members agreed with this recommendation.
4. Variation #2 – Limit Application of Reg. #85 to Specific Geographical Areas
Ms. O'Neill stated that the WQCD included this possible variation in their PPHS. A summary on this proposal along with the pros and cons are included as Attachment #4. There is also a matrix included as Attachment #6 with potential geographical prioritization. The recommendation was to gather additional information at the workgroup meeting on January 9th. If additional information confirms no effect on compliance schedules considerations, then the recommendation would be to support this proposal in our RPHS. The members agreed with this recommendation.

CNC Responsive Prehearing Statement Focus Area

5. Regulation #85 TN Mandates
6. MMI based stream criteria (Reg 31)
(Issues #5 & 6 were discussed together.) Ms. O'Neill stated that the total nitrogen (TN) requirements have been an issue that CNC has consistently opposed. This is one of three main issues that CNC will be preparing a response to in their RPHS. CNC will recommend one of two options as a solution. (1) Set appropriate triggers for applying TN limits and/or (2) establish a simplified off-ramp for avoiding TN reductions for waters where TN reduction will not provide any significant benefit (this will also address methods to ensure that future TN-induced impairments do not occur).

Regarding issue #6 Ms. O'Neill stated that the science behind the stream criteria has been an issue that the CNC has consistently opposed. This is the second of three main issues for CNC and they will ask that at the same factors/analysis considered in the Reg. 85 issue above be considered in determine the need to set TN criteria for individual water bodies.

Ms. O'Neill stated that this is a more conservative approach that CNC has pursued in the past. She still feels this will a difficult argument however the off-ramp approach may be slightly more appealing as the default would be the existing proposal. It would be up to the discharger to justify the removal of the TN requirements on a site specific basis. Ms. O'Neill added that there have been a number of NFRWQPA members who have expressed a desire to have the TN limits removed due to the excessive cost. Based on this feedback she has received so far, her recommendation would be to provide support to CNC on both issues and that NFRWQPA would not specifically address the issues in our RPHS.

Mr. Walked questioned how we would show our support for the issues. Mr. Doering stated that in the past the Association has submitted a letter to CNC to outline our perspective. Ms. Webb stated that Ft. Collins does not support this approach. She thinks there are other avenues to address this. Mr. Mays stated that by supporting CNC it may help negotiation positions for Erie. Ms. Woodis stated that Metro will support the need for TN limits. Mr. Rademacher stated that Weld County agrees with the CNC approach and has joined the CNC and signed a letter going to the Governor which asked for the TN requirements to be removed. Mr. Schemm added that it does not appear that the WQCD is waiting to see what the Governor will do. Ms. O'Neill added that she realized this is a very difficult issue and not all NFRWQPA members are in agreement. Mr. Bieker added that he felt it would acceptable to support the off-ramp idea as the default would be to maintain the TN limits. After further discussion Mr. Doering suggested that the group move on to the other issues and return to this discussion later.

7. Periphyton In-stream Targets (Recreation Values – Reg. #31)

Ms. O'Neill stated that this is a more recent issue and the third main issues that CNC will be preparing a response to in their RPHS. The issue is that the background information used for this target value does not support the application as proposed, particularly for warm water streams. She stated that based on feedback to date, the recommendation would be to provide support to CNC to address this issue. NFRWQPA would not specifically address the issue in RPHS. The members agreed with this recommendation. Ms. Woodis added that Metro will also be addressing this issue.

Other Potential Issues

8. Other Conservation Group Proposed Changes

Ms. O'Neill stated that the Conservation Groups proposal include four facets. One has already been addressed in issue #1 regarding significant dischargers. The other three include (1) expansion of section 31.17(e) to include segments where ambient quality meets or exceed the interim values and segments that flow out of the state with no permitted discharges, (2) expansion of section 31.17 (e)(iii) to include any situation (not just unanticipated where the Commission makes a determination that numerical standards are necessary, and (3) expansion of section 31.17(f) to also include any situation where the Commission determines numerical standards are necessary. Ms. O'Neill stated that these suggestions are not consistent with the approach the WQCD has provided and in some cases may increase the cost of implementation of a statewide basis without complete justification of the need. The recommendation is to oppose these modifications to the WQCD proposal in NFRWQPA RPHS. The members agreed with Ms. O'Neill's recommendation.

9. Regulation #85 TP and TIN Numbers

Ms. O'Neill stated that there continues to be some discussion regarding the proposed numeric limits in Reg. #85. These numbers have had much debate and some parties would like to see alternative numbers adopted such as those included in the engineer's recommendations. Ms. O'Neill stated that while there are valid arguments for these alternative numbers she does not think it will be necessary for NFRWQPA to pursue these issues. Ms. O'Neill stated that she believes other parties, including NFRWQPA members (Ft. Collins) will be submitting a proposal that will adequately address these options. Ms. O'Neill's recommendation would be for NFRWQPA not to specifically address the issue in our RPHS. Ms. Webb suggested that NFRWQPA include a statement of support for the engineer's numbers in our RPHS. Mr. Walker agreed and the membership determined that it was appropriate to address this issue in our RPHS.

10. 303(d) Listings

Ms. O'Neill stated that this has been an issue that CNC has pursued in the workgroup process. The notice version of the regulations now addresses the issue and indicates that the proposed numerical values will not be used directly as a basis for identifying impairment until they are adopted as a segment specific standard. Ms. Woodis stated that Metro is going to address this in their RPHS. It was agreed that NFRWQPA would not address this issue in their RPHS and that Metro's proposal would be discussed at the January 26th meeting.

11. Relationship to Narrative Standards

Ms. O'Neill stated that this was an issue raised early on by CNC and there has been significant discussion at the workgroup level regarding the use of the Reg. #31 interim values to interpret Colorado's narrative standard. Ms. Woodis indicated that this issue will also be addressed by Metro in their RPHS. The membership agreed to not to address this issue at this time and also discuss it at the January 26th meeting.

12. Regulation 85-Compliance Schedules

Ms. O'Neill stated that there has been discussion within the CNC about the need for the regulation and/or the Statement of Basis and Purpose language to specify that compliance schedules may need to extend beyond 10 years. Ms. O'Neill stated that she does not feel the WQCD will be open to including additional language. She also feels that EPA may object. She would not recommend this issue be addressed in the NFRWQPA RPHS unless members have specific concerns or there are

additional items within this topic that are not being addressed. The membership agreed with this recommendation.

13. Regulation 85-Economic Reasonableness/Municipal Screener

Ms. O'Neill explained that the CNC members have identified an issue with the Municipal Screener language however; it was not selected as a focus area for the CNC consultants to address in their RPHS. Ms. O'Neill stated that other CNC members have indicated that they will be proposing revisions to the WQCD proposal in their RPHS. Ms. O'Neill feels that this issue will be sufficiently addressed by other parties unless there are additional items within this topic that are not being addressed. The membership agreed with this recommendation.

14. Direct Use Water Supply (DUWS)

Ms. O'Neill stated that there has been ongoing discussion within the CNC about the desire to move the DUWS language from Reg. #31 to Reg. #85. This shift would be to address the possibility of Clean Water Act oversight. There have been small workgroup meetings between several key parties on this issue and these meetings are ongoing. A list of potential reservoirs that would be included in the DUWS subcategory was included as Attachment #7. Ms. O'Neill stated that she has not received feedback from NFRWQPA members that the current proposal is a concern. Ms. O'Neill's recommendation would be to not address this item in the NFRWQPA RPHS. Further discussion of the issues will need to happen should the small workgroup parties present an alternative proposal. The membership agreed with this recommendation.

15. Monitoring

Ms. O'Neill stated that this has been a discussion within the CNC about the desire to have more language in the regulation that urges dischargers to do more monitoring. This was not selected as a focus area for the CNC. Other CNC members have indicated that they will be proposing revisions to the WQCD proposal in their RPHS. Mr. Mays added that discharger have the option of doing additional monitoring. The membership agreed with the recommendation to not address this issue in our RPHS.

16. Cost/Benefit Study Issue

Ms. O'Neill stated that the final cost/benefit study has now been posted online and incorporated into the WQCD's PPHS. NFRWQPA submitted several comments on the draft study addressing inconsistencies with our 208 Plan. CNC members have discussed a number of concerns that they have with the study including the estimated costs and the fact that TN and TP costs are not separated. Ms. O'Neill stated that the main area of concern that she has heard voiced from NFRWQPA members is the cost for TN treatment. Ms. Webb added that for Ft. Collins the costs are very close for TP and TN treatment at Tier 1. The membership determined that this issue would not be addressed in the NFRWQPA RPHS.

Discussion then returned to issue #5 and #6. It was determined that NFRWQPA would support the CNC position however; we would indicate in our RPHS that other individual members have differing opinions.

5. **Decision Item: Colorado Nutrient Coalition Funding**

CNC funding was then discussed. Ms. O'Neill stated that CNC has requested \$3,000 from all members. Mr. Doering stated that NFRWQPA has been a major contributor in the past. Mr. Mays added that CNC has moved the bar a long way. Mr. Doering stated that he is willing to approve \$3,000 at this point. Mr. Mays made a motion to approve the \$3,000 contribution. Mr. Rademacker seconded the motion. The motion was approved with one vote in opposition from the City of Ft. Collins and Metro WW Rec. District abstaining from the vote.

6. **Adjourn**

There being no further business the meeting was adjourned.