

(NER) “until regulatory and technology issues become more certain and the JUC has the benefit of a second opinion from independent qualified professional engineering firm(s) as to the options available to TLWWTF for dealing with future regulatory requirements related to the removal of nitrogen and further tertiary treatment of phosphorus.” The resolution said it was unclear whether Tetra Tech’s proposed Phase 2 or Phase 3 would be either “required or effective in meeting future regulatory requirements.”

Fifty minutes of heated discussion ensued, including references to the current lawsuits in progress. The discussion culminated in a 2-1 vote to approve the resolution. Strom was “strongly opposed” to the resolution.  
**Note:** WWSD filed a lawsuit against MSD and PLSD in April 2015 over how the cost of construction of the new TP chemical tertiary clarifier and new supporting infrastructure would be shared. See <http://ocn.me/v15n5.htm#tlfjuc0414>.  
**Note:** “Reg. 31” referred to below is Regulation 31–The Basic

Standards and Methodologies for Surface Water, (Colorado Water Quality Control Act, 5 CCR 1002-31)

- Smith’s comments included:
- This resolution will put my mind at ease. I want the JUC to make it official and to say we have not approved anything for Phase 2 and 3 and that we are not going to until we have more data.
  - I want a second opinion besides Tetra Tech’s before spending \$32 million.
  - I want to know what the standards are before we build something we don’t need to build. The Colorado Department of Public Health and Environment (CDPHE) has not yet determined a nitrogen and phosphorus discharge limit for TLWWTF. They will use nutrient stream data collected over the next several years as required by Reg. 85.
  - I know we need a vehicle to meet Reg. 31. Maybe we will need a Ferrari or maybe a bicycle. We don’t know.
  - I’m sorry we don’t see eye to eye. I don’t like this kind of meeting; I don’t like confrontation. Some things just have to be done.
  - We now ... have made a few lawyers rich. That’s a bunch of baloney.

Strom’s comments included:

- Reg. 31 is not going to go away.
- I don’t know if I have my board and constituents behind me so I am not prepared to sign this today.

Wicklund’s comments included:

- I like Jessie’s analogy of a car, because the 2014 engineering report has us planning on a Ferrari. We would have to start raising our rates to meet that \$20-30-40 million goal based on a report we have planning for a

Ferrari when we might just need a bicycle after Phase 1 is done. We might not need a vehicle at all.

- We are showing no harm to stream. Phosphorus is down to below 1 mg/l and nitrogen below 2 mg/l. We are not seeing nitrification of the stream. We are not seeing an enormous amount of algae. The fish are not dying. The aquatic life is good. It may be that in the future the state will look at this plant as a model plant for nitrogen and phosphorus treatment.
- In 2022, the next stream triennial review, the state will take Reg. 85 data that AF CURE has gathered up. The state may not decide any of these limits until even 2027 or 2030, but here we are already racking our brains about Phase 2 and 3.
- It is frightening for us to be moving forward in this. We would have to charge over \$100 a month just for sewer rates.
- The town is already looking at increasing water rates 60 percent and it’s blowing our public’s mind in Monument.
- The NER is from 2014. An engineering report shelf life is six months maybe.
- Instead of the Tetra Tech’s planning estimates of \$12 million for Phase 2 and \$7 million for Phase 3, we are looking at \$20 million to \$40 million (if the same cost overrun percentages occurred as those on Phase 1).

**Note:** Tetra Tech’s first estimate for Phase 1 was \$1 million, which matched the state nutrient construction grant of \$1 million that was awarded to the Tri-Lakes facility in July 2013. (See <http://ocn.me/v13n8.htm#grant>.) The lowest construction bid was \$3.059 million for the total phosphorus expansion, exceeding

the Tetra Tech engineer’s planning estimate by about 60 percent. (See <http://ocn.me/v15n5.htm#tlfjuc0414>.)

- Shaffer’s comments included:
- You’re going to need a vehicle to meet Reg. 31. We don’t know yet if it will require a tank or a Volvo or Ferrari.
  - We tell our constituents that the JUC has not authorized permitting and design of Phase 2 at all yet; it is a concept plan.
  - We need to be able to put money into a capital improvement plan that rolls over into our rates and cost of service analysis.
  - We know there is some level of nebulous out there.
  - What is the urgency? Would you be willing to bring this resolution in front of the committee in six months?
  - We are going through a dispute. We all know what has been filed at county court. We have two summary judgments, one from Monument and one from Woodmoor, and the language of this resolution sounds a lot like the language in Monument’s summary judgment motion.
  - You are setting stage for the judge or the jury or whoever is looking at it to “not rule” on the type of project as it relates to cost apportionment. You are telling the judge not to consider phases 2 and 3 since they are speculative and uncertain. You want to leave (the) door open to fight and litigate again.
  - The Woodmoor summary judgment motion is exactly the opposite of that; we want certainty. We are asking the judge to rule on the type of project. We are not asking him rule on the fact that you guys need to split cost a certain way.
  - I don’t know how you can

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