



January 21, 2022

Kathleen Rosow, Permit Writer, Water Quality Control Division
Colorado Department of Public Health and Environment
WQCD-P-B2
4300 Cherry Creek Drive South
Denver, Colorado 80246-1530
Delivered via email to: kathleen.rosow@state.co.us

RE: **DRAFT** Comments on November 17, 2021 Draft Suncor Energy (USA) Inc. Surface Water Discharge Permit (No. CO0001147)

Dear Ms. Rosow:

Commerce City (City) appreciates the opportunity to provide comments on the draft Colorado Discharge Permit System (CDPS) surface water discharge permit for Suncor Energy (CDPS Permit No. CO0001147) and its supporting documents prepared by the Colorado Department of Public Health and Environment (CDPHE) Water Quality Control Division (WQCD).

Located north of Denver in Adams County, Commerce City is a 41 square mile mixed residential and industrial community with a rich history. From the mid-1800s to late 1920s, Commerce City was primarily an agricultural community devoted to wheat, dairy, and pig farming. The 1930s and 40s marked the arrival of industry in the southern and western areas of the city with establishment of oil refineries and the Rocky Mountain Arsenal. As of the 2020 census, Commerce City's population has grown to over 62,000 and it is now the 3rd fastest growing City in Colorado.

Commerce City leaders take pride in preserving the City's history while staying committed to the present and future through embracing diversity, growing vibrant communities, and ensuring quality of life for its citizens. Quality of life to Commerce City and its citizens means protection from activities that negatively affect our health and environment. According to the state of Colorado, it also means that Commerce City citizens - like all other citizens - have *"the right to breathe clean air, drink clean water, participate freely in decisions that affect their environments, live free of dangerous levels of toxic pollution, experience equal protection provided by environmental policies, and share the benefits of a prosperous and vibrant pollution-free economy."*¹

¹ Colorado Environmental Justice Act. House Bill 21-1266, page 2.

Yet, residents living near industrialized areas, particularly those near the Suncor refinery, have been denied these basic rights due to decades of lax regulatory, permitting, and enforcement processes that have forced these vulnerable communities to be unjustly exposed to air and water pollution from industrial sources. A map recently published by Mapping for Environmental Justice shows that in Colorado, pollution from environmental hazards disproportionately, consistently, and predominantly affect low-income communities and communities of color.² The map combines environmental, social, and health impacts into a single indicator that represents a cumulative environmental justice (EJ) impact score that can be used to identify disproportionately impacted communities. For example, communities near industrialized areas of Commerce City (from East 56th to 85th Avenues) have EJ impact scores that range from 96 to 99, meaning that these communities bear a burden of environmental pollution exposure and effects greater than 96 to 99 percent of other Colorado communities.

Regulatory and policy failures that leave vulnerable communities to fend for themselves without any power or means to affect change are at the root of environmental injustice. For communities living in the shadow of the Suncor refinery, these failures have historically led to unchecked environmental pollution and a myriad of associated negative health impacts. According to CDPHE, the current pollution burden experienced by Commerce City neighborhoods is believed to be the cause of elevated risk and occurrences of respiratory problems, diagnosed cancers, and lead poisoning in children compared to the rest of the state.³

The extent of health impacts due to contaminated surface and groundwaters in vulnerable areas may be less known compared to air pollution impacts, but the recent discovery of high levels⁴ of perfluoroalkyl substances (PFAS) – “forever chemicals” - in the City’s public drinking water wells⁵ that far exceeded the Environmental Protection Agency’s (EPA’s) health advisory level (70 parts per trillion) paints a grim picture. One can surmise that the presence of PFAS is a harbinger for the presence of other harmful industrial contaminants that are currently not being monitored and present in discharges or in contaminated groundwater. Further, these concerns are significantly magnified for those citizens with private drinking water wells that lack

² <https://mappingforej.berkeley.edu>

³ [Community health & the environment in Commerce City-North Denver | Colorado Environmental Public Health Tracking](#)

⁴ [Insert levels found in public wells](#)

⁵ Commerce City wants to recognize and thank the South Adams County Water & Sanitation District for testing, discovering, and successfully mitigating issues related to PFAS and for protecting Commerce City’s public drinking water supply.

regulatory oversight, particularly those wells that are located within the alluvial aquifer nearest to contaminated sites and surface waters.

A change of course for EJ communities in Commerce City is long overdue and Colorado's Environmental Justice Act (Act) signed into law on July 2, 2021 is a step in the right direction. The Act declares that “[t]he state government has a responsibility to achieve environmental justice, health equity, and climate justice for all communities by avoiding and mitigating harm”.⁶ In the context of the Suncor discharge permit renewal, the City finds that CDPHE developed the permit in a way that considers EJ concerns to the extent practicable under existing regulations and policies. Therefore, Commerce City supports all proposed limits and monitoring requirements in the draft permit - particularly those for PFAS compounds, but also for industrial chemicals related to the refinery process that have previously been ignored. We must know the extent and quantity of toxic chemicals being discharged by the Suncor refinery and whether those chemicals need to be limited. Commerce City also supports all proposed terms and conditions to control permitted and especially unpermitted discharge of contaminated surface water and groundwater from the site to the receiving streams. The City considers the draft terms and conditions imperative for prevention of permit violations and mitigation of further harm to our communities. Additionally, non-permitted releases - like those causing visible oily sheens on the surface water upstream of Outfall 020A associated with historic groundwater contamination seeping into Sand Creek⁷ - must be appropriately addressed and regulated.

In addition to the existing proposed terms and conditions, **Commerce City requests that a PFAS permit reopener clause** also be included if new science or revisions to the EPA's health advisory level support more restrictive levels to protect drinking water sources. Finally, the City urges CDPHE to revise its enforcement policies for stricter enforcement of violations to be consistent with Colorado's Environmental Justice Act so that environmental justice for all communities can be achieved through appropriately avoiding and mitigating harm.

In summary, Commerce City fully supports CDPHE's draft Suncor Permit as written for final implementation and appreciates in advance consideration of including a PFAS permit reopener clause in the final permit.

⁶ Colorado Environmental Justice Act. House Bill 21-1266, page 3.

⁷ U.S. Environmental Protection Agency Region VIII Water Branch, Enforcement and Compliance Division, Clean Water Act Compliance Inspection Report for Suncor Energy (USA) Inc., September 1, 2021, page 13 of 18.

Sincerely,

Roger Tinklenberg, City Manager
Commerce City
7887 E. 60th Avenue
Commerce City, CO 80022