

CLACKAMAS COUNTY BOARD OF COUNTY COMMISSIONERS

Study Session Worksheet

Presentation Date: March 15, 2011 Time: 1:30 PM Length: 45 minutes

Presentation Title: CCSD#1 Rules and Regulatory Issues Update

Department: Water Environment Services

Presenters: Mike Kuenzi, Chris Storey

ISSUE & BACKGROUND

This study session is intended to provide the BCC with a status update on (i) CCSD#1's rule update process, and (ii) current and future sewer and stormwater regulatory issues for both CCSD#1 and TCSD.

I. Rules Update Process

The Clackamas County Service District No. 1 regulates the use and construction of sanitary sewer and surface water in its Rules and Regulations, Administrative Procedures, and design standards and specifications, which are contained in five separate documents. The Rules and Regulations ("Rules"), which are analogous to the County Code, state the District's policies and rules that users (development community, industrial, commercial and residential users) must follow. The Rules for sanitary sewer contain, among other provisions, technical standards for sewer construction which fall out of date as new products and construction methods are developed. The Rules for surface water management face similar issues. Historically, the Rules have been modified by Board Order on a limited basis. Both sets of Rules and contain common provisions for customer relations issues that should be combined for consistency. Staff believes that consolidation of the Rules of CCSD #1 into one document will provide significant customer service benefits.

Staff presented this idea to the BCC in 2007 and received direction to proceed. Staff has drafted a model consolidated rules for combined sewer and stormwater, and design standards using best practices for low impact development. These materials were provided to interested parties and staff solicited comments from interested stakeholders, including the development and environmental community, advisory boards and government partners. Also, numerous housekeeping and administrative updates are needed, particularly for the Rules for sanitary sewer. DEQ has issued directives requiring updates to the industrial pretreatment portion of the rules that staff has added to the draft. WES staff will be bringing forward after budget season a proposed rule amendment to the BCC for public hearing and consideration implementing the vetted combined rule.

II. Current Regulatory Issues

Several regulatory issues that are likely to have a material impact on both CCSD#1 and the Tri-City Service District are under consideration by either the EPA or DEQ at this time. A brief summary of these issues is below:

- MS4 Numeric limits: The EPA has launched a consideration of implementing a rule that would require holders of MS4 (Municipal Separate Storm Sewer Systems) permits to meet specific pollutant measurements in any waters that reach streams, instead of the current "best management practices" approach. To ensure that this is met, it would require construction of treatment facilities for rainwater.

- Fish consumption rate finding: Current levels of discharge for certain bioaccumulative pollutants, such as mercury, are based on a background assumption of risk to human health by consumption. The current level assumes approximately 6.5 grams/day, which works out to one meal of fish per week. The new regulations assume 175 g/day, based on some 1990s studies of fish eating habits among native tribes. This would decrease allowable discharges to approximately 1/27th of its current allocation. To meet this requirement, it may require tens of millions of additional treatment infrastructure and/or somehow intervening in the watershed to prevent these toxics from making it to the river.
- DEQ Toxics program: DEQ is initiating a new regulatory program based in part on Senate Bill 737 regarding concern of toxics reaching the rivers. While ostensibly a broader effort to reach non-point sources, DEQ's primary authority is over NPDES permits and they are expected to take the brunt of this regulation. However, supermajorities of problematic pollutants reaching the rivers are coming from non-point sources.
- Tightened ammonia regulations for dischargers: DEQ is seeking EPA approval of a rule proposed in 2009 for more stringent ammonia limits for NPDES dischargers. If granted, it could reduce the viable capacity of the Kellogg Plant and accelerate the need for additional capital construction.
- CMOM asset management requirements: The EPA has been considering a rule that would mandate a certain level of asset management and replacement to avoid critical failure. WES is already proceeding with an asset management plan but the risk remains that it would not be consistent with the requirements of any proposed rule.
- Tightening discharge limits: The current allocation of waste discharge loads, BOD and TSS that are allowed under the present NPDES permits will likely be required to handle all future growth, since when a plant is expanded the permitted discharge is decreased by 50% based on a theory of improving technology.

III. Possible Regulatory Response Strategies

Staff has undertaken a strategic review of options in light of the above current or likely future regulations that could impact the services provided by CCSD#1 and TCSD. In doing so we considered several approaches, that could broadly be classified as Proactive Status Quo (The Same But Better), Inflow Management (Avoid Problems by Prevention), Industrial Permit (Change the Regulatory Structure), or Water Reuse (Discharge Elsewhere Instead of the River). After much internal discussion of the pros and cons, staff has identified Water Reuse as the strategy most likely to succeed and accomplish the goals of handling the upcoming regulatory environment in a cost-effective manner. We are in the process of validating that approach now with stakeholders, advisory committees, and outside interested parties.

SCHEDULE FOR STUDY SESSION

Division Director/Head Approval _____

Department Director/Head Approval  _____

County Administrator Approval _____