



Board Summary Memo

To: Board of Directors
From: Ashley Byerley, Senior Environmental Engineer
CC: Paul Danley, Executive Director
Dani-Ella Betz, Senior Environmental Specialist
Date: September 22, 2021
Re: SEMSWA Non-standard Permit Update: Associated IGA with Douglas County, SOP with Arapahoe County, and MOU with Littleton Public Schools
Board Meeting Date: September 22, 2021

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Purpose

This Summary Memo will provide the Board with background information regarding SEMSWA's Non-standard Municipal Separate Storm Sewer System (MS4) Permit. Specifically, actions required by SEMSWA in order to meet the November 1, 2021, effective date of the revised permit. These actions include: 1) proposed Intergovernmental Agreement (IGA) between SEMSWA and Douglas County (County) that will be brought to the September Board meeting for Board action, 2) proposed Standard Operating Procedure (SOP) that SEMSWA staff have drafted cooperatively with Arapahoe County staff, and 3) proposed Memorandum of Understanding (MOU) that will be brought to the September Board meeting for Board action.

Discussion

Overview of SEMSWA's Non-Standard Permit

SEMSWA currently holds a standard MS4 permit for the area within the City of Centennial's jurisdiction (COR080021) and a non-standard MS4 permit for those areas owned or operated by SEMSWA within the Arapahoe County Water and Wastewater Authority (ACWWA), Inverness Water and Sanitation District (IWSD), and the East Cherry Creek Valley Water and Sanitation District (ECCV) boundaries within the unincorporated areas of Arapahoe County and Douglas County within the SEMSWA service area (COR070225), as shown in **Exhibit A**.

SEMSWA is the only permittee that holds both a standard COR080000 series permit, intended for governmental entities with populations of less than 100,000 in an urbanized area draining to the Cherry Creek Reservoir, and a non-standard COR070000 series permit, intended for governmental entities that own or operate storm sewer systems with maximum daily user population (residents and individuals who come there to work or use the MS4 facilities) of at least 1,000, located in an urbanized area. Other non-standard permittees include school districts like Cherry Creek School District and Littleton Public Schools, Metro Districts like Greenwood South Metro District, transportation agencies like RTD and E470 Public Highway Authority, and the Cherry Creek State Park.

The non-standard permit was issued on April 30, 2021 and will be effective November 1, 2021, hereinafter referred to as the "new non-standard permit". Prior to that date, SEMSWA, and other non-standard permittees were permitted and authorized to discharge under the administratively continued non-standard permit, effective March 10, 2013. The new non-standard permit reflects the Colorado Department of Public Health and Environment's (CDPHEs) effort to advance water quality requirements with each permit renewal, and the result is a much more stringent new non-standard permit. Similar to SEMSWA's 2016 standard

permit renewal, the new non-standard permit reflects a “clear, specific, and measurable” permit, a goal of CDPHE’s permit renewal process. The new non-standard permit allows non-standard permittees to work with standard permittees on program requirements provided there is documentation of an agreement submitted by November 1, 2021. Such collaboration would result in consistent construction and post-construction requirements. If the non-standard permittee chose not to work with the standard permit holder that would require the non-standard permittee to complete extensive updates to construction and post-construction documents and procedures to comply with the new non-standard permit.

SEMSWA’s Non-standard Permit Area within Douglas County

A relatively small area is owned or operated by SEMSWA within the SEMSWA service area within unincorporated Douglas County, as represented in **Exhibit A**. The SEMSWA non-standard permit area in Douglas County does not include the entirety of the SEMSWA service area in Douglas County, but only the portion represented in Exhibit A. These areas are primarily the Cottonwood Creek channel within the former IWSD permit area and the Highfield Business Park Pond and the Dove Creek channel within the former ACWWA permit area. Since SEMSWA’s formation in 2006, SEMSWA and Douglas County staff have been successfully working together to manage these areas to meet the MS4 permit requirements. This has included referrals from Douglas County to SEMSWA Land Development staff for new development and redevelopment in this area and coordination with Douglas County when SEMSWA conducts maintenance activities within this area. This also includes coordination between staff when updates to criteria occurs, like the recent 2019 Stormwater Management Manual water quality updates.

To continue working together in a similar manner to the current arrangement, the new non-standard permit requires that the SEMSWA and County partnership be documented in an MS4 participation agreement whereby the non-standard permittee is excluded from the non-standard permit requirements for applicable construction and post construction activities. The MS4 participation agreement also allows the standard permittee full authority to implement its construction and post-construction programs within the non-standard permittee’s MS4 jurisdictional boundary in accordance with the standard permit requirements. SEMSWA staff, working closely with Douglas County, has prepared an IGA in cooperation with SEMSWA legal counsel to meet the non-standard permit requirements of the MS4 participation agreement. Douglas County staff and legal counsel have also reviewed the IGA, and Douglas County is scheduled to take the IGA to the Douglas County Board of County Commissioners in October of 2021.

Executing the IGA between SEMSWA and Douglas County will allow for SEMSWA to be excluded from the construction and post-construction requirements of the new non-standard permit and work together with Douglas County to implement the standard permit for the construction and post-construction programs in the SEMSWA non-standard permit area in Douglas County. The staff drafted IGA meets the new non-standard permit requirements for a MS4 participation agreement and will result in uniform construction and post-construction requirements across SEMSWA’s service area, relying on the standard permit criteria.

SEMSWA’s Non-standard Permit Area within Arapahoe County

Comparatively, a much larger area of SEMSWA’s non-standard permit area is within unincorporated Arapahoe County, as represented in **Exhibit A**. Within Arapahoe County, SEMSWA has a Memorandum of Understanding (MOU), titled *Arapahoe County and SEMSWA Water Quality Partnership MOU*, adopted as Resolution No. 09-11. This MOU outlines the permit partnership between Arapahoe County and SEMSWA and references a series of Standard Operating Procedures (SOPs) developed by Arapahoe County and SEMSWA staff to address the responsibilities related to MS4 permit administration. To continue to work together in a similar manner to the current arrangement and to comply with the new non-standard permit, SEMSWA and Arapahoe County staff have drafted an additional SOP to address permit responsibilities within the SEMSWA non-standard permit area within unincorporated Arapahoe County. This SOP will clarify that

SEMSWA is to be excluded from the construction and post-construction requirements of the new non-standard permit and will work together with Arapahoe County to implement the standard permit for the construction and post-construction programs in the SEMSWA non-standard permit area in Arapahoe County. No additional action is required by the Board at this time within Arapahoe County.

Littleton Public School's Non-standard Permit Area within SEMSWA's Service Area in the City of Centennial

Littleton Public Schools (LPS) as a non-standard permittee owns or operates properties within the SEMSWA service area in the City of Centennial, where SEMSWA holds the standard permit, as represented in **Exhibit B**. The LPS non-standard permit area within the City of Centennial generally consists of school parcels like Arapahoe High School; Newton Middle School; and Franklin, Hopkins, and Sandburg Elementary Schools. Since SEMSWA's formation in 2006, SEMSWA and LPS staff have been working together to manage these areas to meet the MS4 permit requirements, primarily through referrals from the City of Centennial. Similar to the Douglas County IGA discussion above, in order to continue working together in a similar manner to the current arrangement, the new non-standard permit requires that the SEMSWA and LPS partnership be documented in an MS4 participation agreement.

Executing the MOU between SEMSWA and LPS will allow LPS to be excluded from the construction and post-construction requirements of the new non-standard permit and work together with SEMSWA to implement the standard permit for the construction and post-construction programs in the SEMSWA service area in the City of Centennial.

Summary

SEMSWA staff is submitting a resolution to: 1) authorize the SEMSWA Executive Director to execute an IGA between Douglas County and SEMSWA regarding a MS4 Participation Agreement for the Board to consider for adoption as proposed, and 2) authorize the SEMSWA Executive Director to execute a MOU between SEMSWA and Littleton Public Schools regarding a MS4 Participation Agreement for the Board to consider for adoption as proposed.

Exhibit A – SEMSWA's Non-standard Permit Boundary in Douglas County and Arapahoe County

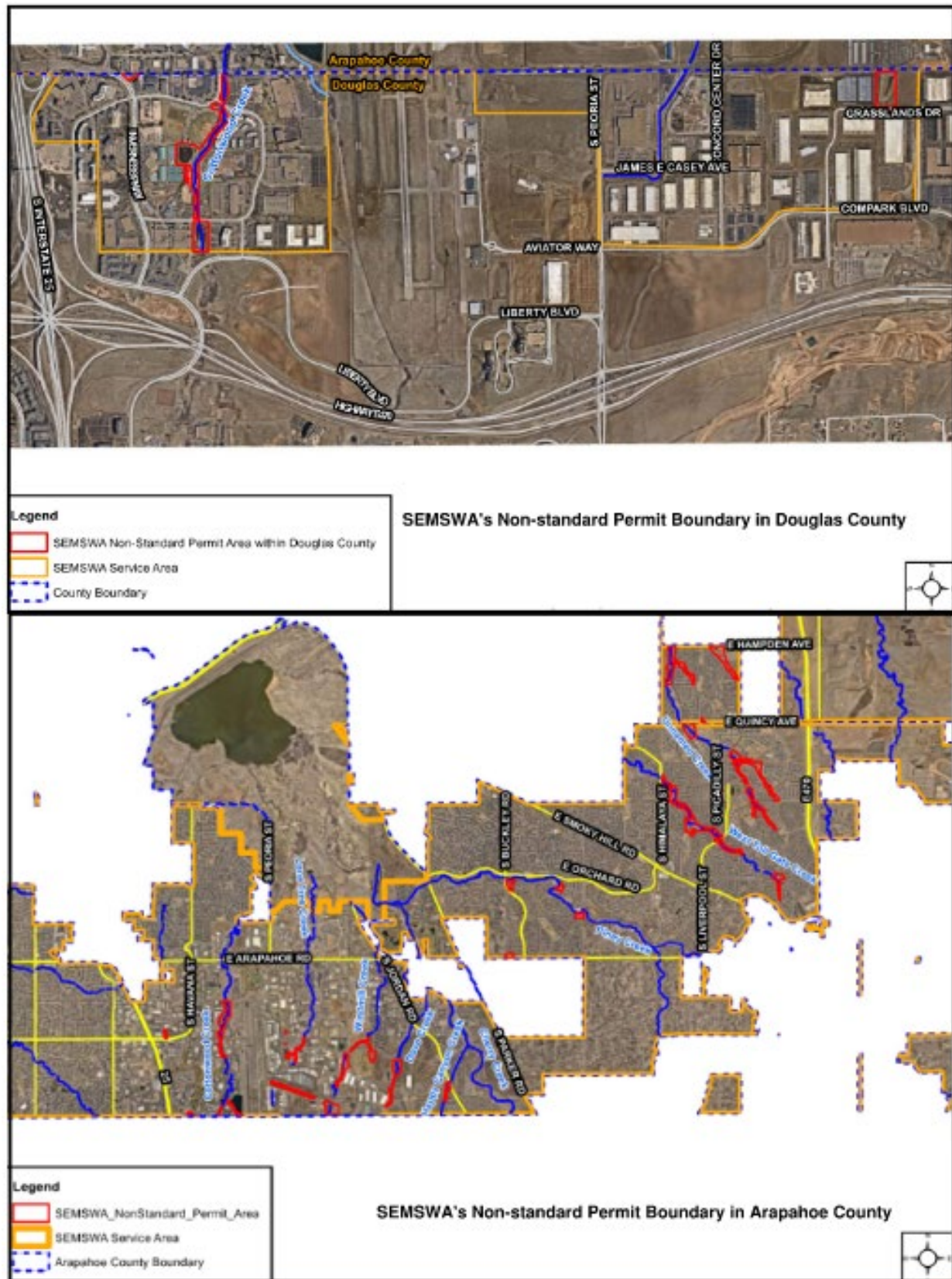


Exhibit B – Littleton Public School Non-standard Permit Boundary in the City of Centennial

